

# JONES DAY

NORTH POINT • 901 LAKESIDE AVENUE • CLEVELAND, OHIO 44114.1190  
TELEPHONE: +1.216.586.3939 • FACSIMILE: +1.216.579.0212

October 29, 2013

U.S. Securities and Exchange Commission  
Division of Corporation Finance  
Office of Chief Counsel  
100 F Street, N.E.  
Washington, D.C. 20549  
Via E-mail: [shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov)

Re: Shareholder Proposal Submitted on Behalf of  
the Social Justice Fund Northwest

Ladies and Gentlemen:

We are writing on behalf of our client, National Fuel Gas Company (the “Company”), to inform the staff (“Staff”) of the Division of Corporation Finance of the Securities and Exchange Commission (the “SEC”) of the Company’s intent to exclude, and its reasons for excluding, from its proxy statement and form of proxy for the Company’s 2014 Annual Meeting of Stockholders (collectively, the “2014 Proxy Materials”) a shareholder proposal and related supporting statement (the “Proposal”) submitted on behalf of the Social Justice Fund Northwest (the “Fund” or “Proponent”) by Trillium Asset Management, LLC (“Trillium”). This letter and accompanying exhibits are sent on the Company’s behalf pursuant to Rule 14a-8(j); this is not a request for a no-action letter.

The Company plans to file its definitive proxy statement with the SEC on or after January 17, 2014. Accordingly, we are submitting this letter not less than 80 days before the Company intends to file its definitive proxy statement. In accordance with SEC Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB No. 14D”), the letter and exhibits are being delivered by e-mail to [shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov). A copy of this letter with its exhibits is being e-mailed on this date to the Proponent and to Trillium. Rule 14a-8(k) and Section E of SLB No. 14D provide that stockholder proponents are required to send companies a copy of any correspondence that the stockholder proponent elects to submit to the Commission or the Staff. Accordingly, the Company takes this opportunity to remind the Proponent that if the Proponent submits correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to the undersigned on behalf of the Company.

The Company has concluded that the Proposal may be properly omitted from the 2014 Proxy Materials pursuant to the provisions of (i) Rules 14a-8(b) and 14a-8(f) because the Proponent failed to establish the requisite eligibility to submit the Proposal, and (ii) Rule

14a-8(i)(3) because the Proposal is materially false or misleading in violation of Rule 14a-9. With respect to Rule 14a-8(b), the Proponent failed to establish that, as of the date it submitted its proposal, it had continuously held for at least one year at least \$2,000 in market value, or 1%, of the Company's securities entitled to be voted on the Proposal at the meeting as that term has been interpreted by the SEC. In addition, because it did not establish that it had investment discretion over the shares in question, the Proponent failed to provide a credible statement that it intends to continue to hold the Company's securities through the date of the 2014 Annual Meeting.

## I. RULE 14a-8

Rule 14a-8(b)(1) of the Securities Exchange Act of 1934, as amended, requires that, to be eligible to submit a proposal for a company's annual meeting, a shareholder must (i) have continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date the shareholder submits the proposal, and (ii) continue to hold those securities through the date of the meeting. Under Rule 14a-8(b)(2), if a proponent is not a registered shareholder of the company and has not made a filing with the SEC detailing the proponent's beneficial ownership of shares in the company (as described in Rule 14a-8(b)(2)(ii)), the proponent has the burden of establishing that it meets the beneficial ownership requirement of Rule 14a-8(b)(1). In any event the proponent must also provide its own written statement that it intends to continue to hold the qualifying securities through the date of the meeting.

Under Rule 14a-8(f)(1), if the proponent fails to meet one of the eligibility or procedural requirements set forth in Rules 14a-8(a) through (d), then the company may exclude the proposal, provided that, if the deficiency can be remedied, the company has notified the proponent of the problem and the proponent has failed adequately to correct it. The notification must be made in writing within 14 calendar days of receiving the proposal. A proponent's response to the notice of deficiency must be postmarked or transmitted electronically to the company no later than 14 days from the date the proponent receives the notice of deficiency.

Rule 14a-8(i)(3) also permits a company to omit a shareholder proposal and related supporting statement from its proxy materials if the "proposal or supporting statement is contrary to any of the Commission's proxy rules, including § 240.14a-9, which prohibits materially false or misleading statements in proxy solicitation materials."

## II. BACKGROUND

The Company is a diversified energy company headquartered in the state of New York.

The Fund is a foundation with activities focused in the Northwestern United States. The Fund's website states that "Social Justice Fund Northwest is a foundation working . . . to foster

significant, long-term social justice solutions throughout Washington, Oregon, Idaho, Montana and Wyoming.”<sup>1</sup> The Company has no facilities, operations or employees in any of those states.

Trillium is an investment advisor headquartered in Boston, Massachusetts that describes itself as devoted to “sustainable and responsible investing.”<sup>2</sup>

The Company received the Proposal, which is attached hereto as Exhibit A, from Trillium on September 20, 2013, by Federal Express delivery. In a letter accompanying the Proposal, Trillium represented that the Proponent “holds more than \$2,000 of National Fuel Gas Co. common stock, acquired more than one year prior to today’s date and held continuously for that time.” Additionally, Trillium asserted that the Proponent “will remain invested in this position continuously through the date of the 2014 annual meeting.” Trillium did not, however, indicate in the letter whether Trillium or the Proponent (or perhaps a third party) exercises voting authority or investment discretion with respect to the Company’s shares held by the Proponent. Trillium’s letter accompanying the Proposal (the “First Trillium Letter”) is attached hereto as Exhibit B.

Also accompanying the Proposal was a copy of a letter dated September 18, 2013, purportedly from the Proponent, to Ms. Susan Baker of Trillium (the “Purported Authorization Letter,” attached hereto as Exhibit C). The authenticity of this letter was not apparent, as, among other things, the letter was not on the Proponent’s (or anyone’s) letterhead; the signature was illegible; the signature block did not provide the name or title of the person who signed the letter; and the apparent proponent as typed in the signature block did not match the name of the Proponent in the First Trillium Letter.

On October 1, 2013, the Company received a letter from Trillium dated September 27, 2013 (the “Second Trillium Letter,” attached hereto as Exhibit D), which enclosed a copy of a letter, dated September 19, 2013, from Charles Schwab Advisor Services (the “Custodian Letter,” attached hereto as Exhibit E), and a second, identical copy of the Purported Authorization Letter. The Custodian Letter stated, “This letter is to confirm that Charles Schwab & Co. holds as custodian for the [account of the Proponent] 41 shares of National Fuel Gas Co. common stock. These 41 shares have been held in this account continuously for one year prior to September 19, 2013.” Neither the Second Trillium Letter nor the Custodian Letter stated whether Trillium or the Proponent exercises voting authority or investment discretion with respect to the shares.

