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April 13, 2022

VIA ELECTRONIC FILING

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
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**Re: PA Public Utility Commission, et al. v. National Fuel Gas Distribution Corporation
Docket Nos. R-2022-3030235, et al.**

Dear Secretary Chiavetta:

Attached for filing, please find National Fuel Gas Distribution Corporation's Main Brief in the above-referenced proceeding. Copies will be provided per the attached Certificate of Service.

Respectfully submitted,



Nicholas A. Stobbe

NAS/dmc
Enclosures

cc: Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Date: April 13, 2022



Nicholas A. Stobbe

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, <i>et al.</i>	:	
	:	
	:	Docket Nos. R-2022-3030235
v.	:	C-2022-3030573
	:	C-2022-3030730
National Fuel Gas Distribution Corporation	:	
	:	

**MAIN BRIEF OF
NATIONAL FUEL GAS DISTRIBUTION CORPORATION**

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TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	STATEMENT OF THE CASE.....	2
III.	LEGAL STANDARDS.....	4
IV.	SUMMARY OF ARGUMENT.....	7
V.	ARGUMENT.....	9
	A. DESCRIPTION OF DISTRIBUTION’S PROPOSED RENEWABLE NATURAL GAS PILOT PROGRAM.....	9
	B. DISTRIBUTION’S PROPOSED RENEWABLE NATURAL GAS PILOT PROGRAM MEETS THE APPLICABLE LEGAL STANDARDS.....	10
	1. The Proposed RNG Pilot Program is Consistent with Least Cost Procurement Standards.....	10
	2. The Proposed RNG Pilot Program Does Not Require the Purchase of RNG if Such Purchase is Uneconomic.	11
	3. I&E’s Contentions that Distribution has Failed to Show how the RNG Pilot Program is Consistent with Least Cost Procurement Standards Should Be Denied.	12
	4. The Commission has the Authority to Adopt the Company’s Proposed Sharing Mechanism.	14
	5. OSBA’s Proposed Sharing Mechanism Should Be Denied.	15
	6. Recent Commission Opinions Related to RNG Issues.	17
	C. DISTRIBUTION’S PROPOSED RENEWABLE NATURAL GAS PILOT PROGRAM IS IN THE PUBLIC INTEREST AND SHOULD NOT BE MODIFIED.....	19
	1. Distribution’s RNG Pilot Program Would Reduce Carbon Emissions in the Commonwealth of Pennsylvania as Compared to Traditional Gas and is Consistent with Statutory Obligations.....	19
	2. Commission Policy Favors the Introduction of RNG into the Company’s System.....	20
VI.	CONCLUSION.....	22

APPENDIX A – PROPOSED FINDINGS OF FACT

APPENDIX B – PROPOSED CONCLUSIONS OF LAW

APPENDIX C – PROPOSED ORDERING PARAGRAPHS

TABLE OF AUTHORITIES

Page(s)

Pennsylvania Appellate Court Decisions

Allied Mech. and Elec., Inc. v. Pa. Prevailing Wage Appeals Bd.,
923 A.2d 1220 (Pa. Cmwlth. 2007)5

Borough of E. McKeesport v. Special/Temporary Civil Serv. Comm’n,
942 A.2d 274 (Pa. Cmwlth. 2008)5

Brown v. Commonwealth, 940 A.2d 610 (Pa. Cmwlth. 2008).....5

Commonwealth v. Williams, 557 Pa. 207, 732 A.2d 1167 (1999).....5

Dist. of Columbia’s Appeal, 21 A.2d 883 (Pa. 1941)5

Equitable Gas Co. v. Pa. PUC,
536 A.2d 846 (Pa. Cmwlth. 1988)6

Kyu Son Yi v. State Bd. of Veterinary Med.,
960 A.2d 864 (Pa. Cmwlth. 2008)5

MacDonald v. Pa. R.R. Co.,
348 Pa. 558, 36 A.2d 492 (1944)5

Met-Ed Indus. Users Grp. v. Pa. PUC,
960 A.2d 189 (Pa. Cmwlth. 2008)5

Popowsky v. Pa. PUC,
676 A.2d 731 (Pa. Cmwlth. 1996)6

Samuel J. Lansberry, Inc. v. Pa. PUC,
578 A.2d 600 (Pa. Cmwlth. 1990)5

Pennsylvania Administrative Agency Decisions

*Application of Pennsylvania-American Water Co. for Approval of the Right To
Offer, Render, Furnish or Supply Water Serv. to the Pub. in Additional
Portions Of Mahoning Twp., Lawrence Cnty., Pa.*, Docket No. A-
212285F0148, 2008 Pa. PUC LEXIS 874 (Order entered Oct. 29, 2008).....5

*Joint Petition for Settlement of Section 1307(f) Rate
Investigation*, Docket No. R-2021-3025652 (Order Adopting Recommended
Decision Without Modification Entered Oct. 7, 2021)18

<i>Pa. PUC v. Equitable Gas Co.</i> , Docket No. R-00050272 (Order on Petition for Reconsideration, Clarification and Rehearing entered Jan. 12, 2006).....	14, 15
<i>Pa. PUC v. Columbia Gas of Pa., Inc.</i> , Docket No. R-2020-3018835 (Order Denying Reconsideration Entered Apr. 15, 2021)	18
<i>Pa. PUC v. Philadelphia Gas Works</i> , Docket No. R-2021-3023970, et al. (Order Entered Aug. 26, 2021).....	18
<i>Pa. PUC v. Philadelphia Gas Works</i> , Docket Nos. R-00061931, et al. (Order Entered Sept. 28, 2007).....	6
<i>Replogle v. Pa. Elec. Co.</i> , 54 Pa. PUC 528, 1980 Pa. PUC LEXIS 20 (Order Entered Oct. 9, 1980)	5

Pennsylvania Statutes

66 Pa. C.S. § 332(a)	4
66 Pa.C.S. § 1307(f).....	6
66 Pa.C.S. § 1317.....	2, 7, 22
66 Pa.C.S. § 1318.....	6, 7, 10, 11, 15, 22

Pennsylvania Regulations

52 Pa. Code § 5.231	4
52 Pa. Code § 53.64	2, 7
52 Pa. Code § 53.65	2, 7

Pennsylvania Administrative Agency Materials

<i>Statement of Chairman Dutrieuille</i> , Docket Nos. R-2021-3025652, et al. (October 7, 2021)	20
<i>Statement of Commissioners Yanora and Coleman Jr.</i> , Docket Nos. R-2021- 3025652, et al. (October 7, 2021)	20

I. INTRODUCTION

National Fuel Gas Distribution Corporation (“Distribution” or the “Company”) submits its Main Brief in the above-captioned 2022 Purchased Gas Cost (“PGC”) proceeding. The issues reserved for litigation in this PGC proceeding are related to Distribution’s proposal to implement a pilot program to procure Renewable Natural Gas (“RNG”). The rest of the issues that were or could have been raised in this PGC proceeding have been resolved through a partial settlement (“Partial Settlement”) achieved by the parties. Therefore, this Main Brief is focused solely on the issues related to the Company’s RNG pilot program proposal.

