

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2024-3045177
Office of Small Business Advocate	:	C-2024-3045469
Office of Consumer Advocate	:	C-2024-3045964
	:	
v.	:	
	:	
National Fuel Gas Distribution Corporation	:	

RECOMMENDED DECISION

Before
Charece Z. Collins
Administrative Law Judge

INTRODUCTION

This Recommended Decision recommends approval of the Joint Petition for Settlement of the Rate Investigation Pursuant to 66 Pa.C.S. § 1307(f) (Joint Petition or Settlement) submitted in this proceeding by National Fuel Gas Distribution Corporation (NFG, Distribution or Company), the Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission), the Office of Consumer Advocate (OCA) and the Office of Small Business Advocate (OSBA). This decision finds that the Joint Petition is supported by substantial evidence and is in the public interest.

HISTORY OF THE PROCEEDING

On December 29, 2023, NFG filed with the Commission a purchase gas cost recovery pre-filing pursuant to Sections 53.64 and 53.65 of Title 52 of the Pennsylvania Code. 52 Pa. Code §§ 53.64, 53.65.

On January 16, 2024, OSBA filed a Notice of Appearance through its attorneys, Rebecca Lyttle, Esquire and Steven C. Gray, Esquire.

Also on January 16, 2024, OSBA filed a complaint through its attorneys, Rebecca Lyttle, Esquire and Steven C. Gray, Esquire.

On January 18, 2024, I&E filed a Notice of Appearance through its attorney, Carrie B. Wright, Esquire.

On January 26, 2024, NFG filed a letter advising that it would not file an answer to OSBA's complaint pursuant to 52 Pa. Code § 5.61(d).

On January 31, 2024, NFG filed with the Commission a definitive purchase gas cost recovery request pursuant to Section 1307(f) of Title 66 of the Pennsylvania Public Utility Code. 66 Pa.C.S. § 1307(f).

On February 1, 2024, the Commission served a notice establishing an initial telephonic prehearing conference for this matter for February 16, 2024, at 10:00 a.m. and assigning me as the presiding officer.

Also on February 1, 2024, I served a prehearing conference order, setting forth the rules and expectations for the conference.

Also on February 1, 2024, OCA filed a Notice of Appearance through its attorney, Aron J. Beatty, Esquire.

Also on February 1, 2024, OCA filed a complaint through its attorney, Aron J. Beatty, Esquire.

On February 8, 2024, NFG filed a letter advising that it would not file an answer to OCA's complaint pursuant to 52 Pa. Code § 5.61(d).

No other complaints or petitions to intervene have been filed in this matter.

The telephonic prehearing conference was held as scheduled on February 16, 2024. The participants were:

NFG	Anthony D. Kanagy, Esquire and Nicholas A. Stobbe, Esquire
I&E	Carrie B. Wright, Esquire
OCA	Aron J. Beatty, Esquire
OSBA	Rebecca Lyttle, Esquire and Steven C. Gray, Esquire

Also on February 16, 2024, I served a prehearing order setting forth the procedural matters addressed at the prehearing conference, hearing information and the rules that would govern the proceedings.

On February 20, 2024, the Commission served a notice establishing telephonic evidentiary hearings for this matter for April 3 and 4, 2024, at 10:00 a.m.

On February 29, 2024, Christine Maloni Hoover, Esquire and Melanie J. El Atieh, Esquire filed a Notice of Appearance on behalf of OCA.

On March 12, 2024, Nicholas Stobbe, Esquire, attorney for NFG, filed a Petition for Protective Order. The parties did not oppose the Petition.

By Order dated March 13, 2024, I granted NFG's Petition for Protective Order.

On March 18, 2024, Aron J. Beatty, Esquire filed a Withdrawal of Appearance.

On March 29, 2024, Christine Maloni Hoover, Esquire filed a Withdrawal of Appearance.

By email dated April 2, 2024, the parties advised that they had reached a full settlement of all issues in this proceeding.

The evidentiary hearing was held as scheduled on April 3, 2024.¹ All party witnesses were excused from appearing at the hearing, as cross-examination was waived by all parties, and I had no questions for the witnesses. NFG, I&E, OCA and OSBA each moved to have their witnesses' testimonies and exhibits entered into the record. All parties' testimony and exhibits were admitted into the record during the hearing, without objection. The parties further confirmed the deadline for the submission of their Joint Petition for Settlement with accompanying Statements in Support. The April 4, 2024 hearing was cancelled on the record at the hearing. The participants were:

NFG	Anthony D. Kanagy, Esquire and Nicholas A. Stobbe, Esquire
I&E	Carrie B. Wright, Esquire
OCA	Melanie J. El Atieh, Esquire
OSBA	Rebecca Lyttle, Esquire and Steven C. Gray, Esquire

On April 3, 2024, the Commission served a notice cancelling the evidentiary hearing scheduled for April 4, 2024 at 10:00 a.m.

On April 17, 2024, NFG, I&E, OCA and OSBA (hereinafter referred to as Joint Petitioners or Parties) filed a Joint Petition for Settlement of the Section 1307(f) Rate Investigation (Joint Petition or Settlement) with accompanying Statements in Support.²

The record in this proceeding consists of the transcript of the prehearing conference and evidentiary hearing, and the written testimonies and exhibits of the parties which were admitted into the record at the hearing. The record closed on April 17, 2024, which is the date that the Joint Petition was filed by the parties. This proceeding is now ready for ruling. For the reasons discussed below, the Settlement will be recommended for approval without modification.

¹ The cover of the transcript states that the hearing was held on Tuesday, April 2, 2024, but it was in fact held on Wednesday, April 3, 2024.

² The Joint Petition includes updated rate information, which will again be updated on June 30, 2024, in the tables reflected on pages 2 and 3 of the Joint Petition.