In compliance with the time restrictions set forth in Rule 14a-8, the Company sent a notice of deficiency (the “Notice of Deficiency,” attached hereto as Exhibit F), by electronic mail and by UPS Overnight Mail, to the Proponent on October 3, 2013, notifying the Proponent of procedural or eligibility deficiencies related to the Proposal.

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<sup>1</sup> Social Justice Fund Northwest, <http://www.socialjusticefund.org/> (last visited Oct. 29, 2013).

<sup>2</sup> Trillium Asset Management, LLC, <http://www.trilliuminvest.com/> (last visited Oct. 29, 2013).

On October 11, 2013, the Company received a letter from Trillium, dated October 10, 2013, responding to the Notice of Deficiency (the “Third Trillium Letter,” attached hereto as Exhibit G). Included as an attachment to the Third Trillium Letter was a copy of a different letter (although with the identical three paragraphs of text) from the Proponent (on the Proponent’s letterhead, with a name and title included in the signature block, and with a retroactive date of September 18, 2013) to Ms. Susan Baker of Trillium, authorizing Trillium to file a shareholder proposal on the Proponent’s behalf at the Company (the “Authorization Letter,” attached hereto as Exhibit H)<sup>3</sup>. Neither the Third Trillium Letter nor the Authorization Letter stated whether Trillium or the Proponent exercises voting authority or investment discretion with respect to the Company’s shares held by the Proponent.

On October 23, 2013, the Company received an e-mail from Trillium, and responded by e-mail, both attached hereto as Exhibit I. The Company repeated its request for documentation of whether Trillium or the Proponent exercises voting authority or investment discretion with respect to the Company’s shares held by the Proponent. The information was not forthcoming.

On October 24, 2013, there were telephone conversations between representatives of the Company and of Trillium, including between their respective corporate counsel, and the requested information still was not provided.

### III. ANALYSIS

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<sup>3</sup> The Authorization Letter does not specify internally or by reference the nature or content of any particular proposal as being the subject of the letter.

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<b>A. The Proposal May Be Excluded Under Rules 14a-8(b) and 14a-8(f) Because The Proponent Failed To Establish The Requisite Eligibility To Submit The Proposal</b>	
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Under Rule 14a-8(b)(1), a proponent “must have continuously held at least \$2,000 in market value, or 1%, of the company’s securities *entitled to be voted on the proposal* at the meeting for at least one year” by the date the proponent submits the proposal.<sup>4</sup> The SEC has long held this requirement to mean that a proponent must be a security holder entitled to vote its shares on the proposal at the meeting at which it intends to present the proposal.

The phrase “entitled to be voted” first appeared in Rule 14a-8 via an amendment that became effective February 1, 1977, with the provision then reading in relevant part as follows: “At the time he submits the proposal, the proponent shall be a record or beneficial owner of a security *entitled to be voted* at the meeting on his proposal.”<sup>5</sup> By comparison, prior versions of the rule, dating from as early as 1952, had commenced as follows: “If any *security holder entitled to vote* at a meeting of security holders of the issuer shall submit to the management of the issuer . . . a proposal . . . .”<sup>6</sup> Explaining the amended rule in its 1976 adopting release, the SEC emphasized that the newly-worded provision “*retains the traditional requirement that a*

<sup>4</sup> 17 C.F.R. § 240.14a-8(b)(1) (2013) (emphasis added).

<sup>5</sup> Adoption of Amendments Relating to Proposals by Security Holders, Exchange Act Release No. 34-12999, 1976 WL 160347, at \*16 (Nov. 22, 1976) (emphasis added).

<sup>6</sup> Amendment of Proxy Rules, Exchange Act Release No. 34-4775, 1952 WL 5254, at \*8 (Dec. 11, 1952) (emphasis added); Adoption of Amendments to Proxy Rules, Exchange Act Release No. 34-4979, 1954 WL 5772, at \*3 (Jan. 6, 1954) (emphasis added); Adoption of Amendments to Proxy Rules and Information Rules, Exchange Act Release No. 34-8206, 1967 WL 88215, at \*9 (Dec. 14, 1967) (emphasis added); Solicitations of Proxies, Exchange Act Release No. 34-9784, 1972 WL 125400, at \*3 (Sept. 22, 1972) (emphasis added).

*proponent must be a security holder entitled to vote at the meeting at which he intends to present his proposal for action.”*<sup>7</sup>

In other words, it is not enough that the proponent hold securities that may be voted by *someone*; rather, the voting rights must be exercisable by *the proponent*. The 1976 adopting release specifically emphasized this personal aspect of the right to vote:

The [eligibility] subparagraph further provides that the security owned by the proponent must be one which would enable *him* to vote on his proposal at the meeting of security holders. Thus, under this provision a proponent could not submit a proposal that goes beyond the scope of his voting rights. For example, a proponent who owned a security that could be voted on the election of some of the issuer’s directors but on no other matters could not submit a proposal relating to the issuer’s business activities, since he would not be able to vote on it personally.<sup>8</sup>

At the time of the 1976 adopting release, there was no requirement that the proponent have held company stock for any prior period. The regulation, as explained in the release, simply described the nature of the then-existing beneficial ownership (voting authority) required to be a shareholder proponent. When a one-year holding period was first required beginning in 1983,<sup>9</sup> the adopting release added the additional eligibility requirement without changing the “entitled to be voted” language that had been adopted and explained in the 1976 adopting release.

The voting requirement set forth in Rule 14a-8(b)(1) thus disqualifies not only the shareholder in the one example cited by the SEC in the 1976 adopting release, but also the shareholder who fails to retain voting rights with respect to the requisite amount of securities over the one-year period prior to submission of a proposal. Just as a shareholder must have some measurable economic stake or investment interest in a corporation before it may put the corporation and other shareholders to the expense of including a proposal in a proxy statement, so too must the shareholder have the ability to vote its shares on the proposal. A shareholder whose commitment to an investment in the company is not sufficient to instill in the shareholder a sense of responsibility to retain its voting rights ought not be authorized to submit a proposal, and the voting rights requirement implements that salutary policy.

The SEC’s amendments to Rule 14a-8 since 1976 provide no indication of any intent to alter the traditional requirement that a proponent must retain voting authority with respect to the shares it holds in the subject company. Rather, they reflect the opposite. For example, in 1998 the SEC increased the dollar value of a company’s voting securities that a shareholder must own

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<sup>7</sup> Adoption of Amendments Relating to Proposals by Security Holders, Exchange Act Release No. 34-12999, 1976 WL 160347, at \*1 (Nov. 22, 1976) (emphasis added).