Distribution has demonstrated in this proceeding that its RNG pilot program is in the public interest and will be employed in a way that is consistent with least-cost procurement standards. Further, as noted by the Company in its direct testimony, leveraging the United States’ existing pipeline and storage infrastructure to deliver new sources of low carbon fuels, like RNG, is critical to maintaining reliable and safe service to customers while simultaneously reducing greenhouse gas emissions.

Further, the Company has significantly mitigated any risk to its customers in procuring RNG supplies. Under its RNG pilot program, Distribution only intends to issue requests for proposals (“RFP”) to source approximately 0.5%, the equivalent of approximately 200 Dth/day, of the Company’s annual gas supplies at a fixed price for one year, two year, and/or three-year terms. The RFP solicitation would request offers for RNG supplies that contain the associated environmental attributes via the Environmental Protection Agency’s Renewable Fuel Standard, which allocates valuation credits known as Renewable Identification Number (“RIN”) credits. The Company will then sell the RINs to offset any ratepayer purchase price premium. Any remaining revenues above the Company’s Weighted Average Cost of Gas (“WACOG”) would then be shared

between customers and the Company under its sharing mechanism, wherein customers would receive 75% of the value of the excess revenues realized through the sales of RINs.

As noted above, the sole issue that has not been the subject of a full settlement in this proceeding is Distribution's proposed RNG pilot program. Distribution respectfully requests that the Pennsylvania Public Utility Commission ("Commission"): (1) conclude that Distribution's RNG pilot program proposal is consistent with the Company's obligations under Sections 1317 and 1318 of the Public Utility Code, 66 Pa.C.S. §§ 1317 and 1318; and (2) approve Distribution's RNG pilot program proposal without modification.

II. STATEMENT OF THE CASE

On December 30, 2021, Distribution filed data and exhibits supporting recovery of purchased gas costs in compliance with the Commission's regulations at 52 Pa. Code §§ 53.64 - 53.65.

On January 31, 2022, Distribution filed additional supporting data and exhibits as well as the prepared, written testimony of the 8 witnesses listed below in support of Supplement No. 236 to Tariff Gas — Pa. P.U.C. No. 9, to be effective for service rendered on and after August 1, 2022. Distribution also submitted a Tariff Addendum. The Tariff Supplement and the Addendum set forth the specific rates proposed by Distribution for recovery of purchased gas costs effective on August 1, 2022.

On January 6, 2022, the Commission's Bureau of Investigation & Enforcement ("I&E") filed a Notice of Appearance.

On January 26, 2022, the Office of Consumer Advocate ("OCA") filed a Notice of Appearance, Complaint, and Public Statement.

On January 31, 2022, Distribution filed with the Commission its definitive PGC filing at Docket No. R-2022-3030235, including supporting information required by the Commission's

regulations and Distribution's direct testimony, exhibits, and Pro Forma Tariff Supplement reflecting actual and projected changes in natural gas costs and other tariff changes. In the Tariff Supplement, Distribution proposed a decrease of 1.0675 per McF in its rate for recovery of purchased gas costs applicable to residential sales service customers, as compared to the rates in effect as of November 1, 2021. Rate changes related to the recovery of purchased gas costs were also proposed for other customer classes. Furthermore, Distribution proposed to maintain its gas retainage rate that is applicable all customer classes on Distribution's system at 0.15%, to be effective on August 1, 2022.

On February 1, 2021, a Prehearing Conference Order was issued by Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Charece Z. Collins (collectively, the "ALJs"), which, among other things, scheduled a telephonic prehearing conference for February 10, 2022, and directed the parties to file prehearing memoranda on or before February 8, 2022, at 3:00 PM.

On February 3, 2022, the Office of Small Business Advocate ("OSBA") filed a Notice of Appearance, Complaint, Public Statement, and Verification.

On February 10, 2022, the prehearing conference was held as scheduled.

On February 14, 2022, the ALJs issued a Prehearing Order that established the litigation schedule and modified the discovery rules, among other things.

On March 10, 2022, I&E, OCA, and OSBA served their written direct testimony.

On March 24, 2022, Distribution served its written rebuttal testimony.

Also on March 24, 2022, Distribution filed a Motion for Protective Order.

On March 28, 2022, the ALJs issued a Protective Order.

On March 30, 2022, the OSBA filed its written surrebuttal testimony.

In accordance with the Commission's Rules of Practice and Procedures, 52 Pa. Code § 5.231, the parties engaged in settlement discussions. As a result of those conferences, the Joint Petitioners were able to reach a settlement in principle of all issues, except those related to the Company's RNG pilot program.

On March 31, 2022, Counsel for Distribution informed the ALJs that a Partial Settlement in principle had been reached in this proceeding.

On April 1, 2022, Distribution filed its written rejoinder testimony.

Also on April 1, 2022, Counsel for Distribution informed the ALJs that all parties agreed to waive cross-examination of each other's witnesses on the issues reserved for litigation. Counsel for Distribution also requested that parties' witnesses be excused from attending the scheduled hearings. In response, the ALJs informed the parties that all witnesses were excused from attending the scheduled hearings.

On April 4, 2022, the Evidentiary Hearing was held as scheduled. During that hearing, all parties' read their respective pieces of evidence into the evidentiary record. The ALJs also directed the parties to provide common outlines for the Main Briefs by April 5, 2022. Further, the ALJs directed the parties to file their Main Briefs on or before April 13, 2022, with Reply Briefs, Joint Partial Settlement, and Statements in Support to be filed on or before April 20, 2022.

On April 5, 2022, Distribution submitted the common outline for the Main Briefs.

On April 6, 2022, the ALJs issued a Briefing Order memorializing what was discussed at the April 4, 2022, Evidentiary Hearing.

III. LEGAL STANDARDS

A. BURDEN OF PROOF

Under Section 332(a) of the Public Utility Code, 66 Pa. C.S. § 332(a), "the proponent of a rule or order has the burden of proof." It is well-established that "[a] litigant's burden of proof

before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). The preponderance of evidence standard requires proof by a greater weight of the evidence. *Commonwealth v. Williams*, 557 Pa. 207, 732 A.2d 1167 (1999). This standard is satisfied by presenting evidence more convincing, by even the smallest amount, than that presented by another party. *Brown v. Commonwealth*, 940 A.2d 610, 614 n.14 (Pa. Cmwlth. 2008).

