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August 17, 2026

VIA ELECTRONIC FILING

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

Re: Pennsylvania Public Utility Commission, *et al.* v. National Fuel Gas Distribution Corporation
Docket Nos. R-2025-3059428, *et al.*

Dear Secretary Homsher:

Enclosed for filing are the Exceptions on behalf of National Fuel Gas Distribution Corporation in the above-referenced proceedings.

Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

Megan E. Rulli

MER/sll
Attachment

cc: Honorable Katrina L. Dunderdale *(via email; w/attachment)*
Office of Special Assistants *(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).

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Date: August 17, 2026

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	R-2025-3059428
Office of Small Business Advocate	:	C-2026-3060292
Office of Consumer Advocate	:	C-2026-3060437
CAUSE-PA	:	C-2026-3060437
	:	
v.	:	
	:	
National Fuel Gas Distribution Corporation	:	

EXCEPTIONS OF NATIONAL FUEL GAS DISTRIBUTION CORPORATION

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Dated: August 17, 2026

Counsel for National Fuel Gas Distribution Corporation

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I. INTRODUCTION

National Fuel Gas Distribution Corporation ("National Fuel" or the "Company") hereby files these Exceptions to the Recommended Decision ("RD") issued by Administrative Law Judge Katrina L. Dunderdale (the "ALJ"). The RD recommends that the Pennsylvania Public Utility Commission ("Commission") grant an overall base rate increase totaling $8,227,867, adopt a hypothetical capital structure composed of 50% common equity and 50% debt, authorize a rate of return on equity ("ROE") of 9.74%, and discontinue the Company's Weather Normalization Adjustment ("WNA"). The Commission should reject these recommendations, grant the Company's Exceptions, and provide National Fuel the reasonable rate relief it has requested.

National Fuel has prudently managed its expenditures and the timing of its rate case filings, fully recognizing the impact of rate increases on its customers. In fact, this is the Company's first base rate increase request made since October 2022 and only the second base rate case since 2007. <u>National Fuel's residential heating customers also have the lowest average total bills and delivery charges of all the major natural gas distribution companies ("NGDC") in the Commonwealth, and this fact will hold true even if the Company's requested increase is granted in full</u>.[1] The Commission's 2026 Rate Comparison Report shows that the average National Fuel residential customer in a winter month (*i.e.*, monthly usage of 15 Mcf) paid $54.69 less than the next closest large gas utility peer.[2] The bill impact analysis included with the Company's Reply Brief shows that the bill for a residential customer with average usage of 80 ccf per month would increase by $5.35 per month under the Company's proposed rates, or $64.20 annually.[3] National

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[1] National Fuel MB, p. 7. Even if Company's originally proposed rate increase was granted in full, the Company's rates would be the lowest in the state. National Fuel St. No. 1, pp. 11-12.
[2] *See Pa. PUC Rate Comparison Report* (April 15, 2026), p. 23. This chart also shows that National Fuel has the lowest average monthly bill for each rate class, *i.e.*, residential, residential heating, small commercial, medium commercial, large commercial, and industrial. *See id.*
[3] *See* Reply Brief, Appendix E. This estimate is based on the Company's updated $16.2 million revenue increase and a 10.5% requested equity ratio.

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Fuel also has the lowest rate base per customer out of the major Pennsylvania NGDCs.[4] This means the Company's customers directly benefit from the lower revenue requirement needed for the return on the capital the Company has prudently invested in rate base.[5] As explained in the Company's testimony and Briefs, National Fuel's decades of disciplined financial management and focus on affordability have allowed it to consistently provide its customers with this low-cost natural gas service, while also maintaining prudent investments to modernize and enhance the reliability of its distribution system.

In addition, the impact of any rate increase granted in this case will be mitigated by the Company's proposed reinstatement of an Other Post-Employment Benefits ("OPEB") surcredit, which will refund OPEB funds totaling approximately $6.2 million to all customers during the first year the new rates are in effect.[6] Through this surcredit, customers will effectively experience a phase-in of the rate increase over two years. The OPEB proposal will also provide a one-time bill credit of $30, totaling approximately $1.025 million, to approximately 34,000 Customer Assistance Program ("CAP"), Level 1, and Level 2 customers, representing more than 15% of residential accounts.[7] National Fuel will distribute this credit during the December 2026 billing period in line with a recommendation from the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") to maximize the benefit of the credit for customers by providing it during the winter heating season.[8] Since 2021, the Company has refunded $50 million in OPEB funds back to ratepayers, while reducing rates annually by $7.7 million.[9] The Company is able to return the remaining OPEB funds to customers now because it

[4] National Fuel St. No. 1-R, p. 13.
[5] *Id.*
[6] National Fuel St. No. 14, p. 14.
[7] *Id.*
[8] National Fuel St. No. 14-R, p. 2.
[9] National Fuel St. No. 1-R, p. 14.

responsibly managed OPEB costs and made prudent investments over many decades.[10]

National Fuel's Exceptions to the RD should be granted. If adopted, the RD's recommendations would produce an unreasonably low base rate revenue increase for the Company, which: (1) creates an unreasonable risk that National Fuel under-recovers its reasonable and prudent costs; and (2) negatively affects its ability to attract capital. On critical issues of capital structure and ROE, the RD departs from well-established precedent to recommend a 640-basis point reduction to the Company's equity ratio and an authorized ROE that is 26 basis points lower than the last ROE awarded to an NGDC in a litigated rate case less than a year ago.[11] The RD also disrupts the increased certainty in customers' bills and the Company's revenues for the winter months by recommending the elimination of the WNA, an unprecedented step that has not occurred for any other NGDC that has established a WNA. The Commission should reject these recommendations, as they and other recommendations made in the RD are not based on the proper legal standards, substantial evidence, or both.

