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File #: 212923

June 4, 2026

VIA ELECTRONIC FILING

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

**Re: Pennsylvania Public Utility Commission v. National Fuel Gas Distribution
Corporation
Docket No. R-2025-3059428, et al.**

Dear Secretary Homsher:

Attached for filing please find the Objections of National Fuel Gas Distribution Corporation to the admission of the Office of Consumer Advocate's ("OCA") Exhibits MWD-10 and MWD-11 in the above-referenced proceeding. Copies are being provided as indicated on the Certificate of Service.

Respectfully submitted,



Megan E. Rulli
Associate

MER/sa
Attachment

cc: The Honorable Katrina L. Dunderdale (*via email; w/attachment*)
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

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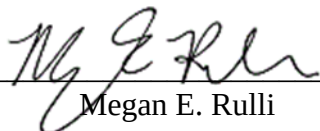
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Date: June 4, 2026


Megan E. Rulli

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
<i>et al.</i>	:	
	:	Docket Nos. R-2025-3059428, <i>et al.</i>
v.	:	
	:	
National Fuel Gas Distribution Corporation	:	

**OBJECTIONS OF
NATIONAL FUEL GAS DISTRIBUTION CORPORATION TO
THE ADMISSION OF THE OFFICE OF CONSUMER ADVOCATE’S
EXHIBITS MWD-10 AND MWD-11**

TO ADMINISTRATIVE LAW JUDGE KATRINA L. DUNDERDALE:

National Fuel Gas Distribution Corporation (“National Fuel” or the “Company”) hereby files these Objections pursuant to the Pennsylvania Public Utility Commission’s (“Commission”) regulations at 52 Pa. Code § 5.401(a) and the directive of the Administrative Law Judge Katrina L. Dunderdale (the “ALJ”) at the hearing held on June 2, 2026, to exclude Office of Consumer Advocate (“OCA”) Exhibits MWD-10 and MWD-11 from the record. National Fuel objects to these exhibits because they: (1) are hearsay and are not subject to a hearsay exception under the Pennsylvania Rules of Evidence; (2) are irrelevant; and/or (3) any probative value they may have is outweighed by the danger of unfair prejudice and confusion of the issues in this case. In addition, the Company requests that the portions of OCA witness Deupree’s Surrebuttal Testimony that rely on these exhibits be stricken from the record.

In support thereof, the Company states as follows:

I. BACKGROUND

1. This proceeding was initiated on January 28, 2026, when National Fuel filed Supplement No. 294 to National Fuel Gas Distribution Corporation Gas Tariff – PA P.U.C. No. 9

(“Supplement No. 294”) with the Commission. Supplement No. 294 was issued to be effective for service rendered on or after March 29, 2026. It proposed changes to National Fuel’s base retail distribution rates designed to produce an increase in revenues of approximately \$19.7 million, exclusive of its proposed Energy Efficiency (“EE”) pilot program that would recover an additional \$0.7 million from residential customers annually in a separate rider. The filing was made in compliance with the Commission’s regulations and contains all supporting data and testimony required to be submitted in conjunction with a tariff change seeking a general rate increase. The Company’s filing includes a proposal to reinstate a tariff rider that would provide a refund of Other-Post Employment Benefits (“OPEB”) funds of approximately \$6.2 million to all customers and also provide a one-time bill credit of \$30, totaling approximately \$1.025 million, to Customer Assistance Program (“CAP”), Level 1, and Level 2 customers.

2. The Commission’s Bureau of Investigation and Enforcement (“I&E”), OCA, the Office of Small Business Advocate (“OSBA”), and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) filed Notices of Appearance. CAUSE-PA and the Pennsylvania Weatherization Providers Task Force (“Providers Task Force”) filed Petitions to Intervene, and OCA and OSBA filed Formal Complaints.

3. On February 19, 2026, the Commission issued an Order initiating an investigation of Supplement No. 294 and suspending Supplement No. 294 by operation of law until October 29, 2026, unless otherwise directed by order of the Commission.

