

COMMONWEALTH OF PENNSYLVANIA



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December 12, 2022

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

Dear Secretary Chiavetta:

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

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Mackenzie C. Battle
Mackenzie C. Battle
Assistant Consumer Advocate
PA Attorney I.D. # 330879
E-Mail: MBattle@paoca.org

Enclosures:

cc: The Honorable Mary D. Long (**email only**)
Certificate of Service

*338414

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, 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 12th day of December 2022.

SERVICE BY E-MAIL ONLY

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/s/ Mackenzie C. Battle

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Dated: December 12, 2022
*338412

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	R-2022-3035730
v.	:	
	:	
National Fuel Gas Distribution Corporation	:	

PREHEARING MEMORANDUM OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to the Prehearing Conference Order of Administrative Law Judge Mary D. Long issued on December 8, 2022, and in anticipation of the telephonic Prehearing Conference scheduled for December 14, 2022, the Office of Consumer Advocate (OCA) provides the following information.

I. Introduction

National Fuel Gas Distribution Corporation (the Company) is engaged in the business of furnishing natural gas service to approximately 214,000 customers in northwestern Pennsylvania and 541,000 customers in Western New York. Of the Pennsylvania customers, approximately 197,000 are residential customers. The Company serves customers in parts of Armstrong, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Venango, and Warren counties.

The Company proposes to allocate \$21.8 million, or 77% of the proposed \$28.1 million rate increase, to the residential customer class. This increase includes an increase in the residential monthly customer charge of \$6.00, raising the charge from \$12.00 to \$18.00, a 50% increase. The

Company also seeks to implement two alternative ratemaking mechanisms, a Weather Normalization Adjustment (WNA), and a rider through which it proposes to collect \$1.25 million per year outside of base rates to fund a newly proposed Energy Efficiency (EE) Pilot Program. The Company requests an overall rate of return of 7.94%, which includes a 11.20% return on common equity. The Company's proposed capital structure consists of 45.1% debt and 54.9% common equity.

The Consumer Advocate filed a complaint in this matter to protect the interests of the Company's residential customers, and to ensure that the Company is permitted to implement only rates and rate design which are just and reasonable and in accordance with sound ratemaking principles.

II. Procedural History

On October 28, 2022, the Company filed Supplement No. 248 to Tariff Gas- PA. P.U.C. No. 9 to become effective December 27, 2022. On November 8, 2022, the Office of Small Business Advocate (OSBA) filed a Formal Complaint, Public Statement, and Verification. The OCA filed its Formal Complaint, Public Statement, and Verification on November 9, 2022. The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene, Answer, and Verification on November 15, 2022. Also on November 15, 2022, the Bureau of Investigation and Enforcement (I&E) filed a Notice of appearance. On November 21, 2022, the Company filed two letters stating that they would not be filing an Answer to the Complaints of the OSBA or the OCA, as allowed by Section 5.61(d) of the Pennsylvania Public Utility Commission's regulations. On December 1, 2022, the Pennsylvania Weatherization Providers Task Force, Inc. filed a Petition to Intervene and a Verification. The Commission docket also reflects opposition to the rate case filed by various individuals at various dates.

On December 8, 2022 the Pennsylvania Public Utility Commission (the Commission), issued an order initiating an investigation by the Commission into the lawfulness, justness, and reasonableness of the rates, rules, and regulations in the Company's proposed Supplement No. 248 to Gas Tariff – Pa. P.U.C. No. 9, as well assigning the case to the Office of Administrative Law Judge. The order also suspended the operation of the proposed supplement until July 27, 2023, unless otherwise directed by Order of the Commission. Also on December 8, 2022, Administrative Law Judge Mary D. Long issued an Initial Call-In Telephonic Prehearing Conference Notice, as well as a Prehearing Conference Order for the Prehearing Conference scheduled for December 14, 2022, at 10:00 a.m.

III. Issues

Based upon a preliminary analysis of the Company's base rate filing, the OCA has compiled a list of issues which it anticipates it will present in its investigation of the Company's proposed rate increase. The OCA anticipates other issues may arise, and that they may need to be addressed as discovery continues, as such the OCA may present more issues than those currently presented. The issues that the OCA has identified and presents thus far are as follows:

- A. Accounting/ Policy: The OCA will examine the Company's claimed revenues and any adjustments to the level of revenues. The OCA will seek to ascertain whether the Company's claimed expenses are supported, reasonable, and appropriate.
- B. Alternative Ratemaking and proposed EE Pilot Program: The OCA will examine the Company's Proposed WNA and as well as the funding mechanism, content, and structure of the Proposed EE Pilot Program to determine whether they are just and reasonable and in accordance with the Public Utility Code.