For example, the RD approves the Company's Energy Efficiency Pilot ("EE Pilot") but denies recovery of its costs. Similarly, the RD adopts the Office of Consumer Advocate's ("OCA") proposal requiring the Company to absorb customer payment transaction fees but appears to deny the Company recovery of OCA's corresponding $930,000 adjustment to increase allowed expenses. The RD also denies recovery of the Company's entire $234,266 Membership and Dues expense despite no party challenging more than $21,968 of this claim in testimony. The RD also

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[10] *Id.* As a result of these efforts, the Company no longer requires ratepayer funding for these benefits, which has reduced revenue requirements, and has allowed the Company to proactively return funds previously collected from ratepayers to mitigate rate increases and provide bill relief. *Id.*

[11] *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket No. R-2025-3053499 (Order entered Dec. 9, 2025) ("*Columbia 2025*"), pp. 235-38.

denies recovery for nearly 10 employees that the Company has already hired, in a case where the labor expenses are a key driver of the Company's requested increase.

These recommendations also appear to give no weight to National Fuel's voluntary adjustments to its requested rate increase over the course of this proceeding. Collectively, these adjustments lowered the Company's total requested revenue from $19.7 million to $16.2 million. This decrease reflects the Company's updated requested 10.5% ROE, which is a 75-basis point reduction from the Company's original position. These adjustments have lowered the Company's total requested revenue by $3.5 million, or 18%, of the initial proposal. The Company made these shifts to demonstrate its continuing responsiveness to the broader concerns around affordability across the economy and the energy sector, in particular.

National Fuel's decades of disciplined financial management have resulted in low-cost utility service for its customers, even while the Company has continued to make prudent investments in its distribution system that increase the safety and reliability of the service it provides to customers.[12] The Company's ongoing proactive focus on efficiency and affordability should not be discouraged, which would be the unmistakable result of adopting the unsupported recommendations in the RD. Rather, the Commission should grant the Company's Exceptions and provide the Company with the reasonable and well-supported rate relief it seeks in this proceeding.

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[12] The Company's ongoing LPP replacement efforts were praised by Commission Chairman Stephen M. DeFrank when the Commission approved the Company's Amended Long Term Infrastructure Improvement Plan ("LTIIP") on March 26, 2026, who stated that he found "NFG's performance in meeting pipeline replacement targets, despite increased costs, to be commendable and worthy of recognition." National Fuel St. No. 1-R, p. 6; *see also Petition of National Fuel Gas Distribution Corporation for Approval of a Major Modification to its Existing Long Term Infrastructure Improvement Plan*, Docket No. P-2022-3034957 (Statement dated Mar. 26, 2026).

II. EXCEPTIONS

A. EXCEPTION NO. 1 – THE RD ERRS BY ADOPTING A HYPOTHETICAL CAPITAL STRUCTURE

The RD recommends adoption of OCA's proposed hypothetical capital structure of 50% debt and 50% common equity.[13] National Fuel proposed the use of its projected fully projected future test year ("FPFTY") capital structure of 56.4% common equity and 43.6% long-term debt.[14] The Commission's Bureau of Investigation and Enforcement ("I&E") proposed a slightly different capital structure from the Company of 55% equity and 45% debt.[15] The RD's sole basis for adopting OCA's hypothetical capital structure is a claim that the Company's actual capital structure "would exceed industry norms and impose additional unnecessary costs on customers . . . because it is weighted towards equity and equity is the more expensive form of capital."[16]

The RD fails to offer any analysis or reasoning for ignoring clear Commission precedent on the use of actual vs. hypothetical capital structure ratios. The Commission has determined that a utility's actual capital structure is to be used, absent circumstances where the actual capital structure is atypical for the type of utility service being offered.[17] In determining whether the claimed capital structure is atypical, the Commission has looked to see whether the capital structure used by the utility is outside the range of that employed by the barometer group of companies considered in the rate of return analysis. If a utility's capital structure is within a reasonable range of similar risk barometer group companies, the utility's capital structure should

[13] RD, p. 220. It appears that the RD also adopts the Company's proxy group in making this determination, as OCA accepted the Company's proxy group. The Company agrees that its proxy group should be adopted and maintains that I&E's proxy group improperly excludes Spire, Inc. and Southwest Gas and adds Chesapeake Utilities. *See* National Fuel MB, pp. 54-55.
[14] National Fuel MB, p. 55.
[15] I&E St. No. 2, p 15.
[16] RD, p. 220.
[17] *See Pa. PUC v. City of Lancaster – Water*, 433 A.2d 938, 940 (Pa. Cmwlth. 1981).

