

280 A.D.2d 885  
Supreme Court, Appellate Division,  
Fourth Department, New York.

Matter of NATIONAL FUEL GAS DISTRIBUTION  
CORPORATION, Petitioner–Appellant,

v.

CITY OF JAMESTOWN, Jamestown, New  
York Board of Public Utilities, Nornew  
Energy Supply, Inc., Nornew, Inc., Norse  
Pipeline, LLC, and Texaco Natural Gas, Inc.,  
Respondents–Respondents. (Appeal No. 1.)

Jan. 10, 2001.

**Attorneys and Law Firms**

Kenneth A. Manning, Buffalo, for petitioner–appellant.

William L. Wright, Jr., Jamestown, for respondents–  
respondents City of Jamestown and Jamestown, New  
York Board of Public Utilities.

S. Dennis Holbrook, for respondents–respondents  
Nornew Energy Supply, Inc., Nornew, Inc., and Norse  
Pipeline, LLC.

Guy J. Agostinelli, for respondent–respondent Texaco  
Natural Gas, Inc.

**Opinion**

**\*886 MEMORANDUM:**

Although Supreme Court erred in questioning whether petitioner had standing to challenge the legality of the procedures by which the contracts at issue were awarded to respondents Nornew Energy Supply, Inc. (Nornew) and Texaco Natural Gas, Inc. (Texaco) (see, *Matter of Jerkens Truck & Equip. v. City of Yonkers*, 174 A.D.2d 127, 131–133, 579 N.Y.S.2d 417; *Albert Elia Bldg. Co. v. New York State Urban Dev. Corp.*, 54 A.D.2d 337, 341–342, 388 N.Y.S.2d 462), the court nevertheless properly dismissed the petition challenging those procedures. The determination of respondent Jamestown, New York Board of Public Utilities to consider the proposals of Nornew and Texaco together to determine the lowest “total delivered cost” of natural gas to the Carlson Generating Station was rational and benefits the taxpayers, and thus should not be disturbed (see, *Matter of Conduit & Found. Corp. v. Metropolitan Transp. Auth.*, 66 N.Y.2d 144, 148–149, 495 N.Y.S.2d 340, 485 N.E.2d 1005). We have examined petitioner’s remaining arguments and conclude that they lack merit.

Judgment affirmed without costs. (Appeal from Judgment of Supreme Court, Chautauqua County, Ward, J.—CPLR art. 78.)

PIGOTT, JR., P.J., GREEN, PINE, and KEHOE, JJ.,  
concur.

BALIO, J., not participating.

**All Citations**

280 A.D.2d 885, 720 N.Y.S.2d 419 (Mem), 2001 N.Y. Slip  
Op. 01159