<sup>8</sup> *Id.* at \*2 (emphasis added).

<sup>9</sup> Amendments to Rule 14a-8 Under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders, Exchange Act Release No. 34-20091, 1983 WL 33272 (Aug. 16, 1983).

in order to be eligible to submit a proposal (from \$1,000 to \$2,000), but noted that “[t]here was no significant support for any modifications to the rule’s other eligibility criteria.”<sup>10</sup> The voting authority component of the rule’s eligibility criteria remained unchanged, as it does today.

The Proponent has not provided any evidence -- not even so much as an explicit representation -- that it may vote the Company shares it holds. In its Notice of Deficiency, the Company informed the Proponent that the Company had received “no statement or evidence as to whether the Fund has for the past year possessed the authority to vote its shares of Company stock.” The Company also requested copies of any relevant investment management agreements (redacted with respect to any competitively sensitive commercial terms). In its written response and other communications on behalf of the Proponent, Trillium has provided no statement as to the Proponent’s voting rights and no copies of any investment management agreements. Instead, Trillium simply reiterated one aspect of Rule 14a-8(b) -- in particular, Rule 14a-8(b)(2)(i), relating to a written statement from the “record” holder of a proponent’s securities -- while ignoring the voting requirement set forth in Rule 14a-8(b)(1). Trillium reported itself as having sole voting authority with respect to all Company shares on its Form 13F filed with the SEC on November 5, 2012. Thus, the Proponent did not have voting authority over the Company shares of which it claims beneficial ownership. Without that authority, the Proponent is not eligible under Rule 14a-8(b)(1) to submit the Proposal.

**2. The Proponent Failed To Provide A Credible Statement That It Intends To Continue To Hold The Company’s Securities Through The Date Of The 2014 Annual Meeting**

Under Rule 14a-8(b)(2), one of the requirements of a proponent is a statement that it intends to continue to hold the requisite amount of securities through the date of the company’s meeting. On its face, the Authorization Letter included a statement that the Proponent intended to continue to hold the Company’s securities. The credibility of that statement, however, depends on whether the Proponent possesses investment discretion with respect to the securities. A proponent that has surrendered its investment discretion -- the power to decide whether to buy, sell or hold a company’s securities -- cannot credibly claim any intent to continue to hold the securities through the date of the company’s meeting.

The Proponent has not provided any evidence -- again, not even so much as an explicit representation -- that it exercises investment discretion over the Company shares it holds. In its Notice of Deficiency, the Company informed the Proponent that the Company had received “no statement or evidence as to whether the Fund possesses investment discretion over its Company shares.” As noted above, the Company also requested copies of any relevant investment management agreements. In its written response and other communications on behalf of the Proponent, Trillium provided no statement as to the Proponent’s investment discretion and no copies of any investment management agreements. Instead, Trillium simply referenced the

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<sup>10</sup> Amendments to Rules on Shareholder Proposals, Exchange Act Release No. 34-40018, 1998 WL 254809, at \*10 (May 21, 1998).

Proponent's statement of intent in the Authorization Letter and added the evasive comment that, "to the extent [sic] that Trillium has investment discretion . . . Trillium hereby states it intends to hold the requisite number of shares of the company stock on behalf of [the Proponent] through the date of the company's annual meeting in 2014."

Rule 14a-8(b) does not contemplate a statement of intent on the part of any person other than a proponent. Rule 14a-8 addresses when a company must include a *shareholder's* proposal in its proxy statement, not when a company must include an *investment manager's* proposal. The relevant necessary investment authority is that of the Proponent, not Trillium.<sup>11</sup> Here, the Proponent has not substantiated its statement of intent to hold the Company's securities with any evidence that it has the right to make investment decisions with respect to those securities. Without that authority, the Proponent can have no intent with respect to holding Company securities that is meaningful in this context, and the Proponent is therefore incapable of fulfilling the eligibility requirements of Rule 14a-8(b)(2).

### **3. The Company Provided The Proponent With Adequate Notice Of Deficiencies, And, In Any Event, The Deficiencies Cannot Be Remedied**

In the Notice of Deficiency, the Company stated, among other things, that "the materials the Company received from Trillium are inadequate to establish the Fund's eligibility to submit a shareholder proposal because those materials fail to demonstrate that, for the past year, the Fund has been a shareholder entitled to vote its shares of Company stock." The Company also asserted that "Trillium and the Fund have also failed to substantiate the statement that the Fund intends to hold its shares of Company stock through the date of the Company's annual meeting in 2014." These and other statements in the Notice of Deficiency constituted adequate notice to the Proponent.

In any event, under Rule 14a-8(f)(1), the Company need not have provided Proponent any notice of these deficiencies because they could not have been remedied. First, after submitting the Proposal, the Proponent could not have gone back in time and arranged to acquire, as of the Proposal date and for the preceding year, securities of the Company over which the Proponent retained voting authority, so as to fulfill the eligibility requirement of Rule 14a-8(b)(1). Second, under Rule 14a-8(b)(2), the written statement of a proponent that it intends to continue to hold the subject company's securities through the date of the meeting of stockholders is due at the time the proponent submits its proposal. Here, after receiving the Notice of Deficiency, the Proponent could not have gone back and arranged to acquire, as of the date of the Proposal, additional Company securities over which the Proponent did retain investment

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<sup>11</sup> Trillium states in its brochure filed with the SEC as part of Trillium's Form ADV (2013) that "Trillium may maintain a token position in a security in a client's account in order to pursue advocacy on environmental, social, or governance issues. As a result, the investment performance of these client accounts may differ from the investment performance of other client accounts that do not hold such positions." The Proponent's 41 shares of Company stock appear to be just such a token position taken and maintained by Trillium.



discretion, so as to put itself in a position to make a credible and timely statement of intent to hold Company securities through the date of the Company's annual meeting.

**B. The Proposal May Be Excluded Under Rule 14a-8(i)(3) Because it is Materially False or Misleading in Violation of Rule 14a-9**

**1. Pertinent Background Under Rule 14a-8(i)(3)**

Rule 14a-8(i)(3) permits a company to exclude a shareholder proposal and related supporting statement from its proxy materials if the "proposal or supporting statement is contrary to any of the Commission's proxy rules, including § 240.14a-9, which prohibits materially false or misleading statements in proxy solicitation materials." The Staff has stated that a proposal will violate Rule 14a-8(i)(3) when "the resolution contained in the proposal is so inherently vague or indefinite that neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires." SEC Staff Legal Bulletin No. 14B (CF) (Sept. 15, 2004); *see also Dyer v. SEC*, 287 F.2d 773, 781 (8th Cir. 1961) (quoting SEC as stating that "it appears to us that the proposal, as drafted and submitted to the company, is so vague and indefinite as to make it impossible for either the board of directors or the stockholders at large to comprehend precisely what the proposal would entail").

