

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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October 3, 2022

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Petition of National Fuel Gas Distribution
Corporation for Approval of a Long-Term
Infrastructure Improvement Plan
Docket No. P-2022-3034957

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Comments in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully submitted,

A handwritten signature in blue ink that reads "Erin L. Gannon".

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Enclosures:

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Certificate of Service

*336129

CERTIFICATE OF SERVICE

Petition of National Fuel Gas Distribution :
Corporation for Approval of a Long-Term : Docket No. P-2022-3034957
Infrastructure Improvement Plan :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 3rd day of October 2022.

SERVICE BY E-MAIL ONLY

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Dated: October 3, 2022
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of National Fuel Gas Distribution :
Corp. for Approval of a Long-Term : Docket No. P-2022-3034957
Infrastructure Improvement Plan :

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: October 3, 2022

I. INTRODUCTION

On February 14, 2012, Governor Corbett signed Act 11 of 2012 (Act 11 or Act) into law. Act 11 amends, *inter alia*, Chapter 13 of the Public Utility Code to permit water and wastewater utilities, electric distribution companies, natural gas distribution companies and city natural gas distribution operations to petition for implementation of a Distribution System Improvement Charge (DSIC). 66 Pa. C.S. §§ 1350-1360 (Act 11). To qualify for DSIC recovery, a utility must submit a Long-Term Infrastructure Improvement Plan (LTIIP) for Public Utility Commission (Commission) approval. 66 Pa. C.S. § 1352; *see also In re: Implementation of Act 11 of 2012*, Docket No. M-2012-2293611, Final Implementation Order at 21 (Aug. 2, 2012) (*Final Implementation Order*).

The following seven elements must be included in a utility's LTIIP: (1) types and age of eligible property; (2) schedule for its planned repair and replacement; (3) location of the eligible property; (4) reasonable estimate of the quantity of property to be improved; (5) projected annual expenditures and measures to ensure the plan is cost effective; (6) manner in which replacement of aging infrastructure will be accelerated and how repair, improvement or replacement will maintain safe and reliable service; and (7) a workforce management training plan designed to ensure that the utility will have access to a qualified workforce to perform work in a cost-effective, safe and reliable manner. 66 Pa. C.S. § 1352(a); *see also Final Implementation Order* at 17-19. It is the utility's burden to demonstrate that its proposed LTIIP and associated expenditures are reasonable, cost-effective and designed to maintain safe, adequate and reliable service to customers. *Id.* at 20. The OCA submits that when a utility seeks recovery of costs expended pursuant to its LTIIP in a future proceeding, the utility must demonstrate, *inter alia*, that the costs were reasonably and prudently incurred. Further, the utility will have to

demonstrate that there is no overlap of costs already reflected in base rates with costs expended pursuant to an LTIP. 66 Pa. C.S. § 1357(a)(1)(i).

A utility must file its proposed LTIP with the Public Utility Commission (Commission) and serve copies on statutory advocates and all active parties in the utility's last base rate case. *See Final Implementation Order* at 20. Once filed, a utility's proposed LTIP will be assigned to the Commission's Bureau of Technical Utility Services (TUS) for analysis. TUS is to make a recommendation to the Commission, and other parties may file comments to a proposed LTIP within 20 days of the date it was filed. *Id.* If any party's comments raise issues of material fact, the proposed LTIP will be referred to the Office of Administrative Law Judge (OALJ) for hearing and decision, which litigation must be completed within 120 days. *Id.*

II. COMMENTS

A. Introduction

On September 2, 2022, National Fuel Gas Distribution Corporation (NFG) filed its proposed Petition for Approval of an LTIP for the period January 1, 2023 through December 31, 2027. The Company's proposed LTIP is attached as Attachment 1 to the Petition. The OCA submits these Comments on NFG's proposed LTIP for the Commission's consideration. In the OCA's view, the Company's Plan reflects a thorough effort to address the legislative and Commission elements required for the LTIP. Some additional information may be necessary, however, for the Commission to determine that the proposed improvements are prudent and cost-effective, represent an acceleration of improvements, and will maintain safe, reliable and reasonable service as required by 66 Pa. C.S. §§ 1352(a)(5), (a)(6) and 1353.