FINDINGS OF FACT

After having duly considered the evidence of record in this proceeding and as required by Section 1318(a) and (b) of the Code, 66 Pa.C.S. § 1318(a) and (b), the findings of fact are made as follows:³

1. Effective on November 1, 2000, Distribution realigned its pipeline and storage capacity in order to identify specific capacity as being held for its New York customers and for its Pennsylvania customers. Generally, delivery points located in Pennsylvania were assigned to the Pennsylvania Division, and delivery points located in New York were assigned to the New York Division. The realignment was approved by the Commission in the Order entered on October 25, 2000, at Docket No. R-00994898.

2. Distribution relies primarily upon gas supplies transported by Tennessee Gas Pipeline, LLC (Tennessee), Columbia Gas Transmission, LLC (Columbia Transmission), Texas Eastern Transmission, LP (Texas Eastern or TETCO) and National Fuel Gas Supply Corporation (Supply) to meet the requirements of its sales customers in Pennsylvania. Distribution PGC Exhibit No. 8, pp. 2-5; Joint Petition, p. 7.

3. In most instances, Tennessee, Columbia Transmission, and Texas Eastern transport Distribution's gas supplies to Distribution's pipeline capacity on Supply. Supply, in turn, either delivers such gas supplies to Distribution for use by Distribution's sales customers or injects such supplies into storage fields for later delivery to Distribution for use by its sales customers. Distribution PGC Exhibit No. 4, p. 2; Distribution PGC Exhibit No. 8, pp. 4-5; Joint Petition, p. 7.

4. Supply is an affiliate of Distribution and is subject to the regulatory jurisdiction of the Federal Energy Regulatory Commission (FERC). Distribution PGC Exhibit No. 4, p. 2; Joint Petition, p. 7. Supply owns and operates a transmission system and storage

³ The following findings of fact regarding the Settlement were proposed by the Joint Petitioners and are adopted herein in their entirety (with only slight modifications made for clarity of this Decision).

fields, and Supply charges Distribution for transportation and storage services under Supply's FERC-approved tariff. Distribution PGC Exhibit No. 4, p. 2; Joint Petition, p. 7.

5. Distribution's capacity on Supply, Tennessee, Columbia Transmission, and Texas Eastern is critical for the operation of the system, the provision of reliable service to customers and Distribution's least cost fuel procurement policy. Distribution PGC Exhibit No. 8, pp. 2-4; Joint Petition, p. 7.

6. The availability of storage enhances Distribution's ability to buy gas and to utilize its firm upstream transportation capacity at high load factors. Distribution PGC Exhibit No. 8, p. 8; Joint Petition, p. 7.

7. At least through July 31, 2025, the end of the application period in this proceeding, Distribution will continue to rely principally upon gas supplies transported through facilities of Tennessee, Columbia Transmission, Texas Eastern and Supply, as well as storage (particularly on Supply), to meet the needs of its Pennsylvania sales customers. Distribution PGC Exhibit No. 8, pp. 2-5, PGC Exhibit No. 30; Joint Petition, p. 8.

8. Distribution has fully and vigorously represented the interests of its ratepayers in proceedings before the FERC. Distribution PGC Exhibit No. 6; Distribution PGC Statement No. 3; Joint Petition, p. 8.

9. Distribution attempts to mitigate the cost of natural gas supplies to its PGC customers through net revenues resulting from off-system sales activities. Distribution PGC Exhibit No. 8, pp. 15-18; Joint Petition, p. 8.

10. Distribution attempts to enter into asset management arrangements, pursuant to FERC Order 712, in order to mitigate the cost of providing gas supplies to its PGC customers. Distribution PGC Exhibit No. 8, p. 19; Joint Petition, p. 8.

11. Distribution participates in a sharing mechanism under which it retains 25 percent of the net revenues from off-system sales, capacity releases and asset management arrangements, including storage fill contracts. Distribution PGC Exhibit No. 8, pp. 17-19; Joint Petition, p. 8.

12. During the twelve months ended November 30, 2023, Distribution purchased 214,351 Mcf of locally produced gas to serve customers in Pennsylvania. Distribution PGC Exhibit No. 1, Schedule 1, Sheet 1; Joint Petition, p. 8.

13. Locally produced gas continues to be a useful resource in meeting the requirements of Distribution's sales customers, and Distribution expects to continue to purchase local non-firm, dedicated and excess local production gas in the near term into its system and Supply's system that will not increase the weighted average commodity cost of gas supplies that it sells to its customers. Distribution PGC Exhibit No. 8, p. 14; Joint Petition, p. 9.

a. Distribution purchases dedicated, non-firm, life of reserves locally produced gas from Appalachian producers that is priced at an Appalachian Index ("AI"). The AI is the simple average of the first of the month spot prices for gas delivered to Dominion Energy Transmission, Inc. and Columbia Transmission. Distribution PGC Exhibit No. 4, p. 13; Joint Petition, p. 9.

b. Distribution purchases excess non-firm local production gas at 80 percent of the AI rate. Distribution PGC Exhibit No. 4, p. 13; Joint Petition, p. 9.

14. Distribution has implemented, with the Commission's approval, a system-wide customer choice program throughout its Pennsylvania service territory under which all customers, except those served under Distribution's Low Income Residential Assistance Program, may choose a natural gas supplier other than Distribution. Distribution PGC Exhibit No. 13; Distribution PGC Statement No. 6; Joint Petition, p. 9.