In this regard, the Staff has previously concurred with the exclusion of shareholder proposals under Rule 14a-8(i)(3) where the proposals have failed to define key terms or where the meaning and application of terms or standards under the proposals "would be subject to differing interpretations." *Fuqua Indus., Inc.* (Mar. 12, 1991). *See, e.g., Verizon Commc'ns Inc.* (Feb. 21, 2008) (concurring with exclusion of a proposal regarding compensation for senior executives because proposal did not adequately define criteria for calculating incentive compensation); *Berkshire Hathaway Inc.* (Mar. 2, 2007) (concurring with exclusion of a proposal seeking to restrict Berkshire from investing in securities of any foreign corporation that engages in activities prohibited for U.S. corporations by Executive Order because proposal did not adequately disclose to shareholders the extent to which proposal would operate to bar investment in all foreign corporations); *Exxon Corp.* (Jan. 29, 1992) (concurring with exclusion of a proposal regarding board member criteria because vague terms were subject to differing interpretations); and *NYNEX Corp.* (Jan. 12, 1990) (concurring with the exclusion of a proposal that was "so inherently vague and indefinite" that any action by the company "could be significantly different from the action envisioned by shareholders voting on the proposal").

**2. The Proposal May Be Excluded Under Rule 14a-8(i)(3) Because it is Vague and Indefinite and thus Materially False or Misleading in Violation of Rule 14a-9**

**a. The Proposal Does Not Define “Gender Identity or Expression” or Provide Standards for Implementation**

Like the proposals in the precedents cited above, the Proposal is impermissibly vague and indefinite because it fails to define key terms or otherwise provide guidance on how the Proposal, if adopted, would be expected to be implemented by the Company. Neither the meaning and scope of the term “gender identity or expression,” nor the description of the class of persons intended to fit within the protected class, is defined in the Proposal. As a result, the Proponent’s contemplation of the term “gender identity or expression” may be entirely different from the Company’s or shareholders’ understanding of that term. Neither the Company nor shareholders can know with reasonable certainty what is intended by the term “gender identity or expression” and what persons or conduct would be protected under that class. Therefore, neither the Company nor its shareholders would be able to determine with reasonable certainty what specific actions the Proposal requires or be able to understand the full implications of implementing the Proposal.

The Company has looked into potential meanings that may be attributed to “gender identity or expression” in an effort to understand potential standards for implementation of the Proposal. The vague and indefinite nature of the term (or, more accurately, terms) “gender identity or expression” is apparent from the Proponent’s own website. One of the recipients of a grant from the Proponent in 2013 is an organization in Seattle, Washington named the Gender Justice League. The Proponent’s website states that this organization

works to empower trans\* activists and their allies to fight oppression based on gender & sexuality in Washington State and to create a community where trans people can live their lives safely, true to themselves, and free from discrimination. (GJL uses the term trans with an asterisk-trans\*-as an umbrella term to include those who identify as transgender, transsexual, genderqueer, gender non-conforming, Two Spirit, and those medically labeled or those who identify as intersex).<sup>12</sup>

As this description suggests, the matter of gender identity and expression is apparently seen by some as very far-reaching, potentially encompassing multiple circumstances that, in turn, would themselves require definition for an understanding of the boundaries of coverage. The Proposal, however, provides no definitional or other guidance to enable shareholders or the Company to comprehend precisely what the Proposal would entail.

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<sup>12</sup> *More grants and more resources to progressive organizations*, Social Justice Fund Northwest (Oct. 9, 2013), <http://www.socialjusticefund.org/news/more-grants-and-more-resources-progressive-organizations>.

According to the Proposal, 17 states and the District of Columbia have laws prohibiting employment discrimination based on gender identity or expression. However, the definitions of gender identity or expression differ from state to state and are themselves vague and indefinite. For instance, the District of Columbia's statute provides that "[g]ender identity or expression" means a gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual's assigned sex at birth." D.C. Code § 2-1401.02(12A). New Jersey's statute provides that "[g]ender identity or expression" means having or being perceived as having a gender related identity or expression whether or not stereotypically associated with a person's assigned sex at birth." N.J. Stat. Ann. § 10:5-5rr. These definitions are no more precise than the phrase sought to be defined. They do not give examples of identifiable characteristics, nor do they provide any clarity as to what behaviors might be considered an expression of one's gender identity ("expression" inherently involving conduct of some sort). The Proposal offers nothing to suggest the existence of a body of applicable case law, let alone a definitive one, that would provide coherence and boundaries to these cloudy, variable notions.

**b. The Proposal Is Too Vague For Shareholders Or The Company To Determine With Reasonable Certainty What Actions Or Measures The Proposal Requires**

As a result of the lack of clarity as to the scope and potential meanings of "gender identity or expression" in the Proposal, the Company is, and shareholders voting on the Proposal would be, unable to determine what the Proposal, if implemented, would require, permit or prohibit of the Company. It is unclear whether adoption of the Proposal would mandate that all manifestations and expressions of any employee's personal gender identity or expression be deemed acceptable on the job and, in fact, protected, or only certain forms; and if only certain forms, then which ones. For instance, it is not clear whether the Proposal protects deliberately exaggerated or overstated expressions of one's gender identity (stereotypical or otherwise), or whether behavior can be restricted without violating gender identity or expression rights. Neither the Company nor the shareholders voting on the Proposal can know whether the Company would be permitted to exercise any judgment (or the extent of such judgment) in determining which behavior might be asserted as attributable to gender identity or expression and which not. It would appear that any specific standards set by the Company in implementing the Proposal could be argued to limit someone's expression of gender identity.

Moreover, by some interpretations, the Proposal, if implemented, may without good reason override other Company policies currently in place. For example, a dress code or a policy prohibiting certain behavior in the office may be, or create an argument as being, in conflict with the protection of gender identity or expression. The Proposal might be argued as protecting a female employee dressed too provocatively for the office setting, if in so dressing, she claims to express her femininity. Implementation of the Proposal might even be interpreted to override the Company's safety regulations. It might be argued that the Proposal would permit a male employee not to wear safety gear if the removal of facial hair required to wear the gear properly would violate his expression of his masculinity. The inability to define the protected behavior and set standards for the implementation of the Proposal would affect the predictability and

consistency in both managing the workforce and training personnel to comply with the Company's policies and practices.