4. A telephonic prehearing conference was held on February 26, 2026. At the prehearing conference, a procedural schedule was adopted, which provided for the scheduling of evidentiary hearings.

5. In accordance with the procedural schedule, other parties' direct testimony was served on April 16, 2026. Written rebuttal testimony was served on May 12, 2026. Written surrebuttal testimony was served on May 27, 2026. Written rejoinder testimony was served on June 1, 2026.

6. On June 2, 2026, hearings were held for the cross examination of certain witnesses for National Fuel, I&E, and OCA, and the admission of the testimony into the record. During the hearing, OCA offered OCA Exhibits MWD-10 and MWD-11 for the record, which were attached to the Surrebuttal Testimony of Michael Duepre (OCA Statement No. 1SR). After the Company raised oral objections to these exhibits, the ALJ directed the Company to submit written objections to OCA Exhibits MWD-10 and MWD-11.¹

7. National Fuel hereby submits these Objections to OCA Exhibits MWD-10 and MWD-11. As explained herein, these exhibits should not be admitted into the record because they are hearsay and not subject to a hearsay exception under the Pennsylvania Rules of Evidence. Furthermore, the exhibits are irrelevant, and any probative value they may have is outweighed by the danger of unfair prejudice and confusion of the issues in this case. In addition, the statements in OCA St. No. 1 SR that rely on OCA Exhibits MWD-10 and MWD-11 should be stricken.

II. OBJECTIONS

8. As summarized below, these exhibits should be excluded from the record and the testimony relying on them be stricken from the record because they are objectionable on several grounds.

- Exhibit MWD-10 – Governor Shapiro Letter to Utility Leaders Dated April 29, 2026

¹ See 52 Pa. Code § 5.243(a) (“A party has the right of presentation of evidence, cross-examination, objection, motion and argument . . .”); Pa.R.E. 103(a) (requiring a party to make a contemporaneous objection to the objectionable testimony or evidence and secure a clear and definitive ruling on the objection from the presiding officer to preserve an evidentiary issue).

Objections: (1) inadmissible hearsay; (2) relevance; and (3) any probative value it may have is outweighed by the danger of unfair prejudice and confusion of the issues in this case.

- Exhibit MWD-11 – PECO Press Release Dated April 16, 2026

Objections: (1) inadmissible hearsay; and (2) relevance.

A. OCA EXHIBITS MWD-10 AND MWD-11 SHOULD BE EXCLUDED BECAUSE THEY ARE HEARSAY

9. OCA Exhibits MWD-10 and MWD-11 should be excluded from the record in this proceeding because they are hearsay statements² and are not subject to a hearsay exception.

10. OCA Exhibits MWD-10 and MWD-11 constitute hearsay because they consist of out of court statements being offered for the truth of the matter asserted.

11. OCA Exhibits MWD-10 and MWD-11 consist of statements that were not written by OCA witness Deupree. Moreover, OCA did not call the authors of either exhibit to testify at the hearing and authenticate the statements therein. Therefore, these exhibits are out of court statements being offered for the truth of the matters asserted.

12. These exhibits are hearsay statements and are inadmissible unless subject to a hearsay exception. *See* note 2, *supra*. In addition, OCA Exhibit MWD-11 contains hearsay within

² Hearsay is an out-of-court statement offered to prove the truth of the matter asserted. Pa.R.E. 801; *Bonegre v. Workers' Compensation Appeal Board (Bertolini's)*, 863 A.2d 68, 72 (Pa. Cmwlth. 2004). Ordinarily, hearsay evidence is inadmissible unless some exception applies. Pa.R.E. 802. The hearsay rule is somewhat relaxed in proceedings before administrative agencies. *Rox Coal Co. v. Workers' Comp. Appeal Bd. (Snizaski)*, 570 Pa. 60, 807 A.2d 906 (2002). The Commonwealth Court established what is commonly called the "Walker Rule" to apply to the use of hearsay evidence during administrative proceedings:

(1) Hearsay evidence, properly objected to, is not competent evidence to support a finding;

(2) Hearsay evidence, admitted without objection, will be given its natural probative effect and may support a finding, if it is corroborated by any competent evidence in the record, but a finding of fact based solely on hearsay will not stand.

