

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120**

Commissioners Present:

Gladys Brown Dutrieuille, Chairman, Dissenting Statement
John F. Coleman, Jr., Vice Chairman
Ralph V. Yanora

Pennsylvania Public Utility Commission
Office of Consumer Advocate
Office of Small Business Advocate

R-2022-3030235
C-2022-3030573
C-2022-3030730

v.

National Fuel Gas Distribution Corporation

OPINION AND ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of National Fuel Gas Distribution Corporation (NFG or the Company) and the Office of Consumer Advocate (OCA), both filed on June 3, 2022, to the Recommended Decision (R.D.) of Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Charece Z. Collins (collectively, ALJs), served on May 24, 2022, in the above-captioned proceeding. The Commission's Bureau of Investigation and Enforcement (I&E) and the Office of Small Business Advocate (OSBA) filed Replies to Exceptions on June 10, 2022.

Also before the Commission is the Joint Petition for Partial Settlement of the Rate Investigation Pursuant to 66 Pa. C.S. § 1307(f) (Joint Petition or Partial Settlement) filed on April 20, 2022, by I&E, the OCA, and NFG (collectively, the Joint Petitioners) regarding the Company’s annual adjustment and reconciliation of its natural gas cost recovery rates filed pursuant to Section 1307(f) of the Public Utility Code (Code), 66 Pa. C.S. § 1307(f), to become effective for service furnished on and after August 1, 2022.¹

For the reasons stated, *infra*, we shall: (1) deny the Exceptions of NFG and the OCA; (2) adopt the ALJs’ Recommended Decision; (3) approve the Joint Petition; and (4) deny NFG’s proposed RNG Pilot, all consistent with this Opinion and Order.

I. Background

NFG provides retail natural gas sales and transportation services to customers in fourteen counties in northwestern Pennsylvania. NFG is a “natural gas distribution company” (NGDC) as defined in Section 2202 of the Code, 66 Pa. C.S. § 2202. Because NFG’s annual operating revenues derived from providing gas services to customers in Pennsylvania exceed \$40 million, NFG’s recovery of purchased gas costs is governed by Section 1307(f) of the Code, 66 Pa. C.S. § 1307(f), and the Commission’s Regulations at 52 Pa. Code §§ 53.61-53.65 and 53.68.

This is an annual filing that all large NGDCs make and provides for the Company’s annual adjustment and reconciliation of its natural gas cost recovery rates. More specifically, Section 1307(f) governs recovery of natural gas costs and allows NGDCs with gross intrastate annual operating revenues in excess of \$40,000,000 to file

¹ As noted in the Joint Petition, NFG’s proposed Renewable Natural Gas (RNG) pilot program (RNG Pilot) is not addressed in the Settlement and was the sole issue reserved for litigation.

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. 66 Pa. C.S. § 1307(f)(1). In its proposed tariff supplement (Tariff Supplement to Gas – Pa. P.U.C. No. 9), filed as part of its Section 1307(f) filing on January 31, 2022, NFG proposed, *inter alia*, a decrease of \$1.0675/Mcf in its rate for recovery of purchased gas costs applicable to residential sales service customers compared to the rates in effect as of November 1, 2021. NFG also proposed to maintain its gas retainage rate charged to all customer classes on its system at 0.15%, to become effective on August 1, 2022.

II. History of the Proceeding

On December 30, 2021, NFG filed its pre-filing information in support of its annual gas cost recovery (GCR) filing pursuant to 52 Pa. Code §§ 53.64 and 53.65.

On January 6, 2022, I&E filed a Notice of Appearance. On January 25, 2022, the OCA filed a Notice of Appearance. On January 26, 2022, the OCA filed a Complaint.

On January 31, 2022, NFG filed its definitive GCR filing pursuant to Section 1307(f) of the Code, 66 Pa. C.S. § 1307(f). Its filing contains testimony, exhibits, a Tariff Supplement, and a Tariff Addendum.

On February 3, 2022, the OSBA filed a Notice of Appearance and a Complaint.

On March 24, 2022, NFG filed a Motion for a Protective Order, which the Parties did not oppose. By Order dated March 28, 2022, the ALJs granted NFG's Motion for a Protective Order.

On March 31, 2022, the Parties advised that they had achieved a partial settlement with one outstanding issue reserved for litigation.

The evidentiary hearing was held on April 4, 2022. All witnesses were excused from appearing at the hearing, because all Parties waived cross-examination. NFG, I&E, the OCA, and the OSBA's witnesses' testimonies and exhibits were admitted into the record during the hearing.

On April 13, 2022, NFG, I&E, the OCA, and the OSBA each filed Main Briefs. On April 20, 2022, NFG, I&E, and the OSBA filed Reply Briefs. The OCA filed a letter on the same date, advising that it would not be filing a Reply Brief.

Also on April 20, 2022, NFG, I&E, and the OCA filed the Joint Petition and accompanying Statements in Support. On April 22, 2022, the OSBA filed a letter indicating that it did not oppose the Partial Settlement.

On May 2, 2022, an Interim Order was issued closing the hearing record.

In the Recommended Decision served on May 24, 2022, the ALJs recommended approval of the Partial Settlement and denial of NFG's RNG Pilot. As previously noted, NFG and the OCA filed Exceptions on June 3, 2022. On the same date, I&E and the OSBA each filed letters stating that they would not be filing Exceptions. I&E and the OSBA filed Replies to Exceptions on June 10, 2022, and the OCA filed a letter stating it would not be filing Replies to Exceptions.

III. Introduction

As a preliminary matter, we note that any issue that we do not specifically delineate shall be deemed to have been duly considered and denied without further

discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); also see, generally, *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

The ALJ made thirty-one Findings of Fact and reached eighteen Conclusions of Law. R.D. at 5-10, 38-40. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

A. Legal Standards

1. Burden of Proof

Section 315(a) of the Code provides:

(a) Reasonableness of Rates. - In any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.

66 Pa. C.S. § 315(a). A public utility has the burden of proof to show that a proposed rate is “just and reasonable,” and the evidence produced by a utility in meeting its burden must be substantial. *Lower Frederick Twp. Water Co. v. Pa. PUC*, 409 A.2d 505

(Pa. Cmwlth. 1980), and *Brockway Glass v. Pa. PUC*, 437 A.2d 1067 (Pa. Cmwlth. 1981).

NFG has the burden of proof in this proceeding to establish that it is entitled to the relief it is seeking regarding the rates and tariff modifications included in its filing.

2. Least Cost Fuel Procurement Policy

Section 1307(f) of the Code governs recovery of natural gas costs and allows 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. 66 Pa. C.S. § 1307(f)(1). Section 1307 further provides that the Commission, after a hearing, shall determine the portion of the Company's natural gas distribution costs in the previous twelve-month period that meet the standards in Section 1318 of the Code. 66 Pa. C.S. § 1307(f)(5). Section 1318 provides that no rates for a natural gas distribution utility 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. 66 Pa. C.S. § 1318(a).

In determining whether NFG is pursuing a least cost fuel procurement policy under Section 1318 of the Code, specific findings must be made as follows:

- (1) The utility has fully and vigorously represented its ratepayers' interests 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).

Section 1317 of the Code, 66 Pa. C.S. § 1317, requires the submission of certain information to enable the Commission to make a least cost fuel procurement finding. The Commission has duly promulgated regulations governing GCR filings that include extensive filing requirements. *See* 52 Pa. Code §§ 53.64 (filing requirements for natural gas distributors with gross intrastate annual operating revenues in excess of \$40 million) and 53.65 (special provisions relating to natural gas distributors with gross intrastate annual operating revenues in excess of \$40 million with affiliated interests).

3. Settlements

The policy of the Commission is to encourage settlements, and the Commission has stated that settlement rates are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code §§ 5.231, 69.401. A full settlement of all the issues in a proceeding eliminates the time, effort and expense that otherwise would have been expended in litigating the proceeding, while a partial settlement may significantly reduce the time, effort, and expense of litigating a case. A

settlement, whether whole or partial, benefits not only the named parties directly, but, indirectly, all customers of the public utility involved in the case.

Regulatory proceedings are expensive to litigate, and the reasonable cost of such litigation is an operating expense recovered in the rates approved by the Commission. Partial or full settlements allow the parties to avoid the substantial costs of preparing and serving testimony and conducting cross-examination of witnesses in lengthy hearings, preparing and serving Main and Reply Briefs, Exceptions and Replies to Exceptions, and preparing a reproduced record and associated briefs necessitated by any appeal of the Commission's decision, yielding significant expense savings for the company's customers. For this and other sound reasons, settlements are encouraged by long-standing Commission policy.

Despite the policy favoring settlements, the Commission does not simply rubber stamp settlements without further inquiry. In order to accept a settlement such as that proposed here, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. PUC v. York Water Co.*, Docket No. R-00049165 (Order entered October 4, 2004); *Pa. PUC v. C. S. Water and Sewer Assoc.*, 74 Pa. P.U.C. 767 (1991).

In this case, the Joint Petitioners have reached an accord on all but one issue that arose in this proceeding. As previously noted, the efficacy of permitting GCR recovery of the costs associated with NFG's RNG Pilot was reserved for litigation.

IV. The Joint Petition

A. Least Cost Fuel Procurement Policy

As discussed, *supra*, in determining whether NFG is pursuing a least-cost fuel procurement policy, the Commission must make specific findings set forth in Sections 1318(a) and (b) of the Code. In that regard, excluding NFG's RNG Pilot, the Joint Petitioners requested that the Commission make specific findings of fact that are set forth in Paragraphs 26 through 42 of the Joint Petition. Joint Petition at 5-9. In addition, the Joint Petitioners requested that the Commission find, based on the evidence presented by the Parties, that: (1) NFG's gas purchases and gas purchasing practices during the twelve-month historic reconciliation period ended November 30, 2021; and, (2) NFG's projected purchases and purchasing policies during the eight-month interim period beginning December 1, 2021, and the projected twelve-month period beginning August 1, 2022 (the period of time the proposed rates would be in effect), meet the standards set forth in Sections 1318(a) and (b) of the Code.² Joint Petition at 9-11. The ALJ found that for purposes of the terms in the Partial Settlement, NFG is pursuing a least cost fuel procurement policy pursuant to Section 1318. Conclusions of Law Nos. 2-9, R.D. at 38-39. Notwithstanding our disposition of the one issue reserved for litigation in this proceeding, based on our review of the record and the terms of the Joint Petition, we find that NFG has met the requirements of Section 1318 of the Code.

² It is noted in the Joint Petition that regarding the eight-month interim period and the twelve-month projected period, it is expressly understood and agreed that this finding is made solely for the purpose of setting prospective rates that shall continue to be subject to the standards of Section 1318 of the Code, 66 Pa. C.S. § 1318, and to further review in an appropriate future proceeding. Joint Petition at 10.

B. Terms and Conditions of the Partial Settlement

As previously indicated, the Joint Petitioners have agreed to the Partial Settlement covering all issues except one, that is, NFG's RNG Pilot (the reasonableness and legality of which has been litigated separately). The OSBA has indicated that it does not oppose the Partial Settlement. In the Partial Settlement, the Joint Petitioners reached agreement on the findings pursuant to 66 Pa. C.S. § 1307(f) and 66 Pa. C.S. § 1318 of the Code. Specifically, the Joint Petitioners expressed their agreement with respect to the following issues: (1) purchased gas cost rates; (2) design day requirements; (3) NFG's Monthly Metered Transportation (MMT) Balancing Charge Rate; (4) NFG's contract renewals and changes; (5) Tariff Changes identified in the List of Changes at pages 2-3 of Appendix A to the Joint Petition; (6) an internal investigation of modifications to NFG's Gas Cost Management Plan; and, (7) identification of flowback of pipeline penalty credits. Joint Petition at 11-13.

The Partial Settlement consists of the Joint Petition containing the terms and conditions of the Settlement and Appendices A through D. The tariff supplement describing the agreed-upon rates is Appendix A, and the Statements in Support filed by NFG, I&E, and the OCA are contained in Appendices B through D, respectively. The OSBA submitted a separate letter indicating its non-opposition to the Partial Settlement.

The Partial Settlement includes 88 numbered paragraphs, a request for relief, and Appendices A through D. Appendix A is the Company's proposed Tariff Supplement to Gas – Pa. P.U.C. No. 9. Appendices B through D are the Statements in Support of the Partial Settlement submitted by NFG, I&E, and the OCA, respectively. The OSBA, the only other party in this proceeding, indicated under separate cover that it does not oppose the Partial Settlement. R.D. at 10.

