



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

December 12, 2022

**Via Electronic Filing**

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

Re: Pennsylvania Public Utility Commission v.  
National Fuel Gas Distribution Corporation  
Docket No.: R-2022-3035730  
**I&E Prehearing Memorandum**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the **Prehearing Memorandum of the Bureau of Investigation and Enforcement (I&E)** in the above-captioned proceeding.

Copies are being served on parties of record per the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads 'Scott B. Granger'.

Scott B. Granger  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 63641  
(717) 425-7593  
[sgranger@pa.gov](mailto:sgranger@pa.gov)

SBC/ac  
Enclosures

cc: Administrative Law Judge Mary D. Long (*via email*)  
Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No.: R-2022-3035730
	:	
National Fuel Gas Distribution Corporation	:	
Base Rate Increase	:	

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**PREHEARING MEMORANDUM  
OF THE  
BUREAU OF INVESTIGATION AND ENFORCEMENT**

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**TO: ADMINISTRATIVE LAW JUDGE MARY D. LONG:**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully submits the following Prehearing Memorandum in the above-captioned consolidated proceedings.

The Bureau of Investigation and Enforcement Prosecutor in these proceedings will be Scott B. Granger. Contact information is as follows:

By mail:	Scott B. Granger Pennsylvania Public Utility Commission Bureau of Investigation and Enforcement Commonwealth Keystone Building 400 North Street Harrisburg, PA 17120
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By e-mail:	<a href="mailto:sgranger@pa.gov">sgranger@pa.gov</a>
By telephone:	(717) 425-7593
By fax:	(717) 772-2677

## **I. INTRODUCTION**

On October 28, 2022, National Fuel Gas Distribution Corporation's ("NFGDC") Pennsylvania Division ("National Fuel" or "NFG" or "Company") is filed Supplement No. 248 to National Fuel Gas Tariff – Pa. P.U.C. No. 9 ("Supplement No. 248"), with a proposed effective date of December 27, 2022. The rates set forth in Supplement No. 248, if approved by the Pennsylvania Public Utility Commission ("PAPUC" or the "Commission"), would increase the Company's annual revenues by \$28.1 million, or by 9.2%. In addition, Supplement No. 248 also proposes additional changes to tariff rates, riders, and tariff terms that include: a weather normalization adjustment proposal; an energy efficiency pilot program proposal; support for an accelerated infrastructure replacement program; and a proposed increase in employee compensation.

The Office of Small Business Advocate ("OSBA") filed a Formal Complaint and Notice of Appearance on November 8, 2022.

The Office of Consumer Advocate ("OCA") filed a Formal Complaint and Notice of Appearance on November 9, 2022.

I&E filed its Notice of Appearance on November 15, 2022.

The Coalition for Affordable and Energy Efficiency in Pennsylvania ("CAUSE-PA") filed a petition to intervene on November 15, 2022.

Pennsylvania Weatherization Providers Task Force, Inc. ("Providers Task Force"), filed a petition to intervene on December 1, 2022.

Additionally, various individuals have filed oppositions to the proposed NFG rate increase.

On December 8, 2022, the Commission entered an Order suspending the implementation of NFG's proposed Supplement No. 248 to Gas Tariff – Pa. P.U.C. No. 9 by operation of law until July 27, 2023, and opening an investigation to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in Supplement 248. The Commission also stated the investigation shall include consideration of the lawfulness, justness, and reasonableness of the NFG's existing rates, rules, and regulations.

The case was assigned to the Office of Administrative Law Judge for the prompt scheduling of such hearings as may be necessary culminating in the issuance of a Recommended Decision.

A telephonic Prehearing Conference is scheduled for Wednesday, December 14, 2022, beginning at 10:00 am before Administrative Law Judge Mary D. Long.

## **II. ISSUES**

The following list represents I&E's preliminary determination of the potential issues in these proceedings. The listing is as complete as can be made at this time. I&E specifically reserves the right to address other issues, as it deems appropriate if any such relevant issues arise. The I&E identified issues are as follows:

- Labor Expense
- Material Expense
- Rent Expense
- Transportation Expense
- Utilities Expense
- Outside Services Expense
- Equipment Purchases Expense
- Employee Benefits Expense
- Office – Employee Expenses

- Advertising Expense
- Research and Development Expense
- Dues and Membership Expense
- Other Expense
- Uncollectibles Expense
- Regulatory Assessment Expense
- Other Insurance Expense
- Injuries and Damages Expense
- Postage Expense
- Information Services Expense
- Messenger Expense
- Environmental Expense
- Rate Case Expense
- Inflation Adjustment
- Taxes Other than Income
- Cash Working Capital
- Federal and State Income Tax Expense
- Energy Efficiency Pilot Program
- Crawford County Gas Expansion Pilot
- Low to Moderate Income Non-Customer Conversion Demonstration Project
- Cost of Debt
- Cost of Equity
- Capital Structure
- Appropriate Proxy Group
- Risk Analysis
- Overall Rate of Return
- Present Revenue
- Cost of Service Study
- Customer Cost Analysis
- Proposed Revenue by Class
- Proposed Rates
- Revenue Allocation
- Scale Back of Rates
- Rate Base
- Customer Usage Analysis, and
- Weather Normalization Adjustment Mechanism.
- Distribution System Safety
- Long Term Infrastructure Improvement Plan
- Distribution Integrity Management Plan

### **III. WITNESSES**

It is currently expected that I&E may call the following expert witnesses without being limited thereto:

Anthony Spadaccio, Fixed Utility Financial Analyst  
Zachari Walker, Fixed Utility Financial Analyst  
Christopher Keller, Fixed Utility Financial Analyst  
Christine Wilson, Fixed Utility Financial Analyst Supervisor  
Ethan Cline, Fixed Utility Valuation Engineer  
Esyon Sakaya, Fixed Utility Valuation Engineer  
Joseph Kubas, Fixed Utility Valuation Engineer Supervisor  
Melissa McFeaters, Safety Engineer  
David Kline, Safety Engineer Supervisor

The I&E witnesses may be contacted through the information listed above for Prosecutor Granger. The witness list is provided without the benefit of complete discovery or analysis of the positions of potential other parties to this proceeding. Accordingly, I&E reserves the right to call additional witnesses or withdraw the name of the witnesses listed above.