If the party seeking a rule or order from the Commission sets forth a prima facie case, then the burden shifts to the opponent. *MacDonald v. Pa. R.R. Co.*, 348 Pa. 558, 36 A.2d 492 (1944). Establishing a prima facie case requires either evidence sufficient to make a finding of fact permissible or evidence to create a presumption against an opponent which, if not met, results in an obligatory decision for the proponent. Once a prima facie case has been established, if contrary evidence is not presented, there is no requirement that the party seeking a rule or order from the Commission must produce additional evidence to sustain its burden of proof. *See Replogle v. Pa. Elec. Co.*, 54 Pa. PUC 528, 1980 Pa. PUC LEXIS 20 (Order entered Oct. 9, 1980); *see also Dist. of Columbia’s Appeal*, 21 A.2d 883 (Pa. 1941); *Application of Pennsylvania-American Water Co. for Approval of the Right To Offer, Render, Furnish or Supply Water Serv. to the Pub. in Additional Portions Of Mahoning Twp., Lawrence Cnty., Pa.*, Docket No. A-212285F0148, 2008 Pa. PUC LEXIS 874 (Order entered Oct. 29, 2008).¹

¹ In addition, any finding of fact necessary to support an adjudication of the Commission must be based upon substantial evidence. *Met-Ed Indus. Users Grp. v. Pa. PUC*, 960 A.2d 189, 193 n.2 (Pa. Cmwlth. 2008) (citing 2 Pa.C.S. § 704). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Borough of E. McKeesport v. Special/Temporary Civil Serv. Comm’n*, 942 A.2d 274, 281 n.9 (Pa. Cmwlth. 2008) (citation omitted). Although substantial evidence must be “more than a scintilla and must do more than create a suspicion of the existence of the fact to be established,” *Kyu Son Yi v. State Bd. of Veterinary Med.*, 960 A.2d 864, 874 (Pa. Cmwlth. 2008) (citation omitted), the “presence of conflicting evidence in the record does not mean that substantial evidence is lacking.” *Allied Mech. and Elec., Inc. v. Pa. Prevailing Wage Appeals Bd.*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007) (citation omitted).

For the purposes of Distribution's RNG pilot program, Distribution has the burden to prove that it should be adopted by the Commission.

B. LEGAL STANDARDS APPLICABLE TO DISTRIBUTION'S PROPOSED RENEWABLE NATURAL GAS PILOT PROGRAM

Section 1307(f) of the Public Utility Code allows natural gas distribution companies ("NGDCs") with gross intrastate annual operating revenues in excess of \$40,000,000 to file tariffs reflecting actual and projected increases or decreases in their natural gas costs, with the tariffs being effective six months from the date of filing. *See* 66 Pa.C.S. § 1307(f).

Section 1318 provides that no rates for an NGDC shall be deemed just and reasonable unless the Commission finds that the utility is pursuing a least cost fuel procurement policy, consistent with the NGDC's obligation to provide safe, adequate and reliable service to its customers. *See* 66 Pa.C.S. § 1318. The Commission has held:

"On its face, a gas utility's obligation to pursue a least cost fuel procurement strategy is just that -- an obligation to take steps to insure that the cost it -- the utility -- incurs for natural gas are as low as reasonably possible, consistent with its obligation to provide safe, reliable and adequate service." *Pa. PUC v. Philadelphia Gas Works*, Docket Nos. R-00061931, et al., (Order Entered Sept. 28, 2007).

Section 1318 also provides the Commission with the discretion to evaluate an NGDC's least cost fuel procurement policy under the present conditions of the marketplace for natural gas. *See Popowsky v. Pa. PUC*, 676 A.2d 731, 735 (Pa. Cmwlth. 1996). Whether or not the NDGC has reasonably conformed to its statutory duties depends on the individual circumstances and facts of each particular Section 1307(f) PGC filing. *See Equitable Gas Co. v. Pa. PUC.*, 536 A.2d 846, 851 (Pa. Cmwlth. 1988). Section 1318 requires that, when evaluating whether a utility has conformed to least cost fuel procurement standards, the Commission shall be required to make specific findings which shall include, but need not be limited to findings that:

(1) The utility has fully and vigorously represented the interests of its ratepayers in proceedings before the Federal Energy Regulatory Commission.

(2) The utility has taken all prudent steps necessary to negotiate favorable gas supply contracts and to relieve the utility from terms in existing contracts with its gas suppliers which are or may be adverse to the interests of the utility's ratepayers.

(3) The utility has taken all prudent steps necessary to obtain lower cost gas supplies on both short-term and long-term bases both within and outside the Commonwealth, including the use of gas transportation arrangements with pipelines and other distribution companies.

(4) The utility has not withheld from the market or caused to be withheld from the market any gas supplies which should have been utilized as part of a least cost fuel procurement policy.

66 Pa.C.S. § 1318(a)(1)-(4).

Additionally, Section 1317 of the Public Utility Code requires NGDCs to submit certain information to enable the Commission to make a least cost fuel procurement finding. *See* 66 Pa.C.S. § 1317. Moreover, the Commission has promulgated regulations that include extensive annual filing requirements for NGDCs such as Distribution. *See* 52 Pa. Code §§ 53.64 and 53.65. Distribution has complied with those filing requirements through this proceeding.

IV. SUMMARY OF ARGUMENT

As part of this proceeding, Distribution proposed to implement a pilot program in which the Company would purchase a small amount of RNG – 0.5% of its existing supply portfolio or approximately 200 Dth/day – to assist in meeting the natural gas needs of the Company's firm sales customers. The pilot program structure and limitations substantially mitigate potential risks for customers. Beyond the small amount of RNG proposed to be purchased, as described above, Distribution proposed to limit the term of the pilot to three (3) years. Further, Distribution has committed to conduct a thorough review of market conditions at the time of entering into RNG contracts to avoid non-economic RNG purchase contracts to the extent possible. Similarly, the pilot program would include a provision to sell the RINs which, in turn, would offset and likely eliminate any premium on RNG.

Both I&E and OSBA oppose the Company's RNG pilot program, as filed. I&E argues that the RNG pilot program should be denied as it is unclear that it will comport with least cost procurement principles. However, I&E also recommends that, in the event the RNG pilot program is approved, Distribution be required to: 1) show how the purchase of RNG complies with least cost procurement for all gas; 2) sell RINs at the market value to offset the potentially higher cost of renewable gas; and 3) provide a report in future 1307(f) cases describing the details of the RNG pilot program for its duration. Distribution has made commitments to the parties consistent with I&E's recommendations through the course of this proceeding. Further, the Company fully addressed I&E's concern that the RNG pilot program might be inconsistent with least cost principles. The Company, as explained at further length in Section V(B)(1) below, demonstrated that the RNG pilot program, as filed, will comply with least cost procurement principles.

The OSBA argues that the RNG pilot program's sharing mechanism for RIN credits is unfair to Distribution's ratepayers and allocates an outsized level of risk to the customer. The OSBA's contentions regarding the Company's proposed RNG sharing mechanism should be denied. The sharing mechanism proposed by Distribution through its RNG pilot program will encourage the Company to procure RNG supplies to the benefit of ratepayers and the public in general. In addition, the Company's proposed sharing mechanism is consistent with the Company's sharing mechanism for off-system sales and capacity releases, both of which share revenues with customers at 75%, and is consistent with sharing mechanisms approved for other NGDCs. Moreover, the Company has taken significant and meaningful steps to mitigate the risks to customers associated with implementing the RNG pilot program.