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be used and not a hypothetical capital structure. For example, in *Pa. P.U.C. v. ALLTEL*, the Commission stated as follows:

> The ALJ recommended use of the Company's stand-alone capital structure since it met the following characteristics of an appropriate capital structure: (1) It was within a reasonable range of similar risk barometer group companies. (2) It reflected the Company's actual capital structure and projected near term capital structure. (3) It is consistent with the Company's apparent capital structure goal. (R.D., p. 28).
>
> We concur with the recommendation of the ALJ, particularly for the reason that the Company's actual capital structure falls within a range employed by similar risk barometer group companies, described by Mr. Shiavo as commensurate with capital ratios employed by other independent telephone operating companies.[18]

This analysis was reaffirmed by the Commission in PPL Electric's 2012 rate case:

> Absent a finding by the Commission that a utility's actual capital structure is atypical or too heavily weighted on either the debt or equity side, we would not normally exercise our discretion with regard to implementing a hypothetical capital structure. *See, Pa. PUC v. City of Lancaster – Water*, 1999 Pa. PUC Lexis 37 at *17; *Carnegie Natural Gas Co. v. Pa. PUC*, 433 A.2d 938, 940 (Pa. Cmwlth. 1981). With regard to these factors, we are persuaded by the arguments of PPL that its actual capital structure is not atypical, is within a range of reasonableness, and, pursuant to precedent, provides no basis to employ a hypothetical capital structure. Also, we are further swayed by PPL's assertion that it requires an equity ratio near the high end of the historic range employed by the barometer group companies to support is expanded infrastructure replacement program and its credit rating.[19]

As explained at pages 55-56 of National Fuel's Main Brief, the Company's common equity ratio clearly lies within the range of common equity ratios of comparable gas utilities. This remains true regardless of which party's proxy group the Commission uses.[20]

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[18] *Pa. P.U.C. v. ALLTEL Pa., Inc.*, Docket Nos. R-942710, *et al*., 59 Pa. PUC 447, 491, (Order entered May 24, 1985).
[19] *Pa. PUC v. PPL Electric Utilities Corp.*, Docket No. R-2012-2290597, (Order entered Dec. 28, 2012) ("*PPL Electric 2012*"), p. 68.
[20] The Company's proxy group has a range of experienced three-year average common equity ratio for NGDC holding companies from 46.51% to 60.16%. Using the Company's proxy group for utility operating companies, the common

No party offered evidence to support a conclusion that the Company's proposed capital structure is atypical, requiring the use of a hypothetical capital structure. OCA and I&E argued that the Company's equity ratio exceeds the average of their respective proxy groups. This argument fails because the appropriate standard measures the Company's actual capital structure by the barometer group range, not the average proxy group capital structure.[21] National Fuel's requested equity ratio of 56.4% is approximately *400* basis points below what I&E witness Breuning characterized as the upper end of his range.[22] It is not possible to define National Fuel's common equity ratio as "atypical" using the Commission's accepted standard.

Forgoing the appropriate analysis, the RD instead takes OCA's argument that customer costs should be the "central issue" in determining the equity ratio to its extreme by making customer cost the *only* issue taken into consideration. As a result, the RD adopts OCA's hypothetical capital structure, which has the lowest equity ratio and will produce the lowest return.[23] National Fuel witness Nowak described the risks of focusing on short-term rate impacts when determining equity ratios and returns:

> While the Company acknowledges concern regarding customer affordability, as evidenced by its withdrawing of a management adder request in this proceeding, the key question or "central issue" in every rate proceeding is: what rate of return will meet the three Constitutional standards set by *Hope* and *Bluefield* and allow the utility to attract capital, maintain financial integrity of the company, and be comparable to returns required on investments of similar risk.

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equity ratios range from 44.69% to 60.16%. National Fuel Exhibit JCN-10. I&E's proxy group has a range of experienced five-year average common equity ratios for holding companies of NGDCs from 36.62% to 60.47%. I&E St. No. 2, p. 16. OCA's proxy group has a range of common equity ratios from 40.50% to 60.00%. OCA St. 3, Exhibit MLR-1, Sch. MLR-4. OCA's proxy group also consists of NGDC holding companies and looks at expected capital structures in 2026. *Id.*

[21] Directing the use of a hypothetical capital structure any time the equity ratio exceeds the proxy group average would effectively mean that the Commission would adopt hypothetical capital structure ratios in many rate cases, contrary to long-established precedent. National Fuel MB, p. 60.

[22] National Fuel St. No. 10-R, pp. 14-15. The Company's requested equity ratio of 56.40% falls well within the range of authorized equity ratios for natural gas distribution companies over the past seven years. National Fuel St. No. 10-R, p. 15. In *Columbia 2025*, the Commission allowed Columbia an equity ratio of 54.40%, where the equity ratio range was 35.96% to 60.16%. *Columbia 2025*, pp. 209-10.

[23] OCA St. 3-SR, at 12.

> It is for that reason that several market-based models, along with an objective review of a public service company's risks compared to its peers, are used to estimate what return investors require for an investment in a utility, including an appropriate and supportive capital structure.
>
> If a utility's ROE or equity ratio is set too low, investors will allocate funds to alternatives offering more attractive returns. As a result, a utility's financial integrity may be harmed, the utility will have to offer higher returns to attract capital, and those costs will be passed on to customers. To the extent a utility's financial integrity is harmed, credit ratings may be impacted. Credit rating downgrades increase costs for customers. A utility with a comparatively lower credit rating issues debt at a higher interest rate. Those persist for the life of the debt security and therefore can remain for decades regardless of any credit rating improvements in the future. Those higher interest rates are then passed on to customers. In the end, long-term affordability for customers depends on the financial integrity of the company and a utility's return that is set too low in the near-term can have long-lasting effects that increase the costs to customers over the long-term.[24]

These long-term affordability considerations underscore the value of using a proxy group as a reasonable, market-based benchmark in determining capital structure.

