
Garrett P. Lent

glent@postschell.com
717-612-6032 Direct
717-731-1985 Direct Fax
File #: 176154

March 3, 2023

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: PA PUC, et al. v. National Fuel Gas Distribution Corporation
Docket Nos. R-2022-3035730, et al.

Dear Secretary Chiavetta:

Attached for filing is the Motion for Protective Order filed on behalf of National Fuel Gas Distribution Corporation in the above-captioned proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Garrett P. Lent

GPL/kl
Attachment

cc: The Honorable Mary D. Long (*w/att.; via email*)
Certificate of Service

CERTIFICATE OF SERVICE

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

VIA E-MAIL

Steven C. Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
Forum Place, 1st Floor
Harrisburg, PA 17101
sgray@pa.gov

Aron J. Beatty, Esquire
Mackenzie C. Battle, Esquire
Lauren E. Guerra, Esquire
Andrew J. Zerby, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
OCANFG2022BRC@paoca.org

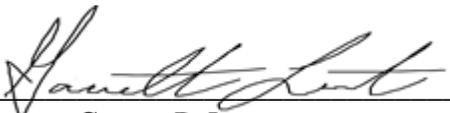
Scott B. Granger, Esquire
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
P.O. Box 3265
Harrisburg, PA 17105-3265
sgranger@pa.gov

Kevin C. Higgins
Energy Strategies
111 East Broadway, Suite 1200
Salt Lake City, UT 84111
khiggins@energystrat.com
Consultant for OSBA

Lauren N. Berman, Esquire
John W. Sweet, Esquire
Ria M. Pereira, Esquire
Elizabeth R. Marx, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org
Counsel for CAUSE-PA

Joseph L. Vullo, Esquire
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@bvrrlaw.com
*Counsel for Intervenor PA Weatherization
Providers Task Force, Inc.*

Date: March 3, 2023


Garrett P. Lent

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket Nos.	R-2022-3035730
Office of Small Business Advocate	:		C-2022-3036655
Office of Consumer Advocate	:		C-2022-3036725
	:		
v.	:		
	:		
National Fuel Gas Distribution Corporation	:		

**MOTION OF NATIONAL FUEL GAS
DISTRIBUTION CORPORATION
FOR A PROTECTIVE ORDER**

TO ADMINISTRATIVE LAW JUDGE MARY D. LONG:

National Fuel Gas Distribution Corporation (“National Fuel”) hereby requests that the attached Protective Order be entered in the above-captioned proceeding pursuant to 52 Pa. Code § 5.365(a). In support thereof, National Fuel states as follows:

1. On October 28, 2022, National Fuel filed Supplement No. 248 to National Fuel Gas Distribution Corporation Gas Tariff – PA P.U.C. No. 9 (“Supplement No. 248”) with the Pennsylvania Public Utility Commission (“Commission”), which was docketed at Docket No. R-2022-3035730. Supplement No. 248 was issued to be effective for service rendered on or after December 27, 2022. It proposed changes to National Fuel’s base retail distribution rates designed to produce an increase in annual revenues of approximately \$28.1 million, exclusive of its proposed Energy Efficiency (“EE”) pilot program that would recover an additional \$1.2 million from residential customers annual in a separate rider, based upon a fully projected future test year ending July 31, 2024.

2. On November 8, 2022, the Office of Small Business Advocate (“OSBA”) filed a Notice of Appearance, Public Statement, Verification, and Formal Complaint, which was docketed at Docket No. C-2022-3036655.

3. On November 9, 2022, the Office of Consumer Advocate (“OCA”) filed a Notice of Appearance, Public Statement, and Formal Complaint, which was docketed at Docket No. C-2022-3036725.

4. On November 15, 2022, the Bureau of Investigation and Enforcement (“I&E”) filed a Notice of Appearance.

5. Also on November 15, 2022, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) filed a Petition to Intervene and Answer.

6. On December 1, 2022, the Pennsylvania Weatherization Providers Task Force (“Providers Task Force”) filed a Petition to Intervene.

7. The proceeding has been assigned to Administrative Law Judge Mary D. Long (the “ALJ”) for hearings and issuance of a Recommended Decision.

8. On December 8, 2022, the Commission issued an Order initiating an investigation of Supplement No. 248 and suspending Supplement No. 248 by operation of law until July 27, 2023 (“Suspension Order”), unless otherwise directed by order of the Commission.