For the reasons more fully explained below, Distribution's RNG pilot program should be approved as filed.

V. ARGUMENT

A. DESCRIPTION OF DISTRIBUTION'S PROPOSED RENEWABLE NATURAL GAS PILOT PROGRAM

As part of its main filing made on January 31, 2022, Distribution witness Christopher A. Cej described the Company's proposed RNG pilot program in Distribution Statement No. 1. Under the RNG pilot program, the Company proposes to issue a supplier request for proposal ("RFP") to source approximately 0.5%, the equivalent of approximately 200 Dth/day, of the Company's annual gas supplies at a fixed price from an RNG source for a 1, 2, and/or 3 year terms. (Distribution Statement No. 1, p. 9.)

Distribution's proposed RFP solicitation process would request offers for RNG supplies that either contain the associated environmental attributes via the RIN credits or RNG supplies that do not contain the environmental attributes. (Distribution Statement No. 1, p. 9.)² Following the Company's issuance of an RNG RFP, the Company will evaluate the proposals submitted by suppliers to determine Distribution's best, most economic option to procure RNG supplies. If the RNG does not include RINs, the potential purchase would be treated similarly to traditional gas supplies, and would be evaluated as such consistent with the existing gas procurement standards. (Distribution Statement No. 1, pp. 7-8.) Historically, purchase price differentials for traditional gas supplies with similar commercial terms and various circumstances could vary by as much as \$0.05. (Distribution Statement No. 1-R, pp. 4-5.) Unless there are extenuating circumstances, Distribution would not consider paying a higher price for RNG without RINs. (Distribution Statement No. 1-R, p. 5.)

² The United States' Environmental Protection Agency ("EPA") and certain individual states have established programs to recognize the varying environmental attributes of different RNG sources as a lower emission fuel source by assigning carbon offset values. (Distribution Statement No. 1, p. 7.) The EPA's Renewable Fuel Standard qualifies RNG as a biofuel and allocates valuation credits known as RINs. (Distribution Statement No. 1, p. 7.) RINs function as a commodity that may be retained by the RNG buyer – i.e. Distribution – or separated from the RNG commodity and sold in the RIN market. (Distribution Statement No. 1, p. 7.) Not all RNG supplies are accompanied by RINs.

As it relates to the purchase of RNG that includes RINs, Distribution intends to sell the RINs to offset a potential price premium for RNG. (Distribution Statement No. 1, p. 8.) Revenues realized through the sale of RINs may exceed the purchase price premium for RNG. Those revenues will be used to offset the purchase price premium. (Distribution Statement No. 1, p. 8.) Any additional revenues that exceed the purchase price premium will be shared with ratepayers under the Company's sharing mechanism. (Distribution Statement No. 1, p. 8.) Distribution would first allocate revenues realized through the sale of RIN credits to the ratepayers to offset any RNG price premium. (Distribution Statement No. 1-R, p. 5.) Ratepayers will realize 100% of the RIN sale value until the RIN sales revenue matches the RNG price premium. (Distribution Statement No. 1-R, p. 6.) Once the RNG price premium has been fully recovered through the sale of RINs, Distribution's ratepayers will receive 75% of any excess revenues and the Company will receive 25% of the excess revenues. (Distribution Statement No. 1-R, pp. 5-6; Exhibit No. CAC-2.)

The proposed sharing mechanism to be used for excess RIN sales values is consistent with the sharing mechanism approved by the Commission for the Company's off-system sales ("OSS") and capacity releases ("CR"). (Distribution Statement No. 1-RJ, p. 2.)

B. DISTRIBUTION'S PROPOSED RENEWABLE NATURAL GAS PILOT PROGRAM MEETS THE APPLICABLE LEGAL STANDARDS

1. The Proposed RNG Pilot Program is Consistent with Least Cost Procurement Standards.

Distribution's RNG Pilot Program is consistent with the least cost procurement standards contained in 66 Pa. C.S. § 1318. In its evaluation of whether a utility has sufficiently adhered to least cost procurement standards, the Commission must make specific findings, which shall include whether:

- (1) The utility has fully and vigorously represented the interests of its ratepayers in proceedings before the Federal Energy Regulatory Commission.

(2) The utility has taken all prudent steps necessary to negotiate favorable gas supply contracts and to relieve the utility from terms in existing contracts with its gas suppliers which are or may be adverse to the interests of the utility's ratepayers.

(3) The utility has taken all prudent steps necessary to obtain lower cost gas supplies on both short-term and long-term bases both within and outside the Commonwealth, including the use of gas transportation arrangements with pipelines and other distribution companies.

(4) The utility has not withheld from the market or caused to be withheld from the market any gas supplies which should have been utilized as part of a least cost fuel procurement policy.

In this proceeding, no party questioned Distribution's representations and compliance related to 66 Pa. C.S. § 1318(a)(1), (2), and (4). Rather, if any factor is disputed, it is factor (3), related to whether the RNG purchases will be lower cost gas supplies consistent with the statutory standard.

The Company's review of RNG purchases under the pilot program will ensure compliance with the statutory least cost standards. If the Company purchases RNG supplies that include RINs, the Company will evaluate whether the sale of RINs will offset any RNG price premium that is higher than the Company's WACOG. (Distribution Statement No. 1-RJ, p. 3; Distribution Statement No. 1-R, p. 4.) If the purchase of RNG supplies does not include RINs, the Company will evaluate the purchase by comparing it to other supplies with similar commercial business terms that are available in the market. This is the same process that the Company currently employs to ensure that all of its purchases meet the statutory least cost standards.

2. The Proposed RNG Pilot Program Does Not Require the Purchase of RNG if Such Purchase is Uneconomic.

As explained in the Direct, Rebuttal, and Rejoinder testimony of Christopher A. Cej, the Company will not enter into a contract for the purchase of RNG supply if, at the time of the contract's execution, the Company believes such RNG supply would be uneconomic for its ratepayers. Indeed, under the proposed RNG pilot program, Distribution will evaluate RNG

supply that does not have associated RINs the same as it would traditional gas supplies. (Distribution Statement No. 1, p. 8.) Thus, low-cost procurement principles are met by Distribution evaluating RNG supply against traditional gas. Additionally, as explained in Mr. Cej's testimony, contracts for RNG supply accompanied by RIN credits present an opportunity for the Company to realize revenue in the RIN market by selling the RINs. (Distribution Statement No. 1, p. 7.) Should the RIN market unexpectedly fall below the level to realize excess RIN credit sales revenue, the limited term and limited volume of the prospective RNG contracts adequately shields ratepayers from uneconomic circumstances over the long term.

3. I&E's Contentions that Distribution has Failed to Show how the RNG Pilot Program is Consistent with Least Cost Procurement Standards Should Be Denied.