The RD's adoption of a 50% equity ratio also fails to account for the Company's need for equity to support its accelerated replacement program, consistent with its Commission-approved LTIIP.[25] Reducing the equity ratio by 640-basis points would force National Fuel to make significant changes to how it capitalizes its rate base. In the immediate term, making this change would result in a substantial under recovery of the Company's actual weighted average cost of capital because it would be earning the return of the current embedded debt cost of 5.58% for a substantial portion of its equity. To correct this, the utility would look for ways to reduce its equity ratio through increased leverage, which would carry additional debt service costs, or return capital to equity holders that is otherwise currently being recycled back into the business to fund capital

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[24] National Fuel St. No. 10-RJ, pp. 9-10 (citations omitted).
[25] *See* National Fuel MB, p. 61.

expenditures (*i.e.*, retained earnings).[26] This would mark an extraordinary change in how the Company currently finances infrastructure replacements and would introduce additional risk that could impact the cost of and/or access to necessary capital. As shown on the Company's balance sheet, the vast majority of stockholders equity is retained earnings. These are earnings that are not provided to shareholders but are reinvested in the Company's facilities.[27] Forcing this change would impermissibly interfere in the management discretion of the Company to determine the capital structure the Company believes is necessary, and could impact National Fuel's ability to continue to retain earnings to finance pipeline replacements.[28] This outcome runs against the Commission's holding in *PPL Electric 2012*, which recognized that the need to support an extensive infrastructure replacement program further justifies an equity ratio above the "average."[29]

In adjusting the Company's equity ratio, the RD fails to note the Commission's rejection of a hypothetical 50% equity ratio in Columbia's 2025 rate case[30] and I&E's recommendation in this proceeding that the equity ratio should be adjusted to 55%, again showing that the only standard used by the ALJ was to produce the lowest cost possible, without consideration of other consequences or adverse impacts to ratepayers.[31]

In the recent Pennsylvania American Water Company ("PAWC") rate case, the Commission reduced the allowed equity ratio to below the top of the range of the barometer group

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[26] National Fuel MB, pp. 60-61.
[27] Book II, Question RR-01, p. 3.
[28] *Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket No. R-2021-3027385 (Order entered May 16, 2022) ("*Aqua 2022*"), pp. 138-39 ("The use of an actual capital structure represents the Company's decision, in which it has *full discretion*, on how to capitalize its rate base" (emphasis added)).
[29] *PPL Electric 2012*, p. 81.
[30] *Columbia 2025*, p. 212.
[31] *See* National Fuel MB, pp. 59-60; RD, p. 220.

range.[32] In that case, the Commission adopted I&E's recommended hypothetical capital structure (55.00% common equity, 44.99% long-term debt, and 0.01% preferred stock) because PAWC's proposed equity ratio was slightly above the proxy group range.[33] The Commission acknowledged that "the Company's common equity ratio of 56.31% in its proposed actual capital structure is only 0.70% above the high end of the five-year average range of the common equity ratios, i.e., 55.61%," determined that only a slight adjustment to the capital structure was warranted, and adopted I&E's proposed hypothetical capital structure.[34] The Commission rejected OCA's hypothetical 50-50 capital structure, stating:

> Moreover, as discussed in our examination of the information in Table 34, supra, when examining only the most recent year for the Companies in the I&E proxy group, PAWC's proposed actual common equity ratio fits squarely within the range of the proxy group companies' individual common equity ratios for 2024. As such, <u>we are of the opinion that imposing a hypothetical capital structure upon PAWC of 50% long-term debt and 50% common equity for its water operations would, in and of itself, result in a capital structure that is atypical</u>.[35]

This recent example demonstrates that the RD's drastic reduction of the Company's equity ratio is unwarranted, particularly considering that the Company's capital structure "falls squarely within the range of the proxy group" and no consideration was given to I&E's alternative adjustment.[36]

For the reasons explained above, and in National Fuel's Briefs,[37] the Commission should reject the RD's proposed use of a hypothetical capital structure and adopt National Fuel's projected capital structure.

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[32] *See Pa. PUC, et al. v. Pennsylvania American Water Company*, Docket Nos. R-2025-3057983, *et al.* (Order entered July 16, 2026) ("*PAWC 2026*"), p. 185.
[33] *PAWC 2026*, p. 180.
[34] *PAWC 2026*, p. 185.
[35] *PAWC 2026*, p. 185 (emphasis added).
[36] The Company has expressed in testimony that I&E's proposal is not unreasonable. National Fuel St. No. 10-R, p. 16.
[37] *See* National Fuel MB, pp. 55-62; National Fuel RB, pp. 27-28.