Walker v. Unemployment Comp. Bd. of Review, 367 A.2d 366, 370 (Pa. Cmwlth. 1976). The "Walker Rule" has been affirmed by the Pennsylvania Supreme Court. *Rox Coal Co. v. Workers' Comp. Appeal Bd. (Snizaski)*, 570 Pa. 60, 807 A.2d 906 (2002).

hearsay, because the press release contains quotes from and/or characterizes the views of additional third parties.

13. One exception to the hearsay rule is that an expert may express an opinion that is based on material not in evidence, including other expert opinions, where such material is of a type customarily relied on by experts in his or her profession. *See Lower Makefield Twp. v. Lands of Dalgewicz*, 4 A.3d 1114, 1122 (Pa. Cmwlth. 2010), *affirmed*, 67 A.3d 772 (Pa. 2013); *Collins v. Cooper*, 746 A.2d 615, 618 (Pa. Super. 2000); *Primavera v. Celotex Corp.*, 608 A.2d 515, 520-21 (Pa. Super. 1992); Pa.R.E. 703.

14. Here, however, the OCA witness Mr. Deupree acknowledges that he did not rely on either exhibit to form his opinion. Rather, Mr. Deupree introduces these hearsay statements in an attempt to corroborate the opinions already presented in his Direct Testimony. *See* OCA St. No. 1SR at 2-3 (stating that Exhibits MWD-10 and MWD-11 demonstrate that “prominent figures” appear to agree with the affordability concerns raised in his direct testimony). As such, the introduction of these hearsay statements violates the “anti-conduit” rule, which prohibits using expert testimony as a conduit for the opinions of others who are not available for cross-examination, as is the case here. *See Primavera v. Celotex*, 608 A.2d 515, 521 (Pa. Super. 1992) (“An ‘expert’ should not be permitted simply to repeat another’s opinion or data without bringing to bear on it his own expertise and judgment. Obviously in such a situation, the non-testifying expert is not on the witness stand and truly is unavailable for cross-examination.”). While Mr. Deupree was made available for cross-examination, the authors of Exhibits MWD-10 and MWD-11 were not.

15. Even if these materials are allowed to form the basis of Mr. Deupree’s opinion, or any expert’s opinion, these materials cannot be submitted into the record. *See Klein v. Aronchick*,

85 A.3d 487, 503-04 (Pa. Super. 2014) (citing *Aldridge v. Edmunds*, 750 A.2d 292, 297-98 (Pa. 2000)). Although hearsay statements, such as articles, studies, and treatises, can be relied upon by expert witnesses in forming their opinions, the hearsay statements are not permitted to be entered into the record to prove the truth of the matter asserted. *See id.*; *Nigro v. Remington Arms Co.*, 637 A.2d 983, 993 (Pa. Super. 1993) (citations omitted). Thus, the proposed exhibits cannot be admitted into the record in this proceeding.

16. In addition, OCA Exhibits MWD-10 and MWD-11 are not “public documents” under Section 5.406 of the Commission’s regulations. Section 5.406 states:

(a) A report, decision, opinion or other document or part thereof, need not be produced or marked for identification, but may be offered in evidence as a public document by specifying the document or part thereof and where it may be found, if the document is one of the following:

(1) A report or other document on file with the Commission.

(2) An official report, decision, opinion, published scientific or economic statistical data or similar public document which is issued by a governmental department, agency, committee, commission or similar entity which is shown by the offeror to be reasonably available to the public.