I&E witness Eryan A. Sakaya presented Direct Testimony related to Distribution's proposed RNG pilot program. Ultimately, Mr. Sakaya recommended that the Commission deny the Company's RNG pilot program because, according to Mr. Sakaya, it is unclear whether the RNG pilot program would adhere to the Company's least cost procurement obligations. (I&E Statement No. 2, p. 5.) In justifying his recommendation, Mr. Sakaya explained that "[t]he pilot program, as presented in the filing, lacks specific commitments and details that are needed to ensure the Company is pursuing a least cost procurement policy." (I&E Statement No. 2, p. 6.) Mr. Sakaya based this recommendation on the fact that Distribution presented no specific, actual contracts for the procurement of RNG supply, thus, according to Mr. Sakaya, "no information has been provided about the potential cost of RNG." (I&E Statement No. 2, p. 6.)

Alternatively, Mr. Sakaya recommended that, if the Commission does approve the Company's proposed RNG pilot program, that it: 1) require the Company show how the purchase of RNG complies with least cost procurement for all gas, not just RNG; 2) require the Company to sell any RINS at the maximum value to offset the potentially higher cost of RNG; and 3) require

the Company to provide a report in future 1307(f) case describing the details of the program for the duration of the pilot. (I&E Statement No. 2, pp. 7-8.)

In Rebuttal Testimony, Company Witness Christopher A. Cej fully rebutted Mr. Sakaya's concerns over the RNG pilot program. Firstly, Mr. Cej clarified that the Company "will commit to selling RIN credits associated with the purchase of RNG to offset the potential price premium often associated with the associated RNG environmental attributes." (Distribution Statement No. 1-R, p. 4.) Additionally, Mr. Cej explained that "the Company will endeavor to execute a RNG purchase transaction that will result in a ratepayer cost lower than, or equal to, the weighted average cost of commodity during the delivery period." (Distribution Statement No. 1-R, p. 4.)

As it relates to Mr. Sakaya's concerns that the Company would purchase RNG without RINs at a higher cost than that of traditional gas, Mr. Cej explained that:

[T]he Company would evaluate offers for RNG supplies without RINs, similar to offers for traditional gas supplies. Receipt locations, supplier performance and experience, in addition to price are factors considered by the Company. Historically, purchase price differentials for traditional gas supplies with similar commercial terms and various circumstances could vary by as much as \$0.05. Unless there are extenuating circumstances, a higher price differential for RNG without RINs would likely be considered unacceptable.

(Distribution Statement No. 1-R, pp. 4-5.)

In his Rebuttal Testimony, Mr. Cej also explained that the Company would not oppose Mr. Sakaya's recommendations should the RNG pilot program be approved by the Commission. As such, Mr. Cej fully rebutted Mr. Sakaya's concerns over the proposed RNG pilot program. Not only did Mr. Cej explain that the RNG pilot program would be consistent with least-cost procurement principles, but he noted that the Company would agree to Mr. Sakaya's reporting recommendations should the RNG pilot program be approved.

Despite Mr. Cej's explanation and clarifications in rebuttal testimony, Mr. Sakaya continued to oppose the introduction of the proposed RNG pilot program in his surrebuttal

testimony. (I&E Statement No. 2-SR, pp. 3-5.) This, despite Mr. Cej's assurances that the Company would sell any RINs associated with the purchase of RNG supply, and enter into RNG supply contracts without RINs as if they were those for traditional gas supplies. Through his Rejoinder Testimony, Mr. Cej once again emphasized the steps the Company has taken to mitigate any possible risk to the Company and its ratepayers. As noted by Mr. Cej, those measures include, but are not limited to: 1) limiting the RNG pilot program to three years; 2) limiting the purchase quantity to 0.5% of the annual purchases, which is approximately 200 Dth/day; 3) conducting a thorough review of market conditions at the time of the prospective contract to avoid non-economic contracts to the extent possible; and 4) selling any RINs to offset the RNG price premium. (Distribution Statement No. 1-RJ, pp. 1-2.)

As such, and consistent with the above, I&E witness Mr. Sakaya's hesitations surrounding the proposed RNG pilot program have been wholly and adequately addressed by the Company. To the extent that Mr. Sakaya recommended measures for the Company to take should the Commission approve the RNG pilot program, Distribution has committed to do so, in whole.

4. The Commission has the Authority to Adopt the Company's Proposed Sharing Mechanism.

The Commission has evaluated various sharing mechanisms employed by NGDCs in the past. Distribution's proposed mechanism relating to its RNG pilot program is wholly consistent with other, similar mechanisms approved by the Commission. In *Pa. PUC v. Equitable Gas Co.*, R-00050272, (Order entered Sept. 28, 2005), the Commission explained that it had the authority to order sharing mechanisms for NGDCs. In doing so, the Commission noted:

[T]he ALJ's recommendation regarding the Commission's authority to direct sharing of capacity revenues shall be adopted and Equitable shall be directed to credit to the PGC 75% of the revenues attributable to all exchange transactions, off-system sales, capacity release, and any future energy management revenues such as the VPEM contract for the application period October 1, 2005 through September 30, 2006.

Id. at 33.

That holding was subsequently affirmed, despite Equitable Gas Company's argument that the Commission did not have any authority to direct sharing mechanisms in this way. *See Pa. PUC v. Equitable Gas Co.*, Docket No. R-00050272 (Order on Petition for Reconsideration, Clarification and Rehearing entered Jan. 12, 2006).

5. OSBA's Proposed Sharing Mechanism Should Be Denied.

In testimony, OSBA witness Robert D. Knecht expressed concerns over the Company's RNG pilot program as filed. Specifically, Mr. Knecht contends that the sharing mechanism included with the RNG pilot program is asymmetrical, and unfairly shifts the risks of the RNG pilot program on ratepayers. (OSBA Statement No. 1, pp. 4-5.) As relief, Mr. Knecht argues that a "symmetric sharing of net benefits and net costs would be more equitable." (OSBA Statement No. 1, p. 4.) Mr. Knecht's concerns and recommendations over the RNG pilot program sharing mechanism should be denied.

As explained above, the Company's proposed RIN credit sharing mechanism is wholly consistent with the Company's existing sharing mechanism for its off-system sales and capacity releases. (Distribution Statement No. 1-RJ, p. 2.) In addition, the sharing mechanism appropriately incentivizes the Company to pursue RNG purchase opportunities that will benefit ratepayers. Distribution PGC St. No. 1-RJ, p. 2. In *Pa. PUC v. Equitable Gas Co.*, R-00050272, pp. 33-34 (Order entered Sept. 28), the Commission stated as follows:

As the OTS (and the OSBA in its Reply Exceptions) correctly reminds us, the type of incentive mechanism at issue was initiated precisely to encourage NGDCs to maximize their use of excess or idle capacity and off-system opportunities in order to "recover a portion of fixed costs and reduce the overall PGC rate." (OTS M.B. at 19). The sharing mechanism is not designed to reduce revenues to which Equitable is entitled; it is designed to encourage Equitable to "maximize efforts in the management of capacity release and off-system sales by permitting utilities to make a profit." (Id.). Again, consistent with Section 1318, that profit is to be shared with PGC customers in order to reduce the overall PGC rate. We agree with both the OCA and OTS positions on this issue. This Commission has full authority to direct the appropriate sharing mechanism in a Section 1307(f) proceeding.