B. EXCEPTION NO. 2 – THE COMMISSION SHOULD ESTABLISH A MARKET-BASED RETURN ON COMMON EQUITY

The ALJ also erred in selecting OCA's proposed 9.74% return on equity or cost of equity.[38] It is apparent that the ALJ chose OCA's proposed equity rate simply because it was the lowest rate offered. The RD also includes language appearing to accept I&E's proposed 9.81% ROE, which contradicts this finding.[39] The RD offers no reasoning or analysis explaining why it chose OCA's recommended ROE over that of the Company or I&E and errs in failing to consider, or even acknowledge, the Company's updated ROE of 10.5%.[40]

The Company has explained in detail the flaws of OCA's proposed ROE in its testimony and Briefs.[41] The primary errors of OCA's analysis are:

- Use of methods to determine the Discounted Cash Flow ("DCF") growth rate other than analysts' projections;[42]
- Failure to identify a specific cost of equity under the Capital Asset Pricing model ("CAPM") method;[43] and
- Use of the average allowed ROEs by other jurisdictions as a basis to set the ROE.[44]

OCA's methods are apposite to the Commission's long-term use of the DCF method using analysts' projections of growth as the primary method to set the ROE. In fact, using the analysts' growth rate is shown even by OCA's testimony to produce a ROE in excess of 10.5%, well above

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[38] RD, p. 220.

[39] *See* RD, pp. 220-21 ("Based on the record evidence and the enunciated positions of the parties, the ALJ agrees with BIE on the overall rate of return and recommends the Commission afford NFG an opportunity to earn an overall rate of return of 7.91%, comprised of a weighted average of a 2.51% rate of return on long-term debt, and a 5.40% rate of return on common equity, with its calculated return on common equity of 9.81%.")

[40] The ALJ criticizes the Company for proposing an 11.0% ROE without recognition of the economic changes following its filing. The ALJ does not give credit to the Company's reduction of the claimed ROE to 10.5% in its Main Brief. *See, e.g.*, RD, pp. 219-20 (stating that the Company's requested ROE is 11.00%.)

[41] National Fuel MB, pp. 62-66; National Fuel RB, pp. 26-27.

[42] National Fuel MB, pp. 63-64; National Fuel RB, p. 26.

[43] National Fuel RB, p. 27.

[44] National Fuel RB, p. 27.

OCA's recommendation of 9.7%.[45] In addition, I&E's witness calculated a 10.47% ROE DCF using analyst's projected growth.[46]

Recently, the Commission has also reviewed the results of the CAPM in determining the ROE, but OCA's witness provided no specific CAPM rate.[47]

Finally, use of the average ROE allowances in other jurisdictions to determine the ROE in Pennsylvania is improper as it is not a market-based determination, reflects conditions in other jurisdictions, and transfers the Commission's responsibility to set the required ROE to others.[48] Interest rates have risen in in recent months and are projected to keep rising, which will increase the cost of capital.[49] The use of average authorized ROEs fails to account for these ongoing changes in market conditions. Awarding an ROE that is more than 26-basis points lower than that awarded in *Columbia 2025* less than a year ago would be similarly flawed,[50] because market expectations will continue to account for rising interest rates and changing economic conditions in the cost of capital.[51]

The Company's requested 10.50% ROE is well within the range of reasonable ROEs calculated by the parties using market-based methods. National Fuel witness Nowak supported a range of 10.3% to 11.30% for a reasonable cost of equity, based on the results of three market-

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[45] National Fuel MB, p. 63.
[46] *See* National Fuel St. No. 10-R, p. 39; National Fuel MB, pp. 54-55.
[47] National Fuel RB, p. 27.
[48] National Fuel MB, pp. 65-66. For these same reasons, I&E's proposed 9.81% ROE is understated because it incorporates the average ROEs of 9.7% in other states from 2025 through March 11, 2026 as a third component in choosing the recommended ROE. Under cross examination, I&E's witness admitted that he did not know how the ROEs were determined. While it is reasonable to review other ROEs as a check, there are many differences in regulation of utilities in other states. In particular, the eastern and Midwest states have older facilities and require greater replacements and much of the ROE allowances reflect dated market data. National Fuel MB, p. 65.
[49] *See* National Fuel St. No. 10-RJ, pp. 4-5.
[50] In Columbia's 2025 rate case, the Commission determined that the cost of equity was 10.22% but reduced it to 10.00% because it determined Columbia had reduced regulatory lag due to filing cases nearly every year. *Columbia 2025*, pp. 235-38. Using the original ROE calculated, the RD's recommended ROE is 48-basis points lower than the cost of equity calculated in *Columbia 2025*. As noted above, the Company has a low frequency of rate case filings, distinguishing it from the circumstances in *Columbia 2025*.
[51] National Fuel St. No. 10-RJ, p. 4.

based models.[52] I&E's DCF method using analysts' projections produced a 10.47% ROE.[53] OCA witness Reno also calculated a range of 10.48% to 10.61% for her constant growth DCF (earnings per share ("EPS") Growth).[54] I&E's CAPM of 9.95% based on market returns produces a reasonable range of 9.95% to 10.47% for determining the ROE.[55] This range is consistent with the Commission's practice and the market's expectation of a reasonable return. OCA's recommended 9.74% ROE is unreasonable and should be rejected.

C. EXCEPTION NO. 3 – THE RD ERRS BY DISCONTINUING THE WEATHER NORMALIZATION ADJUSTMENT

The ALJ accepts OCA's and CAUSE-PA's proposal to terminate the Company's Weather Normalization Adjustment.[56] The ALJ does not provide a reasonable basis to justify this action. The RD's criticisms of the WNA are policy-based arguments that could be directed against *any* WNA and are not specific to the Company's proposal.[57] The Company fully rebutted each of these arguments in its testimony and Briefs, as well as the WNA adjustments advocated for by the other parties, including proposals to limit the months to which the WNA is applied and an increase in the deadband.[58] The RD's recommended elimination of the WNA should be rejected because

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[52] National Fuel St. No. 9, p. 4. National Fuel witness Nowak used three methods to determine the cost of equity, the DCF model, the CAPM, and the Bond Yield Plus Risk Premium model ("Risk Premium"). *Id.*

[53] National Fuel MB, p. 63. National Fuel witness Nowak demonstrated that if I&E had included Southwest Gas and Spire in its proxy group, the DCF results would increase by 79 basis points from 10.47% to 11.26%. National Fuel St. No. 10-R, p. 39.