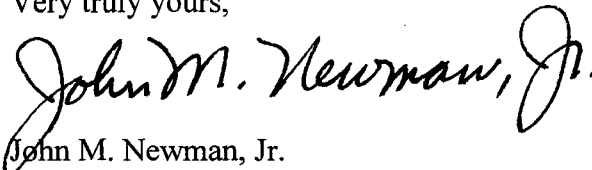
In light of the considerations raised above, the Company believes it is possible, if not indeed probable, that some activities capable of being characterized as forms of gender identity or expression, and thus of being argued at a later date as embraced by the Proposal, might be viewed as inappropriate and not supported by the Company or its shareholders, had the breadth of coverage been recognized at the time of the vote on the Proposal. However, given the Proposal's vagueness, neither the Company nor the shareholders can be certain whether at this point implementation of the Proposal would mean the Company was committing itself to permit those forms of gender identity or expression. Said another way, if the Proposal were adopted, the Company would have to take into account the countless ways in which gender identity could potentially be expressed in order to implement guidelines, which may or may not have been intended by the Proposal (or the Company's shareholders in adopting the Proposal). Accordingly, the Company believes the Proposal is too vague for shareholders or the Company to determine with any reasonable certainty what actions or measures the Proposal, if implemented, would require, permit or prohibit.

The broad and indefinite language of the Proposal appears to encompass expressions of gender identity that can be limited only by the imagination of the actor. The Company believes that it and its shareholders should not and cannot be required to proceed to a vote when there is no clear understanding of what they are being asked to approve. The Proposal does not provide that clarity and therefore is impermissibly vague and indefinite and thus materially false and misleading in violation of Rule 14a-9.

### III. CONCLUSION

For the foregoing reasons, the Company believes that it may properly exclude the Proposal from its 2014 Proxy Materials pursuant to Rules 14a-8(b), 14a-8(f) and 14a-8(i)(3).

Very truly yours,

  
John M. Newman, Jr.

# EXHIBIT A

## **GENDER IDENTITY NON-DISCRIMINATION POLICY**

### **WHEREAS**

National Fuel Gas does not explicitly prohibit discrimination based on gender identity or gender expression in its written employment policy;

According to the Human Rights Campaign, nearly seventy percent of the Fortune 100 and fifty percent of the Fortune 500 now prohibit discrimination based on gender identity or expression;

We believe that corporations that prohibit discrimination on the basis of gender identity or expression have a competitive advantage in recruiting and retaining employees from the widest talent pool;

According to an analysis of surveys conducted by the Williams Institute at the UCLA School of Law, sixteen to sixty eight percent of lesbian, gay, bisexual and transgender people report experiencing employment discrimination;

Public opinion polls consistently find more than three quarters of people in the United States support equal rights in the workplace. In a 2011 nationwide survey conducted by Greenberg Quinlan Rosner Research, the vast majority (79 percent) of the 800 respondents supported protecting LGBT (lesbian, gay, bisexual and transgender) people from discrimination in employment;

Although federal law does not provide sexual orientation and gender identity employment discrimination protection, seventeen states, the District of Columbia, and more than 114 cities and counties have laws prohibiting employment discrimination based on gender identity or expression;

Our company is headquartered in New York where major employers such as Consolidated Edison, Verizon Communications, American Express, and Ernst & Young, LLP include gender identity or expression in their nondiscrimination policies.

### **RESOLVED**

Shareholders request that National Fuel Gas amend its written equal employment opportunity policy to explicitly prohibit discrimination based on gender identity or expression and to take concrete action to implement the policy.

### **SUPPORTING STATEMENT**

We believe employment discrimination on the basis of gender identity diminishes employee morale and productivity. Because state and local laws are not comprehensive with respect to prohibiting employment discrimination, our company would benefit from a comprehensive, consistent, corporate-wide policy to enhance efforts to prevent discrimination, resolve complaints internally, access employees from the broadest talent pool, and ensure a respectful and supportive atmosphere for all employees. National Fuel Gas will enhance its competitive edge by joining the growing ranks of companies guaranteeing equal opportunity for all employees.

# EXHIBIT B

Paula M. Ciprich  
General Counsel and Secretary  
National Fuel Gas Co  
6363 Main Street  
Williamsville, NY 14221.

Dear MS. Ciprich:

Trillium Asset Management LLC ("Trillium") is an investment firm based in Boston specializing in socially responsible asset management. We currently manage approximately \$1.2 billion for institutional and individual clients.

I am hereby authorized to notify you of our intention to file the enclosed shareholder proposal with National Fuel Gas Co. on behalf of our client Social Justice Fund, NW. Trillium submits this shareholder proposal for inclusion in the 2014 proxy statement, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities and Exchange Act of 1934 (17 C.F.R. § 240.14a-8). Per Rule 14a-8, Social Justice Fund, NW holds more than \$2,000 of National Fuel Gas Co. common stock, acquired more than one year prior to today's date and held continuously for that time. Our client will remain invested in this position continuously through the date of the 2014 annual meeting. We will forward verification of the position separately. We will send a representative to the stockholders' meeting to move the shareholder proposal as required by the SEC rules.

We would welcome discussion with National Fuel Gas Co. about the contents of our proposal.

Please direct any communications to me at (617) 532-6681, Trillium Asset Management, 711 Atlantic Ave., Boston, MA 02111; or via email at [sbaker@trilliuminvest.com](mailto:sbaker@trilliuminvest.com).

We would appreciate receiving a confirmation of receipt of this letter via email.

Sincerely,



Susan Baker  
Vice President, Shareholder Advocacy & Corporate Engagement  
Trillium Asset Management, LLC

Cc: Ronald J. Tanski, President and Chief Executive Officer

Enclosures

**BOSTON**

711 Atlantic Avenue  
Boston, Massachusetts 02111-2809  
T: 617-423-6655 F: 617-482-6179  
800-548-5684

**DURHAM**

353 West Main Street, Second Floor  
Durham, North Carolina 27701-3215  
T: 919-688-1265 F: 919-688-1451  
800-853-1311

**SAN FRANCISCO BAY**

100 Larkspur Landing Circle, Suite 105  
Larkspur, California 94939-1741  
T: 415-925-0105 F: 415-925-0108  
800-933-4806





# EXHIBIT C

Susan Baker  
Vice President, Shareholder Advocacy & Corporate Engagement  
Trillium Asset Management, LLC.  
711 Atlantic Avenue  
Boston, MA 02111

Fax: 617 482 6179

Dear Ms. Baker:

The Social Justice Fund ("The Fund") hereby authorize Trillium Asset Management, LLC to file a shareholder proposal on The Fund's behalf at National Fuel Gas Company.

The Fund is a beneficial owner of more than \$2,000 worth of common stock in National Fuel Gas Company that it has held continuously for more than one year. The Fund intends to hold the aforementioned shares of stock through the date of the company's annual meeting in 2014.