- C. Universal Services/ Consumer Protection: The OCA will assess the impact of the proposed rate increase on low income and other vulnerable households, as well as the impact on the Company's universal service programs. The OCA will also review the Company's customer service quality and any consumer protection concerns which may arise.
- D. Rate Structure/ Rate Design: The OCA will examine the Company's cost of service study, and any other methods the Company used to propose its allocation of the proposed rate increase to customer classes. The OCA will also examine other tariff issues raised by the Company's filing.
- E. Rate of Return/ Cost of Capital: The OCA will perform a detailed analysis of the Company's proposed rate of return and examine the Company's methodology used to reach the proposed rate of return. In addressing the proposed rate of return, the OCA will evaluate the proposed cost of common equity, cost of debt, and the .25% performance bonus proposed by the company to determine the accuracy, justness, and reasonableness of the above, and its effect on consumers. The OCA will also address the Company's risk relative to that of similarly situated natural gas companies, as well as the capital structure proposed by the company.
- F. The OCA reserves the right to raise additional issues.

IV. Proposed Plan and Schedule of Discovery

In order to effectively investigate and develop a record in this proceeding, the OCA requests certain modifications to the Commission's discovery rules be approved for all future and pending discovery requests. The OCA's requested modification are as follows:

(1) Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service. Discovery requests received after noon on a Friday will be deemed as served on the following Monday.

(2) Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served upon the ALJ within five (5) calendar days of service of the interrogatories.

(3) Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.

(4) Answers to motions to dismiss objections and/or answering of interrogatories shall be filed within three (3) calendar days of service of such motions.

(5) Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) calendar days of service.

(6) Requests for admission will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

(7) Answers to on-the-record data requests shall be served in-hand within seven (7) calendar days of the requests.

V. Witnesses

The OCA intends to present the direct, rebuttal, and surrebuttal testimonies, as may be necessary, of the witnesses listed below.

Accounting/ Policy

Lafayette Morgan & Jennifer Rogers
Exeter Associates, Inc.
10480 Little Patuxent Pkwy, Suite 300

Columbia, MD 21044
ocanfg2022brc@paoca.org

Rate of Return/ Cost of Capital

Kevin O'Donnell
Nova Energy Consultants, Inc.
1350 SE Maynard Rd., Suite 101
Cary, NC 27511
ocanfg2022brc@paoca.org

Rate Structure/ Rate Design

Jerome Mierzwa
Exeter Associates, Inc.
Exeter Associates, Inc.
10480 Little Patuxent Pkwy, Suite 300
Columbia, MD 21044
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Universal Services/ Consumer Protection

Barbara Alexander
Barbara Alexander Consulting LLC
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Hallowell, Maine 04347
ocanfg2022brc@paoca.org

Roger Colton
Fisher, Sheehan & Colton
34 Warwick Road
Belmont, MA 02478
ocanfg2022brc@paoca.org

The OCA specifically reserves the right to call additional witnesses, as necessary. If the OCA determines that additional witnesses will be necessary for any portion of the case, it will notify all parties of record immediately.

VI. Proposed Litigation Schedule

The OCA is working with the parties to develop a mutually acceptable schedule for presentation at the Prehearing Conference.

VII. Public Input Hearings

Given the size of the requested rate increase and the customer impact it may cause, the OCA respectfully requests that public input hearings be held for the Company's customers. The OCA further requests that in addition to any telephonic public input hearings which may be conducted, at least two in person public input hearings be conducted. The OCA will be prepared to discuss public input hearings at the prehearing conference.

Furthermore, the OCA requests that the Company be directed to advertise these public input hearings in a local newspaper and on the Company's website. In addition to the newspaper and company website other methods of informing the customers of the public input hearings, such as social media, should be utilized as well.

VIII. Service on the OCA

The OCA will be represented in this case by Senior Assistant Consumer Advocate Aron J. Beatty and Assistant Consumer Advocates: Lauren E. Guerra, Mackenzie C. Battle, and Andrew J. Zerby. All documents should be served on the OCA as follows:

Aron J. Beatty

Lauren E. Guerra

Mackenzie C. Battle

Andrew J. Zerby

555 Walnut Street, 5th Floor, Forum Place

Harrisburg, PA 17101-1923

Phone: (717) 783-5048

E-Mail: ocanfg2022brc@paoca.org

IX. Settlement

The OCA will participate in settlement discussions in this matter.

Respectfully submitted,

/s/ Andrew J. Zerby

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