The principal terms of the Partial Settlement³ are as follows:

A. Historic Reconciliation Period Standards.

43. The Commission has jurisdiction over the Joint Petitioners and subject matter of this proceeding. 66 Pa. C.S. §§ 1307(f), 1317-18.

44. With respect to Distribution's gas purchases and gas purchasing practices during the twelve-month historic reconciliation period ended November 30, 2021, it is requested that the ALJs and the Commission find that Distribution has met the standards of Section 1318 of the Public Utility Code, 66 Pa. C.S. § 1318, as required by Section 1307(f)(5) of the Public Utility Code, 66 Pa. C.S. § 1307(f)(5), as to all actual purchased gas costs in the historic period. It is requested that the Commission find that, during the twelve months ended November 30, 2021:

a. Distribution met the requirements of Section 1318(a) of the Public Utility Code by pursuing a least-cost fuel procurement policy, consistent with its obligation to provide safe, adequate and reliable service to its customers; and

b. Distribution met the requirements of Section 1318(b) of the Public Utility Code relating to purchases from and services provided by affiliates.

B. Projected Period Findings.

45. With respect to the eight-month interim period beginning on December 1, 2021, and with respect to the twelve-month period beginning August 1, 2022, when rates established under this Partial Settlement will be in effect, it is requested that the Commission find, based upon information presently available and based upon evidence of record in this proceeding concerning Distribution's projected purchases and purchasing policies, that the rates to be adopted by the Commission result from Distribution's compliance with the

³ Original headings and formatting used by the Joint Petitioners are retained in this quoted material.

provisions of Section 1318 of the Public Utility Code, including Sections 1318(a)(1), 1318(a)(2), 1318(a)(3), 1318(a)(4), 1318(b)(1), 1318(b)(2) and 1318(b)(3), 66 Pa. C.S. §§ 1318(a)(1), 1318(a)(2), 1318(a)(3), 1318(a)(4), 1318(b)(1), 1318(b)(2) and 1318(b)(3).

46. The Joint Petitioners agree that, based upon evidence of record in this proceeding concerning Distribution's projected gas purchases and gas purchasing policies, Distribution's projected gas purchases and projected gas purchasing policies may comply with the standards of Section 1318 of the Public Utility Code. Nevertheless, it is expressly understood and agreed that this Section of the Partial Settlement, Section V.B., is made solely for the purpose of setting prospective rates that shall be subject to the standards of Section 1318 of the Public Utility Code, 66 Pa. C.S. § 1318, and further review in an appropriate future proceeding. Section IV.B. of the Partial Settlement is not intended in any way to limit or prevent I&E, OCA and OSBA from reviewing, after such projected gas purchases actually have been made and gas purchasing practices actually have been implemented, whether Distribution's gas purchases and gas purchasing practices complied with Section 1318. If, in an appropriate future proceeding, gas purchases and gas purchasing practices from December 1, 2021, through July 31, 2022, and the twelve-month application period commencing August 1, 2022, and ending on July 31, 2023, were challenged, the Commission's findings based upon Section III of the Partial Settlement shall not bar the examination of such purchases and practices, including, but not limited to, disallowance of, or reductions to, such costs during the eight-month interim period commencing December 1, 2021, and ending on July 31, 2022, and the twelve-month application period commencing August 1, 2022, and ending on July 31, 2023.

V. OTHER TERMS AND CONDITIONS OF PARTIAL SETTLEMENT

A. PGC Rates

47. The Joint Petitioners request that the ALJs and the Commission approve the form of tariff supplement provided

as Attachment “A” hereto, including the rates set forth therein, as modified in Section V(E) of this Partial Settlement. The rates in Attachment “A” are subject to further updates for actual over/under recoveries of purchased gas costs through June 30, 2022, for updates related to the calculation of the MMT balancing charge and for updates to the forecasts of wellhead prices.

B. Design Day Requirements

48. Rates established in this proceeding are based on a contracted-for level of pipeline and storage capacity of 350,705 Dth/day. (PGC Statement No. 8, Exhibit LAP-4). The Joint Petitioners agree to use the throughput and capacity amounts projected by the Company to calculate rates in this proceeding. The acceptance by the Petitioners of this level of throughput and capacity to calculate rates does not indicate their acceptance of, and the Commission’s approval of the partial settlement will not indicate its approval of, the procedures or methodologies used to calculate these levels of throughput and capacity.

49. In Distribution’s 2023 Section 1307(f) proceeding, any party may contend that Distribution should adjust its capacity to a different level. If the Commission makes a determination concerning the appropriate level of capacity for Distribution, Distribution will undertake all reasonable and appropriate actions, after the determination becomes final, to adjust its level of capacity to the level determined to be appropriate.

50. No Joint Petitioner may contend that there should be a disallowance of recovery by Distribution of its cost of capacity for any period prior to Distribution’s first reasonable opportunity to adjust its capacity after the determination of the appropriate level of capacity has become final.

C. MMT Balancing Charge.

51. The MMT Balancing Charge Rate will be updated on May 1, 2022, to reflect Supply’s firm transportation rates that became effective on April 1, 2022.

52. The MMT Balancing Charge Rate to become effective on August 1, 2022, will be updated to reflect the Company's Supply ESS Deliverability Charge, Capacity Charge, Injection/Withdrawal Charges and Shrinkage Factor as of August 1, 2022; (2) MMT billing determinants based on actual MMT volumes experience by the Company for the 12-month period ending June 30, 2022; and (3) average MMT balancing storage inventories for the 12 months ending July 31, 2021.

D. Contract Renewals and Changes

53. The Joint Petitioners agree that the Commission should approve the renewals, extensions and changes in pipeline and storage capacity contracts that are explained in PGC Exhibits 4 and 8 and in PGC Statements 1, 7 and 8.

E. Tariff Changes.

54. The Joint Petitioners request that the Commission approve the tariff changes that are set forth in the form of tariff supplement provided as Attachment A hereto. The tariff changes are identified in the List of Changes that is included at pages 2-3 of Appendix A hereto.

55. The Company will add the following language to page 152 of its tariff: Pipeline penalty credits will be included in the calculation of "CE" as a credit to purchased gas costs from the month they are received to the effective month "CE" is refunded or collected.

56. Supplier commodity refunds will continue to be accounted for as set forth on page 152 of the Company's tariff.

F. Gas Cost Management Plan

57. Distribution will investigate modifications to its Gas Cost Management Plan that may mitigate future potential rate volatility. The Company will evaluate whether its current 12% purchasing target for winter supplies remains appropriate. The Company will also review its timing and

layering of purchases as part of a hedging plan that could benefit customer by distributing cost changes over multiple quarters. The Company will provide a copy of its review and present its findings to the parties in its 2023 PGC pre-filing. The Company will not be required to propose any changes to its Gas Cost Management Plan as a result of this review.

G. Pipeline Penalty Credits

58. The Company will continue to identify pipeline penalty credits received as a separate Exhibit in the annual filing to include amount, source, and month in which the pipeline penalty credit was received as a credit on its invoice. The Company will be permitted to continue to flow pipeline penalty credits back to customers through purchased gas costs as reflected in the invoices from the pipelines, and due to the low amount of credits received will not be required to separately account for them in its calculation of PGC costs or over/under collections.

H. Renewable Natural Gas Pilot Program

59. Issues related to Distribution's proposed RNG pilot program in this proceeding are reserved for litigation.

I. Approval of Filing

60. The Company's 2022 Section 1307(f) filing is approved as modified herein, noting that issues related to the RNG pilot program are reserved for litigation.

Joint Petition at 9-14.

The Partial Settlement is conditioned upon the Commission's approval of the terms and conditions contained therein without modification. The Joint Petitioners agreed that if the Commission disapproves the Partial Settlement or modifies any terms and conditions therein, then any Joint Petitioner may elect to withdraw from the Joint Petition and may proceed with litigation and, in such event, the Settlement shall be void and of no force and effect. The Joint Petitioners acknowledged and agreed that the

Partial Settlement is presented without prejudice to any position which any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance in the future on the merits of the issues in future proceedings. Joint Petition at 17-18. The Joint Petitioners respectfully requested that the ALJs and the Commission approve the Partial Settlement, including all terms and conditions thereof, without modification. *Id.* at 19.

C. ALJs' Recommendation on the Partial Settlement

The pertinent provisions of the Partial Settlement, as discussed in detail by the ALJs in the Recommended Decision, are detailed below. As noted in the discussion, each of the issues was carefully considered as part of the compromise reached by the Joint Petitioners and weighed by the ALJs to determine if the Partial Settlement as a whole is supported by substantial evidence of record and is in the public interest and should, thus, be approved.

1. PGC Rates

The ALJs observed that according to NFG, the Partial Settlement rates reflect the adjustments that the Parties agreed to in this proceeding. R.D. at 15 (citing Partial Settlement at 11, ¶ 47; NFG Statement in Support at 3). As support for the Partial Settlement, NFG submitted that the rates that it proposes to place into effect on August 1, 2022, are supported by record evidence. In its testimony and related Statement in Support of the Partial Settlement, NFG explained in detail the development of its natural gas supply rates utilizing cost projections, sales projections, and the reconciliation process. NFG contended that its testimony and exhibits provided full

support for the rates and their underlying calculations. R.D. at 15⁴ (citing NFG St. 5; PGC Exh. 21; NFG Statement in Support at 3).

As support for the Partial Settlement, NFG submitted that the rates that it proposes to place into effect on August 1, 2022, are supported by record evidence. In its testimony and related Statement in Support of the Partial Settlement, NFG explained in detail the development of its natural gas supply rates utilizing cost projections, sales projections, and the reconciliation process. NFG contended that its testimony and exhibits provided full support for the rates and their underlying calculations. R.D. at 15 (citing NFG St. 5; PGC Exh. 21; NFG Statement in Support at 3). The ALJs took note of I&E's support of the Partial Settlement and view that NFG is pursuing a least-cost fuel procurement policy consistent with its obligation to provide safe, adequate and reliable service to its customers. I&E observed that the Company projected a \$1.0675/Mcf decrease in the projected gas cost for all classes as compared to the rates in effect as of November 1, 2021. Acknowledging that those costs are subject to review in a future PGC proceeding, I&E maintained that ratepayers are protected because NFG gains no unwarranted financial advantages through its projected gas purchases and projected gas purchasing policies. I&E thus represented that the Partial Settlement maintains the proper balance of the interests of all Parties. R.D. at 16 (citing I&E Statement in Support at 4).

⁴ NFG's December 30, 2021, pre-filing contained twenty-seven exhibits detailing its gas purchases, gas contracts, peak day requirements and other information required by the Commission's Regulations. NFG's annual filing made on January 31, 2022, included exhibits and testimony of eight witnesses explaining the filing and the reasons supporting NFG's claim of purchases and planning consistent with a least-cost fuel procurement strategy. Additional detail regarding the Company's gas purchasing practices is also provided in the Proposed Findings of Fact set forth in Paragraphs 26-42 of the Partial Settlement. R.D. at 16; NFG Statement in Support at 3.

The ALJs also credited the OCA's agreement that NFG's PGC filing meets the requirements of 66 Pa. C.S. § 1307(f) generally and specifically with regard to showing that the Company's natural gas costs are consistent with a least cost fuel procurement policy required by 66 Pa. C.S. § 1318. The OCA submitted that the Commission should approve NFG's proposed PGC rate in accordance with the Partial Settlement. R.D. at 16 (citing OCA Statement in Support at 8).

2. Design Day Requirements

The ALJs discussed the fact that in response to NFG's annual PGC filing, the OCA, through its witness, Mr. Jerry Mierzwa, recommended that the Company evaluate its design day forecasting model to address whether it is overestimating the Company's design day requirements. R.D. at 16-17 (citing OCA St. 1-SR at 1; OCA Statement in Support at 6). The ALJs detailed the rounds of responsive testimony and the compromise the Parties reached in the Partial Settlement as a result of the fully developed record on this issue. R.D. at 16-19. The ALJs noted that as part of his recommendation, Mr. Mierzwa also suggested that the Company not acquire additional interstate pipeline capacity until it performs the suggested evaluation. R.D. at 16-17 (citing OCA St. 1-SR at 4; OCA Statement in Support at 6). Further, Mr. Mierzwa recommended that the Company use daily usage, rather than monthly usage, to forecast design day demands. R.D. at 17 (citing OCA St.1 at 8-11; NFG Statement in Support at 4).