The Fund specifically gives Trillium Asset Management, LLC full authority to deal, on my behalf, with any and all aspects of the aforementioned shareholder proposal. The Fund understands that its name may appear on the corporation's proxy statement as the filer of the aforementioned proposal.

Sincerely,



Social Justice Fund  
c/o Trillium Asset Management LLC  
711 Atlantic Avenue, Boston, MA 02111

9-18-2013

Date

# EXHIBIT D

September 27, 2013

Paula M. Ciprich  
General Counsel and Secretary  
National Fuel Gas Co.  
6363 Main Street  
Williamsville, NY 14221

Re: Request for verification

Dear Ms Ciprich:

In accordance with the SEC Rules, please find the attached authorization letter from Social Justice Fund NW as well as the custodial letter from Charles Schwab Advisor Services documenting that they hold sufficient company shares to file a proposal under rule 14a-8.

Please direct any communications to me at (617) 532-6681, Trillium Asset Management, 711 Atlantic Ave., Boston, MA 02111; or via e-mail at [sbaker@trilliuminvest.com](mailto:sbaker@trilliuminvest.com).

Sincerely,



Susan Baker

Vice President, Shareholder Advocacy & Corporate Engagement  
Trillium Asset Management, LLC

Cc: Ronald J. Tanski, President and Chief Executive Officer

Enclosures

**BOSTON**

711 Atlantic Avenue  
Boston, Massachusetts 02111-2809  
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800-548-5684

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**SAN FRANCISCO BAY**

100 Larkspur Landing Circle, Suite 105  
Larkspur, California 94939-1741  
T: 415-925-0105 F: 415-925-0108  
800-933-4806



Susan Baker  
Vice President, Shareholder Advocacy & Corporate Engagement  
Trillium Asset Management, LLC.  
711 Atlantic Avenue  
Boston, MA 02111

Fax: 617 482 6179

Dear Ms. Baker:

The Social Justice Fund ("The Fund") hereby authorize Trillium Asset Management, LLC to file a shareholder proposal on The Fund's behalf at National Fuel Gas Company.

The Fund is a beneficial owner of more than \$2,000 worth of common stock in National Fuel Gas Company that it has held continuously for more than one year. The Fund intends to hold the aforementioned shares of stock through the date of the company's annual meeting in 2014.

The Fund specifically gives Trillium Asset Management, LLC full authority to deal, on my behalf, with any and all aspects of the aforementioned shareholder proposal. The Fund understands that its name may appear on the corporation's proxy statement as the filer of the aforementioned proposal.

Sincerely,



Social Justice Fund  
c/o Trillium Asset Management LLC  
711 Atlantic Avenue, Boston, MA 02111

7-18-2013

Date

# EXHIBIT E

*charles* SCHWAB  
ADVISOR SERVICES

1958 Summit Park Dr, Orlando, FL 32810

September 19, 2013

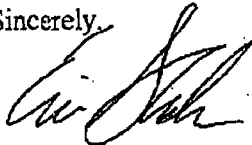
Re: SOCIAL JUSTICE FUND NORTHWEST/Account BMB Memorandum M-07-16 \*\*\*

This letter is to confirm that Charles Schwab & Co. holds as custodian for the above account 41 shares of National Fuel Gas Co. common stock. These 41 shares have been held in this account continuously for one year prior to September 19, 2013.

These shares are held at Depository Trust Company under the nominee name of Charles Schwab and Company.

This letter serves as confirmation that the shares are held by Charles Schwab & Co, Inc.

Sincerely,



Eric Sande  
Director

# EXHIBIT F



# NATIONAL FUEL GAS COMPANY

6363 MAIN STREET

WILLIAMSVILLE, N. Y. 14221-5887

JAMES R. PETERSON  
ASSISTANT SECRETARY  
(716) 857-7702

October 3, 2013

## VIA EMAIL AND UPS

Social Justice Fund Northwest  
1904 Third Avenue, Suite 806  
Seattle, WA 98101

Susan Baker  
Vice President, Shareholder Advocacy & Corporate Engagement  
Trillium Asset Management LLC  
711 Atlantic Avenue  
Boston, MA 02111

### **Re: Shareholder Proposal for the 2014 Annual Meeting**

Greetings:

Pursuant to Securities and Exchange Commission ("SEC") Rule 14a-8(f)(1) under the Securities Exchange Act of 1934, National Fuel Gas Company (the "Company") hereby notifies Social Justice Fund Northwest (the "Fund") of procedural or eligibility deficiencies related to the Fund's purported shareholder proposal received by the Company on September 20, 2013. Specifically, the Fund fails to comply with the SEC's requirements for shareholder proposals explained in answers to Questions 1 and 2 set forth in SEC Rule 14a-8.

A copy of SEC Rule 14a-8(b) is enclosed for your reference. Any response to this notification must be postmarked, or transmitted electronically, no later than fourteen calendar days from the date the Fund receives this notification. Any such response should address the issues set forth in this letter. If within the required fourteen calendar day period, the Fund does not satisfactorily respond to the Company in writing with respect to the procedural or eligibility deficiencies cited herein, then the Company may exclude, on procedural grounds, the Fund's purported shareholder proposal from the Company's proxy statement for its 2014 annual meeting of shareholders.

\* \* \*

The answer to Question 1 set forth in SEC Rule 14a-8 states that, "A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow." According to the first paragraph of Rule 14a-8, "[t]he references to 'you' are to a shareholder seeking to submit the proposal."

The materials the Company received from Trillium Asset Management LLC (“Trillium”) on September 20, 2013 fail to establish that Trillium has authority to submit a shareholder proposal on behalf of the Fund. Included in the materials is a copy of a letter addressed to Trillium, purportedly from the Fund, dated September 18, 2013. The authenticity of this letter is not apparent: the letter is not on Fund letterhead, the body of the letter includes grammatical errors, the signature is illegible, and the signature block does not provide the name or title of the person who signed the letter. This document therefore fails to establish that the Fund in fact authorized Trillium to file any proposal. Absent such authorization, the Company has not received a proposal from a shareholder.

Aside from its questionable authenticity, the letter purportedly from the Fund fails to identify the subject matter of the proposal, stating only generally that, “The Social Justice Fund (‘The Fund’) hereby authorize [sic] Trillium Asset Management, LLC to file a shareholder proposal on The Fund’s behalf at National Fuel Gas Company.” A shareholder that purports to authorize an investment manager to file a shareholder proposal must at least identify the subject matter of the proposal, and otherwise make clear that the shareholder itself, rather than the investment manager, is the true proponent of the course of action submitted to the Company.

The answer to Question 2 set forth in SEC Rule 14a-8 explains that, “In order to be eligible to submit a proposal, you must have continuously held at least \$2,000 in market value, or 1%, of the company’s securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal.” The answer to Question 2 also provides in relevant part that:

if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(i) The first way is to submit to the company a written statement from the “record” holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

(ii) The second way to prove ownership applies only if you have filed [various schedules or forms that the Fund has not filed with respect to the Company] . . . .