15. To maintain service to several remote pockets of customers without constructing additional or replacing pipeline facilities, Distribution has entered into various

agreements or tariff sales purchase agreements. Distribution has two exchange agreements – one with UGI Central Penn Gas, Inc (formerly PPL Gas Utilities Corporation and North Penn Gas Company) and one with Columbia Gas of Pennsylvania, Inc. Under the agreements, each company takes from the other volumes of gas needed to provide service. The agreements do not contemplate purchases of gas; instead, they contemplate that each company will receive approximately the same volumes of gas from the other over time. If needed, additional deliveries are arranged to eliminate any balance that has built up over time. The companies do not charge each other for this service. Distribution also serves some customers via two interconnects with People’s Natural Gas Company, LLC (Peoples) where Distribution is receiving firm gas supplies, subject to Peoples’ tariff provisions. Distribution PGC Exhibit No. 4, pp. 4-5; Joint Petition, pp. 9-10.

DESCRIPTION AND TERMS OF SETTLEMENT

The 19-page Settlement includes 77 numbered paragraphs, a request for relief, and Appendices A through E. Appendix A is the proposed Tariff Supplement to Gas — Pa. P.U.C. No. 9. Appendices B through E are the Supporting Statements of NFG, I&E, OCA and OSBA, respectively. The principal terms of the Settlement are as follows:⁴

A. Historic Reconciliation Period Standards.

42. With respect to Distribution’s gas purchases and gas purchasing practices during the twelve-month historic reconciliation period ended November 30, 2023, it is requested that the ALJ and the Commission find that Distribution has met the standards of Section 1318 of the Public Utility Code, 66 Pa.C.S. § 1318, as required by Section 1307(f)(5) of the Public Utility Code, 66 Pa.C.S. § 1307(f)(5), as to all actual purchased gas costs in the historic period. It is requested that the Commission find that, during the twelve months ended November 30, 2023:

- a. Distribution met the requirements of Section 1318(a) of the Public Utility Code by pursuing a least-cost fuel procurement policy, consistent with its obligation to provide safe, adequate and reliable service to its customers; and
- b. Distribution met the requirements of Section 1318(b) of the Public Utility Code relating to purchases from and services provided by affiliates.

⁴ Formatting and numbering are kept the same as in the Joint Petition.

B. Projected Period Findings.

43. With respect to the eight-month interim period beginning on December 1, 2023, and with respect to the twelve-month period beginning August 1, 2024, when rates established under this Settlement will be in effect, it is requested that the Commission find, based upon information presently available and based upon evidence of record in this proceeding concerning Distribution's projected purchases and purchasing policies, that the rates to be adopted by the Commission result from Distribution's compliance with the provisions of Section 1318 of the Public Utility Code, including Sections 1318(a)(1), 1318(a)(2), 1318(a)(3), 1318(a)(4), 1318(b)(1), 1318(b)(2) and 1318(b)(3). 66 Pa.C.S. §§ 1318(a)(1), 1318(a)(2), 1318(a)(3), 1318(a)(4), 1318(b)(1), 1318(b)(2) and 1318(b)(3).

44. The Parties agree that, based upon evidence of record in this proceeding concerning Distribution's projected gas purchases and gas purchasing policies, Distribution's projected gas purchases and projected gas purchasing policies may comply with the standards of Section 1318 of the Public Utility Code. Nevertheless, it is expressly understood and agreed that this Section of the Settlement, Section V.B., is made solely for the purpose of setting prospective rates that shall be subject to the standards of Section 1318 of the Public Utility Code, 66 Pa.C.S. § 1318, and further review in an appropriate future proceeding. Section IV.B. of the Settlement is not intended in any way to limit or prevent I&E, OCA and OSBA from reviewing, after such projected gas purchases actually have been made and gas purchasing practices actually have been implemented, whether Distribution's gas purchases and gas purchasing practices complied with Section 1318. If, in an appropriate future proceeding, gas purchases and gas purchasing practices from December 1, 2023, through July 31, 2024, and the twelve-month application period commencing August 1, 2024, and ending on July 31, 2025, were challenged, the Commission's findings based upon Section IV of the Settlement shall not bar the examination of such purchases and practices, including, but not limited to, disallowance of, or reductions to, such costs during the eight-month interim period commencing December 1, 2023, and ending on July 31, 2024, and the twelve-month application period commencing August 1, 2024, and ending on July 31, 2025.

VI. OTHER TERMS AND CONDITIONS OF SETTLEMENT

A. Approval of Filing

45. The Company's 2024 Section 1307(f) filing is approved except as modified herein, including a revised Exhibit NJH-1.

B. PGC Rates

46. The Parties request that the ALJ and the Commission approve the form of tariff supplement provided as **Appendix A** hereto, including the rates set forth therein. The rates in **Appendix A** are subject to further updates for actual over/under recoveries of purchased gas costs through June 30, 2024, for updates related to the calculation of the MMT

balancing charge and for updates to the forecasts of wellhead prices. The Company's Exhibits will be updated to reflect changes to National Fuel Supply Gas Corporation's rates effective February 1, 2024. The Company will reflect this update and any other applicable updates in the tariff in its August 2024 compliance filing.

C. Certified Natural Gas (CNG)

47. It is recommended that the Company's proposal regarding the CNG Pilot Program, as detailed in Distribution Statement No. 2, is approved, with the following modifications:

- a) Distribution will pursue the least cost CNG, and will undertake commercially reasonable efforts to minimize the cost impact to its PGC customers from the costs associated with purchasing CNG, consistent with current practices for procuring firm supplies of non-certified gas.
- b) In its 2025 PGC filing:
 - i. Distribution will report the daily quantities of CNG purchased, the price paid including applicable demand charge, published index price and applicable index price adjustment for each transaction;
 - ii. Distribution will identify the overall PGC rate impact of its CNG purchase(s);
 - iii. Distribution will identify the BTU content of its CNG purchases and any impact of a change in BTU content from that of other purchases on usage;
 - iv. Distribution will provide an estimate of the methane migration amounts resulting from purchases under the Pilot Program.
- c) Distribution will limit its CNG transaction contract price, including possible demand charge, to not exceed \$.07/Dth (premium) over the published index price. The total annual CNG premium cost shall not exceed \$175,000.
- d) Distribution will not use or reference any crediting agency affiliated with the Company when evaluating potential CNG purchases.
- e) The CNG Pilot Program will end on July 31, 2027, unless otherwise extended by the Commission.