9. Also on December 8, 2022, the Commission issued a Prehearing Conference Order, which scheduled a Prehearing Conference for December 14, 2022, among other things.

10. On December 14, 2022, a telephonic prehearing conference was held, at which time a procedural schedule was adopted.

11. On December 15, 2022, National Fuel filed Tariff Supplement No. 253 in accordance with the Commission’s Suspension Order.

12. The Parties to this proceeding have engaged, and continue to engage, in substantial formal and informal discovery. Proprietary Information within the definition of 52 Pa. Code § 5.365 has been shared in discovery pursuant to protective agreements between the parties. In addition, Proprietary Information has been included in testimony, which may be introduced for the record in this proceeding. Parties may also desire to use Proprietary Information for cross-examination purposes. Treatment of such information as set forth in the attached proposed Protective Order is justified because unrestricted disclosure of this information would not be in the public interest. These considerations constitute cause for the restrictions specified in 52 Pa. Code § 5.365 and in Administrative Law Judge or Commission Orders granting relief pursuant to the regulation.

13. Under 52 Pa. Code §§ 5.362(a)(7) and 5.365, the Office of Administrative Law Judge or the Commission may issue a Protective Order to limit or prohibit disclosure of Proprietary Information where the potential harm to a participant would be substantial and outweighs the public's interest in having access to the Proprietary Information. In applying this standard, relevant factors to be considered include: the extent to which disclosure would cause unfair economic or competitive damage; the extent to which the information may already be known by others; and the potential value of such information to the participant and the participant's competitors and trade partners. 52 Pa. Code §§ 5.365(a)(1) – (3).

14. The documents sought to be protected by the Proposed Order also may contain proprietary information as described in 66 Pa.C.S. § 335(d), which provides:

if a document contains trade secrets or proprietary information and it has been determined by the commission that harm to the person claiming the privilege would be substantial or if a document required to be released under this section contains identifying information which would operate to the prejudice or impairment of a person's reputation or personal security, or information that would lead to the disclosure of a confidential source or subject a

person to potential economic retaliation as a result of their cooperation with a commission investigation, or information which, if disclosed to the public, could be used for criminal or terroristic purposes, the identifying information may be expurgated from the copy of the document made part of the public record.

Therefore, treatment of such information as set forth in the attached proposed Protective Order is justified under 66 Pa.C.S. § 335(d).

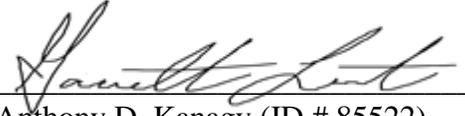
15. The attached proposed Protective Order defines “Confidential” information in Paragraph 2 as “those materials which customarily are treated by that Party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that Party or its clients to risk of competitive disadvantage or other business injury.” The proposed Protective Order defines “Highly Confidential Protected Material” information as materials that are of such a commercially sensitive nature among the parties or of such a private, personal nature that the producing party is able to justify a heightened level of confidential protection with respect to those materials. The proposed Protective Order defines “Confidential Security Information” as those materials defined in Section 2 of Act 156 of 2006, P.L. 1425, No. 156, 35 P.S. § 2141.2 et seq. “The Public Utility Confidential Security Information Disclosure Protection Act,” the disclosure of which creates a reasonable likelihood of endangering the physical security of public utility resources, infrastructure, facility or information storage system; and information regarding computer hardware, software and networks, including administrative and technical records, which, if disclosed, would be reasonably likely to jeopardize computer security. Clearly, protecting this type of information from disclosure is appropriate.

16. Limitation on the disclosure of Proprietary Information will not prejudice the rights of the participants, nor will such limitation frustrate the prompt and fair resolution of this proceeding. The proposed Protective Order balances the interests of the Parties, the public, and the Commission.

17. The attached proposed Protective Order has been shared with other parties to this proceeding. No party has indicated that it opposes the Protective Order.

WHEREFORE, for all the foregoing reasons, National Fuel Gas Distribution Corporation respectfully requests that Administrative Law Judge Mary D. Long grant this Motion and issue the attached Protective Order.

Respectfully submitted,



Anthony D. Kanagy (ID # 85522)

Garrett P. Lent (ID # 321566)

Post & Schell, P.C.

17 North Second Street

12th Floor

Harrisburg, PA 17101-1601

Phone: 717-612-6034

Fax: 717-731-1985

E-mail: akanagy@postschell.com

glent@postschell.com

Of Counsel:

Post & Schell, P.C.