The materials the Company received from Trillium are inadequate to establish the Fund’s eligibility to submit a shareholder proposal because those materials fail to demonstrate that, for the past year, the Fund has been a shareholder entitled to vote its shares of Company stock. The materials the Company received from Trillium include no statement or evidence as to whether

the Fund has for the past year possessed the authority to vote its shares of Company stock. Relevant evidence of the Fund's right to vote 41 shares of Company stock since at least September 20, 2012, would include copies of whatever agreements were in effect during that time between the Fund and Trillium, or any other investment manager, pursuant to which the investment manager handled the Fund's shares of Company stock, including especially agreement provisions on whether the voting authority on that stock was delegated, shared or reserved by the Fund. The Company hereby requests copies of all such agreement(s). Feel free to redact competitively sensitive commercial terms such as Trillium's compensation, or the standard of financial performance expected of Trillium. In the alternative, feel free to admit that the Fund did not have the right to vote at least 41 shares of Company stock at all times since September 20, 2012, and explain why the Fund is nevertheless eligible to submit a proposal.

Trillium and the Fund have also failed to substantiate the statement that the Fund intends to hold its shares of Company stock through the date of the Company's annual meeting in 2014. The credibility of this statement depends on whether the Fund possesses investment discretion with respect to the shares. A shareholder that has delegated its investment discretion—that is, the power to decide whether to buy, sell or hold the Company's shares—cannot credibly claim any intent to continue to hold those shares. The materials the Company received from Trillium include no statement or evidence as to whether the Fund possesses investment discretion over its Company shares. Relevant evidence on whether the Fund delegated, shared or reserved investment discretion over Company stock would include the agreement(s) described in the preceding paragraph. In the alternative, feel free to admit that the Fund has delegated investment authority over the Fund's Company stock, and explain why the Fund is nevertheless eligible to submit a proposal.

On October 1, 2013, the Company received from Trillium a written statement of Charles Schwab & Co., the custodian for the Fund's account. The custodian's written statement is dated September 19, 2013. The Fund purportedly submitted its shareholder proposal, however, on September 20, 2013. The Fund must submit to the Company a written statement from the custodian verifying that, at September 20, 2013, the Fund continuously held the Company's securities for at least one year.


\* \* \*

This letter does not waive or nullify any rights the Company may have to (i) exclude the Fund's purported shareholder proposal from the Company's proxy statement for its 2014 annual meeting of shareholders on any basis other than as stated herein, including without limitation any eligibility or procedural deficiency that cannot be remedied, or (ii) object to or oppose in any other appropriate manner the Fund's purported shareholder proposal.

Social Justice Fund Northwest  
October 3, 2013  
Page 4

Respectfully,

NATIONAL FUEL GAS COMPANY

By:   
James R. Peterson  
Assistant Secretary

Encl.

SEC Rule 14a-8(b)

(b) Question 2: Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible?

(1) In order to be eligible to submit a proposal, you must have continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

(2) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(i) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D (§ 240.13d-101), Schedule 13G (§ 240.13d-102), Form 3 (§ 249.103 of this chapter), Form 4 (§ 249.104 of this chapter) and/or Form 5 (§ 249.105 of this chapter), or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

(A) A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;

(B) Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

# EXHIBIT G

James R. Peterson  
Assistant Secretary  
National Fuel Gas Company  
6363 Main Street  
Williamsville, NY 14221

Mr. Peterson,

We are in receipt of your letter of October 3, 2013 ("deficiency letter") and on behalf of our client the Social Justice Fund Northwest ("SJFNW") respond as follows to the company's claims.

**Authenticity of Authorization Letter** – While we disagree with your statements and find the objections disingenuous, out of an abundance of caution we are attaching a new authorization letter with the name and title of SJFNW's Executive Director Zeke Spier clearly printed on SJFNW letterhead.

**Subject Matter of the Proposal** – You have not provided any authority to demonstrate that the Rule requires the authorization letter to provide any level of detail on the subject matter of the proposal. Trillium has filed well over 100 shareholder proposals on behalf of its clients with this precise language and has never received such an objection and we are unaware of any authority to that effect. In the absence of any governing legal authority to support its position the company's deficiency letter does not comport with the requirements of Rule 14a-8.

**Voting Rights** – You have not provided any authority to demonstrate that Rule 14a-8 requires the shareholder proponent to establish voting rights. As the deficiency letter accurately states, Rule 14a-8 simply requires in this case a "statement from the 'record' holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year." In 2011 CorpFin issued Staff Legal Bulletin 14F that provided further guidance on this subject by stating that the following language from a broker or bank would be sufficient to demonstrate eligibility:

"As of [date the proposal is submitted], [name of shareholder] held, and has held continuously for at least one year, [number of securities] shares of [company name] [class of securities]."

<http://www.sec.gov/interp/leg/cfs14f.htm>

The letter from Charles Schwab & Co. which you received and have referred to comports with Staff Legal Bulletin 14F. In the absence of any governing legal

**BOSTON**

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T: 617-423-6655 F: 617-482-6179  
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**SAN FRANCISCO BAY**

100 Larkspur Landing Circle, Suite 105  
Larkspur, California 94939-1741  
T: 415-925-0105 F: 415-925-0108  
800-933-4806



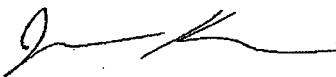
authority to support its position the company's deficiency letter does not comport with the requirements of Rule 14a-8.

**Intention to hold shares through the date of the Company's annual meeting** – SJFNW's authorization letter clearly states "The Fund intends to hold the aforementioned shares of stock through the date of the company's annual meeting in 2014." To the extent that Rule 14a-8 may require Trillium as SJFNW's investment advisor with full authority to represent SJFNW with respect to this shareholder proposal and to the extent that Trillium has investment discretion, the existence of which is not subject to the company's request for disclosure, Trillium hereby states it intends to hold the requisite number of shares of the company stock on behalf of SJFNW through the date of the company's annual meeting in 2014. We note that you have not provided any legal authority to support this argument. In the absence of any governing legal authority to support its position the company's deficiency letter does not comport with the requirements of Rule 14a-8.

**Date of Schwab Letter** – Staff Legal Bulletin 14F footnote 10 states "For purposes of Rule 14a-8(b), the submission date of a proposal will generally precede the company's receipt date of the proposal, absent the use of electronic or other means of same-day delivery." <http://www.sec.gov/interp/leg/cfslb14f.htm#ftn10>. The Staff makes clear that submission occurs on the day the proposal is sent by the proponent, not on the day it received. Accordingly, the company is mistaken in its assertion that the proposal was submitted on September 20, 2013, and similarly that the custodial letter must be dated September 20, 2013. The proposal was submitted on September 19, 2013 and accordingly the Schwab letter of September 19, 2013 satisfies the requirements of the Rule.