The rationale for approving sharing mechanisms for off-system sales and capacity release mechanisms – to maximize management efforts to reduce overall PGC costs – is the same rationale that applies to the Company’s proposed sharing mechanism for its RNG pilot program. The sharing mechanism will encourage the Company to seek RNG purchases that lower PGC rates when the Company can sell RINs to more than offset any RNG price premium.

Moreover, OSBA’s concerns about ratepayer risk are significantly overstated. Distribution has taken significant steps to limit the risk to ratepayers in implementing the RNG pilot program, including: 1) making the program a limited 3-year pilot; 2) limiting the purchase quantity of RNG to 0.5% of the annual purchases, which is approximately 200 Dth/day; 3) conducting a thorough review of market conditions at the time of the contract to avoid non-economic contracts to the extent possible; and 4) selling the RINs to offset any RNG premium. (Distribution Statement No. 1-RJ, pp. 1-2.)

Beyond the mitigation measures noted, Mr. Cej also addressed Mr. Knecht’s claims that the sharing mechanism is unreasonable. Mr. Cej noted that “Mr. Knecht’s concern [focuses] on sharing symmetry rather than the true ratepayer risk.” (Distribution Statement No. 1-RJ, p. 3.) Illustrative of that, Mr. Cej walked through a number of pricing scenarios that show the true risk to ratepayers under the proposed RNG pilot program. Specifically, using a “\$15.00 RNG market price and a \$5.00 weighted average cost of gas, and \$8.00 RIN sale value per Dth, the resulting monthly cost to the ratepayer is approximately \$0.06.” (Distribution Statement No. 1-RJ, p. 3) (Emphasis added.)

Mr. Cej went on to note an even more extreme pricing scenario in which RNG had a \$20.00 market price, a \$5.00 weighted cost of gas, and an \$8.00 RIN sale value per Dth. (Distribution Statement No. 1-RJ, p. 3.) Even in this unlikely scenario, the cost to a Distribution ratepayer would only be approximately \$0.21. (Distribution Statement No. 1-RJ, p. 3.) Further, Mr. Cej made

clear that the Company **would not** enter into a contract for RNG should the market conditions present a scenario like that explained above. With that in mind, Mr. Cej noted that the current market value based on the most recent EPA D3 RIN price translates to approximately \$30.00 per Dth. (Distribution Statement No. 1-RJ, pp. 3-4.) While the Company cannot accurately predict fluctuations in the RIN market, the RIN market would have to drastically drop to reach \$8.00, as noted in the hypothetical above. (Distribution Statement No. 1-RJ, p. 4.)

Moreover, Distribution is unaware of any instance in which the Commission has required a utility to implement a “symmetrical” sharing mechanism like that promoted by the OSBA. Rather, as noted above, the Commission has held in the past that a 75%/25% sharing mechanism is consistent with the Public Utility Code; that is precisely what Distribution proposes in this proceeding through its RNG pilot program. In addition, a symmetrical sharing mechanism would not create the same incentive for the Company to acquire RNG supplies.

Mr. Knecht also noted that an alternative to implementing the Company’s RNG sharing mechanism would be to drop the sharing mechanism altogether and conduct an *ex post* prudence review of RNG purchases. (OSBA Statement No. 1-SR, p. 4.) Distribution opposes this proposal. Dropping the sharing mechanism altogether would not create the same incentive for the Company to assist in developing the RNG market. Moreover, any prudence review would need to be based on market conditions at the time that the contract was entered into and not be based upon “unforeseeable market conditions that change after a contract is entered into.” (Distribution Statement No. 1-RJ, p. 4.)

6. Recent Commission Opinions Related to RNG Issues.

In the Briefing Order, the ALJs directed the parties to address recent Commission Opinions on the outstanding RNG issues. Ordering Paragraph 6. The Company is aware of two recent

Commission Orders related to RNG – one for UGI Utilities, Inc. – Gas Division (“UGI Gas”)³ and one for Philadelphia Gas Works (“PGW”).⁴ These Orders are discussed below.

As an initial matter, the UGI Gas RNG program was approved as part of a settlement. Therefore, the specific terms of the settlement are not precedential. However, the fact that the Commission approved a settlement with an RNG program and sharing mechanism demonstrates that the Commission has the statutory authority to adopt RNG programs and sharing mechanisms. *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket No. R-2020-3018835, p. 18 (Order denying reconsideration entered April 15, 2021.) Moreover, like the UGI program, Distribution has taken significant steps to limit ratepayer risk and to comply with the statutory least cost standards.

In the PGW PNG Order, the Commission denied a proposal by PGW to procure RNG supplies. Distribution’s RNG pilot is significantly different than the PGW pilot. As an initial matter, PGW did not commit to reviewing the procurement of RNG supplies through a least cost standard and did not commit to selling RINs to offset the RNG price premium. Distribution, however, has committed to complying with the least cost standard by agreeing not to enter into contracts that are more than its WACOG when including the offset for selling RINs. This solves the statutory concerns that were presented in the PGW case.

The Commission also denied PGW’s RNG pilot because there were no actual or tentative contracts, or descriptions of contract terms presented for review. *PGW PCG Order*, p. 43. The Company has addressed these concerns by describing the prudence review process that it will undertake when procuring RNG supplies, how it will ensure that it meets the least-cost standards and how it will otherwise mitigate any risk to ratepayers. The review process will be similar to

³ See *Joint Petition for Settlement of Section 1307(f) Rate Investigation*, Docket No. R-2021-3025652, et al. (Order adopting Recommended Decision approving settlement Oct. 7, 2021.) (“*UGI Gas RNG Order*”).

⁴ *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-2021-3023970, Order Entered Aug. 26, 2021 (“*PGW RNG Order*”).

the review process that the Company undertakes with the procurement of all of its gas supplies; it will just include an extra step to review whether the RIN sales revenue can reasonably be forecasted to offset the RNG price premium.

Distribution's RNG pilot program has significant limitations to protect ratepayers that are consistent with UGI Gas' RNG pilot program that was approved by the Commission.

C. DISTRIBUTION'S PROPOSED RENEWABLE NATURAL GAS PILOT PROGRAM IS IN THE PUBLIC INTEREST AND SHOULD NOT BE MODIFIED

Distribution's proposed RNG pilot program is in the public interest and should be approved, as filed. For the reasons noted above, and explained in more detail below, Distribution's RNG pilot program presents an opportunity for Distribution to introduce a limited amount of RNG into its system in a way that presents very limited risk for ratepayers, is consistent with least cost procurement standards, complies with Commission precedent, and furthers carbon emission reduction goals in the Commonwealth.