The ALJs observed that the Company presented the rebuttal testimony of Ms. Janice M. Ward, disagreeing with Mr. Mierzwa's contentions that the existing design day forecasting model overestimates the Company's design day requirements and explaining that Mr. Mierzwa's conclusion was inaccurate as it was based on a linear extrapolation of the peak day usage from the prior 2020-2021 winter "which overall was 11.5% warmer than normal." R.D. at 17 (citing NFG St. 8-R at 1-2). Ms. Ward also stated that "the relationship between usage and [Heating Degree Day [or HDD]] is not

linear, thus estimating actual design day usage from a seasonably warm peak day from a single winter significantly understates the forecast design day.” R.D. at 17 (citing NFG St. 8-R at 2). In addition, Ms. Ward explained that the design day forecast model is not intended to forecast usage for days that are significantly lower than 74 HDD. Rather, “it is intended to forecast usage when temperatures are extremely cold, so that the Company can ensure that it has sufficient supply to provide reliable service to customers.” R.D. at 17 (citing NFG St. 8-R at 2-3).

The ALJs stated that Ms. Ward espoused the accuracy of the Company’s current model, indicating that:

A review of the actual design day estimates from the prior (seven) winters demonstrates that the Company’s design day forecast is reasonably in-line with historical actuals. In fact, the design day estimate from the winter of 2013-2014, which experienced peak day usage at 68 HDDs on January 7, 2014, resulted in a peak day requirement that exceeded the Company’s forecast and contract pipeline capacity at the time, as noted in Exhibit LAP-2. This demonstrates the reasonableness of the Company’s model.

R.D. at 17 (citing NFG St. 8-R at 2; NFG Statement in Support at 4).

Ms. Ward also explained that Mr. Mierzwa’s recommendation to use daily usage was unreasonable, as “[t]he Company does not obtain daily meter read data for the vast majority of customers ... As a result, historical daily consumption data is not available to be utilized for forecasting purposes.” R.D. at 17-18 (citing NFG St. 8-R at 4; NFG Statement in Support at 4-5).

The ALJs stated that, according to NFG, after the rounds of testimony noted above, the Company and the Joint Petitioners, including the OCA, were able to reach a resolution of the issues related to NFG’s design day forecasting model that are detailed in Paragraphs 48-50 of the Partial Settlement. The ALJs recognized that the

settlement of issues related to the Company's design day forecasting model reflects the Company's position in this proceeding – that is, no change at the present time. However, the Partial Settlement does not prohibit the Parties from challenging NFG's design day forecasting model in future PGC proceedings. Because the issue can be raised in future PGC proceedings, the ALJs found these settlement provisions are in the public interest and recommended that they be approved. R.D. at 18-19.

3. Monthly Metered Transportation (MMT) Balancing Charge

The ALJs detailed in the Recommended Decision that in its initial filing, NFG proposed an MMT Balancing Charge rate of \$0.36 per Mcf. R.D. at 19. This represented a \$0.02 decrease from the current MMT Balancing Charge rate of \$0.38 per Mcf. NFG's MMT Balancing Charge recovers the Company's costs for balancing the difference between MMT customers' daily deliveries and daily usage. *Id.* (citing NFG St. 6 at 28-31). In determining the MMT charge, NFG calculates the estimated capacity costs required to provide this service and develops the MMT rate based upon projected MMT customer volumes. R.D. at 19 (citing NFG Statement in Support at 6).

The ALJs explained that, according to NFG, after extensive settlement discussions, all Parties have agreed that the new MMT Balancing Charge Rate will be updated on May 1, 2022, to reflect National Fuel Gas Supply Corporation's (Supply's) firm transportation rates that will become effective on April 1, 2022. Further, all Parties agreed that the MMT Balancing Charge Rate to become effective on August 1, 2022, will be updated to reflect: (1) the Company's Supply ESS Deliverability Charge, Capacity Charge, Injection/Withdrawal Charges and Shrinkage Factor as of August 1, 2022; (2) MMT billing determinants based on actual MMT volumes experienced by the Company for the twelve-month period ending June 30, 2022; and (3) average MMT balancing storage inventories for the twelve months ending July 31, 2021. R.D. at 19-20 (citing Partial Settlement ¶¶ 51-52; NFG Statement in Support at 7).

The ALJs noted by way of background, the OCA witness Mierzwa had identified issues with the Company's proposed MMT Balancing Charge in this proceeding. First, Mr. Mierzwa noted that on February 22, 2022, Supply increased its firm transportation rates pursuant to a settlement approved by the Federal Energy Regulatory Commission (FERC) in its most recent base rate proceeding in Docket No. RP19-1426. The OCA argued that the MMT Balancing Charge initially presented in this proceeding, as well as other rates presented by NFG in this proceeding, should be adjusted to reflect the increase in Supply's firm transportation rates. R.D. at 20 (citing OCA St. 1 at 11-12). According to the OCA, the difference between the costs associated with providing the MMT Balancing service and the revenues collected through the MMT Balancing Charge are the responsibility of PGC customers. By adjusting the MMT Balancing Charge to reflect Supply's rate increase, PGC customers will be charged for costs properly recovered from MMT customers. R.D. at 20 (citing OCA St. 1 at 12). Mr. Mierzwa noted that in addition to increasing the MMT Balancing Charge proposed in this proceeding, NFG should increase the MMT Balancing Charge in its May 1, 2022 quarterly PGC filing to reflect the increase in Supply's rates. R.D. at 20 (citing OCA Statement in Support at 5).

The ALJs also noted that Mr. Mierzwa identified an issue regarding the appropriate storage capacity requirement used to calculate the MMT Balancing Charge. R.D. at 20. The storage capacity quantity is the amount of gas in storage inventory, which can be withdrawn to provide balancing service to MMT customers. *Id.* (citing OCA St. 1 at 12-13). The Company initially reflected a storage capacity requirement of 68,368 Mcf as a basis for the MMT Balancing Charge calculation. R.D. at 20 (citing OCA St. 1 at 13). According to the OCA, however, through discovery in this proceeding it became apparent that the Company has been and has the capability of using storage capacity well in excess of that amount to provide balancing service. R.D. at 20 (citing OCA St. 1 at 13; NFG St. 6-R at 4). Mr. Mierzwa thus had recommended using a storage capacity requirement of 150,000 Mcf to calculate the MMT Balancing Charge.

Mr. Mierzwa recognized that, altogether, these changes would increase the MMT Balancing Charge from the Company's proposed rate of \$0.36/Mcf to \$0.39/Mcf. R.D. at 20 (citing OCA St. 1 at 13, Sch. JDM-2; OCA Statement in Support at 5-6). The ALJs explained that NFG's witness agreed in part with Mr. Mierzwa's recommendations in the rebuttal round of testimony. R.D. at 21. More specifically, NFG's witness Mr. Donald N. Koch agreed with Mr. Mierzwa's contention that the MMT Balancing Charge Rate should be updated to account for changes in Supply's rates. Mr. Koch thus confirmed that NFG would agree to update the MMT rate whenever there were new rates approved by the FERC for Supply. R.D. at 21 (citing NFG St. 1-R at 2; NFG Statement in Support at 6).

However, regarding Mr. Mierzwa's contention that NFG should update its MMT Balancing Charge to be based on a storage capacity component of 150,000 Mcf, rather than the 68,268 Mcf proposed by the Company, the ALJs observed that Mr. Koch refuted Mr. Mierzwa's recommendation. Mr. Koch explained that "[t]he effect of [Mr. Mierzwa's] proposal is to significantly overstate costs for MMT customers." R.D. at 21 (citing NFG St. 6-R at 2). Further, Mr. Koch also explained that Mr. Mierzwa's recommendations regarding the MMT transportation charge should be rejected, as the proposed \$0.38 was derived using the historic average capacity rate. R.D. at 21 (citing NFG St. 6-R at 3; NFG Statement in Support at 7). The OCA submitted Surrebuttal Testimony on this issue, through which Mr. Mierzwa continued to argue that the storage capacity component of the MMT Balancing Charge should be based upon the maximum storage capacity usage. R.D. at 21 (citing OCA St. 1-SR at 5; NFG Statement in Support at 7).

The ALJs considered NFG's and the OCA's assertions that the MMT Balancing Charge provisions of the Partial Settlement reflect a compromise of the OCA's and NFG's respective positions in this proceeding, are in the public interest, and should be adopted without modification. R.D. at 21-22, 28 (citing NFG Statement in Support

at 7). The ALJs noted that the OCA submitted that the Partial Settlement reasonably addresses the concerns raised by Mr. Mierzwa and represents a compromise among the Parties. The Partial Settlement states that MMT Balancing Charge Rate will be updated to reflect the Company's Supply ESS Deliverability Charge, Capacity Charge, Injection/Withdrawal Charges and Shrinkage Factor as of August 1, 2022. Moreover, the actual MMT volumes experienced by the Company for the 12-month period ending June 30, 2022 and the average MMT balancing storage inventories for the twelve months ending July 31, 2021, will be used to calculate the MMT Balancing Charge. R.D. at 21-22 (citing OCA Statement in Support at 7).

4. Contract Renewals, Extensions, and Changes

The ALJs pointed out that the Joint Petitioners request that the Commission approve the renewals, extensions, and changes in pipeline and storage capacity contracts that are explained in NFG's Direct Testimonies, Statements 1, 7, and 8, and in NFG's Exhibits 4 and 8. R.D. at 22 (citing Partial Settlement ¶ 53). NFG asserted that these contracts are in the public interest for the reasons explained in the Company's testimony and exhibits, and thus, should be approved. R.D. at 22 (citing NFG Statement in Support at 8). The ALJs observed that while the other Joint Petitioners, I&E and the OCA, did not specifically address the contract renewal and changes issue in their respective statements in support, they agreed in the Partial Settlement that the Commission should approve the aforementioned contract renewals, extensions, and changes. R.D. at 22.

5. Tariff Changes

The ALJs stated that as part of the Partial Settlement, the Joint Petitioners requested that the Commission approve the tariff changes that are set forth in the form of a tariff supplement provided as Attachment A to the Partial Settlement. The tariff changes are identified in the List of Changes that is included at pages 2-3 of Appendix A of the

Partial Settlement. R.D. at 22 (citing Partial Settlement ¶ 54). The ALJs noted that under the Partial Settlement, the Company will add the following language to page 152 of its tariff: Pipeline penalty credits will be included in the calculation of “CE” as a credit to purchased gas costs from the month they are received to the effective month “CE” is refunded or collected. Supplier commodity refunds will continue to be accounted for as set forth on page 152 of the Company’s tariff. R.D. at 22 (citing Partial Settlement ¶¶ 55-56). The ALJs explained that, in its main filing made on January 31, 2022, NFG identified the tariff changes that it was proposing to make in this proceeding, the majority of which related to changes in rates associated with changes in purchased gas costs. Further, no Party in this proceeding objected to the changes; however, issues were raised relating to the calculation and accounting of pipeline penalty credits and supplier commodity refunds. The ALJs dealt with issues related to the calculation of pipeline penalty credits in Section 7 of the Discussion portion of the Recommended Decision. R.D. at 23. As for the supplier commodity refunds, the ALJs described that I&E ultimately acknowledged in the surrebuttal testimony round that the Company’s tariff contains language regarding the methodology of the pass-back of supplier refunds. R.D. at 23 (citing I&E St. 1-SR at 2-3; NFG Statement in Support at 8). Accordingly, the Partial Settlement maintains the Company’s existing methodology for the calculation of supplier commodity refunds, as currently explained in the Company’s tariff. R.D. at 23 (citing NFG Statement in Support at 8).

6. Gas Cost Management Plan

The ALJs stated that the OCA witness Mierzwa raised the issue of the adequacy of NFG’s Gas Cost Management Plan and NFG’s failure to consider modifying it to address recent price increases and future potential volatility. In essence, according to Mr. Mierzwa, NFG’s Gas Cost Management Plan aimed to reduce price volatility through price diversification. The Gas Cost Management Plan would have NFG purchase 12% of its forecasted PGC requirements prior to the upcoming winter (November through March)

at fixed or capped prices during the months of April through October. NFG proposed that 40% of the winter requirements of NFG's PGC customers would be served with gas withdrawn from storage, and the price for storage supplies would be based on summer prices. R.D. at 23-24 (citing OCA St. 1 at 18). Mr. Mierzwa noted that, while the Company should continue this Gas Cost Management Plan to mitigate price volatility, it should also consider modifications to better address recent price increases and the potential for future volatility. R.D. at 24 (citing OCA St. 1 at 18; OCA Statement in Support at 4).