Date: March 3, 2023

Counsel for National Fuel Gas Distribution Corporation

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2022-3035730
Office of Small Business Advocate	:	C-2022-3036655
Office of Consumer Advocate	:	C-2022-3036725
	:	
	:	
v.	:	
	:	
	:	
National Fuel Gas Distribution Corporation	:	

PROTECTIVE ORDER

Upon consideration of the Motion for a Protective Order that was filed by National Fuel Gas Distribution Corporation on March 3, 2023;

IT IS ORDERED THAT:

1. The Motion is hereby granted with respect to all materials and information identified in Paragraphs 2 and 3 below, which have been or will be filed with the Commission, produced in discovery, or otherwise presented during the above-captioned proceeding and all proceedings consolidated therewith. All persons previously or hereafter granted access to the materials and information identified in Ordering Paragraphs 2 and 3 of this Protective Order shall use and disclose such information only in accordance with this Protective Order.

2. The information subject to this Protective Order is all correspondence, documents, data, information, studies, methodologies and other materials, furnished in this proceeding, which are believed by the producing party to be of a proprietary or confidential nature and which are so designated by being marked “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL PROTECTED MATERIAL”, or “CONFIDENTIAL SECURITY INFORMATION.” Such materials will be referred to below as “Proprietary Information.” When a statement or exhibit is

identified for the record, the portions thereof that constitute Proprietary Information shall be designated as such for the record.

3. The parties may designate as “CONFIDENTIAL” those materials which customarily are treated by that party as sensitive or proprietary, which are not available to the public, and which, if disclosed freely, would subject that party or its clients to risk of competitive disadvantage or other business injury. The parties may designate as “HIGHLY CONFIDENTIAL PROTECTED MATERIAL” those materials that are of such a commercially sensitive nature among the parties or of such a private, personal nature that the producing party is able to justify a heightened level of confidential protection with respect to those materials. The parties shall endeavor to limit their designation of information as HIGHLY CONFIDENTIAL PROTECTED MATERIAL. The parties agree that materials containing specific, individual customer information shall be identified as HIGHLY CONFIDENTIAL PROTECTED MATERIAL and that access to these materials may be further restricted by the producing party. The parties may designate as “CONFIDENTIAL SECURITY INFORMATION” those materials, as defined in Section 2 of Act 156 of 2006, P.L. 1425, No. 156, 35 P.S. § 2141.2 et seq. “The Public Utility Confidential Security Information Disclosure Protection Act,” the disclosure of which creates a reasonable likelihood of endangering the physical security of public utility resources, infrastructure, facility or information storage system; and information regarding computer hardware, software and networks, including administrative and technical records, which, if disclosed, would be reasonably likely to jeopardize computer security.

4. Proprietary Information shall be made available to counsel for a party, subject to the terms of this Protective Order. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, cross examination, argument, or

settlement in this proceeding. To the extent required for participation in this proceeding, counsel for a party may afford access to Proprietary Information subject to the conditions set forth in this Protective Order.

5. Information deemed as “CONFIDENTIAL”, shall be made available to a “Reviewing Representative” who is a person that has signed a Non-Disclosure Certificate attached as Appendix A or Appendix B, and who is:

- (a) An attorney who has entered an appearance in this proceeding for a party or a statutory advocate pursuant to 52 Pa. Code § 1.8, if not an attorney;
- (b) Attorneys, paralegals, and other employees associated for purposes of this case with an attorney described in subparagraph 5(a);
- (c) An expert or an employee of an expert retained by a party for the purpose of advising, preparing for or testifying in this proceeding; or
- (d) Employees or other representatives of a party appearing in this proceeding with significant responsibility for this docket.

With regard to the Bureau of Investigation and Enforcement (“I&E”), information deemed as “CONFIDENTIAL” shall be made available to I&E Prosecutors subject to the terms of this Protective Order. The I&E Prosecutors shall use or disclose the CONFIDENTIAL information only for purposes of preparing or presenting evidence, cross examination, argument, or settlement in this proceeding. To the extent required for participation in this proceeding, the I&E Prosecutors may afford access to CONFIDENTIAL information only to I&E’s experts, without the need for the execution of a Non-Disclosure Certificate, who are full-time employees of the Commission and bound by all the provisions of this Protective Order by virtue of the I&E Prosecutors’ execution of a Non-Disclosure Certificate(s).