1. Distribution's RNG Pilot Program Would Reduce Carbon Emissions in the Commonwealth of Pennsylvania as Compared to Traditional Gas and is Consistent with Statutory Obligations.

As explained in Distribution Statement No. 1, the Company has been looking towards emerging low carbon fuel procurement, such as RNG, to introduce into its system. (Distribution Statement No. 1, p. 4.) The Company believes that leveraging the nation's existing pipeline and storage infrastructure to deliver new sources of low carbon fuels, such as RNG, is critical to maintain reliable and safe service to customers while reducing greenhouse gas emissions. (Distribution Statement No. 1, p. 4.) Further, the RNG market is rapidly developing across the country, including the nation's largest RNG landfill facility located near Scranton, Pennsylvania, and Distribution has opportunities to procure RNG supplies. (Distribution Statement No. 1, pp. 5-6.)

Here, Distribution's proposed RNG purchasing strategy is eminently reasonable in that it seeks to only introduce a small amount of RNG into the Company's system, is limited in its term, and any premium on RNG will be offset, in whole or in part, by the sale of accompanying RIN credits. As such, Distribution's RNG pilot program is environmentally sound, sufficiently risk-averse, and presents a valuable opportunity for the Company to introduce and evaluate RNG into its system as the RNG market is still in its infancy. Additionally, approval of Distribution's RNG pilot program presents a beneficial model for the Commonwealth to evaluate RNG opportunities for other NGDCs in the future.

2. Commission Policy Favors the Introduction of RNG into the Company's System.

The Commission has expressed its approval of RNG pilot programs in the past. Indeed, in approving the RNG pilot program of UGI Gas, Chairman Dutrieuille explained that:

The RNG industry remains in its youth, continuing to show signs of growth and interest throughout the Commonwealth and the nation. As such, it is in the public interest for natural gas distribution companies (NGDCs) to avail themselves knowledge and experience in this arena through prudently implemented tariffs and procurements.

Statement of Chairman Dutrieuille, Docket Nos. R-2021-3025652, et al. (October 7, 2021).

Similarly, Commissioners Yanora and Coleman Jr. lauded UGI Gas for its introduction of an RNG pilot program, noting that it "represents an innovative economic model that balances environmental, customer, and gas supply requirements consistent with the Commonwealth's least-cost gas supply requirements." *Statement of Commissioners Yanora and Coleman Jr., Docket Nos. R-2021-3025652, et al. (October 7, 2021).*

Much like UGI Gas's RNG pilot program, Distribution seeks to procure a limited amount of RNG supplies for customers. Distribution's proposed RNG pilot program is similar to the UGI Gas pilot in many ways, including compliance with statutory least-cost standards.

It is crucial to note that Distribution's proposed RNG pilot program, as filed, does not actually require the Company to purchase RNG supplies should the purchase be non-economic. Rather, Distribution has already committed to conducting a thorough review of market conditions at the time of the contract to avoid non-economic agreements to the extent possible. (Distribution Statement No. 1-RJ, pp. 1-2.) As such, Distribution has sufficiently shielded its ratepayers from the risks associated with the purchase of RNG. As explained fully in Section V(B)(5) of this brief, even if the RIN market undergoes a massive economic shift downwards, the overall costs to individual ratepayers will be relatively small, while also being short-lived given the tempered, limited duration of the RNG pilot program and contracts entered into pursuant to it.

VI. CONCLUSION

WHEREFORE, National Fuel Gas Distribution Corporation respectfully requests that the Commission: (1) conclude that Distribution's proposed Renewable Natural Gas pilot program is consistent with the Company's obligations set forth under Sections 1317 and 1318 of the Public Utility Code; and (2) approve Distribution's proposed Renewable Natural Gas pilot program without modification.

Respectfully submitted,



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APPENDIX A – Proposed Findings of Fact

1. National Fuel Gas Distribution Corporation (“Distribution” or the “Company”) is proposing a pilot program to purchase Renewable Natural Gas (“RNG”) during Fiscal Years (“FY”) 2022, 2023, and 2024 (“Pilot Period”).⁵
2. During the Pilot Period, Distribution proposes to purchase 0.5%, the equivalent of approximately 200 Dth/day, of the Company’s annual gas supplies at a fixed price for a one year, two year, and/or three-year terms.⁶
3. In its next 1307(f) proceeding, Distribution will:
 - (a) Submit information regarding how the purchase of RNG complies with least cost procurement for all gas, not just RNG;
 - (b) sell any renewable Identification Numbers (“RINS”) at the maximum value to offset the potentially higher cost of RNG; and
 - (c) Provide a report in future 1307(f) case describing the details of the program for the duration of the pilot.⁷
4. The United States’ Environmental Protection Agency (“EPA”) and certain individual states have established programs to recognize the varying environmental attributes of different RNG sources as a lower emission fuel source by assigning carbon offset values. (Distribution Statement No. 1, p. 7.)⁸
5. Distribution’s proposed RFP solicitation structure for RNG will ensure least cost procurement of RNG supplies and allow the Company to explore the opportunity to generate revenues through the sale of the RINs in the RIN trading market to offset the ratepayer purchase price premium⁹
6. The EPA’s Renewable Fuel Standard qualifies RNG as a biofuel and allocates valuation credits known as Renewable Identification Numbers (“RINs”)¹⁰
7. RINs function as a commodity that may be retained by the RNG buyer – i.e. Distribution – or separated from the RNG commodity and sold in the RIN market.¹¹
8. Not all RNG supplies are accompanied by RINs.¹²

⁵ Distribution Statement No. 1-RJ, pp. 1-2.

⁶ Distribution Statement No. 1, p. 9.

⁷ Distribution Statement No. 1-R, pp. 4-5.

⁸ Distribution Statement No. 1, p. 7.

⁹ Distribution Statement No. 1, p. 9.

¹⁰ Distribution Statement No. 1, p. 7.

¹¹ Distribution Statement No. 1, p. 7.

¹² Distribution Statement No. 1, pp. 7-8.

9. If the RNG does not include RINs, Distribution will treat that RNG similarly to traditional gas supplies, and would evaluate as such consistent with the existing gas procurement standards.¹³
10. The Company will sell any RINs included with RNG supplies to offset the ratepayer purchase price premium.¹⁴
11. Any remaining revenues above the Company's Weighted Average Cost of Gas ("WACOG") would be shared between the ratepayer and Company under its sharing mechanism.¹⁵
12. Structuring the RNG pilot program to offset the costs of RNG purchases through the sale of RINs allows Distribution to obtain RNG at lower overall cost than the listed market price of RNG and begin the process of incorporating RNG into the Company's system.¹⁶
13. Distribution is committed to providing safe, adequate, and reliable service to its customers, and Distribution believes that incorporating RNG into its gas supply portfolio would help to further these goals.¹⁷
14. By purchasing limited amounts of RNG on a pilot basis over the course of the three-year pilot program, Distribution would gain necessary experience in the RNG supply market which could become an increasing source of gas supply in the future.¹⁸
15. RNG is biogas captured from otherwise freely emitting methane sources such as agricultural and food waste streams, landfill gases, and wastewater treatment processes.¹⁹
16. There are nearly 400 RNG facilities either operational (approximately 178 facilities), under construction (137 facilities), or planned (83 facilities) in the US.²⁰
17. The incorporation of RNG into the Company's system presents viable solution towards reducing greenhouse gas emission levels.²¹
18. Under Distribution's RNG proposal, Distribution will be in a better position to respond to future changes in federal or state law that addresses carbon emissions associated with

¹³ Distribution Statement No. 1-R, pp. 4-5.