B. OCA Recommendations

1. Historic and Projected Replacements

In Table 8 of the LTIP, NFG provides historic replacements of bare steel and wrought iron pipe (mileage) and bare steel services (count) by year for 2016 through 2021. In Table 9, NFG provides projected total miles of distribution and transmission LPP (bare steel, wrought iron, and historic plastics with known issues) that the Company plans to replace by year for 2023 through 2027. It would be helpful for NFG to provide its historic (if available) and projected replacements, by category and by year, for the other categories of plant it identifies are included in the LTIP: service lines and meter sets, meter and regulator stations, farm taps, system reliability improvements, vintage plastic, highway and other public improvement projects, other related capitalized costs. LTIP Table 10.

2. Historic Replacement and Spending

In Table 11 of the LTIP, NFG provides its budgeted and actual total expenditures for each year, 2016 through 2021. In Table 12 of the LTIP, the Company provides its projected total expenditures for each year of the LTIP, 2023 through 2027. It would be helpful for NFG to provide its annual historic and projected spend amounts, by category. This information will allow the Commission to review and consider NFG's proposed spending on repairs and replacements other than pipe in the full context of its historical expenditures.

3. Acceleration and Prudence

NFG anticipates replacing 264 miles of low-pressure pipe (LPP) over the proposed five-year LTIP period ending in 2027. Petition at 7. The retirement schedule anticipates the LTIP will allow for the retirement of all bare steel and wrought iron pipe (those most susceptible to

failure from corrosion, cracks and leakage) by 2039. LTIIIP at 17-18. The Company's distribution system does not contain any cast iron pipe. Petition at 6, n.3.

This represents a 7-year acceleration in replacement of problem mains, from 2046 to 2039, compared to NFG's existing rate of replacement. Petition at 1; LTIIIP at 18. The Company does not specify, however, why an 11-year replacement timeframe was selected as being appropriate to provide and maintain safe and adequate service. The OCA suggests that NFG provide explanation and support to show that its chosen rate of replacement is appropriate to provide and maintain safe and adequate service.

4. DSIC Recovery

NFG states that its LTIIIP includes only distribution plant that is DSIC-eligible. Petition at 4. In prior Orders addressing petitions for approval of LTIIIPs, the Commission has held that cost recovery is a distinct and separate issue from whether plant investment is claimed to be "DSIC-eligible" in a utility's LTIIIP. It stated:

the inclusion of arguably non-DSIC-eligible property does not void the LTIIIP application, nor is the inclusion of such property in the LTIIIP dispositive of whether the cost of that project will be afforded DSIC recovery. The issues of eligibility and cost recovery, for all property claimed as DSIC-eligible, are to be addressed and resolved in the subsequent DSIC petition and calculation.

Petition of Duquesne Light Co. for Approval of a DSIC, Docket No. P-2016-2540046, Order at 23 (Sept. 15, 2016). As such, the OCA will address the issue of cost recovery in a future proceeding, if NFG requests approval of a DSIC.

C. Summary of OCA Recommendations

In summary, the OCA submits that supplemental information may be needed by the Commission and its staff in their review of NFG's LTIIIP for compliance with the requirements of Act 11 and the Commission's *Final Implementation Order*. The OCA recommends that NFG provide the following information:

1. historic replacements by category and by year, if available, for service lines and meter sets, meter and regulator stations, farm taps, system reliability improvements, vintage plastic, highway and other public improvement projects, other related capitalized costs, for 2016 through 2021;
2. projected replacements, by category and by year, for the same categories, for 2023 through 2027;
3. a breakdown of historic expenditures by category and by year, if available, for: distribution and transmission pipe, service lines and meter sets, meter and regulator stations, farm taps, system reliability improvements, vintage plastic, highway and other public improvement projects;
4. a breakdown of projected expenditures by category and by year for the same categories, for 2023-2027; and
5. explanation and support to show that its chosen rate of replacement is appropriate to provide and maintain safe and adequate service.

The OCA also recommends that the Commission reaffirm that the inclusion of property in the LTIP is not dispositive of whether the cost of that project will be afforded DSIC recovery.

III. CONCLUSION

The OCA submits that, while it is not requesting a hearing in this proceeding at this time, the Company should provide additional information with its filing to allow the Commission to determine if NFG's LTIP accelerates infrastructure repair and replacement in a cost-effective manner as required by Act 11. The OCA also requests that the Commission reaffirm in its Order that inclusion of property in the LTIP is not dispositive of whether the costs of that project will be afforded DSIC recovery.

Respectfully submitted,



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