In conclusion, it is evident that the shareholder proposal filed by Trillium on behalf of our client has been properly filed in accordance with Rule 14a-8. Furthermore, it is clear that the company's deficiency letter fails to provide an adequate level of detail to support its arguments on the requirements of Rule 14a-8 and therefore, per Staff Legal Bulletin 14B, is insufficient to comply with its obligations under the Rule. As the company is probably aware from CorpFin's public meetings with shareholders and issuers in the last few years, the Staff is increasingly frowning on excessive parsing and unreasonable demands made in issuer deficiency letters and have urged issuers to approach these matters in a spirit of common sense that does not use a disproportionate amount of Staff time and resources. There is no question that SJFNW is eligible to file this proposal, nor is there any question that Trillium is authorized to act on its behalf, and both facts have been well established consistent with Rule 14a-8 and Staff guidance.

Sincerely,



Jonas Kron, Esq.



# EXHIBIT H



SOCIAL  
JUSTICE  
FUND  
NORTHWEST

Susan Baker  
Vice President, Shareholder Advocacy & Corporate Engagement  
Trillium Asset Management, LLC.  
711 Atlantic Avenue  
Boston, MA 02111

Fax: 617 482 6179

Dear Ms. Baker:

The Social Justice Fund ("The Fund") hereby authorizes Trillium Asset Management, LLC to file a shareholder proposal on The Fund's behalf at National Fuel Gas Company.

The Fund is a beneficial owner of more than \$2,000 worth of common stock in National Fuel Gas Company that it has held continuously for more than one year. The Fund intends to hold the aforementioned shares of stock through the date of the company's annual meeting in 2014.

The Fund specifically gives Trillium Asset Management, LLC full authority to deal, on its behalf, with any and all aspects of the aforementioned shareholder proposal. The Fund understands that its name may appear on the company's proxy statement as the filer of the aforementioned proposal.

Sincerely,

Zeke Spier  
Executive Director  
Social Justice Fund  
c/o Trillium Asset Management, LLC  
711 Atlantic Avenue, Boston, MA 02111

9-18-2013

Date

BUILDING PROGRESSIVE POWER THROUGH DONOR ACTIVISM

# EXHIBIT I



**Subject: National Fuel Gas Company Annual Meeting 2014**

**From: James Peterson**  
**To: sbaker@trilliuminvest.com**  
**Cc: "zeke@socialjusticefund.org"**

10/23/2013 03:28 PM

Susan -

Unfortunately, our 14a-8(j) statement of reasons is due at the SEC no later than next Tuesday October 29, so the dates and times you suggest are too late to affect whether and how we make that filing. We thought before making the filing, we should reach out to and have a dialogue with our shareholder.

We have been assuming that you have read the publicly available statement of reasons we filed regarding our 2013 annual meeting (copy attached for convenience). As we stated last year, 14a-8 requires a shareholder proponent to have retained voting authority over his company shares for the required holding period (the twelve months before submitting a proposal), based on language from the SEC (not the staff) in the SEC releases adopting the language that is currently in 14a-8. This is an important procedural issue for us, regardless of the substance of the proposal.

If it was clear that SJFNW did in fact retain voting authority throughout the holding period, we would be happy not to make that argument, in the interest of judicial economy, conserving of resources and effort, courtesy and common sense. We might even decide simply to run your proposal, although we are still thinking that over. Our October 3 letter to Trillium asked for documentation of whether SJFNW had retained voting and/or investment authority over their company shares, and your response of October 10 declined to provide any information on that subject. I repeat here our request for that documentation (redacted, if you want, to protect your commercially sensitive information). The only reasons we can think of for your declining to provide this information are either (i) SJFNW in fact delegated its voting and/or investment authority to Trillium for some or all of the holding period, or (ii) it is in your interest to make this dispute as public as possible before producing that documentation later in any conflict process.

I called the shareholder proponent as a courtesy because of our preference for dealing with principals rather than agents, and because you have not indicated that you are acting as lawyers for SJFNW. Before getting into a public dispute with a shareholder, we thought as a matter of courtesy and respect that we should discuss why the shareholder selected us for this proposal, and whether we can narrow or eliminate the areas of disagreement.

We are generally available this week for a conversation.

Jim

James R. Peterson  
Assistant Secretary  
National Fuel Gas Company  
6363 Main Street  
Williamsville, NY 14221  
716.857.7702

-----Original Message-----

From: Susan Baker [mailto:SBaker@trilliuminvest.com]

Sent: Wednesday, October 23, 2013 10:48 AM  
To: James Peterson  
Cc: Jonas Kron  
Subject: RE: National Fuel Gas Company Annual Meeting 2014

Good morning,

It has come to our attention that you called Zeke Spier, Executive Director of the Social Justice Fund to discuss the shareholder proposal filed at National Fuel Gas earlier this fall. The Social Justice Fund has given Trillium Asset Management, LLC full authority to deal on its behalf with any and all aspects of the shareholder proposal. Therefore all inquiries and comments are to be directed solely to Trillium.

I would be happy to arrange a conference call to discuss the proposal. My colleague Jonas Kron and I are available to speak with you on Wednesday, October 30 at 10:30am, 11:00am or 1pm ET. Also, we have wide availability the week of November 4.

Please let us know if you are interested in setting up a call and if you have a date/time preference from those listed above.

Susan

Susan Baker  
Vice President, Shareholder Advocacy & Corporate Engagement Trillium Asset Management, LLC  
617/ 532 6681

IMPORTANT NOTICE: Please see the company website for a full disclaimer:  
<http://trilliuminvest.com/emaildisclaimer/>

-----Original Message-----

From: James Peterson [mailto:PetersonJ@natfuel.com]  
Sent: Thursday, October 03, 2013 4:34 PM  
To: Susan Baker; info@socialjusticefund.org; zeke@socialjusticefund.org  
Subject: National Fuel Gas Company Annual Meeting 2014

Greetings -

The first attached is a notification by National Fuel Gas Company regarding the materials we received from Trillium on September 20, 2013. Signed paper originals of the first attached are also being sent via UPS to the addressees shown on the attached.

For convenience, the second attached is a copy of the materials we received from Trillium on September 20, 2013.

James R. Peterson, Esq.  
Assistant Secretary  
National Fuel Gas Company  
6363 Main Street  
Williamsville, NY 14221  
716.857.7702



NFG Statement of Reasons 10-24-12.pdf