6. Information deemed as “HIGHLY CONFIDENTIAL PROTECTED MATERIAL”, may be provided to a “Reviewing Representative” who has signed a Non-Disclosure Certificate attached as Appendix B and who is:

- (a) An attorney who has entered an appearance in this proceeding for a party or a statutory advocate pursuant to 52 Pa. Code § 1.8, if not an attorney;
- (b) An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph 6(a);
- (c) An outside expert or an employee of an outside expert retained by a party for the purposes of advising, preparing for or testifying in this proceeding; or
- (d) A person designated as a Reviewing Representative for purposes of HIGHLY CONFIDENTIAL PROTECTED MATERIAL.

With regard to I&E, information deemed as “HIGHLY CONFIDENTIAL PROTECTED MATERIAL” shall be made available to the I&E Prosecutors subject to the terms of this Protective Order. The I&E Prosecutors shall use or disclose the HIGHLY CONFIDENTIAL PROTECTED MATERIAL only for purposes of preparing or presenting evidence, cross examination, argument, or settlement in this proceeding. To the extent required for participation in this proceeding, the I&E Prosecutors may afford access to HIGHLY CONFIDENTIAL PROTECTED MATERIAL, only to I&E’s experts, without the need for the execution of a Non-Disclosure Certificate, who are full-time employees of the Commission and bound by all the provisions of this Protective Order by virtue of the I&E Prosecutors’ execution of a Non-Disclosure Certificate(s).

Provided, further, that in accordance with the provisions of Sections 5.362 and 5.365(e) of the Commission’s Rules of Practice and Procedure, 52 Pa. Code §§ 5.362, 5.365(e), any party may, by subsequent objection or motion, seek further protection with respect to HIGHLY

CONFIDENTIAL PROTECTED MATERIAL, including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular parties.

7. Information deemed as “CONFIDENTIAL SECURITY INFORMATION”, may be provided to a “Reviewing Representative” who has signed a Non-Disclosure Certificate attached as Appendix B and who is:

- (a) An attorney who has entered an appearance in this proceeding for a statutory advocate pursuant to 52 Pa. Code § 1.8, or a statutory advocate if not an attorney;
- (b) An attorney, paralegal, or other employee associated for purposes of this case with an attorney described in subparagraph 7(a); or
- (c) An outside expert or an employee of an outside expert retained by a statutory advocate for the purposes of advising, preparing for or testifying in this proceeding.

CONFIDENTIAL SECURITY INFORMATION will only be provided for inspection via in-person review at the offices of Post & Schell, P.C., 17 N. Second Street, 12th Floor, Harrisburg, PA 1701, or upon request of a statutory advocate or an attorney for a statutory advocate, at another location in the Harrisburg-metro area of the Commonwealth, between the hours of 9 A.M. to 5 P.M., Monday through Friday. Such review may be proctored and the Reviewing Representatives are prohibited from reproducing such information in any form without the prior authorization of National Fuel’s counsel (including taking detailed notes, making photocopies, or taking pictures). If a statutory advocate determines that it is necessary to use CONFIDENTIAL SECURITY INFORMATION as part of their presentation of evidence in this proceeding, such statutory advocate shall request a copy from counsel for National Fuel, which permission shall not be unreasonably withheld and subject to that party confirming it understands and will abide by the terms of this Protective Order concerning use of such materials.

With regard to I&E, information deemed as “CONFIDENTIAL SECURITY INFORMATION” shall be made available to the I&E Prosecutors subject to the terms of this Protective Order. The I&E Prosecutors shall use or disclose the CONFIDENTIAL SECURITY INFORMATION only for purposes of preparing or presenting evidence, cross examination, argument, or settlement in this proceeding. To the extent required for participation in this proceeding, the I&E Prosecutors may afford access to CONFIDENTIAL SECURITY INFORMATION, only to I&E’s experts, without the need for the execution of a Non-Disclosure Certificate, who are full-time employees of the Commission and bound by all the provisions of this Protective Order by virtue of the I&E Prosecutors’ execution of a Non-Disclosure Certificate.

Provided, further, that in accordance with the provisions of Sections 5.362 and 5.365(e) of the Commission’s Rules of Practice and Procedure, 52 Pa. Code §§ 5.362, 5.365(e), any party may, by subsequent objection or motion, seek further protection with respect to CONFIDENTIAL SECURITY INFORMATION, including, but not limited to, total prohibition of disclosure or limitation of disclosure only to particular parties.