[54] OCA St. No. 3, p. 49.

[55] I&E St. No. 2, pp. 33-34. National Fuel witness Nowak explained in detail the reasons that I&E's CAPM using the Kroll market premium of 5.00% is not supported. Mr. Nowak's conclusions are supported by the fact that the results of I&E's Kroll-based CAPM analysis produce an 8.85% CAPM cost rate, which is lower than any authorized ROE for a gas distribution company since at least 1980. *See* National Fuel St. No. 10-R, pp. 44, 68-70.

[56] The ALJ proposes termination at the effective date of rates or end of the pilot. RD, p. 309.

[57] *See Pa. PUC, et al. v. Peoples Natural Gas Co.,* Docket Nos. R-2023-3044549, *et al.* (Order entered Sept. 12, 2024), p. 92 ("The arguments made by OCA in opposition to this settlement term are arguments that can be made in opposition to *any* WNA.") (quoting Recommended Decision). For example, the RD adopts OCA's arguments that the WNA has produced "unjust and unreasonable rates" because: (1) it produced more charges than credits; (2) it "denied" customers "clear weather-related consumption and price signals"; (3) "shifted the risk of weather volatility to residential customers"; (4) denied customers the ability to conserve energy; (5) resulted in unclear billing statements due to the complex formula and use of inputs not readily available to customers; and (6) will continue to produce more and higher charges as the weather continues to warm. RD, pp. 309-10.

[58] *See* National Fuel MB, pp. 73-78; National Fuel RB, pp. 36-42.

substantial evidence demonstrates that it is in the interest of both customers and the Company. Further, the Commission has not eliminated the WNA authorized for any other NGDC.

The WNA is designed to allow the Company a reasonable opportunity to collect the costs of providing service to customers by including charges to recover fixed costs contained in volumetric rates when usage declines as a result of warmer than normal temperatures. The WNA also provides credits that prevent over recovery of costs by increased usage when temperatures are colder than normal. Because both ratepayers and the Company bear equal risk in weather being colder or warmer than what is used to design rates, a symmetrical mechanism like the WNA is necessary to ensure that neither ratepayers nor the Company benefit or are harmed when temperatures inevitably and unpredictably deviate from what is assumed to be normal. The Company demonstrated that it has not recovered revenue above the Commission-authorized revenue requirement with the WNA in place.[59]

The factor that can produce more charges to customers than credits is abnormal weather outside of the Company's control. What the Company can do, and has done, is improve the assumptions used in the mechanism so that the normal weather benchmark better reflects recent conditions. Specifically, the Company updated the weather normalization from a 15-year average to a more current 10-year average. The expected result of using a more current normalization period is that the benchmark should better reflect recent weather conditions and, over time, support a more balanced pattern of customer surcharges and credits, depending on actual weather outcomes.[60]

Neither the ALJ, OCA nor CAUSE-PA have demonstrated that the WNA fails in its purpose. OCA and CAUSE-PA contend that customers would be better served without the WNA

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[59] National Fuel RB, p. 34.
[60] National Fuel St. No. 19-RJ, pp. 10-11.

because weather will continue to get warmer and colder temperatures will be unlikely, an assertion contradicted by the Company's service territory's most recent winter experience.[61] This argument should be rejected for several reasons.

First, if temperatures continue to become warmer, the Company will not recover its fixed costs without the WNA. The Company recovers most of its fixed costs through volumetric rates. The WNA adjusts the delivery billing determinant in a customer's bill to reflect usage under the normal weather conditions used to set rates, which provides the Company with a reasonable opportunity to recover the fixed costs embedded in its volumetric distribution rates.[62] Denying the Company a reasonable opportunity to recover these fixed costs through the WNA will increase risk for the Company, which may cause greater and more frequent increases in rates for customers.

Second, removing the WNA would remove customers' opportunity to receive credits in periods when temperatures are colder than normal, including this most recent winter of 2026, during which the Company's customers received approximately $2.6 million in net WNA credits.[63] These are the periods when bills are the highest and credits are most valuable to customers.

Third, several other NGDCs have been permitted by the Commission to use a WNA for a significant period of years, pursuant to the Commission's authority under the Public Utility Code.[64] The parties have not identified any flaws or differences in the Company's WNA in comparison to these others that would warrant its discontinuance. In fact, the Company's WNA has not experienced the problems incurred by other NGDCs that resulted in changes to their WNAs.[65] Moreover, the Commission has approved other WNAs over the same objections raised in this case.

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[61] National Fuel MB, pp. 73-74.
[62] *See* National Fuel St. No. 19, pp. 26-27; National Fuel St. No. 19-R, p. 35.
[63] *See* National Fuel MB, p. 74.
[64] *See Columbia 2025*, pp. 299-302; *Pa. PUC, et al. v. Peoples Natural Gas Co.*, Docket Nos. R-2023-3044549, *et al.* (Order entered Sept. 12, 2024), pp. 92-93.
[65] *See* National Fuel RB, pp. 35-36 (distinguishing National Fuel's WNA from that of PECO's proposed WNA and PGW's altered WNA).