The ALJs observed that Mr. Mierzwa recommended that the Company study its 12% purchasing target for upcoming winter supplies and review the timing and layering of its purchases as part of a comprehensive hedging plan that could benefit customers by distributing costs over multiple quarters. R.D. at 24 (citing OCA St. 1 at 18). Mr. Mierzwa proposed that the Company could extend the time horizon for fixed and capped price purchases for the upcoming winter period beyond the prior summer period. R.D. at 24 (citing OCA St. 1 at 18-19). The OCA recommended that the Company provide a copy of its analysis and present its findings and conclusions to the Parties within six months of the Commission's issuance of an Order in this proceeding. R.D. at 24 (citing OCA St. 1 at 19; OCA Statement in Support at 4).

The ALJs continued that in Rebuttal Testimony, Company witness Marc T. Cuthbertson provided testimony responding to Mr. Mierzwa's claims and recommendations, noting that the "[Gas Cost Management] Plan is to provide a structured, disciplined approach to mitigating volatility without compromising reliability or price." R.D. at 24 (citing NFG St. 3-R at 2). Mr. Cuthbertson also explained that the goal of the "[Gas Cost Management] Plan is not only to reduce volatility, but first and foremost to accommodate operational requirements and satisfy best cost purchases obligations." *Id.* Mr. Cuthbertson confirmed that the Gas Cost Management Plan is reviewed by the Company every year and modified as necessary to ensure that the goals

noted above are met. *Id.* As a result of one of these reviews in 2016, the Company's base-loaded hedge purchases were reduced from 20% to 12% to accommodate operational flexibility necessitated by reductions in flexibility offered by pipelines. R.D. at 24 (citing NFG St. 3-R at 2-3; NFG Statement in Support at 9).

In Surrebuttal Testimony, Mr. Mierzwa continued to disagree with the Company and requested that the Company revisit the current hedging parameters to ensure that the Gas Cost Management Plan continues to meet its objective of stabilizing prices in this new market. R.D. at 24 (citing OCA St. 1-SR at 9; NFG Statement in Support at 9-10). Mr. Mierzwa noted that there is no indication that the recent increase in market volatility is a short-term event. R.D. at 25 (citing OCA Statement 1-SR at 6). Mr. Mierzwa further explained that the Gas Cost Management Plan was developed to address price volatility in a natural gas market during a period of relatively low prices and that market has changed substantially in the last year. Given those significant market changes, the OCA asserted it is appropriate to revisit and possibly revise the Company's current hedging parameters. R.D. at 25 (citing OCA St. 1-SR at 8-9; OCA Statement in Support at 4-5).

The ALJs explained that under the Partial Settlement, the Parties have agreed that NFG will investigate modifications to the Gas Cost Management Plan that may mitigate future potential rate volatility. Further, the Parties have agreed that the Company will evaluate whether its current 12% purchasing target for winter supplies remains appropriate. Moreover, the Company will review its timing and layering of purchases as part of a hedging plan that could benefit customers by distributing cost changes over multiple quarters, and provide a copy of the previously-mentioned review(s) to the Statutory Parties in the Company's 2023 PGC pre-filing. The Company will not be required to propose changes to its Gas Cost Management Plan as a result of the review. R.D. at 25 (citing Partial Settlement ¶ 57).

These settlement provisions are the product of what NFG described as a robust and substantive discussion over the efficacy of the Company's proposed Gas Cost Management Plan. Essentially, the Company agreed in the end to incorporate many of the OCA's recommendations. NFG thus submitted that the Company's Gas Cost Management Plan, as modified by the Partial Settlement, should be approved as being in the public interest. R.D. at 25 (citing NFG Statement in Support at 10).

7. Pipeline Penalty Credits

The ALJs observed that I&E witness Mr. Brian LaTorre (Mr. LaTorre) raised concerns over the Company's methodology for calculating pipeline penalty credits and flowing them back to customers. Specifically, Mr. LaTorre argued that the Company's existing tariff does not specify the methodology of the calculation for the pass-back of pipeline penalty credits to ratepayers. Further, Mr. LaTorre recommended that the Company change its methodology for calculating the flow-back of pipeline penalty credits. Specifically, Mr. LaTorre recommended that the Company add the following language to its tariff:

[s]upplier refunds and pipeline penalty credits received that are specifically identifiable as refunds of commodity costs will be adjusted as credits in the calculation of gas adjustment cost/purchased gas cost rates with interest added at the annual rate of six percent (6%) calculated from the month received to the effective month such refunds and credits are refunded.

R.D. at 25-26 (citing I&E St.1 at 3-4; NFG Statement in Support at 10-11).

In Rebuttal Testimony, the Company's witness, Mr. Koch testified addressing Mr. LaTorre's contentions regarding the Company's methodology of calculating the pass-back of pipeline penalty credits. Specifically, Mr. Koch explained that:

[p]ipeline penalty credits are typically credited to the gas cost invoice received from the supplier and are generally an immaterial amount. Purchased gas costs are compiled each month from the paid supplier invoices and compared to the revenue collected from customers for that month. Any differences between the purchased gas costs and revenues collected from customers is tracked through the over/under collection of purchased gas costs. Therefore, any pipeline penalty credit that was reflected on the supplier invoice would be included in the over/under collection of purchased gas costs. Pulling these credits out of purchased gas costs and accounting for them separately would unnecessarily complicate the over/under reconciliation process.

R.D. at 26 (citing NFG St. 6-R at 3-4; NFG Statement in Support at 11).

The ALJs noted that in Surrebuttal, Mr. LaTorre continued to argue that the Company should update its tariff to include language regarding the methodology of calculation for pass-back of pipeline penalty credits. R.D. at 26 (citing I&E St. 1-SR at 3-4). However, in response to Mr. Koch's Rebuttal, Mr. LaTorre conceded that the Company's current method of calculating pipeline penalty credits is less complicated than his proposal and is acceptable to I&E. R.D. at 26-27 (citing I&E St. 1-SR at 4-5; NFG Statement in Support at 11).

The ALJs explained that the Company was receptive to Mr. LaTorre's recommendation to include language regarding its existing methodology for calculating the pass-back of pipeline penalty credits. As such, through the Partial Settlement, the Company agreed to add the following language to page 152 of its tariff:

Pipeline penalty credits will be included in the calculation of "CE" as a credit to purchased gas costs from the month they are

received to the effective month “CE” is refunded or collected.

R.D. at 27 (citing Partial Settlement ¶ 55; NFG Statement in Support at 11-12).

Under the Partial Settlement, NFG maintains its current methodology for the calculation for pass-back of pipeline penalty credits. However, the Partial Settlement accounts for the above-referenced language that will be added to the Company’s tariff, consistent with I&E’s recommendation. R.D. at 27 (citing NFG Statement in Support at 12). I&E witness Mr. LaTorre recommended “...adding language to the tariff that reflects the Company’s current methodology of passing back pipeline penalty credits to customers in the month they are received.” R.D. at 27 (citing I&E St. 1-SR at 4). I&E asserted that the language proposed to be added to the tariff accurately addresses I&E’s concern that having this information available is important for customer information and transparency and I&E, therefore, supports this Partial Settlement provision. R.D. at 27 (citing I&E Statement in Support at 4-5).

According to the OCA, the Partial Settlement reasonably addresses the concerns raised by its witness, Mr. Mierzwa, and represents a compromise among the Parties. The Partial Settlement allows the Company to continue to flow pipeline penalty credits back to customers through purchased gas costs. R.D. at 27 (citing OCA Statement in Support at 7).

In a robust analysis of the major issues raised in the case and the compromises achieved by the Parties in reaching the Partial Settlement, the ALJs indicated that each of the provisions of the Partial Settlement is fair, just, and reasonable and supports the finding that, as a whole, the Partial Settlement is in the public interest. The ALJs concluded that the Partial Settlement met the requirements of Sections 1307(f) and 1318 of the Code by providing for NFG to pursue a least-cost fuel procurement

policy consistent with its obligation to provide safe, adequate, and reliable service to its customers. Therefore, the ALJs concluded that the Joint Petition is in the public interest and thus recommended that the Joint Petition be granted without modification.

R.D. at 28, 41.

The ALJs determined that the proposed Settlement is in the public interest because the resultant rates are just and reasonable and comply with the requirements of the Code for GCR proceedings. R.D. at 14-16. The ALJs also noted the reasonable compromises reached on: (1) the Design Day Requirements issue raised by the OCA, R.D. at 16-19; (2) NFG's proposal to update its MMT Balancing Charge, R.D. at 19-22; (3) NFG's proposal regarding renewals, extensions, and changes to pipeline and storage capacity contracts, R.D. at 22; (4) Tariff Changes identified in the List of Changes detailed in Appendix A to the Joint Petition, including an important language change regarding the inclusion of pipeline penalty credits in the calculation of "CE," R.D. at 22-23; (5) NFG's agreement to investigate modifications to its Gas Cost Management Plan, R.D. at 23-25; and (6) NFG's agreement to update its tariff language regarding the methodology of calculation for pass-back of pipeline penalty credits to customers, R.D. at 25-27.

Additionally, the ALJs noted that the resolution of all issues in this case by settlement, except the single RNG Pilot issue, minimizes the substantial time, expense, and effort of full litigation. The ALJs stated that the Partial Settlement is the result of compromises, which ultimately dispense with costly litigation and promote judicial economy. The ALJs observed that both the Commission's and the Parties' resources are conserved, and ratepayers are thus spared substantial litigation costs, while a settlement of all other issues that is in the public interest is secured. R.D. at 14-15, 28.

D. Disposition of the Partial Settlement

After reviewing the Parties' pre-served testimony, the terms of the Joint Petition, the Joint Petitioners' Statements in Support, and the Recommended Decision, as discussed above, we concur with the ALJs' analysis, findings and conclusions that the substantive provisions of the Joint Petition are supported by substantial evidence, are reasonable, are in the public interest, and are consistent with applicable legal standards under Sections 1307(f), 1317, and 1318(a) of the Code, 66 Pa. C.S. §§ 1307(f), 1317, 1318(a), and the Commission's Regulations at 52 Pa. Code §§ 53.64 (filing requirements for natural gas distributors with gross intrastate annual operating revenues in excess of \$40 million) and 53.65 (special provisions relating to natural gas distributors with gross intrastate annual operating revenues in excess of \$40 million with affiliated interests).

Moreover, recognizing that the policy of the Commission is to encourage settlements, we find that the Settlement is in the public interest by avoiding further litigation of this proceeding; thereby, promoting judicial economy, fostering administrative efficiency and allowing the Parties and the Commission to conserve their resources, the costs of which will ultimately be borne by ratepayers. The Settlement also enjoys the support or non-opposition by all Parties in the proceeding, representing the interests of residential, commercial and industrial customers, as well as the Company. *See generally*, 52 Pa. Code §§ 5.231, 69.401.

Accordingly, we shall adopt, without modification, the ALJs' findings, conclusions, and analysis regarding the Joint Petition in the Recommended Decision. Therefore, we shall approve the Joint Petition without modification.

V. Contested Issue

A. Description of NFG's RNG Pilot

In its filing, NFG proposed to implement a pilot program in which the Company would purchase small amounts of RNG to assist in meeting the natural gas needs of the Company's firm sales customers. NFG M.B. at 7. Under the proposed program, NFG indicated that it would issue requests for proposals (RFP) to purchase approximately 0.5% of the Company's annual gas supplies at a fixed price from a RNG source for one, two, and/or three-year terms. NFG M.B. at 1, 7, 9; NFG St. 1 at 9. The RFPs would solicit offers for RNG supplies that contain the associated environmental attributes via the Environmental Protection Agency's (EPA) Renewable Fuel Standard, which allocates Renewable Identification Number (RIN) valuation credits,⁵ or for RNG supplies that do not contain the environmental attributes. NFG M.B. at 1, 7, 9; NFG St. 1 at 9. NFG, in turn, proposes to sell the RINs to offset any ratepayer purchase price premium, and any remaining revenues above the Company's Weighted Average Cost of Gas (WACOG) would then be shared between customers and the Company under a sharing mechanism, with customers receiving 75% of the value of the excess revenues realized through the RIN sales. NFG M.B. at 1-2, 10; NFG St. 1 at 9.

⁵ According to NFG, the EPA and specific 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. The EPA's Renewable Fuel Standard qualifies RNG as a biofuel and allocates the RIN valuation credits, which function as a commodity that may be retained by the RNG buyer (*i.e.*, NFG) or separated from the RNG commodity and sold in the RIN market. NFG M.B. at 9 (citing NFG St. 1 at 7). RNG supplies are not always accompanied by RINs. NFG M.B. at 9.