8. For purposes of this Protective Order, a Reviewing Representative may not be a “Restricted Person.”

(a) A “Restricted Person” shall mean: (i) an officer, director, stockholder, partner, or owner of any competitor of the parties or an employee of such an entity if the employee’s duties involve marketing or pricing of the competitor’s products or services; (ii) an officer, director, stockholder, partner, or owner of any affiliate of a competitor of the parties (including any association of competitors of the parties) or an employee of such an entity if the employee’s duties involve

marketing or pricing of the competitor's products or services; (iii) an officer, director, stockholder, owner or employee of a competitor of a customer of the parties if the Proprietary Information concerns a specific, identifiable customer of the parties; and (iv) an officer, director, stockholder, owner or employee of an affiliate of a competitor of a customer of the parties if the Proprietary Information concerns a specific, identifiable customer of the parties; provided, however, that no expert shall be disqualified on account of being a stockholder, partner, or owner unless that expert's interest in the business would provide a significant motive for violation of the limitations of permissible use of the Proprietary Information. For purposes of this Protective Order, stocks, partnership or other ownership interests valued at more than \$10,000 or constituting more than a 1% interest in a business establishes a significant motive for violation.

(b) If an expert for a party, another member of the expert's firm or the expert's firm generally also serves as an expert for, or as a consultant or advisor to, a Restricted Person, said expert must: (i) identify for the parties each Restricted Person and each expert or consultant; (ii) make reasonable attempts to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a Restricted Person; and (iii) if segregation of such personnel is impractical the expert shall give to the producing party written assurances that the lack of segregation will in no way jeopardize the interests of the parties or their customers. The parties retain the right to challenge the adequacy of the written assurances that the parties' or their customers'

interests will not be jeopardized. No other persons may have access to the Proprietary Information except as authorized by order of the Commission.

(c) The Office of Small Business Advocate's ("OSBA's") consultant, Mr. Kevin Higgins, will not be considered to be a Restricted Person, and Paragraphs 8(a) and 8(b) will not apply to Mr. Higgins, provided that Mr. Higgins does not share or discuss the Proprietary Information with any person except authorized OSBA representatives.

9. In the event that a party wishes to designate as a Reviewing Representative a person not described in Paragraphs 5(a) through 5(d), 6(a) through 6(c), or 7(a) through 7(c) above, or a person that is a Restricted Person under Paragraph 8, the party shall seek agreement from the party providing the Proprietary Information. If an agreement is reached, that person shall be a Reviewing Representative with respect to those materials. If no agreement is reached, the party shall submit the disputed designation to the presiding Administrative Law Judge for resolution.

10. A qualified "Reviewing Representative" for "HIGHLY CONFIDENTIAL PROTECTED MATERIAL" may review and discuss "HIGHLY CONFIDENTIAL PROTECTED MATERIAL" with their client or with the entity with which they are employed or associated, to the extent that the client or entity is not a "Restricted Person", but may not share with or permit the client or entity to review the "HIGHLY CONFIDENTIAL PROTECTED MATERIAL." Such discussions must be general in nature and not disclose specific "HIGHLY CONFIDENTIAL PROTECTED MATERIAL," provided however that counsel for I&E, the Office of Consumer Advocate, and OSBA may share proprietary information with the I&E Director, Consumer Advocate, and Small Business Advocate, respectively, without obtaining a

Non-Disclosure Certificate from these individuals, provided however, that these individuals otherwise abide by the terms of the Protective Order.

11. Information deemed Proprietary Information shall not be used except as necessary for the conduct of this proceeding, nor shall it be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding. Reviewing Representatives may not use information contained in any Proprietary Information obtained through this proceeding to give any party or any competitor of any party a commercial advantage.

12. Reviewing Representatives shall execute a Non-Disclosure Certificate in order to obtain access to Proprietary Information, and will be subject to the following conditions:

(a) A Reviewing Representative shall not be permitted to inspect, participate in discussions regarding, or otherwise be permitted access to Proprietary Information pursuant to this Protective Order unless that Reviewing Representative has first executed a Non-Disclosure Certificate provided that if an attorney qualified as a Reviewing Representative has executed such a certificate, the paralegals, secretarial and clerical personnel under the attorney's instruction, supervision or control need not do so, nor do Commission employees assisting I&E as noted above in Paragraphs 5, 6, and 7. A copy of each Non-Disclosure Certificate shall be provided to counsel asserting confidentiality prior to disclosure of any Proprietary Information to that Reviewing Representative.