D. National Fuel Gas Supply Corporation Capacity

48. Distribution will be permitted to acquire the additional National Fuel Gas Supply Corporation capacity for the winter of 2024-2025 as proposed in this proceeding. The additional National Fuel Gas Supply capacity will be limited to one year.

E. Design Day Forecasting

49. Distribution will analyze its design day forecasting model with the goal of focusing on forecasting requirements for days with 50 Heating Degree Days (HDD) or greater. This analysis will include evaluation of the use of daily sendout data, as available. Distribution will provide the results of its analysis as part of its 2025 PGC pre-filing, including the workpapers and Excel files regarding the analysis. The Company will not be required to propose any changes to its design day forecasting model as a result of this review.

F. Audit Ordered Refund

50. Distribution will refund the \$111,398, including interest as calculated in the over/under cycle of August 2023 through July 2024, to its PGC customers, as directed by the August Report filed at Docket No. D-2022-3031418 on December 21, 2023, as part of the E-Factor in its annual PGC filing on August 1, 2024.

G. Reporting of Prior Period Adjustments

51. Distribution will begin to implement controls to prevent, detect and correct errors in reporting of prior period adjustments and within the spreadsheet used for amortizing over/under collection balances. Distribution will report the controls that it has implemented in its next PGC filing.

H. Contract Renewals and Changes

52. The Parties agree that the Commission should approve the renewals, extensions and changes in pipelines and storage capacity contracts that are explained in PGC Exhibits 4 and 8 and in Distribution PGC Statement No. 7, subject to the terms of Paragraph 48 of the Settlement, *supra*.

I. Tariff Changes

53. The Parties request that the Commission approve the tariff changes that are set forth in the form of tariff supplement provided as **Appendix A** hereto. The tariff changes are identified in the List of Changes that is included at pages 2-3 of **Appendix A** hereto.

As explained below, the Parties have agreed to a settlement on all of the issues in this proceeding.

The Joint Petitioners agreed to conditions with respect to the Settlement which are contained in paragraph numbers 70-77 of the Settlement.

DISCUSSION

A. Settlement is in the Public Interest

It is the policy of the Commission to encourage parties to settle contested on-the-record proceedings. *See* 52 Pa. Code § 5.231(a). Settlements eliminate the time, effort and expense of litigating a matter to conclusion, which may include review of the Commission's decision by the appellate courts of Pennsylvania. Such savings not only benefit the individual parties, but also the Commission and ratepayers of the utility.

In the Settlement, the Joint Petitioners agree that the Settlement provides for the recovery of natural gas costs that are just and reasonable given the positions advanced in the expert testimony and exhibits of the Joint Petitioners. According to the Joint Petitioners, the Settlement was achieved after a comprehensive investigation of NFG's filing, including extensive formal discovery requests and the service of written direct testimony by NFG, I&E, OCA and OSBA. The Joint Petitioners further agree that acceptance of the Settlement reduces the necessary costs of litigation and conserves the Commission's resources. NFG Statement in Support, pp. 1-2, 14.

I&E stated that the Settlement balances the interests of NFG, its customers, and the Parties in a fair and equitable manner and presents a resolution for the Commission's adoption that best serves the public interest. I&E Statement in Support, p. 3. I&E specifically stated after reviewing the filing in this matter and all discovery, that it agrees that the information provided by NFG indicates that its gas purchasing practices have satisfied its least cost procurement obligation under the Public Utility Code. 66 Pa.C.S. § 1318; I&E Statement in Support, p. 6. I&E averred that adhering to a least cost procurement policy benefits ratepayers and is in the public interest because least cost gas directly impacts customer gas bills while ensuring that customers receive safe, adequate and reliable service. I&E Statement in Support, p. 6. I&E specifically noted that based on its analysis of NFG's filing, acceptance of the proposed Settlement is in the public interest because NFG's E-Factor calculation is accurate, which will ensure that rates are adjusted appropriately. I&E Statement in Support, p. 6. I&E also maintains

that the Settlement resolves the issues raised by I&E in a way that is mutually agreeable to NFG and I&E, and resolution of this case by settlement rather than litigation will avoid the substantial time and effort involved in continuing to formally pursue all issues in this proceeding at the risk of accumulating excessive expense. I&E Statement in Support, p. 6.

OCA also submitted that NFG's PGC filing meets the requirements of 66 Pa.C.S. § 1307(f) with regard to showing that NFG's natural gas costs are consistent with a least cost fuel procurement policy required by 66 Pa.C.S. § 1318. OCA has stated that the proposed Settlement is in the public interest and NFG's proposed PGC rate and tariff changes should be approved. OCA Statement in Support, pp. 1-2, 7.

OSBA also averred that it participated in the negotiations that led to the proposed Settlement and it is a signatory to the Joint Petition for Settlement. OSBA Statement in Support, p. 1. OSBA has requested that the Settlement be approved in its entirety. OSBA Statement in Support, p. 3.

1. PGC Rates

In its Statement in Support of the Settlement, NFG advises that the Settlement rates reflect the adjustments that were agreed to by the Parties in this proceeding. Under the terms of the Settlement, the Parties agree that, on August 1, 2024, NFG will place into effect the natural gas rates set forth in Appendix A of the Settlement, as modified by the Settlement, and subject to updates for actual over/under recoveries of purchased gas costs through June 30, 2024, for updates related to the calculation of the Monthly Metered Transportation (MMT) balancing charge and for updates to the forecasts of wellhead prices. Settlement, p. 12, ¶ 46; NFG Statement in Support, p. 3.