52 Pa. Code § 5.406(a).

17. The letter contained in OCA Exhibit MWD-10 was sent by Governor Shapiro to utility leaders containing proposed policy benchmarks. OCA Exhibit MWD-11 is a press release issued by PECO related to the withdrawal of its requested rate increase. These documents are not Commission orders or policies, or documents regularly kept on file with the Commission such as utility tariffs or other public records. *See* 52 Pa. Code § 5.406(a)(1). In addition, neither the letter nor the press release can be fairly characterized as “an official report, decision, opinion, published scientific or economic statistical data or similar public document” and neither was issued by “a governmental department, agency, committee, commission or similar entity.” *Id.* § 5.406(a)(1).

The “limited category” of public documents set forth in Section 5.406(a) does not include documents simply because they are “publicly available.” See *Savannah v. West Penn Power Co.*, Docket No. C-2019-3007054, 2025 Pa. PUC LEXIS 98, *21 (Order entered Mar. 27, 2025).³

18. Similarly, neither exhibit qualifies for the “public record” exception to hearsay contained in Pennsylvania Rule of Evidence 803, because these documents are not records of a public office that describe the facts of the action taken or matter observed and were not recorded as an official public duty. Pa.R.E. 803(8).

19. For these reasons, National Fuel objects to the admission of OCA Exhibits MWD-10 and MWD-11 as inadmissible hearsay that is not subject to a hearsay exception. If National Fuel’s objections are not granted, National Fuel’s due process rights would be violated because the Company would be denied the opportunity to cross-examine the individuals who actually authored these materials and statements in the context of this case to test the statements contained therein.

B. OCA EXHIBITS MWD-10 AND MWD-11 SHOULD BE EXCLUDED BECAUSE THEY ARE IRRELEVANT

20. OCA Exhibits MWD-10 and MWD-11 also are inadmissible because they are irrelevant to the instant proceeding.⁴

³ Additionally, the process set forth in Section 5.406 is designed to facilitate the admission of documents that were not submitted as exhibits. OCA did not choose this path and instead introduced the documents as exhibits, meaning Section 5.406 is not applicable here.

⁴ See Pa.R.E. 401 (“Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.”); *Ecker v. Amtrak*, 2015 Phila. Ct. Com. Pl. LEXIS 98 (Mar. 13, 2015), *affirmed*, 2015 Pa. Super. Unpub. LEXIS 3615 (Pa. Super. 2015); *Parr v. Ford Motor Co.*, 109 A.3d 682 (Pa. Super. 2014), *appeal denied*, 2015 Pa. LEXIS 1150 (Pa. 2015). Even if evidence is relevant, such evidence may be excluded “if its probative value is outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” *Parr*, 109 A.3d at 697 (quoting Pa.R.E. 403).

21. OCA Exhibits MWD-10 and MWD-11 are irrelevant because they make no mention of National Fuel, its rates or service, or its requested rate increase. Moreover, these statements were made in April 2026, nearly three months after National Fuel filed its rate case in January 2026.

22. OCA Exhibit MWD-10 is irrelevant to this proceeding because it contains policy benchmarks for utilities to consider when filing future rate cases, which have not been adopted by the Public Utility Commission or the General Assembly and so cannot be used to review and decide of National Fuel's proposed rate increase.

23. OCA MWD-11 concerns another utility's decision to withdraw a requested rate increase. The managerial decisions of an unrelated utility have no bearing on National Fuel's actions in this proceeding, its reasons for filing its requested increase, or the merits of the Company's case.

24. Finally, any arguments made by OCA that Exhibits MWD-10 and MWD-11 are not offered for the truth of the matter asserted would only underscore the irrelevance of these exhibits. If they are not offered for the truth of the matter asserted, it is entirely unclear what purpose they serve. Evidence is not relevant simply because it is publicly known and probative value is not measured by the prevalence of a statement or its author. The issue in this case is whether National Fuel's proposed rates are just and reasonable, as challenged by the parties to this case and as reviewed under the framework of the Public Utility Code and the Commission's regulations and orders. OCA's efforts to rope in unrelated opinions and facts offered by non-parties at this late stage of the proceeding should be rejected.