B. Burden of Proof for the Litigated Issue

NFG has the burden of proof to establish that it is entitled to the relief it is seeking. The Pennsylvania Supreme Court has stated that the party with the burden of proof has a formidable task to show that the Commission may lawfully adopt its position. Even where a party has established a *prima facie* case, the party with the burden of proof must establish that “the elements of that cause of action are proven with substantial evidence which enables the party asserting the cause of action to prevail, precluding all reasonable inferences to the contrary.” *Burleson v. Pa. PUC*, 461 A.2d 1234, 1236 (Pa. 1983). Furthermore, it is well-established that the “degree of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of the evidence.” *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990). Additionally, the evidence must be substantial and legally credible, and cannot be mere “suspicion” or a “scintilla” of evidence. *Id.* The utility’s burden of proof to establish the justness and reasonableness of every component of its proposal is an affirmative one and remains with NFG throughout the course of the proceedings. Thus, NFG has the burden of proof to show that every element of its proposal is just and reasonable.

C. Positions of the Parties

1. NFG

NFG asserted that, under the Company’s proposed RNG Pilot, the purchase of 0.5% of NFG’s existing supply portfolio over a limited three-year term will substantially mitigate potential risks for customers. NFG M.B. at 7. NFG also averred that under the proposed RFP solicitation process, the Company will evaluate the RNG supplier proposals to: (1) determine the Company’s best, most-economic option for RNG supply procurement; and (2) ensure compliance with the statutory least-cost fuel

procurement standards included in Section 1318 of the Code. NFG M.B. at 9-11 (citing 66 Pa. C.S. § 1318(a)(1)-(4)). NFG detailed that 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 WACOG. If the purchase does not include RINs, the Company will compare the purchase to other supplies with similar commercial business terms that are available in the market. NFG M.B. at 9, 11 (citing NFG St. 1-RJ at 3; NFG St. 1 at 7-8). NFG noted that barring extenuating circumstances, the Company would likely not consider paying a higher price for RNG without RIN credits. NFG M.B. at 9 (citing NFG St. 1-R at 4-5).

NFG also argued that the proposed sharing mechanism included in the proposed RNG Pilot: (1) would encourage the Company to procure RNG supplies to benefit the ratepayers and the general public; (2) is consistent with the sharing mechanism approved by the Commission for the Company's off-system sales (OSS) and capacity releases, both of which share revenues with customers at 75%; and (3) is consistent with the sharing mechanisms approved for other NGDCs. NFG M.B. at 8, 10 (citing NFG St. 1-RJ at 2; NFG St. 1-R at 5-6; NFG St. 1 at 8). NFG explained that to offset any RNG price premium, the Company will allocate revenues realized through the sale of RIN credits to the ratepayers at 100% of the RIN sale value until the RIN sales revenue matches the RNG price premium and, upon full-recovery of the RNG price premium, excess revenues will be shared between NFG's ratepayers and the Company at 75% and 25%, respectively. NFG M.B. at 10 (citing NFG St. 1-R at 5-6; NFG Exh. CAC-2).

2. The OCA

The OCA supported NFG's proposed RNG Pilot and submitted that the program is in the public interest and should be approved because the program is consistent with a least-cost procurement policy and will inform the Company about how

best to ensure continued least-cost procurement to customers in a changing market. OCA M.B. at 5, 7, 10 (citing 66 Pa. C.S. §§ 1317, 1318). The OCA stated that Section 1318: (1) considers both the short-term and long-term basis in the evaluation of a least-cost fuel procurement policy; and (2) requires that the portfolio be the least-cost consistent with the obligation to provide safe, adequate, and reliable service over the foreseeable future. OCA M.B. at 7, 9-10 (citing 66 Pa. C.S. § 1318(3)). Accordingly, the OCA averred that the RNG Pilot is a beneficial and valuable opportunity for NFG to: (1) explore RNG markets for new, low-cost fuel sources to ensure least-cost fuel procurement under potentially changing regulatory requirements; (2) gain information about the potential for using revenues from RIN sales to mitigate consumer costs; and (3) provide ratepayers with adequate safeguards, reliable service, and long-term protection. OCA M.B. at 7-8, 10-11 (citing NFG St. 1-R at 6-7).

The OCA referenced *Pa. PUC, et al. v. Philadelphia Gas Works*, Docket No. R-2021-3023970 (Order entered August 26, 2021) (*2021 PGW Order*), noting that the Commission disallowed Philadelphia Gas Works' (PGW) proposed RNG pilot program because no substantial evidence was offered to support the additional cost of RNG and PGW had not taken all prudent steps to negotiate favorable RNG contracts. OCA M.B. at 9 (citing *2021 PGW Order* at 41, 43). In the instant proceeding, unlike in the *2021 PGW Order*, the OCA averred NFG has made clear that pursuing RNG contracts could have positive financial impacts for consumers because any revenues from RIN sales would be distributed to consumers. OCA M.B. at 9 (citing OCA St. 1 at 14; NFG St. 1 at 8; *2021 PGW Order* at 43).

3. I&E

I&E opposed NFG's proposed RNG Pilot, contending that the program fails to satisfy the least-cost fuel procurement requirement due to the program's combined violations of the least-cost gas procurement policy requirement and the

requirement that rates be just and reasonable. I&E M.B. at 4-5, 7-8. Although I&E argued that the RNG Pilot should be denied, I&E proposed three recommendations should the Commission approve the program: (1) NFG should show how the purchase of RNG complies with least-cost procurement for all gas and not just RNG; (2) NFG should be required to sell the RINs at the maximum value to offset the potentially higher cost of RNG without the option to retain any RINs associated with the purchase; and (3) in future 1307(f) cases and for the duration of the pilot program, the Commission should require NFG to provide a detailed report of the program. I&E R.B. at 8 (citing I&E St. 2 at 7-8). In response to I&E's recommendations, NFG submitted that it would not oppose I&E's recommendations should the Commission approve the RNG Pilot. NFG M.B. at 13-14.

I&E submitted that it is not possible to determine that NFG's proposed RNG Pilot adheres to a least-cost fuel procurement policy because the Company has failed to offer any evidence of actual or tentative RNG contracts showing cost information, thereby depriving the Parties and the Commission of the necessary cost information to reach a determination that RNG purchases would be made in conjunction with favorable gas supply contracts and a least-cost fuel procurement strategy is being followed. I&E M.B. at 5, 8-9 (citing I&E St. 2 at 6). I&E submitted that in the context of a 1307(f) proceeding that is governed by the least-cost gas procurement requirement, to conclude that RNG purchases will be made in conjunction with favorable gas supply contracts when supply contracts do not exist "is not prudent, warranted, or permitted." I&E M.B. at 8. Further, I&E submitted that, because NFG has no RNG contracts in place, the Company has not demonstrated that entry into the RNG market is necessary. I&E M.B. at 5.

I&E also submitted that NFG's proposed pilot program would conflict with the "just and reasonable" rate requirement of Section 1318. I&E M.B. at 10 (citing 66 Pa. C.S. § 1301). I&E cited the *2021 PGW Order* to note that, like PGW, NFG has

failed to demonstrate that: (1) the Company will adhere to a least-cost fuel procurement strategy; and (2) without RNG in its system, the Company's service would be rendered unsafe, unreliable, or inadequate. I&E R.B. at 6; I&E M.B. at 10-11 (citing *2021 PGW Order* at 41). I&E also cited the proposed RNG pilot program of UGI Utilities, Inc. – Gas Division (UGI-Gas) in *Pa. PUC, et al. v. UGI Utilities, Inc. - Gas Division*, Docket No. R-2021-3025652 (Order entered October 7, 2021) (*2021 UGI-Gas Order*), noting that with thirteen RFP responses from nine different suppliers as of their 1307(f) filing, UGI-Gas provided concrete evidence as to the costs associated with RNG, thereby mitigating concern that a least-cost fuel procurement strategy was not being followed. I&E R.B. at 7-8; I&E M.B. at 11 (citing *2021 UGI-Gas Order*, R.D. issued September 14, 2021, at 21-23, UGI-Gas St. 2 at 37). I&E submitted that in the instant proceeding, NFG has provided insufficient evidence and vague information upon which to base a determination that the Company's proposed RNG Pilot will adhere to a least-cost fuel procurement policy that will result in just and reasonable rates. I&E R.B. at 8; I&E M.B. at 11-12 (citing I&E St. 2 at 6).

4. The OSBA

The OSBA supported the RNG Pilot with added modifications.⁶ The OSBA submitted that although the target volumes, fixed-price supply agreements, and RFP solicitations all appear reasonable and there are opportunities for a benefit to ratepayers and the development of data and insight into the use of RNG, NFG's proposed pilot program is concerning. The OSBA explained that NFG: (1) does not have experience with RNG, the RIN marketplace, or entering into a contract with an RNG supplier; and (2) has not identified a viable RNG supplier for its proposed RNG program. OSBA R.B. at 4-5 (citing OSBA St. 1 at 3). Further, the OSBA submitted that the

⁶ Although the OSBA ultimately did not oppose NFG's proposed RNG Pilot, the OSBA did take issue with NFG's proposed sharing mechanism within the pilot program.

Company's proposed sharing mechanism in the pilot program is unjust, unreasonable, and "one-sided." OSBA R.B. at 5. Specifically, the OSBA explained that when RIN revenues are greater than the RNG price premium, 75% of the excess revenues will be allocated to NFG's ratepayers and 25% will be allocated to the Company. However, when RIN revenues are less than the RNG price premium, NFG's ratepayers will be solely responsible for the revenue shortfall. *Id.*

Accordingly, the OSBA proposed that the Company's proposed RNG Pilot be modified to provide NFG's ratepayers with protection in the event that RIN revenues are less than the RNG price premium. Specifically, the OSBA proposed a "symmetric sharing" of both the net benefit or the net cost of RNG purchases (the difference between the realized RIN revenues and the RNG price premium) at 75% and 25% between ratepayers and shareholders, respectively. OSBA R.B. at 8. The OSBA submitted that regardless of the relative values of RIN revenues versus the RNG price premium, symmetric sharing of net benefits and net costs would provide downside protection to the Company's ratepayers. *Id.* In response to the OSBA's proposed modification, NFG submitted that the OSBA's position on this matter is not supported and should be rejected. NFG R.B. at 9-10.

D. ALJs' Recommended Decision on the Contested Issue

The ALJs recommended that NFG's proposed RNG Pilot be denied, finding that NFG failed to meet its burden that its proposed program is consistent with the requirements of Section 1318 of the Code. R.D. at 28 (citing 66 Pa. C.S. § 1318). The ALJs noted that because they denied the pilot program in its entirety, they would not address the sharing mechanism included within the program. R.D. at 32.

The ALJs agreed with I&E that the record does not include sufficient evidence to support a finding that NFG has taken all prudent steps necessary to:

(1) negotiate favorable gas supply contracts; (2) obtain lower cost gas supplies on both a short-term and long-term basis, both within and outside of the Commonwealth; and (3) provide assurance that the Company would pursue RNG contracts that are consistent with a least-cost fuel procurement policy. R.D. at 34 (citing 66 Pa. C.S. §§ 1318(a)(2)-(3), (b)).

The ALJs began by noting that NFG's witness, Mr. Christopher A. Cej, testified that the Company would entertain RFP offers for RNG supplies that do or do not contain the associated environmental attributes, and the higher cost of RNG depends on whether the RNG is purchased with or without environmental attributes. R.D. at 34 (citing NFG St. 1 at 7, 9). The ALJs further noted that according to Mr. Cej, unless there are "extenuating circumstances," paying a higher price for RNG without RINs "would likely be considered unacceptable." R.D. at 34 (citing NFG M.B. at 9; NFG St. 1-R, at 4-5). The ALJs observed that because "extenuating circumstances" is not defined by Mr. Cej, such non-committal language does not "guarantee" that a least-cost procurement policy would be followed. R.D. at 34. The ALJs also noted that NFG similarly stated that at the time of execution of an RNG contract, if the Company believes that the RNG supply would be uneconomic for its ratepayers, then the Company will not enter into the contract. R.D. at 34-35 (citing NFG M.B. at 11). However, the ALJs found that NFG did not provide the Commission with any criteria that the Company would use to determine whether an RNG supply was uneconomic or within the least-cost procurement policy. R.D. at 35.