NFG submits that the Settlement rates that it proposes to place into effect on August 1, 2024, are supported by record evidence. NFG explained in detail the development of its natural gas supply rates utilizing cost projections, sales projections, and the reconciliation process. Distribution contends that its testimony and exhibits provided full support for the rates

and their underlying calculations. *See* Distribution PGC St. No. 5; PGC Exhibit No. 21; NFG Statement in Support, pp. 2-3.

In NFG's pre-filing, filed on December 29, 2023, it provided 27 exhibits detailing its gas purchases, gas contracts, peak day requirements and other information required by the Commission's regulations. In its annual filing (made on January 31, 2024), NFG offered the testimony of eight witnesses explaining the filing and why, according to NFG, it was reasonable. NFG also offered additional exhibits supporting the filing. Further detail regarding the Company's gas purchasing practices was also provided in the Parties' Proposed Findings of Fact set forth in Paragraphs 26-41 of the Settlement. NFG Statement in Support, p. 3.

In discussing its analysis of the Settlement (detailed in the Public Interest section above), I&E has also concluded that the Settlement maintains the proper balance of the interest of all Parties, and that NFG is pursuing a least cost fuel procurement policy consistent with its obligation to provide safe, adequate and reliable service. I&E Statement in Support, p. 6.

OCA also concluded that this settlement term represents a reasonable compromise of the Parties' positions, and that the Settlement is in the public interest and should be approved (further detailed in the sections below). OCA Statement in Support, p. 7.

2. Certified Natural Gas

NFG proposed a pilot program as a part of its main filing, to allow it to procure Certified Natural Gas (CNG). NFG witness, Marc T. Cuthbertson, testified that CNG is a natural gas that has been produced with reduced green-house-gas (GHG) emissions and environmental impacts, beyond current environmental regulations (as evaluated and verified by an independent third party). Distribution PGC St. No. 2, pp. 8-9; NFG Statement in Support, pp. 3-4. Mr. Cuthbertson further testified that CNG wells can reduce methane emissions up to 80% from traditional wells, and CNG provides the same reliability as conventional natural gas and is compatible with all existing natural gas infrastructure. Distribution PGC St. No. 2, p. 9.

As explained by Mr. Cuthbertson, with its CNG pilot proposal, NFG aims to identify and purchase natural gas from operators who are implementing best practices in the production of natural gas, including lowering emissions. NFG also intends to quantify CO₂ abated by measuring the methane intensity of the CNG versus the intensity of the traditionally extracted natural gas. Distribution PGC St. No. 2, pp. 9-10. Additionally, Mr. Cuthbertson explained the mechanics of the proposed CNG pilot program, noting: (1) NFG is seeking a three-year authorization to purchase CNG; (2) the costs will be limited to \$175,000 per year associated with any CNG premium; (3) the pilot will limit CNG purchases to those certified and that have obtained specific ratings, namely, MiQ or Oil and Gas Methane Partnership 2.0 (OGMP 2.0) ratings. Distribution PGC St. No. 2, p. 10. Mr. Cuthbertson further noted that NFG's purchase of CNG would be made under its current Gas Cost Management Plan. Distribution PGC St. No. 2, pp. 10-12.

Mr. Cuthbertson also testified that the CNG pilot program will allow NFG to gain market knowledge related to the quantification and certification of methane reductions associated with procuring CNG that has lower methane intensity compared to national and regional methane emission averages of conventional natural gas. Mr. Cuthbertson averred that the program will allow NFG a cost-effective opportunity to test CNG as a new reliable, low cost and low carbon energy source for its customers. Distribution PGC St. No. 2, pp.12-13; NFG Statement in Support, pp. 4-5.

NFG noted that OCA, I&E and OSBA each raised concerns with the proposed CNG pilot program throughout the litigation of this proceeding, and NFG addressed those concerns to each Party's satisfaction. *See* NFG Statement in Support, pp. 5-6. For instance, OCA recommended the approval of the pilot program, but it also recommended that NFG (1) report the daily quantities of CNG purchased; (2) identify the PGC rate impact of its CNG purchases; and (3) identify the BTU Content of its CNG purchases and any impact of a change in BTU content from that of other purchases on usage. OCA St. No. 1, p. 15; NFG Statement in Support, pp. 4-5.

I&E initially opposed the approval of the CNG pilot program. I&E witness Esyan Sakaya testified that (1) there were too many certification standards for CNG; (2) he did not know the names of the independent third-party certifiers and if there were potential conflicts of interest with the Company; and (3) NFG did not detail how the proposal would be subject to reporting requirements during the pilot run to gauge its progress. I&E St. No. 1, p. 6; NFG Statement in Support, p. 5.

OSBA also initially opposed approval of the CNG pilot program. OSBA witness Mark D. Ewen testified that he was not aware of a State or Federal requirement to procure CNG; (2) it was not clear how NFG intends to offer this supply option to customers; and (3) customers of NFG already have the ability to shop for gas suppliers in Pennsylvania. OSBA St. No. 1., p. 1; NFG Statement in Support, p. 5. Witness Ewen recommended that, if the Settlement was approved by the Commission, NFG complete a more comprehensive review of the program structure and its implementation, including a review of the market availability of CNG supply, a specific plan for offering CNG supply to customers and a quantification of potential CO₂e⁵ abatement impacts and other environmental benefits. OSBA St. No. 1, p. 3; NFG Statement in Support, pp. 5-6.