Arguments that the WNA causes bill confusion ignore the fact that all WNAs are formula-based and require the use of variable inputs. The WNA is no more nuanced than other tariffed riders that rely on objective inputs, and the result is transparent to customers because it is shown as a separate WNA line item on the bill.[66] Arguments that the WNA discourages conservation or is disconnected from actual usage similarly fail, as the WNA does not replace volumetric delivery rates or remove the linkage between usage and a customer's bill. Customers experience savings on their bills when they reduce consumption, even with the WNA.[67]

Finally, the Company's Main Brief contains detailed support for rejecting other parties' proposed adjustments to the WNA. The Company presented a regression analysis showing that the Company's service territory experiences statistically significant heat load in October and May and that temperatures are colder and the cold days continue longer in the year as compared to other areas in the Commonwealth.[68] The Company explained that expanding the deadband from 3% to 5% would limit the credits customers receive in colder than normal months and that a lower deadband enhances affordability by reducing volatility and increasing predictability of monthly bills for customers.[69] The Company also revealed the fundamental flaws in OCA's unsupported proposal to force National Fuel to use additional weather stations, most notably because it would remove the connection between the WNA and the forecast used to set base rates and because the proposed stations are not indicative of the weather in the Company's service territory.[70]

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[66] National Fuel St. No. 19-R, p. 36.
[67] National Fuel RB, pp. 38-39.
[68] National Fuel MB, p. 75.
[69] National Fuel MB, pp. 75-76.
[70] One of the additional stations proposed is Pittsburgh, which is not in the Company's service territory and has significantly lower degree days than the stations in the Company's territory. The Bradford station has significantly more degrees than Erie but only represents 2.7% of the Company's customers. Dubois also has higher degree days than Erie but represents only 5.6% customers. Together, Dubois and Bradford represent only 16,000 customers. In addition, these stations have spotty data reliability.

For the reasons explained herein and in the Company's testimony and Briefs, the WNA should be approved. If the Commission decides to continue the WNA on a pilot basis, the Company requests that the term be extended to the end of its next base rate case.

D. EXCEPTION NO. 4 – THE RD'S RECOMMENDATION TO MAINTAIN THE CURRENT RESIDENTIAL CUSTOMER CHARGE IS NOT BASED ON THE COST OF SERVICE AND SHOULD BE REJECTED

The RD's analysis of issues related to the residential customer charge is flawed and should not be accepted. Critically, the RD does not make a clear recommendation for the customer charge. In the body of the RD, the ALJ recommends that "the Commission approve the recommendation from BIE for the Residential Rate Design and to limit the percent increase in basic service charges proposed by the Company to approximately the same class percent increase in rates generally, and the recommendation from BIE for the Non-Residential Rate Design."[71] It further states, "Based on the evidence presented by the parties, the ALJ recommends the Commission scale back proportionally the revenue allocation and customer charges, based upon the cost of service study approved by the Commission."[72] In contrast to these findings, Ordering Paragraph No. 7 states that "[t]hat the fixed charges for Residential customers shall be remain at $14.00 monthly."[73] As explained below, the Company maintains that its proposed customer charge of $19.00 should be adopted. At the very least, Ordering Paragraph No. 7 should be amended or rejected because it contradicts the RD's analysis.

Further, the RD offers no reason for adopting I&E's proposal to raise the residential customer charge proportionally to the overall increase granted and rejecting the Company's proposed increase.[74] In this case, National Fuel is requesting an increase in the residential

[71] RD, p. 271.
[72] RD, p. 272.
[73] RD, p. 415, OP No. 7.
[74] RD, p. 271.

customer charge from $14 a month to $19 a month. This increase is supported by a customer cost study that identified the fixed costs incurred to connect and serve every residential customer such as meters, service line meters, and billing.[75] The customer cost study indicates that the actual monthly residential customer cost is $27.17 per month. The Company's proposal to increase the residential service charge to $19 per month is still significantly lower than the fixed residential customer costs.[76]

I&E's proposal should not be adopted because it is premised on a misunderstanding of the Company's customer cost study. I&E argued that the customer charges should not be increased other than by an amount equal to the increase to each class because it believes that the Company did not conduct a customer cost study for the Peak and Average ACOSS.[77] I&E failed to recognize that Company produced a Peak and Average ACOSS that includes a customer cost study.[78] This customer study indicates a residential customer cost of $27.17 per month, which is the same result as the customer cost study under the Company's Customer-Demand ACOSS.[79] As the Company produced a customer charge study using the Peak and Average allocation method recommended in this case, the Company's proposed customer charge cannot reasonably be denied on this basis.