(b) Attorneys and outside experts qualified as Reviewing Representatives are responsible for ensuring that persons under their supervision or control comply with the Protective Order.

13. None of the parties waive their right to pursue any other legal or equitable remedies that may be available in the event of actual or anticipated disclosure of Proprietary Information.

14. The parties shall designate data or documents as constituting or containing Proprietary Information by marking the documents “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL PROTECTED MATERIAL,” or “CONFIDENTIAL SECURITY INFORMATION.” Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the parties, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents that constitute or contain Proprietary Information. The Proprietary Information shall be served upon the parties hereto only and the materials shall be separate from the nonproprietary materials and conspicuously marked “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL PROTECTED MATERIAL,” or “CONFIDENTIAL SECURITY INFORMATION.” For filing purposes, Proprietary Information shall be filed separately from the nonproprietary materials and conspicuously marked “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL PROTECTED MATERIAL,” or “CONFIDENTIAL SECURITY INFORMATION.”

15. The parties will consider and treat the Proprietary Information as within the exemptions from disclosure provided in Section 335(d) of the Public Utility Code, 66 Pa.C.S. § 335(d), and the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101 *et seq.*, until such time as

the information is found to be non-proprietary. In the event that any person or entity seeks to compel the disclosure of Proprietary Information, the non-producing party shall promptly notify the producing party in order to provide the producing party an opportunity to oppose or limit such disclosure.

16. Any public reference to Proprietary Information by a party or its Reviewing Representatives shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand fully the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

17. Part of any record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination, arguments, and responses to discovery, and including reference thereto as mentioned in Paragraph 16 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the parties to this proceeding or pursuant to an order of the Commission.

18. The parties shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information and to question or challenge the admissibility of Proprietary Information. If a party challenges the designation of a document or information as proprietary, the party providing the information retains the burden of demonstrating that the designation is appropriate.

19. The parties shall retain the right to question or challenge the admissibility of Proprietary Information; to object to the production of Proprietary Information on any proper ground; to refuse to produce Proprietary Information pending the adjudication of the objection;

and to seek additional measures of protection of Proprietary Information beyond those provided in this Protective Order.

20. Within 30 days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within 30 days after appeals are finally decided, the parties, upon request, shall either destroy or return to the parties all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information. In the event that a party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning the copies of documents and other materials containing Proprietary Information to the parties, the party shall certify in writing to the producing party that the Proprietary Information has been destroyed.

Dated: _____

Administrative Law Judge Mary D. Long

APPENDIX A

Pennsylvania Public Utility Commission	:	R-2022-3035730
Office of Small Business Advocate	:	C-2022-3036655
Office of Consumer Advocate	:	C-2022-3036725
	:	
	:	
v.	:	
	:	
	:	
National Fuel Gas Distribution Corporation	:	

NON-DISCLOSURE CERTIFICATE
FOR CONFIDENTIAL MATERIALS

TO WHOM IT MAY CONCERN:

The undersigned is the _____ of
_____ (the retaining party). The undersigned has
read and understands the Protective Order and the required treatment of Proprietary Information.
The undersigned agrees to be bound by and comply with the terms and conditions of said
Protective Order.

SIGNATURE

NAME (Printed)

ADDRESS

EMPLOYER

APPENDIX B

Pennsylvania Public Utility Commission	:	R-2022-3035730
Office of Small Business Advocate	:	C-2022-3036655
Office of Consumer Advocate	:	C-2022-3036725
	:	
	:	
v.	:	
	:	
	:	
National Fuel Gas Distribution Corporation	:	

**NON-DISCLOSURE CERTIFICATE FOR
HIGHLY CONFIDENTIAL MATERIALS**

TO WHOM IT MAY CONCERN:

The undersigned is the _____ of _____ (the retaining party). The undersigned has read and understands the Protective Order and the required treatment of information designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL PROTECTED MATERIAL” or “CONFIDENTIAL SECURITY INFORMATION” as defined in the Protective Order. The undersigned agrees to be bound by and comply with the terms and conditions of said Protective Order. The undersigned understands and agrees that, pursuant to Paragraphs 6 and 7, a party providing HIGHLY CONFIDENTIAL PROTECTED MATERIAL and CONFIDENTIAL SECURITY INFORMATION may seek further protection, including, but not limited to, total prohibition of disclosure as to particular individuals, even where Appendix B has been executed.

SIGNATURE

NAME (Printed)

ADDRESS

EMPLOYER