In response to I&E's concerns, NFG witness Cuthbertson testified that NFG's pilot program is pursuing certifications from two entities, MiQ and OGMP 2.0. PGC Distribution St. No. 2R, p. 3-5; NFG Statement in Support, p. 6. Mr. Cuthbertson clarified that NFG is not affiliated with either entity and has no conflicts of interest with these entities. Distribution PGC St. No. 2R, pp. 4-5; NFG Statement in Support, p. 6. Witness Cuthbertson also testified that the CNG pilot program will be consistent with NFG's obligation to pursue a least cost fuel procurement strategy. Distribution PGC St. No. 2R, pp. 5-6; NFG Statement in Support, p. 6. Witness Cuthbertson further testified that the current CNG premium is approximately \$0.03 to \$0.07/Dth, which is consistent with the incremental costs that are typically paid for contracting for term gas. Distribution PGC St. No. 2R, p. 7; NFG Statement in Support, p. 6.

⁵ CO₂e stands for Carbon dioxide equivalent.

NFG witness Cuthbertson also addressed OSBA's concerns, testifying that the anticipated CNG premium is in line with incremental costs associated for winter term gas supplies. Distribution PGC St. No. 2R, p. 6; NFG Statement in Support, p. 7. Witness Cuthbertson also described where NFG intends to take receipt of CNG supplies and all that will be considered by NFG under the pilot. Distribution PGC St. No. 2R, pp. 11-12; NFG Statement in Support, p. 7. Mr. Cuthbertson also testified that NFG has proposed an annual cap of \$175,000 of funding for the CNG pilot program to cover the certification cost premium; NFG would limit the CNG unit cost premium to \$0.07 per Dth for the certification; and NFG would limit the daily quantity of CNG to 7,500 Dth/day. Distribution PGC St. No. 2R, p. 13; NFG Statement in Support, p. 7.

In further response to the Parties' concerns, under the Parties' CNG agreement, NFG has committed to pursue the least cost CNG and undertake commercially reasonable efforts to minimize the cost impact to its PGC customers from the costs associated with purchasing CNG, consistent with current prices for procuring firm supplies of non-certified gas. Settlement ¶ 47; NFG Statement in Support, p. 8. NFG also committed that in its 2025 PGC filing, it would report daily quantities of CNG purchased; identify the overall PGC rate impact of its CNG purchases; identify the BTU content of its CNG purchases and any impact of a change in BTU content from that of other purchases on usage; and provide an estimate of the methane mitigation amounts resulting from purchases under the Pilot Program. Settlement ¶ 47; NFG Statement in Support, p. 8. Moreover, NFG stated that it will limit its CNG transaction contract price to not exceed \$0.07/Dth over the published index price. The total annual CNG premium cost will not exceed \$175,000. Furthermore, NFG will not use a crediting agency affiliated with NFG when evaluating CNG purchases. Lastly, NFG stated that the CNG Pilot Program will end on July 31, 2027, unless otherwise extended by the Commission. Settlement ¶ 47; NFG Statement in Support, p. 8.

NFG asserted that the Settlement memorializes the Parties' concerns regarding the CNG Pilot Program and makes commitments regarding price caps, the term of the pilot, affiliate purchases, and a commitment for NFG to pursue least-cost CNG. NFG stated that the Settlement

reflects a compromise of all Parties' positions on the issue, adequately protects NFG's customers, and allows NFG to begin procuring CNG supply into its system. NFG therefore respectfully asserted that the CNG settlement provisions are in the public interest and requested that they be approved without modification. NFG Statement in Support, pp. 8-9.

I&E testified that the CNG pilot program was the only issue it addressed in this proceeding. I&E Statement in Support, p. 4. I&E reiterated the terms agreed to by the Parties for the pilot program and noted its agreement with the terms. I&E Statement in Support, p. 4. I&E averred that after a full and complete review of the testimony and supporting exhibits submitted by the Parties, it supports the settled upon terms as a full and fair compromise that provides regulatory certainty and a resolution of the issues and satisfies the concerns it raised. I&E Statement in Support, p. 5.

OCA explained that CNG is a low carbon gas produced from certified wells. OCA further explained that certified wells can reduce methane emissions by up to 80% of that from traditional wells. OCA St. 1, pp. 13-14; OCA Statement in Support, pp. 4-5. OCA reiterated the concerns that it raised regarding the CNG pilot program and the agreement that was ultimately reached after extensive testimony and investigation. OCA Statement in Support pp. 5-6. OCA avers that the compromises in this Settlement address the concerns of the Parties while still permitting the CNG pilot program to go forward. OCA further averred that the settlement term represents a reasonable compromise of the parties' positions in this proceeding, is in the public interest and should be approved without modification. OCA Statement in Support, p.7.

OSBA also expressed its support of the modified pilot program. OSBA stated that the pilot program was of particular significance when it concluded that the Settlement was in the best interests of the small business customers of NFG. OSBA Statement in Support, p. 2. OSBA reiterated the issues raised and the testimony that addressed the issues. OSBA Statement No. 1, p. 1; OSBA Statement in Support, p. 2. OSBA then noted that the Settlement, involving the CNG pilot program, will provide the Commission with the opportunity to reconsider green energy programs administered by a natural gas distribution company. OSBA Statement in

Support, pp. 2-3. OSBA therefore averred that the Settlement is in the public interest and should be approved without modification. OSBA Statement in Support, pp. 2-3.

3. Design Day Requirements

Through its Direct Testimony, NFG witness Lisa A. Petko, detailed its forecasted design day model, noting that “Distribution expects its design day capacity for the winter of 2024-2025 to be 350,876 Dth/day.” Distribution St. No. 7 at p. 14; NFG Statement in Support at p. 9. Ms. Petko further testified that “Distribution will review its design day firm capacity requirements again after analyzing its system usage during this winter of 2024.” Distribution St. No. 7 at p. 11; NFG Statement in Support at p. 9.

