

COMMONWEALTH OF PENNSYLVANIA



PATRICK M. CICERO  
Consumer Advocate

OFFICE OF CONSUMER ADVOCATE  
555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
(800) 684-6560

 @pa\_oca  
 /pennoca  
FAX (717) 783-7152  
consumer@paoca.org  
www.oca.pa.gov

February 13, 2024

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-2024-3045177

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 on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Aron J. Beatty  
Aron J. Beatty  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 86625  
[ABeatty@paoca.org](mailto:ABeatty@paoca.org)

Enclosures:

cc: The Honorable. Charece Z. Collins (**email only:**[charcollin@pa.gov](mailto:charcollin@pa.gov))  
Certificate of Service

4883-8248-6949, v. 1

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :  
v : Docket No. R-2024-3045177  
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. This document was filed electronically on the Commission's electronic filing system.

Dated this 13<sup>th</sup> day of February 2024.

SERVICE BY E-MAIL ONLY

Anthony D. Kanagy, Esq.  
Post & Schell P.C.  
17 North Section Street, 12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601  
[akanagy@postschell.com](mailto:akanagy@postschell.com)  
*Counsel for NFG*

Rebecca Lyttle, Esquire  
Steven C. Gray, Esquire  
Office of Small Business Advocate  
555 Walnut Street  
1st Floor, Forum Place  
Harrisburg, PA 17101-1923  
[relyttle@pa.gov](mailto:relyttle@pa.gov)  
[sgray@pa.gov](mailto:sgray@pa.gov)  
*Counsel for OSBA*

Carrie B. Wright, Esquire  
Bureau of Investigation & Enforcement  
Commonwealth Keystone Building  
400 North Street, 2nd Floor West  
P. O. Box 3265  
Harrisburg, PA 17105-3265  
[carwright@pa.gov](mailto:carwright@pa.gov)  
*Counsel for I&E*

/s/ Aron J. Beatty  
Aron J. Beatty  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 86625  
[OCA1307f2024@paoca.org](mailto:OCA1307f2024@paoca.org)

Counsel for:  
Office of Consumer Advocate  
555 Walnut Street  
5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
717-783-5048  
Dated: February 13, 2024  
\*4876-7967-8885

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2024-3045177
	:	
National Fuel Gas Distribution Corporation	:	

---

PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

---

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and in response to the Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

**I. HISTORY OF THE PROCEEDING**

On December 29, 2023, National Fuel Gas Distribution Corporation (NFGD or the Company) submitted its purchased gas cost (PGC) pre-filing pursuant to 52 Pa. Code §§ 53.64, 53.65. On January 31, 2024, the Company submitted its definitive filing pursuant to Section 1307(f) of the Public Utility Code, 66 Pa. C.S. § 1307(f).

The Company’s filing was assigned to the Office of Administrative Law Judge and further assigned to Administrative Law Judge Charece Z. Collins (ALJ Collins) for investigation and scheduling of hearings to determine whether NFGD’s purchased gas costs comply with the standards set forth in the Public Utility Code.

On February 1, 2024, the OCA filed a Formal Complaint, Public Statement and Notice of Appearance. On January 18, 2024, the Bureau of Investigation and Enforcement (I&E) filed its

Notice of Appearance. On January 16, 2024, the Office of Small Business Advocate (OSBA) filed its Formal Complaint, Public Statement and Notice of Appearance.

The OCA has filed two sets of discovery to date and anticipates additional discovery will be required. As soon as the OCA has completed its review of the Company's filing and interrogatory responses, it is expected that informal discovery meetings may be scheduled. At those meetings, the OCA will be able to narrow the scope of additional information requests. After the discovery process has completed, the OCA will file its Direct Testimony, which will set forth the specific issues to be addressed in this proceeding. At that time, the OCA will also be able to make and to quantify specific recommendations.

## **II. ISSUES AND SUB-ISSUES**

Based upon a preliminary analysis of NFGD's filing, the OCA has compiled a list of issues and sub-issues that it anticipates will be included in its investigation of the Company's proposed rate changes. It is anticipated that the OCA will identify additional issues upon further review of NFGD's filing, and that other issues may arise and may be pursued after the answers to all of the OCA's interrogatories have been received and analyzed.