### **IV. EVIDENCE**

I&E expects to present all written direct, rebuttal and surrebuttal testimony and accompanying exhibits at the evidentiary hearing. Moreover, I&E intends to rely on the Company's filing, supplemental testimony, answers to data requests and interrogatories, annual reports and other documents submitted to the Commission, other relevant Commission filings, any other relevant Commonwealth agency letters or reports, general financial market information sources and other public documents and reports.

## V. DISCOVERY

Discovery in these proceedings will be conducted according to 52 Pa. Code §§5.321 et. seq. No modifications to the rules of discovery have been proposed by I&E. I&E will give due consideration to any discovery modifications proposed by any other party. Also, pursuant to 52 Pa. Code §§5.322 and 5.331(b), discovery has begun and is ongoing.

## VI. SCHEDULE

I&E is working diligently with the parties to develop a schedule in this proceeding. As of this date, the parties have not yet agreed on a schedule. I&E tentatively proposes the following:

Filing w/Company Direct	October 28, 2022
Non-Company Direct	
Non-Company Supplemental Direct RE: Public Input Hearing testimony	
Rebuttal Testimony	
Surrebuttal Testimony	
Oral Rejoinder Outlines	
Hearings <sup>1</sup>	
Main Brief	
Reply Brief	April 13, 2023

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<sup>1</sup> Upon the rescinding of Governor Tom Wolf's Proclamation of Disaster Emergency; the re-opening of the Keystone Commonwealth Building; and the return to in-person hearings; I&E requests that Hearings be held in Harrisburg, PA.

## VII. PUBLIC INPUT HEARINGS

I&E does not oppose public input hearings. Should public input hearings be deemed necessary, I&E recommends the Commission consider the use of smart hearings or telephonic hearings to encourage increased participation by the ratepayers.

## VIII. SERVICE OF DOCUMENTS

The Commission's March 20, 2020 Emergency Order,<sup>2</sup> which was controlling regarding electronic service of documents, expired on September 30, 2021. In anticipation of the expiration of the March 20 Order, the Commission issued a new Order on September 15, 2021 regarding the regulations controlling service requirements.<sup>3</sup> Pursuant to the September 15 Order, the Commission recognized, for purposes of satisfying service of documents requirements:

... that some of the measures we implemented significantly benefitted the operational needs of the Commission, the public and the regulated community. Specifically, the electronic service requirements we adopted were essential to ensuring continued, uninterrupted operations, providing needed flexibility. Therefore, in order to maintain that flexibility to respond to operational demands, we will waive certain regulatory service provisions, consistent with our previous actions.<sup>4</sup>

Further, the Commission stated:

... some of the operational restraints occasioned by the pandemic remain. ... Toward this end, we will continue to permit electronic service *by* the Commission on all parties, regardless of whether a particular party has agreed to electronic service. ... Additionally, service *on* Commission staff in

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<sup>2</sup> Docket No. M-2020-3019262, *Re: Suspension of Regulatory and Statutory Deadlines, Modification to Filing and Service Requirements* ("March 20 Order").

<sup>3</sup> Docket No. M-2021-3028321, *Re: Waiver of Regulations Regarding Service Requirements* ("September 15 Order").

<sup>4</sup> September 15 Order, p. 3.



proceedings pending before it, whether staff is a party or otherwise, shall be exclusively electronic unless the parties agree otherwise.<sup>5</sup>

Therefore, for purposes of satisfying in-hand service requirements for discovery responses, prepared testimony, briefs and other documents; while operational restraints continue during this proceeding, and consistent with the Commission's September 15 Order, I&E requests that electronic delivery of documents continue to satisfy the service requirements.

## **IX. SETTLEMENT**

I&E will maintain an open dialogue and is willing to make good faith efforts to successfully resolve this matter through settlement. In the event settlement discussions fail to result in a full and complete resolution of the matter, I&E is prepared to fully or partially litigate this proceeding.

Respectfully Submitted,



Scott B. Granger  
Prosecutor  
PA Attorney ID No. 63641

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, Pennsylvania 17120  
(717) 425-7593

Dated: December 12, 2022

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<sup>5</sup> *Id.*, p. 6.



Joseph L. Vullo, Esq.  
Burke Vullo Reilly Roberts  
1460 Wyoming Avenue  
Forty Fort, PA 18704  
[jlvullo@bvrrlaw.com](mailto:jlvullo@bvrrlaw.com)  
*Counsel for*  
*PA Weatherization Providers Task Force*

Kevin C. Higgins, Principal  
Energy Strategies  
111 East Broadway, Suite 1200  
Salt Lake City, UT 84111  
[khiggins@energystrat.com](mailto:khiggins@energystrat.com)  
*Consultant for OSBA*



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Scott B. Granger  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 63641  
(717) 425-7593  
[sgranger@pa.gov](mailto:sgranger@pa.gov)