OCA witness Jerome D. Mierzwa testified that NFG’s design day forecasting model over-estimated expected customer requirements under design day conditions, and accurate forecasting is essential to providing reliable service on a least-cost basis. OCA St. No. 1, p. 11; NFG Statement in Support, p. 9. Mr. Mierzwa recommended that NFG evaluate why its forecasting model over forecasted demands and modify the model to address its findings. Mr. Mierzwa further recommended evaluating its design day forecast using daily rather than monthly usage. OCA St. No. 1, p. 11; NFG Statement in Support, p. 9. Mr. Mierzwa also recommended that NFG not be permitted to increase its capacity entitlements from Supply by an additional 5,000 Dth/day for the winter of 2024-2025. OCA St. No. 1, p. 12; NFG Statement in Support, p. 9.

NFG witnesses Lisa A. Petko and Gregory D. Harts addressed Mr. Mierzwa’s concerns in their testimony. *See* Distribution PGC St. No. 7R, pp. 2-3; Distribution PGC St. No. 4R, pp. 4-5; NFG Statement in Support, p. 10. Following additional witness testimony and discussion between NFG and OCA, the Parties agreed under the Settlement that (1) NFG will be permitted to acquire the additional National Fuel Gas Supply Corporation capacity for the winter of 2024-2025 as proposed in this proceeding (limited to one year), and (2) NFG will analyze its design day forecasting model, focusing on forecasting requirements for days with 50 Heating Degree Days or greater. The analysis will include an evaluation of the use of daily sendout data,

as available. NFG will provide the results of its analysis in its 2025 PGC pre-filing, and it will not be required to propose any new changes to its design day forecasting model as a result of this review. Settlement ¶¶ 49-51; NFG Statement in Support, p. 11.

As a result of the “carefully crafted compromise” between OCA and NFG and the agreement reached, NFG avers that these settlement provisions are in the public interest and should be approved without modification. NFG Statement in Support, pp. 11-12.

OCA also discussed the issues raised, and the compromises reached, between it and NFG. OCA Statement in Support, pp. 3-4. OCA maintains that these settlement provisions are in the public interest and should be approved without modification. OCA Statement in Support, p. 4.

The other Parties did not specifically address the Design Day requirements in their respective Statements in Support but agreed that the Settlement should be approved in its entirety.

4. Audit Ordered Refund

OCA witness Mierzwa testified that the gas cost audit conducted by the Commission’s Bureau of Audits⁶ for the period of December 2017 to November 2020 found that NFG should issue a refund to its PGC customers in the amount of \$111,398. Mr. Mierzwa testified that NFG should provide this refund in its May 2024 PGC filing. OCA St. No. 1, pp. 12-13; NFG Statement in Support, p. 12. Following rebuttal testimony by NFG witness Nicholas J. Hewa (*see* Distribution PGC St. No. 5R, p. 2), and surrebuttal testimony from Mr. Mierzwa (*see* OCA St. No. 1SR, p. 6), the Parties reached the agreement that NFG will refund its customers in the amount of \$111,398, including interest as calculated in the over/under cycle of August 2023 through July 2024, as a part of its annual PGC filing on August 1, 2024. NFG therefore submitted that this settlement provision is in the public interest and should be approved without modification. NFG Statement in Support, p. 13.

⁶ Docket No. D-2022-3031419.

OCA reiterated the issues discussed and agreement reached. OCA averred that the Settlement provisions address its concerns and recommendations on this issue, and therefore serve the public interest and should be approved without modification. OCA Statement in Support, p. 4.

5. Reporting of Prior Period Adjustments

OCA recommended that NFG evaluate and implement controls to prevent errors found in the audit report and identify the controls it has implemented in next year's annual PGC filing. OCA St. No. 1, p. 13; NFG Statement in Support, p. 13. NFG witness Hewa testified that NFG is already in the process of evaluating and implementing these controls, and it will identify and report on them in its annual PGC filing next year. Distribution PGC St. No. 3R, p. 3; Settlement ¶ 51; NFG Statement in Support, p. 13. NFG therefore averred that these settlement provisions are in the public interest and should be approved without modification.

6. Contract Renewals and Changes

NFG notes that the Settlement requests that the Commission approve the renewals, extensions and changes in pipeline and storage capacity contracts that are explained in its Distribution PGC Statement No. 7, and in its Distribution PGC Exhibits 4 and 8. Settlement ¶ 52. NFG avers that these contracts are in the public interest for the reasons explained in its testimony and exhibits, and these contracts should be approved. NFG Statement in Support, pp. 13-14. The other Joint Petitioners, I&E, OCA and OSBA did not specifically address this Settlement paragraph in their respective Statements in Support, but they agreed in the Settlement that the aforementioned contract renewals and changes should be approved by the Commission.

7. Tariff Changes

NFG noted that no Party in this proceeding objected to the tariff changes proposed in this proceeding. NFG further noted that the majority of the proposed changes are

related to changes in rates associated with changes in purchased gas costs. NFG therefore requested that the Commission approve NFG's tariff changes without modification. *See* Settlement ¶ 53; NFG Statement in Support, p. 14.

In its Statement in Support of the Settlement, I&E explained that an E-Factor is the experienced over/under collection. The E-Factor reconciles variations between the projected gas costs and actual gas costs as well as variances between projected and actual sales. I&E explained that the E-Factor also serves as the vehicle to pass through miscellaneous revenues and to calculate interest. I&E maintains that this review is critical because the proper calculation of the E-Factor ensures that rates are adjusted appropriately. I&E confirmed that it is satisfied that NFG's E-Factor calculation is appropriate and accurate. I&E further confirmed that it believes that NFG's projected gas costs are consistent with a least cost fuel procurement policy. I&E acknowledged that while those costs are subject to review in a future PGC proceeding, it maintains that ratepayers are protected in that NFG gains no unwarranted financial advantages through its projected gas purchases and projected gas purchasing policies. I&E therefore concluded that the Settlement maintains the proper balance of the interest of all Parties, and that NFG is pursuing a least cost fuel procurement policy consistent with its obligation to provide safe, adequate and reliable service. I&E Statement in Support, p. 6.