The ALJs also found that the record did not contain information to enable the Commission to properly analyze the likelihood of ratepayers incurring higher costs as a result of RNG supply purchases. R.D. at 35. The ALJs noted that I&E's witness, Mr. Eryan Sakaya, testified that the potential purchase of higher cost RNG is a concern because it is potentially inconsistent with NFG's obligation to pursue a least-cost fuel procurement strategy. R.D. at 35 (citing I&E St. 2 at 5). The ALJs further noted that

when asked if the purchase of RNG supplies would result in higher gas cost rates to customers, Mr. Cej replied, “not necessarily.” R.D. at 35 (citing NFG St. 1 at 7). The ALJs reasoned that as the OSBA pointed out, if the RIN revenues prove to be less than the price premium for RNG supplies, then the shortfall must be borne by ratepayers. R.D. at 35 (citing OSBA St. 1 at 3-4).

The ALJs compared the facts in this proceeding to those in the *2021 UGI-Gas Order* and the *2021 PGW Order*. The ALJs observed that unlike the proceeding for the *2021 UGI-Gas Order*, no actual or tentative contracts have been entered into the record in this proceeding to allow the Parties and the Commission to review concrete figures upon which to base a determination. R.D. at 35 (citing *2021 UGI-Gas Order*, UGI-Gas St. 2 at 37). Further, the ALJs addressed NFG’s proposed commitment 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.” R.D. at 35 (citing NFG M.B. at 7). Specifically, the ALJs found that it would be irresponsible of the Commission to approve a proposal that includes the possibility of “non-economic RNG purchase contracts.” *Id.* Moreover, the ALJs concurred with I&E’s argument that a determination of whether NFG’s RNG Pilot adheres to a least-cost fuel procurement policy is not possible because the Company has not produced any contracts in this proceeding and, without contracts to show the costs of the RNG, a determination of price disparity between RNG and traditional gas supply is not possible. R.D. at 35-36 (citing I&E M.B. at 5). The ALJs also referred to the *2021 PGW Order*, noting that the Commission found that PGW did not meet its burden of proof that PGW’s proposed RNG purchases satisfied the least-cost gas procurement requirements under Section 1318 of the Code. R.D. at 36 (citing *2021 PGW Order* at 39; 66 Pa. C.S. 1318(a)). Similarly to that PGW proceeding, the ALJs found that the instant proceeding lacks sufficient information, including contracts or descriptions of contract terms, for review to make a determination that the proposed RNG would be economically efficient. R.D. at 36 (citing *2021 PGW Order* at 43).

The ALJs further reasoned that the language used by NFG in its proposal is indicative of insufficient information to ensure that the RNG Pilot will satisfy the least-cost gas procurement requirements of Section 1318.⁷ R.D. at 36 (citing 66 Pa. C.S. § 1318). Although the ALJs commended NFG for its intention to incorporate RNG into its supply portfolio, the ALJs determined that the Commission will need more specific information before it can make the findings necessary to approve such a plan. R.D. at 36.

Acknowledging the OCA’s argument that NFG’s proposed pilot program would help the Company to ensure continued least-cost procurement to customers in a changing market, the ALJs, nevertheless, pointed out that “the burden is to provide objective evidence to prove that least-cost procurement would be followed prior to the approval of the RNG program.” R.D. at 36 (citing OCA M.B. at 5; 66 Pa. C.S. § 1318(b)). The ALJs also disagreed with the OCA’s argument that NFG’s RNG contracts could have positive financial impacts for consumers because any revenues from RIN sales would be distributed to consumers, reasoning that the record does not contain objective evidence to confirm that RIN sales would cover the premium purchase costs of the RNG. The ALJs added that without contracts or contract terms to review, it is unclear if such contracts could have a negative financial impact on the customers. R.D. at 36-37 (citing OCA M.B. at 10, 13; OCA St. 1 at 14; NFG St. 1 at 7-8; OSBA St. 1 at 3-4; I&E St. 2 at 5).

Moreover, the ALJs addressed the Company’s statement that “it will take time for [NFG] to acquire the knowledge and information pertaining to the contractual terms and conditions that are unique to RNG suppliers, and [NFG] is attempting to be proactive in these efforts.” R.D. at 37 (citing NFG M.B. at 3). The ALJs reasoned that

⁷ Specifically, the ALJs pointed out that NFG states that “unless there are extenuating circumstances, a higher price differential for RNG without RINs would likely be considered unacceptable” (NFG St. 1-R at 4-5), and “[it will] avoid non-economic RNG purchase contracts to the extent possible.” R.D. at 36 (citing NFG M.B. at 7).

“these efforts should be accomplished prior to seeking the Commission’s approval to undertake a pilot program that has the potential of resulting in substantial cost to the customer.” R.D. at 37. The ALJs then acknowledged I&E’s proposed modifications to NFG’s proposed RNG Pilot if the Commission chose to approve the program. R.D. at 37 (citing I&E St. 2 at 7-8). Similarly, the ALJs found that the Commission should have the information that would be obtained by I&E’s proposed modifications prior to approving the RNG program.

Finally, the ALJs acknowledged NFG’s averment that the Commission has previously approved an RNG program in the *2021 UGI-Gas Order* and commended parties for settling a case that included an RNG program. R.D. at 37 (citing NFG M.B. at 20). Specifically, the ALJs provided that the settlement in the proceeding for the *2021 UGI-Gas Order* included contracts and information necessary to determine whether the program would meet the least-cost gas procurement requirements under Section 1318 of the Code. Although the ALJs commended NFG for seeking to enter the RNG market and incorporate RNG into the Company’s system, the ALJs concluded that the Commission will need additional information prior to making a finding that the Company’s proposed RNG Pilot meets the requirements under Section 1318 of the Code. R.D. at 37 (citing 66 Pa. C.S. § 1318(a) and (b)).

E. Exceptions and Replies

1. NFG’s Exception No. 1 and I&E’s Replies

In its Exception No. 1, NFG argues that the ALJs erred in concluding that NFG’s RNG Pilot is inconsistent with least-cost gas procurement standards. NFG Exc. at 4 (citing R.D. at 36-37). NFG submits that the Company demonstrated that the structure of its RNG Pilot will ensure consistency with least-cost gas procurement and should be approved. NFG Exc. at 5, 7.

Regarding concerns over the RNG Pilot's consistency with least-cost procurement, NFG argues that the Company has committed to: (1) the sale of RINs to offset RNG price premiums; (2) evaluating the contract price, offset by the sale of RINs, to WACOG; and (3) agreeing to the annual reporting requirements proffered by I&E. NFG Exc. at 5 (citing NFG St. 1-R at 4-5). NFG notes that the Company designed its RNG Pilot to limit customer risk by only issuing RFPs to source approximately 0.5%, or the equivalent of approximately 200 Dth/day, of the Company's annual gas supplies at a fixed price for one, two, and/or three-year terms. NFG Exc. at 5 (citing NFG M.B. at 1). NFG contends that because the specific terms of each RNG contract that the Company enters into will be subject to prudence and least-cost review during the Company's annual PGC proceeding, any least-cost procurement concerns over specific RNG contracts can be raised in the future when the Company enters into the contracts. NFG Exc. at 5 (citing NFG R.B. at 3-4, 6-7). NFG maintains that similar to offers for traditional gas supplies, the Company will evaluate RNG supplies without RINs, noting that contracts would also be required to meet least-cost standards. NFG Exc. at 5 (citing NFG St. 1-R at 4). NFG also notes that the Company did not oppose the recommendations of I&E witness Mr. Sakaya regarding annual reporting on the RNG Pilot, which would require that the Company: (1) demonstrate how the purchase of RNG complies with least-cost gas procurement; (2) sell any RINs at the maximum value to offset the potentially higher cost of RNG; and (3) report the details of the pilot program in a future 1307(f) proceeding for the duration of the program. NFG Exc. at 5-6 (citing NFG M.B. at 12-13; NFG St. 1-R at 5; I&E St. 2 at 7-8).

NFG continues that its RNG Pilot is consistent with the least-cost procurement standards in Section 1318 of the Code and to base the rejection of the program on the Company not providing actual or tentative contracts for the Parties and Commission to review prior to the structural implementation of the program is incorrect. NFG Exc. at 6 (citing R.D. 35). NFG contends that the ALJs' recommendation represents "an over-expansive reading of Section 1318, and does not account for future

least-cost prudence review for RNG contracts once the RNG pilot is instituted.” NFG Exc. at 6. Moreover, NFG argues that the ALJs failed to consider that the introduction of RNG into the Company’s system will be evaluated similarly to how the Company procures all of its gas supplies, but with an extra step to review whether the RIN sales revenue can be reasonably forecasted to offset the RNG price premium. NFG avers that the RNG Pilot does not require the Company to purchase uneconomic RNG. NFG Exc. at 6 (citing NFG M.B. at 18-20).

NFG also questions the ALJs’ concern regarding a possibility that the Company could enter into “non-economic RNG purchase contracts.” NFG Exc. at 6 (citing R.D. at 34, 35). NFG repeats that when the Company enters into a contract, the Company will compare the RNG contract price, offset by the estimated sale of RINs, to ensure that the contract meets the standards of least cost. Furthermore, NFG asserts that the ALJs’ concern about the potential of an RNG contract resulting in a substantial cost to customers has been mitigated by the terms of the RNG Pilot. NFG Exc. at 6 (citing R.D. at 37). NFG explains that the risk of an uneconomic contract is remote given that the short-term of the pilot program and the limits on supply purchased and subsequent, significant decreases in RIN prices would have a minor, if any, impact on customers’ bills. NFG Exc. at 6-7 (citing NFG St. 1-RJ at 3).

In its Replies to Exceptions, I&E agrees with the ALJs and maintains that the proposed RNG Pilot should not be approved because the Commission has not been provided with the information necessary to ensure that the proposed program is consistent with a least-cost fuel procurement policy, as required by Section 1318 of the Code. I&E R. Exc. at 8-9 (citing R.D. at 37; 66 Pa. C.S. § 1318). I&E recites the testimony of its witness, Mr. Sakaya, to argue that because NFG’s proposal does not identify the cost of RNG, the cost of RINs, or the difference in cost procurement between RNG and traditional gas supplies, the Company’s proposed pilot program lacks the specificity necessary for the Commission to determine “whether the proposed pilot satisfies the least

cost procurement requirement.” I&E R. Exc. at 7-8 (citing I&E St. 2 at 6). Further, I&E argues that although NFG stated that the Company’s RNG procurement will meet least-cost fuel procurement requirements, the factors that the Company will use in selecting RNG suppliers, or whether and how the price of RNG would be considered in its acquisition plan beyond NFG’s statements, have not been identified. I&E R. Exc. at 8. Therefore, I&E maintains that due to the lack of information regarding NFG’s RNG procurement strategy, including whether and how cost will be considered in entering supply contracts, the Commission is unable to conclude that the Company’s RNG Pilot will comply with the requirements of Section 1318. I&E R. Exc. at 8 (citing 66 Pa. C.S. § 1318).

2. NFG’s Exception No. 2 and I&E’s Replies

In its Exception No. 2, NFG argues that the ALJs erred in their evaluation of the Commission’s treatment of other NGDC RNG proposals. NFG Exc. at 7 (citing R.D. at 35). NFG refers to the *2021 PGW Order* proceeding to submit that the Company has taken “significant and concrete steps” to avoid the issues recognized by the Commission in PGW’s RNG proposal. NFG Exc. at 9. NFG notes that the ALJs’ reliance on the Commission’s denial of PGW’s RNG program is inappropriate because PGW’s RNG proposal is different from NFG’s proposed RNG Pilot. Specifically, NFG argues that, in PGW’s RNG proposal, PGW: (1) did not commit to reviewing the procurement of RNG supplies through a least-cost standard; (2) did not commit to selling RINs to offset the RNG price premium; and (3) contended that it was not obligated to only seek the least-expensive gas without other considerations. NFG Exc. at 7-8 (citing NFG M.B. at 18; *2021 PGW Order* at 24). Further, NFG observes that in PGW’s 1307(f) proceeding, the record showed that RNG would cost more than conventional gas supply due to the lack of RIN sales to offset any RNG price premium. NFG Exc. at 8 (citing *2021 PGW Order* at 40). NFG continues that, conversely, the Company has agreed not to enter into contracts that are more than the Company’s WACOG when including the offset

for selling RINs, thereby complying with the least-cost procurement standard. NFG Exc. at 8 (citing M.B. at 18).

NFG maintains that the Company has addressed the lack of actual or tentative contracts or contract terms presented for the Commission's review by describing its review process for RNG supply procurement and how such procurement will comport with least-cost principals and mitigate the risk to ratepayers. NFG states that by contrast, PGW did not provide details of its procurement strategy or how it would evaluate its RNG RFP responses. NFG avers that the introduction of RNG into the Company's system will be evaluated by reviewing whether the RIN sales revenue reasonably offsets the RNG price premium. NFG Exc. at 8 (citing NFG M.B. at 18-19).