¹⁴ Distribution Statement No. 1-RJ, pp. 1-2.

¹⁵ Distribution Statement No. 1-RJ, p. 3; Distribution Statement No. 1-R, p. 4.

¹⁶ Distribution Statement No. 1, p. 8.

¹⁷ Distribution Statement No. 1, p. 4.

¹⁸ Distribution Statement No. 1, p. 7.

¹⁹ Distribution Statement No. 1, p. 5.

²⁰ Distribution Statement No. 1, p. 5.

²¹ Distribution Statement No. 1, p. 5.

- the natural gas delivered to customers, and Distribution will be better situated to continue to provide adequate supply to its customers.²²
19. It will take time for Distribution to acquire the knowledge and information pertaining to the contractual terms and conditions that are unique to RNG suppliers, and Distribution is attempting to be proactive in these efforts.²³
 20. Including RNG in Distribution's gas mix will diversify the Company's gas supply portfolio.²⁴
 21. Including RNG in Distribution's gas mix could have benefits if there are supply shortages or disruptions that reduce the ability of Distribution's traditional gas supply sources to deliver adequate supply.²⁵
 22. Distribution believes that the reporting data and the three-year timeframe of the RNG pilot program will be important in determining and evaluating the success and viability of the RNG pilot program.²⁶
 23. Distribution's ratepayers will be adequately protected by Distribution's proposed RNG pilot program, as it:
 - (a) is limited to three-years;
 - (b) limits the purchase quantity of RNG to 0.5% of the Company's annual gas purchases, which is approximately 200 Dth/day;
 - (c) requires the Company to conduct a thorough review of market conditions at the time of the prospective contract to avoid non-economic contracts to the extent possible; and
 - (d) commits the Company to sell any RINs to offset the RNG price premium.²⁷

²² Distribution Statement No. 1, p. 4.

²³ Distribution Statement No. 1, pp. 6-7.

²⁴ See generally Distribution Statement No. 1, pp. 3-10.

²⁵ Distribution Statement No. 1-R, pp. 2-3.

²⁶ Distribution Statement No. 1-RJ, pp. 1-2.

²⁷ Distribution Statement No. 1-RJ, pp. 1-2.

APPENDIX B – Proposed Conclusions of Law

1. A public utility has the burden of proof to demonstrate by a preponderance of the evidence that a proposed rate is just and reasonable.²⁸
2. The term "preponderance of the evidence" means that one party has presented evidence that is more convincing, by even the smallest amount, than the evidence presented by the other party.²⁹
3. Section 1307(f) of the Public Utility Code (titled "Recovery of natural gas costs") allows natural gas distribution companies ("NGDCs") with gross intrastate annual operating revenues in excess of \$40,000,000 to file tariffs reflecting actual and projected increases or decreases in their natural gas costs, with the tariffs being effective six months from the date of filing.³⁰
4. Section 1318 of the Public Utility Code provides that no rates for an NGDC shall be deemed just and reasonable unless the Commission finds that the utility is pursuing a least cost fuel procurement policy, consistent with the utility's obligation to provide safe, adequate and reliable service to its customers.³¹
5. "On its face, a gas utility's obligation to pursue a least cost fuel procurement strategy is just that -- an obligation to take steps to insure that the cost it -- the utility -- incurs for natural gas are as low as reasonably possible, consistent with its obligation to provide safe, reliable and adequate service."³²
6. A purchasing strategy may be reasonable even if it produces higher than the "least cost" if that strategy improves or maintains the safety, adequacy and reasonableness of the utility's gas supply.³³
7. Section 1317 of the Public Utility Code requires NGDCs to submit certain information to enable the Commission to make a least cost fuel procurement finding.³⁴
8. The Commission has promulgated regulations that include extensive filing requirements for NGDCs.³⁵
9. Section 1318 of the Public Utility Code provides the Commission with the flexibility and discretion to evaluate an NGDC's least cost fuel procurement policy under the conditions of the existing gas marketplace³⁶

²⁸ 66 Pa.C.S. § 315(a); *Samuel J. Lansberry, Inc. v. Pa. P.U.C.*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 602 A.2d 863 (Pa. 1992).

²⁹ *Brown v. Commonwealth*, 940 A.2d 610, 614 n.14 (Pa. Cmwlth. 2008).

³⁰ 66 Pa.C.S. § 1307(f)(1).

³¹ 66 Pa.C.S. § 1318.

³² *Pa. PUC v. Philadelphia Gas Works*, Docket Nos. R-00061931, et al., (Order entered Sept. 28, 2007).

³³ *See* 66 Pa.C.S. § 1318.

³⁴ 66 Pa.C.S. § 1317.

³⁵ *See* 52 Pa. Code §§ 53.64 and 53.65.

³⁶ *Popowsky v. Pa. PUC*, 676 A.2d 731, 735 (Pa. Cmwlth. 1996).

10. Whether or not the utility has conformed to its statutory duties in a reasonable manner depends on the individual circumstances and facts of each particular Section 1307(f) filing.³⁷
11. Distribution has met its burden of proving that the relatively small purchase and introduction of RNG into the Company's distribution system is consistent with Distribution's obligations under Section 1317 and 1318 of the Public Utility Code to pursue a least cost fuel procurement policy, consistent with its obligation provide "safe, adequate and reliable service" to its customers.³⁸
12. Distribution's proposed mechanism for purchasing a limited amount RNG is reasonable.
13. Distribution's proposed RNG pilot program is in the public interest.
14. Distribution's proposed RNG pilot program contains a sufficient level of detail for the Commission to determine that the Company has met its burden of proof.

³⁷ *Equitable Gas Co. v. Pa. PUC.*, 536 A.2d 846, 851 (Pa. Cmwlth. 1988).

³⁸ 66 Pa. C.S. § 1318(a).

APPENDIX C – Proposed Ordering Paragraphs

1. That National Fuel Gas Distribution Corporation’s proposed Renewal Natural Gas pilot program is approved without modification.
2. That the Formal Complaint of the Office of Consumer Advocate, filed at Docket No. C-2022-3030573, is dismissed and marked closed.
3. That the Formal Complaint of the Office of Small Business Advocate, filed at Docket No. C-2022-3030730, is dismissed and marked closed.
4. That the Secretary mark this docket, Docket No. R-2022-3030235, closed.