25. For these reasons, OCA Exhibits MWD-10 and MWD-11 should be excluded because they are irrelevant.

C. OCA EXHIBIT MWD-10 SHOULD BE EXCLUDED BECAUSE ANY PROBATIVE VALUE IT MAY HAVE IS OUTWEIGHED BY THE DANGER OF UNFAIR PREJUDICE AND CONFUSION OF THE ISSUES IN THIS CASE

26. To the extent that OCA Exhibit MWD-10 is deemed relevant, and National Fuel maintains that it is not, it should be excluded from the record because any probative value it may have is outweighed by the danger of unfair prejudice and confusion of the issues in this case.

27. Pursuant to Section 5.401(b)(2), evidence “will be excluded” if its probative value is outweighed by the danger of unfair prejudice or confusion of the issues. 52 Pa. Code § 5.401(b)(2)(i) and (ii).

28. Any probative value of OCA Exhibit MWD-10 is outweighed by the danger of unfair prejudice should it be admitted. This letter is not a statement of law but appears to be offered in a way to bind or constrain the independent authority of the Commission to carry out its duties under the Public Utility Code to review and decide National Fuel’s proposed rate increase. The policy statements laid out in this letter have not been adopted by the Public Utility Commission or the General Assembly or evaluated by any party in the record for this case, including OCA.

29. In addition, the admission of OCA Exhibit MWD-10 would confuse the issues in this case. The letter introduces new benchmarks for review of three of the litigated issues in this case: the appropriate cost of capital, capital structure, and return on equity. Introducing these benchmarks into the record now would only serve to muddy the water on the appropriate standard of review for these contested issues.

30. For these reasons, OCA Exhibit MWD-10 should be excluded pursuant to 52 Pa. Code § 5.401(b)(2)(i) and (ii) because it introduces new standards of review for litigated issues in this case that have not been adopted by the Public Utility Commission or the General Assembly.

D. THE PORTIONS OF OCA STATEMENT NO. 1SR RELYING ON THESE EXHIBITS SHOULD BE STRICKEN

31. To the extent the Company's objections are sustained, the portions of OCA witness Deupree's Surrebuttal Testimony that rely on OCA Exhibits MWD-10 and MWD-11 should be stricken from the record.

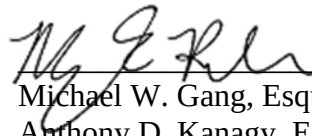
32. Specifically, National Fuel requests that the following portions of OCA Statement No. 1SR be stricken: page 2, lines 17-20; page 3, lines 1-14; and page 4, lines 1-3. These provisions quote or paraphrase statements made by individuals not available for cross-examination in this proceeding and so constitute inadmissible hearsay (*See, e.g.*, OCA St. No. 1SR, p. 2, lines 17-20 through p. 3, line 1; p. 3, lines 5-13), and are simply used to corroborate Mr. Deupree's previously formed opinions in violation of the "anti-conduit" rule explained in Paragraph 14, above (*See, e.g.*, OCA St. No. 1SR, p. 3, lines 1-4; p. 4, lines 1-3). These statements are also irrelevant and should be excluded under 52 Pa. Code § 5.401(b)(2) for the same reasons explained in Sections II.B and II.C, above.

33. To the extent that OCA Exhibits MWD-10 and MWD-11 are not excluded and/or the statements that Mr. Deupree made relying on these exhibits are not stricken from the record, the Company respectfully requests that the ALJ exercise discretion and make a determination that these exhibits and testimony be provided little weight in consideration of the objections raised herein.

III. CONCLUSION

WHEREFORE, the Company respectfully requests that Administrative Law Judge Katrina L. Dunderdale sustain its Objections and exclude OCA Exhibits MWD-10 and MWD-11 from the evidentiary record in this proceeding, as explained above.

Respectfully submitted,



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Dated: June 4, 2026

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