NFG disagrees with the ALJs' comparison of the Company's RNG Pilot to the RNG program proposed in the *2021 UGI-Gas Order* proceeding. Specifically, NFG infers from the ALJs' discussion that UGI-Gas' RNG program was approved because UGI-Gas had an existing contract for RNG supply. NFG Exc. at 8-9 (citing R.D. at 35; *2021 UGI-Gas Order*). NFG repeats that the Company has committed to entering into contracts only if such contracts meet the least-cost standards when compared to the Company's WACOG. Additionally, NFG submits that similar to and consistent with UGI-Gas's RNG program, the Company would introduce a limited amount of RNG into its system on a limited program term of three years (compared to UGI-Gas' RNG program term of five years), thereby mitigating the risk to the Company's customers. Moreover, NFG maintains that like UGI Gas's RNG program, the Company proposes to sell the RINs associated with RNG to offset any purchase premium. NFG Exc. at 9 (citing M.B. at 9, 14).

In its Replies to Exceptions, I&E counters that there is a "demonstrable difference" between the pilot program proposed by UGI-Gas in the *2021 UGI-Gas Order* proceeding and the proposed pilot program in the instant proceeding. I&E contends that

UGI-Gas provided the Commission with concrete evidence regarding the costs associated with RNG, thereby mitigating the concern that a least-cost fuel procurement strategy was not being followed. I&E also contends that UGI-Gas provided substantially more detailed and specific information on which to base a determination than NFG has provided in the instant proceeding. I&E R. Exc. at 11 (citing *2021 UGI-Gas Order*, UGI-Gas St. 2 at 37). Furthermore, I&E argues that NFG has not provided sufficient and specific information to demonstrate that a least-cost fuel procurement policy will be followed. Therefore, I&E states that the Company's RNG proposal is more-closely aligned with PGW's proposed pilot program in the *2021 PGW Order* proceeding, which was ultimately denied by the Commission. Accordingly, I&E agrees with the ALJs that the Company's proposed RNG Pilot does not provide sufficient information to warrant a determination that NFG has met its burden to demonstrate that approval of the RNG Pilot is appropriate at this time. I&E R. Exc. at 11.

3. NFG's Exception No. 3 and the OSBA's Replies

In its Exception No. 3, NFG argues that the ALJ erred by not discussing the sharing mechanisms the Company and the OSBA proposed. NFG Exc. at 9-10. NFG notes that it is well-established that the Commission can adopt the Company's proposed sharing mechanism, and the Company is unaware of any instance in which the Commission has required a utility to implement a "symmetrical" sharing mechanism, like the one the OSBA proposes. NFG contends that the Company's proposed sharing mechanism is consistent with the Company's existing sharing mechanism for its OSS and capacity releases. NFG Exc. at 9-10 (citing NFG M.B. at 14-15). NFG avers that the Company's proposed sharing mechanism "appropriately incentivizes the Company to pursue RNG purchase opportunities that will benefit ratepayers by encouraging the Company to seek RNG purchases that lower PGC rates when the Company sells RINs to more than offset any RNG price premium." NFG Exc. at 10 (citing NFG M.B. at 15; NFG R.B. at 9).

NFG believes that the OSBA's concerns are overstated because the Company has taken steps to mitigate the risk to its customers as part of the RNG Pilot. NFG asserts that beyond mitigation measures and assuming extreme RNG and RIN market conditions, the potential monthly risk to ratepayers under the proposed sharing mechanism is low. Moreover, NFG maintains that the Company would not enter into a contract for RNG should the market conditions present an extreme scenario resulting in significant bill increases to customers. NFG Exc. at 10 (citing NFG M.B. at 16-17; NFG St. 1-RJ at 3-4). Accordingly, NFG requests that to the extent the Recommended Decision is modified to approve the Company's RNG Pilot, the Company's proposed sharing mechanism be adopted. NFG Exc. at 10.

In its Replies to Exceptions, the OSBA states that it takes no position regarding whether the Company's RNG Pilot should or should not be implemented; however, the OSBA maintains that if the Commission decides to allow NFG to implement its proposed RNG Pilot, then the Company's proposed sharing mechanism must be changed. OSBA R. Exc. at 2. The OSBA argues that the Company's proposed sharing mechanism is unreasonable and "one-sided" because when RIN revenues exceed the RNG price premium, the excess revenue will be allocated to the Company's ratepayers and to the Company at 75% and 25%, respectively; however, when RIN revenues fall short of the RNG price premium, the Company's ratepayers will be responsible for all of the revenue shortfall, thereby violating Section 1301 of the Code. OSBA R. Exc. at 2-3 (citing OSBA St. 1 at 3-4). Additionally, the OSBA challenges NFG's claim that the sharing mechanism is consistent with the Company's OSS and capacity release sharing mechanism. The OSBA explains that any sharing mechanism that involves OSS and capacity releases only addresses the sharing of revenues; however, if there are no OSS or capacity releases, "neither the Company nor its ratepayers make a dime. But neither the Company nor the ratepayers are on the hook to cover any revenue shortfall." OSBA R. Exc. at 3-4. Furthermore, the OSBA opines that "no reasonable regulator" would approve a rate mechanism where a company and its ratepayers would

share in excess revenue, but the ratepayers would be solely responsible for paying when there is a revenue shortfall. OSBA R. Exc. at 4-5.

4. NFG's Exception No. 4 and I&E's Replies

In its Exception No. 4, NFG argues that the ALJs departed from well-established Commission policy encouraging the introduction of RNG. NFG Exc. at 10-11 (citing NFG M.B. at 20-21; *2021 UGI-Gas Order* proceeding). NFG cites the testimony of its witness, Mr. Cej, to argue that the Company believes that “leveraging the nation’s existing pipelines and storage infrastructure to deliver new sources of low carbon fuels, such as RNG... is critical to maintaining reliable and safe service to customers while reducing greenhouse gas emissions.” NFG Exc. at 11 (citing NFG St. 1 at 4). NFG states that Mr. Cej noted seventeen RNG producing facilities in Pennsylvania, including the country’s largest RNG landfill production facility. NFG Exc. at 11 (citing NFG St. 1 at 4-5).

In its Replies to Exceptions, I&E avers that Section 1318 of the Code is a law which must be followed by NGDCs. I&E states that encouraging the introduction of RNG into an NGDC’s system does not override the overarching least-cost fuel procurement requirements. I&E notes that although introducing RNG into a NGDC’s system while following a least-cost fuel procurement policy is possible, NFG has not provided sufficient information to show that the Company will achieve such an accomplishment. I&E also notes that regardless of whether fuel is traditional supply or RNG, NGDCs are still obligated to follow a least-cost fuel procurement policy. Therefore, I&E contends that because RNG is more costly than natural gas supply, it is important to evaluate RNG costs before allowing the utility to include it as a part of its supply portfolio. Accordingly, I&E maintains that because NFG has not provided sufficient information to demonstrate that its proposed RNG Pilot would meet least-cost

fuel procurement policies, it is important that the focus on least-cost fuel not be minimized in favor of adding high-cost RNG into an NGDC's system. I&E R. Exc. at 12.

5. The OCA's Exception and I&E's Replies

In its Exception, the OCA argues that the ALJs erred by denying NFG's proposed RNG Pilot for failing to meet the requirements of Section 1318(a)(2),(3) of the Code. OCA Exc. at 1-2, 4 (citing R.D. at 34; 66 Pa. C.S. § 1318(a)(2),(3)). The OCA argues that the ALJs' application of Section 1318 is "too narrow" and NFG's Pilot ensures that the Company will be able to meet the needs of ratepayers on a long-term basis. OCA Exc. at 2. The OCA notes that Section 1318(a)(3) considers the evaluation of a least-cost fuel procurement policy on both a short-term and long-term basis. OCA Exc. at 2 (citing 66 Pa. C.S. § 1318(a)(3)). The OCA submits that NFG's proposed RNG Pilot should be approved because the program: (1) meets all applicable legal standards; (2) will provide a public benefit; and (3) is consistent with a least-cost procurement policy. *Id.*

The OCA avers that Section 1318 does not require the purchase of the lowest-cost resource available at any given time, but instead requires that the portfolio be the least-cost consistent with the obligation to provide safe, adequate, and reliable service for the foreseeable future. The OCA explains that as RNG becomes more prevalent in gas markets, it may become necessary for utilities to integrate RNG use into their gas procurement strategies. The OCA posits that in order to potentially protect the long-term interests of ratepayers, NFG's RNG Pilot will afford the Company an opportunity to explore the renewable natural gas markets with limited risk to ratepayers. OCA Exc. at 2 (citing OCA M.B. at 7-8).

The OCA challenges the ALJs' recommendation to deny NFG's Pilot because there are no "concrete figures" for the Commission and the Parties to review. OCA Exc. at 3 (citing R.D. at 35). The OCA contends that the Pilot Program could

provide concrete figures for the Commission’s evaluation of future RNG proposals. Further, the OCA opines that it is critical that Pennsylvania’s gas utilities monitor and engage with emerging markets through pilot programs that are of limited risk. The OCA explains that the purpose of a pilot is to: (1) explore how to ensure reasonable and adequate gas supply under potentially changing regulatory requirements; and (2) gain information about potential revenues usage from RIN sales to mitigate consumers’ costs. OCA Exc. at 3 (citing OCA M.B. at 7-8). The OCA submits that NFG’s proposed pilot program allows the Company to acquire RNG equal to 0.5% of its annual gas supplies at a fixed price for fixed one, two, and three-year terms, thereby ensuring that the Company can obtain useful information about the RNG market while limiting the risk of price volatility for consumers. The OCA adds that implementing the Pilot Program at a fixed price and fixed term will allow the Company and the Parties to evaluate the impact of renewable natural gas supply purchases. OCA Exc. at 3 (citing OCA M.B. at 9; OCA St. 1 at 14; NFG St. 1-R at 6).

The OCA disagrees with the ALJs’ concern that NFG’s Pilot would result in the Company entering into “non-economic RNG purchase contracts.” OCA Exc. at 3 (citing R.D. at 35). The OCA opines that the RNG Pilot will help the Company develop the skills to avoid non-economic contracts in the growing RNG market. The OCA observes that NFG believes that the revenues generated from the sale of RINs are likely to exceed any price premium associated with RNG supplies, meaning that the Company is proposing to share those excess revenues with default service customers, pursuant to the Company’s already approved OSS/capacity release revenue sharing mechanism. Moreover, the OCA notes that NFG plans to use revenues that exceed the purchase price premium to mitigate potential ratepayer price risk because RNG supplies may result in an overall reduction in ratepayer gas costs. OCA Exc. at 3-4 (citing OCA M.B. at 6, 9; OCA St. 1 at 14; NFG St. 1 at 8).

Furthermore, the OCA disagrees with ALJs' finding that in the *2021 PGW Order* proceeding and in the instant proceeding, there was insufficient information to make a determination that RNG would be economically inefficient. OCA Exc. at 4 (citing R.D. at 36). The OCA notes that in the *2021 PGW Order*, the Commission also recognized that there is value in exploring the RNG market because it could "potentially become an important source of gas supply in the future." OCA Exc. at 4 (citing *2021 PGW Order* at 43). The OCA argues that the instant proceeding provides a more limited, yet valuable opportunity to participate in such exploration. The OCA submits that NFG has ensured, through its revenue sharing mechanism of 0.5% cap on RNG purchase quantity and fixed time frames for the program, that consumers are safeguarded against additional costs that may result from RNG. OCA Exc. at 4.

In its Replies to Exceptions, I&E agrees that least-cost fuel procurement does not necessarily mean lowest-cost if it would compromise safe, adequate, and reliable service and that it may become necessary for NGDCs to incorporate RNG in their gas procurement strategies. However, I&E maintains that absent information that NFG would be entering into contracts and the fact that there is no apparent need to include RNG in the NFG procurement strategy, the Company's RNG Pilot must be denied. I&E contends that NFG has not provided sufficient information to evaluate what the cost of the RNG Pilot might be and, therefore, it is impossible for the Commission to determine that the Company is following a least-cost fuel procurement policy. I&E R. Exc. at 6-7.