The following sets forth a more specific identification of the issues that the OCA will investigate and may raise, in addition to those discussed above:

- (1) Reasonableness and prudence of historic purchased gas costs, and assessment of compliance with Commission Orders in prior 1307(f) cases;
- (2) Reasonableness and accuracy of estimating gas costs during the interim and prospective periods;
- (3) Reasonableness and prudence of the Company's gas supply mix, including purchases of Pennsylvania-sourced gas supplies;

(4) Technical issues pertaining to the gas cost recovery mechanism, including computation of quarterly adjustments to purchased gas costs, treatment of supplier refunds, provision of carrying costs associated with gas in storage, interest on gas over-collections, and proper computation of the E-Factor;

(5) Reasonableness and prudence of the Company's mix of demand entitlements and storage, to include an assessment of the reasonableness of the Company's estimate of design day requirements;

(6) Reasonableness and prudence of contracts of pipelines and suppliers, and in particular, long-term contracts that provide for special reservation charges, minimum take commitments or other fixed contract requirements;

(7) Reasonableness of the Company's allocation of purchased gas costs between customer classes and assessment of any unreasonable discrimination between customer classes;

(8) Reasonableness and prudence of the Company's use of capacity release, off-system sales and interruptible sales, and the crediting of such revenue to PGC ratepayers;

(9) Assessment of the value of any purchased gas cost incentive mechanism as components of a least cost fuel procurement policy; and

(10) Reasonableness of the sales volumes projections.

(11) Reasonableness of the Company's compliance with the terms contained in the Settlement of NFGD's 2023 1307(f) proceeding, docketed at R-2023-3037428.

The OCA will examine each of these and all other changes proposed in the Company's filing to ascertain if it complies with the terms and policies of the Public Utility Code, the Natural Gas Choice and Competition Act, and sound ratemaking and cost allocation principles.

### **III. WITNESSES**

The OCA intends to present the Direct, Rebuttal and Surrebuttal Testimony, as may be necessary, of Jerome D. Mierzwa in this proceeding. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony and answers to interrogatories be e-mailed directly to Mr. Mierzwa at the following e-mail address:

Jerome D. Mierzwa  
Exeter Associates, Inc.  
Suite 300  
10480 Little Patuxent Parkway  
Columbia, MD. 21044  
Telephone: (410) 992-7500  
Fax: (410) 992-3445  
E-mail: [jmierzwa@exeterassociates.com](mailto:jmierzwa@exeterassociates.com)

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, the Administrative Law Judge and all parties of record will be notified.

### **IV. SERVICE ON THE OCA**

The OCA will be represented in this case by Senior Assistant Consumer Advocate Aron J. Beatty. The OCA only requires e-service at the following e-mail addresses:

Aron J. Beatty  
Senior Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
E-mail: [ABeatty@paoca.org](mailto:ABeatty@paoca.org)

The OCA reserves the right to request paper copies if necessary. The OCA asks that the electronic service to the parties and ALJ Collins meet all service requirements so that paper copies are not required.

## **V. PUBLIC INPUT HEARINGS**

At this time, the OCA is not aware of any Formal Complaints or letters in opposition to the Company's filing. If the OCA becomes aware of substantial public interest in a public input hearing, the OCA will promptly notify the ALJ and the parties and request that a public input hearing be scheduled.

## **VI. DISCOVERY**

The OCA has issued two sets of interrogatories in this proceeding under the existing Commission regulatory timeframe. In order to effectively investigate and adequately develop a record on these issues, the OCA requests the following discovery modifications be approved for discovery from the date of this Prehearing Conference forward:

1. Answers to written interrogatories and requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service.
2. Objections to interrogatories and/or requests for production shall be communicated orally within three (3) calendar days of service; unresolved objections shall be served to the propounding party within five (5) calendar days of service of the interrogatories.
3. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of written objections.
4. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
5. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
6. Answers to on-the-record data requests shall be served in-hand within five (5) calendar days of the requests.
7. Discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after 12:00 p.m. on a Friday

or after 12:00 p.m. on any business day preceding a state holiday will be deemed to have been served on the next business day.

**VII. PROCEDURAL SCHEDULE**

The OCA, OSBA, I&E and the Company have agreed to the following procedural schedule:

<u>Date</u>	<u>Event</u>
February 16, 2024	Prehearing Conference
March 8, 2024	Written Direct Testimony of All Non-Company Parties
March 22, 2024	Written Rebuttal Testimony of All Parties
March 29, 2024 (12pm)	Written Surrebuttal Testimony of All Parties
April 2, 2024	Oral Rejoinder Outline
April 3, 2024	Telephonic Evidentiary Hearings
April 11, 2024	Main Briefs Due
April 17, 2024	Reply Briefs Due

The OCA requests that the dates included in the schedule be considered “in-hand” dates and that electronic service on the due date will satisfy the “in-hand” requirement.

## VIII. SETTLEMENT

The OCA will participate in settlement discussions with the parties.

Respectfully Submitted,

Office of Consumer Advocate  
555 Walnut Street  
5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048

/s/ Aron J. Beatty  
Aron J. Beatty  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 86625  
E-Mail: [ABeatty@paoca.org](mailto:ABeatty@paoca.org)

DATE: February 13, 2024

Counsel for:  
Patrick M. Cicero  
Consumer Advocate