The other Parties, OCA and OSBA, did not specifically address this Settlement paragraph in their respective Statements in Support, but they agreed that the Settlement should be approved in its entirety without modification.

8. Recommendation – Approval of Settlement

The Settlement represents the agreement of the Parties proposing a resolution of all the issues in this proceeding. The Settlement is the result of carefully produced compromises. The Commission encourages parties in contested, on-the-record proceedings to settle cases. *See* 52 Pa. Code § 5.231. Compromises dispense with costly litigation and promote judicial economy.

Upon due consideration of the terms and conditions of the Settlement, including the Supporting Statements of the Joint Petitioners, the Settlement constitutes a fair, just and reasonable resolution of the Commission's investigation for the reasons the Parties identify as noted above. Therefore, the Settlement is in the public interest and should be approved without modification. *Pa. Pub. Util. Comm'n v. City of Lancaster – Bureau of Water*, Docket No. R-2010-2179103 (Opinion and Order entered July 14, 2011); *citing, Warner v. GTE North, Inc.*, Docket No. C-00902815 (Opinion and Order entered Apr. 1, 1996); *Pa. Pub. Util. Comm'n v. CS Water and Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991).

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the Parties to this proceeding. 66 Pa.C.S. §§ 1307(f), 1317, 1318.

2. National Fuel Gas Distribution Corporation is pursuing a least cost fuel procurement policy during the relevant time period consistent with its obligation to provide safe, adequate and reliable service to its customers in compliance with Section 1318 of the Public Utility Code. 66 Pa.C.S. § 1318.

3. National Fuel Gas Distribution Corporation's rates for purchased gas costs during the relevant time period are just and reasonable and in compliance with Section 1318 of the Public Utility Code. 66 Pa.C.S. § 1318.

4. National Fuel Gas Distribution Corporation has fully and vigorously represented the interests of its ratepayers in proceedings before the FERC and other relevant non-PUC proceedings during the relevant time period in compliance with Section 1318(a)(1) of the Public Utility Code. 66 Pa.C.S. § 1318(a)(1).

5. National Fuel Gas Distribution Corporation has taken all prudent steps necessary to negotiate favorable gas supply contracts and to relieve itself from terms in existing contracts with its gas suppliers, which are or may be averse to the interests of its ratepayers,

during the relevant time period in compliance with Section 1318(a)(2) of the Public Utility Code. 66 Pa.C.S. § 1318(a)(2).

6. National Fuel Gas Distribution Corporation has taken all prudent steps necessary during the relevant time period to obtain lower cost gas supplies on both short-term and long-term bases both within and outside the Commonwealth, including the use of gas transportation arrangements with pipelines and other distribution companies in compliance with Section 1318(a)(3) of the Public Utility Code. 66 Pa.C.S. § 1318(a)(3).

7. National Fuel Gas Distribution Corporation has not withheld from the market or caused to be withheld from the market during the relevant time period any gas supplies, which should have been used as part of a least cost fuel procurement policy in compliance with Section 1318(a)(4) of the Public Utility Code. 66 Pa.C.S. § 1318(a)(4).

8. National Fuel Gas Distribution Corporation has fully and vigorously attempted to obtain less costly gas supplies on both short-term and long-term bases from nonaffiliated interests during the relevant time period in compliance with Section 1318(b)(1) of the Public Utility Code. 66 Pa.C.S. § 1318(b)(1).

9. Neither National Fuel Gas Distribution Corporation nor any affiliated interest during the relevant time period has withheld from the market any gas supplies, which should have been used as part of a least cost fuel procurement policy in compliance with Section 1318(b)(3) of the Public Utility Code. 66 Pa.C.S. § 1318(b)(3).

10. The Joint Petition for Settlement of the Rate Investigation Pursuant to 66 Pa.C.S. § 1307(f) that National Fuel Gas Distribution Corporation, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate and the Office of Small Business Advocate have executed and submitted at this docket is in the public interest and, therefore, should be approved without modification. *Pa. Pub. Util. Comm'n v. City of Lancaster – Bureau of Water*, Docket No. R-2010-2179103 (Opinion and Order entered July 14, 2011); *citing, Warner v. GTE North, Inc.*, Docket No. C-00902815

(Opinion and Order entered Apr. 1, 1996); *Pa. Pub. Util. Comm'n v. CS Water and Sewer Assoc.*, 74 Pa.P.U.C. 767 (1991).

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Settlement of the Rate Investigation Pursuant to 66 Pa.C.S. § 1307(f) that National Fuel Gas Distribution Corporation, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate and the Office of Small Business Advocate executed and submitted at Docket No. R-2024-3045177 be approved without modification.

2. That National Fuel Gas Distribution Corporation be permitted to file a tariff supplement, incorporating the terms of the Settlement and changes to its rates, rules and regulations as set forth in Appendix A of the Settlement on at least one day's notice after entry of the Commission's Order approving the Settlement. Said tariff supplement shall be accompanied by a red-lined version that shall fully set forth all changes that will be made to National Fuel Gas Distribution Corporation's current tariffs.

3. That upon National Fuel Gas Distribution Corporation's filing of a tariff supplement as conforming with this Opinion and Order and the Joint Petition for Settlement and the Commission's approval thereof, the purchased gas rates established therein shall become effective for service rendered on or after August 1, 2024.

4. That the Complaint of the Office of Small Business Advocate at Docket No. C-2024-3045469 be deemed satisfied.