F. Disposition of the Contested Issue

Under the circumstances in this case, we agree with the ALJs that NFG has not satisfied its burden of proving that the proposed RNG Pilot is consistent with 66 Pa. C.S. § 1318. The record does not include sufficient evidence to support a finding that the Company has taken all prudent steps necessary to: (1) negotiate favorable gas supply contracts; (2) obtain lower cost gas supplies on both a short-term and long-term

basis, both within and outside of the Commonwealth; and (3) provide assurance that the Company would pursue RNG contracts that are consistent with a least-cost fuel procurement policy. *See* R.D. at 34 (citing 66 Pa. C.S. §§ 1318(a)(2)-(3), (b)). Because this Commission has not been provided with sufficient criteria regarding the RNG Pilot, we are unable to analyze RNG cost information to determine whether NFG's proposed program satisfies the least-cost gas procurement requirements under Section 1318 of the Code. 66 Pa. C.S. § 1318. Therefore, approval of NFG's proposed RNG Pilot is not warranted at this time.

The Code contains specific provisions governing the regulation of natural gas costs and the determination of just and reasonable gas cost rates. 66 Pa. C.S. §§ 1317, 1318. These provisions and the accompanying Commission Regulations provide for annual Commission review of proposed gas procurement and cost recovery filings. In order to satisfy its burden of showing that its proposed rates are just and reasonable, an NGDC, such as NFG, must provide information to demonstrate that it is pursuing a "least cost procurement policy." 66 Pa. C.S. § 1318(a). In making a determination that an NGDC's proposed rates are just and reasonable, the Commission must find, among other things, that an NGDC 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" and has "taken all prudent steps necessary to obtain lower cost gas supplies." 66 Pa. C.S. § 1318(a)(2),(3). While we find that NFG's interest in gaining knowledge and information about acquisitions of a possible future source of gas supply with potential environmental benefits is laudable, we conclude here that NFG did not meet its burden of proving that the proposed RNG purchases satisfy the least-cost gas procurement requirements under Section 1318(a) of the Code, 66 Pa. C.S. § 1318(a).

NFG did not provide the level of detail necessary to establish the justness and reasonableness of the RNG Pilot and, contrary to NFG's and the OCA's argument,

the Company has not demonstrated in this case that the structure of its RNG Pilot will ensure consistency with the least-cost gas procurement requirements of Section 1318. Based on the record, NFG has not: (1) issued any RFPs; (2) entered into any supply contracts for the purchase of RNG; or (3) provided information on any potential RNG supply contract terms. Nor has NFG presented any evidence regarding the cost of RNG or the difference between the cost to procure RNG versus traditional gas supplies.

NFG's witness Mr. Cej stated that the purchase of RNG supplies will "not necessarily" result in higher gas costs to customers. NFG St. 1 at 7. Mr. Cej continued that the RNG cost will depend on: (1) whether the RNG is purchased with or without the associated environmental attributes, and (2) the treatment of the environmental attributes if they are acquired with the purchase of the RNG. Mr. Cej further stated that "unless there are extenuating circumstances, paying a higher price for RNG without RINs would likely be considered unacceptable." NFG St. 1-R, at 4-5. As the ALJs reasoned, "extenuating circumstances" is not defined by Mr. Cej, and such non-committal language does not "guarantee" that the Company would follow a least-cost procurement policy. *See* R.D. at 34.

Mr. Cej's statements do not clarify the RNG cost information. Further, the Company cannot definitively state that it will purchase the RNG with the associated environmental attributes, as the Company will consider purchasing both RNG with the environmental attributes and RNG without the environmental attributes. While NFG agreed that it will sell the environmental attributes it acquires, given that the value of RINs is based on the market conditions in place at the time of the sale, the exact value of those environmental attributes if the Company sold them in the RIN market to offset the ratepayer purchase price premium is unknown. *See* NFG St. 1 at 7-9. Moreover, Mr. Cej's statement that absent "extenuating circumstances," the Company paying a higher price for RNG without RINs "would likely be considered unacceptable" is vague, undefined, and does not support a commitment to adhering to a least cost procurement

policy. NFG St. 1-R at 4-5. Indeed, as the ALJs stated, for the Commission to approve a proposal that includes the possibility of “non-economic RNG purchase contracts” would be irresponsible. *See* R.D. at 35 (citing NFG M.B. at 7). Accordingly, we concur with I&E’s arguments that in the context of a 1307(f) proceeding that is governed by the least-cost gas procurement requirement, to reach a conclusion that RNG purchases will be made in conjunction with favorable gas supply contracts when supply contracts and any other important, specific RNG contract information do not exist “is not prudent, warranted, or permitted.” *See* I&E M.B. at 8.

We acknowledge that the Company presented Exhibit CAC-2 in support of its proposed program, which it described as an “example of a possible Company RNG pilot program scenario” reflecting “an indicative RNG purchase price, historical RIN credit market values, and potential ratepayer savings.” NFG St. 1 at 10. However, this exhibit does not contain actual cost information and appears to be more for illustrative purposes than for providing actual or concrete information on how the RNG Pilot will impact ratepayers. Without any actual or known contract prices, NFG cannot conduct a sufficient analysis to demonstrate whether revenue could be generated through the sale of RINs and whether customers would pay a cost premium associated with the inclusion of RNG in the purchase gas cost portfolio. Consequently, the Commission is unable to conduct an analysis of the RNG costs incurred by NFG’s ratepayers to determine if the RNG Pilot is economically efficient and consistent with least-cost fuel procurement policy. To ensure that the proposed program is consistent with Section 1318 of the Code, the Commission should have the pertinent and necessary RNG cost information before the program’s approval. However, given that no contracts showing RNG cost information have been entered into the record, a determination of the financial impact on NFG’s customers or whether the pilot program adheres to a least-cost fuel procurement policy is not possible. *See* R.D. at 36-37 (citing 66 Pa. C.S. 1318(a),(b)).

Our decision concerning NFG's proposed RNG Pilot is based on similar reasoning we employed in reaching our recent decision in the *2021 PGW Order*. In that case, we found that PGW's proposed RNG Pilot was not consistent with a finding that PGW had taken all prudent steps necessary to negotiate favorable gas contracts, because PGW did not present evidence of actual or tentative contracts or descriptions of contract terms. *2021 PGW Order* at 43. We also acknowledged the policy considerations relating to the incorporation of RNG into an NGDC's purchase gas cost portfolio. In so doing, we noted that we found PGW's proposal to procure a limited amount of RNG in order to gain experience in that market, in anticipation that it could potentially become an important source of gas supply in the future, to be a commendable objective. Nevertheless, we stated the following:

Although PGW suggests that general policy positions of elected officials in support of emissions reductions demonstrate why gaining experience now in RNG acquisitions may be beneficial if there is a future law change, the Commission does not have the authority to disregard the least cost procurement requirement under the current law. The Commission is a creature of statute and has only the powers expressly conferred upon it by its enabling legislation. *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791, 794 (Pa. 1977) (citing *Allegheny Cnty. Port Auth. v. Pa. PUC*, 237 A.2d 602 (Pa. 1967)); *Del. River Port Auth. v. Pa. PUC*, 145 A.2d 172 (Pa. 1958). There exists no federal or state law or directive at this time that provides for or requires the authorization of RNG purchases as a portion of an NGDC's supply portfolio. Absent such a change in law, any determination at this time that RNG procurement is necessary to ensure PGW's provision of safe, adequate and reliable service would be outside of the Commission's authority. As such, the Commission must follow the directive of Section 1318(a) of the Code, 66 Pa. C.S. § 1318(a), that requires that purchased gas costs must result from a least cost procurement policy.

Inasmuch as Section 1318 of the Code, 66 Pa. C.S. § 1318, requires PGW to obtain its gas supply pursuant to a least cost procurement policy, and its current gas portfolio is

safe, adequate and reliable without the addition of more expensive RNG, the RNG Pilot, as modified by the PGW/OCA Stipulation, should be denied.

PGW Order at 41-42 (footnotes omitted). Similarly, in this case, despite NFG's commendable efforts, we cannot approve NFG's proposed RNG Pilot because the Company has not presented sufficient evidence to support the determination that including RNG in its supply portfolio is reasonable, consistent with the Code, or essential to the Company's provision of safe, adequate, and reliable service. Furthermore, to the extent that the OCA argues that Section 1318 requires that the portfolio be the least-cost consistent with the obligation to provide safe, adequate, and reliable service for the foreseeable future, we agree with I&E that NFG has not provided any actual or tentative contract information nor included RNG in the Company's procurement strategy in order to provide safe, adequate, and reliable service. *See* I&E R. Exc. at 6-7. Therefore, under the circumstances in this case, we find that NFG has failed to meet its burden of proving that NFG's proposed RNG Pilot is consistent with the requirements of least-cost gas procurement under Section 1318(a) of the Code, 66 Pa. C.S. § 1318(a).

Notwithstanding our finding that NFG has failed to meet its burden of demonstrating that approval of its proposed RNG Pilot is appropriate at this time, we will briefly discuss NFG's proposed sharing mechanism, which is included within its pilot program, in order to thoroughly address NFG's Exceptions. We find that NFG's proposed sharing mechanism is not reasonable under the circumstances. NFG indicated that for RNG that includes RINs, NFG would sell the RINs to offset a potential price premium for RNG, and any revenues that exceeded the premium would be shared with ratepayers under NFG's sharing mechanism. NFG St. 1 at 8. Nevertheless, as the OSBA's witness, Mr. Robert D. Knecht, testified, when RIN revenues exceed the RNG price premium, the excess revenue will be allocated to the Company's ratepayers and to the Company at 75% and 25%, respectively; however, when RIN revenues fall short of the RNG price premium, the Company's ratepayers will be responsible for all of the

revenue shortfall in violation of Section 1301 of the Code. OSBA St. 1 at 3-4. We conclude that it would not be just and reasonable to approve NFG's proposed sharing mechanism that places the Company's ratepayers at risk of being solely responsible for paying when there is a revenue shortfall.

For all of the reasons set forth herein, we shall deny NFG and the OCA's Exceptions, adopt the Recommended Decision, and deny NFG's proposed RNG pilot program.

VI. Conclusion

Based upon our review, evaluation, and analysis of the record evidence in this proceeding and the applicable law, we shall: (1) deny the Exceptions of NFG and the OCA; (2) adopt the ALJs' Recommended Decision; (3) approve the Joint Petition for Settlement, without modification; and (4) deny NFG's proposed RNG Pilot, all consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

1. That the Exceptions filed by National Fuel Gas Distribution Corporation on June 3, 2022, are denied.
2. That the Exceptions filed by the Office of Consumer Advocate on June 3, 2022, are denied.
3. That the Recommended Decision of Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Charece Z. Collins, served on May 24, 2022, is adopted consistent with this Opinion and Order.

4. That the Renewable Natural Gas pilot program proposed by National Fuel Gas Distribution Corporation is denied.

5. That the Joint Petition for Partial Settlement of the Rate Investigation Pursuant to 66 Pa. C.S. § 1307(f), filed on April 20, 2022, by National Fuel Gas Distribution Corporation, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, and the Office of Consumer Advocate is approved without modification.

6. That National Fuel Gas Distribution Corporation be permitted to file a tariff supplement, on at least one day's notice to the Commission, containing changes in rates to provide for the recovery of the costs of purchased gas, consistent with the terms and conditions of the Joint Petition for Partial Settlement of the Rate Investigation Pursuant to 66 Pa. C.S. § 1307(f).

7. That the Formal Complaints of the Office of Consumer Advocate at Docket No. C-2022-3030573 and the Office of Small Business Advocate at Docket No. C-2022-3030730 be marked satisfied.


8. That National Fuel Gas Distribution Corporation, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, and the Office of Consumer Advocate be ordered to comply with the terms and conditions of the Joint Petition for Partial Settlement of the Rate Investigation Pursuant to 66 Pa. C.S. § 1307(f) executed and submitted in this proceeding as though each term and condition stated therein had been the subject of an individual ordering paragraph.

9. That upon the filing of a tariff supplement by National Fuel Gas Distribution Corporation, acceptable to the Commission as conforming with this Order and the Joint Petition for Partial Settlement of the Rate Investigation Pursuant to

66 Pa. C.S. § 1307(f), and the Commission's approval thereof, the purchased gas cost rates established therein become effective for service rendered on and after August 1, 2022.

10. That upon acceptance and approval by the Commission of the tariff supplement and supporting data filed by National Fuel Gas Distribution Corporation, as being consistent with this Order and the Joint Petition for Partial Settlement of the Rate Investigation Pursuant to 66 Pa. C.S. § 1307(f), the inquiry and investigation at Docket No. R-2022-3030235 be terminated and the docket marked closed; and that the formal complaint dockets be marked closed at Docket Nos. C-2022-3030573 and C-2022-3030730.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: July 25, 2022

ORDER ENTERED: July 25, 2022