The Company also explained that customer service costs should be recovered as fixed costs because they do not vary by usage, and rebutted claims by other parties that an increased customer charge would discourage conservation or harm low-income customers.[80] Company witness John Taylor explained that even with a $19.00 customer charge, 59% of distribution revenues would

[75] National Fuel RB, pp. 30-31.
[76] National Fuel MB, pp. 69-71.
[77] I&E St. No. 3, p. 14.
[78] National Fuel St. No. 19-R, Exh. JDT-19-R-1, p. 3.
[79] Mr. Taylor explains that the customer cost is the same under the Customer-Demand and Peak and Average studies because both studies derive the customer classified costs distribution remains 100% classified as 100% demand-related within the ACOSS study and are excluded from the calculation of the residential customer unit customer cost used to determine the Basic Service Charge. National Fuel St. 19-R, pp. 23-24; National Fuel MB, pp. 73-75.
[80] National Fuel St. No. 19-R, p. 24.

continue to be recovered through volumetric distribution rates and customers can avoid these costs and all gas supply costs as well by reducing consumption.[81] Mr. Taylor also explained that high usage low-income customers can actually be harmed by having fixed costs in volumetric delivery rates, as it concentrates cost recovery in periods of high usage, such as the winter heating season.[82]

The Commission has held that cost of service principles apply to rate design, and in particular the residential customer charge. In *Pa. PUC v. UGI Utilities, Inc. – Electric Division*,[83] the Commission held as follows with respect to UGI's proposal to increase its customer charge:

> With regard to the alternative proposals of I&E that UGI's customer charge should be increased to $10.00, and the OCA that UGI's customer charge should be increased to $8.00 to account for gradualism and the avoidance of rate shock, we find them to be without merit. Rather, we concur with the ALJs that, as set forth in *Lloyd*, gradualism concerns should not trump cost of service considerations. As such, we echo UGI's assertions that gradualism concerns cannot be considered a valid reason to adopt either I&E's proposed customer charge or that of the OCA. The record demonstrates that these alternative proposed charges do not adequately adhere to cost of service principles.[84]

As noted above, arguments that the Company did not produce a customer cost study for the Peak and Average ACOSS are false. No other party presented a customer cost study in this proceeding. Therefore, the Company's customer charge studies are the only ones that can be considered. The Commission should adopt a customer charge of $19.00 in order to comply with cost of service principles. At a minimum, the Commission should reject Ordering Paragraph No. 7 and adopt the RD's recommended proportional increase to the residential customer charge.

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[81] National Fuel St. No. 19-R, p. 27.
[82] National Fuel St. No. 19-R, pp. 25-26.
[83] *Pa. PUC, et al. v. UGI Utilities Inc. – Electric Division*, Docket Nos. R-2017-2640058, *et al.* (Order entered Oct. 25, 2018).
[84] *Id.*, pp. 173-174.

E. EXCEPTION NO. 5 – THE RD ERRS BY DENYING RECOVERY OF ENERGY EFFICIENCY PILOT COSTS

The RD errs by approving the Company's Energy Efficiency Pilot ("EE Pilot") but inexplicably denying recovery of its costs.[85] In line with every other Commission-approved energy efficiency program, the Company proposed recovering the costs of its five-year EE Pilot through a dedicated rider ("Rider D"). The Company did not include the costs of the EE Pilot in base rates. The RD's recommendation to deny recovery of EE Pilot costs altogether is inconsistent with its approval and should be rejected.

In denying recovery, the RD accepts OCA's arguments that a reconcilable rider should not be used to recover EE Pilot costs. This finding is flawed because it denies recovery solely based on a purported failure to adhere to three National Regulatory Research Institute ("NRRI") evaluation criteria for approval of riders or pilot mechanisms.[86] NRRI guidance does not establish legal requirements, mandatory tests, or enforceable standards and so does not provide a valid basis to disallow the rider.[87]

The Company demonstrated that its Rider D meets the applicable legal criteria of Section 1307 of the Public Utility Code for reconcilable surcharges. National Fuel rebutted the arguments OCA raised for the first time in its Main Brief, that the Company's proposed Rider D constitutes impermissible single issue ratemaking,[88] or alternatively, that the Company's proposed Rider does not meet the requirements for a Section 1307(a) surcharge.[89] The Company explained that proposed Rider D is a reconcilable surcharge under Section 1307 of the Public Utility Code and,

[85] RD, p. 330.
[86] OCA St. No. 1, pp. 41-42.
[87] National Fuel St. No. 18-R, pp. 11-12.
[88] OCA MB, pp. 101-102.
[89] OCA MB, pp. 102-104. OCA also appears to assert that the Company does not consider the rider a surcharge under 1307(a). This is incorrect. The passage cited by OCA in its Main Brief relates to the interaction of the proposed mechanism with *revenue sources* from other Section 1307 surcharges. The Company accurately indicated there would be no such interaction. *See* National Fuel St. No. 18, pp. 16-17.

therefore, is not single-issue ratemaking.[90] The Company likewise demonstrated that the proposed Rider clearly meets the requirements of Section 1307(a) of the Code, which permits utilities to establish a reconcilable rider to recover costs where expressly authorized by the General Assembly, or where an expense is easily identifiable and beyond the utility's control.[91] The Company showed, and OCA conceded, that the costs associated with the EE Pilot are easily identifiable.[92] The expenses are beyond the Company's control because they depend on customers' actual participation, which is difficult to predict due to a variety of factors.[93] The existence of projected budgets or participation levels does not bring customer participation under the Company's control. Rider D clearly meets the requirement of a 1307(a) surcharge and should be approved.

The Company also demonstrated that its use of a rider to recover energy efficiency program costs adheres to long-standing Commission practice. In addition to being the *required* recovery mechanism for electric distribution company Act 129 EE&C plans, the Commission expressly authorized the use of a 1307 surcharge for voluntary EE programs, first through its Secretarial Letter[94] that *required* smaller EDCs to use a 1307 rider to recover EE program costs,[95] and later by authorizing 1307 surcharges for the voluntary NGDC EE&C programs of Columbia, UGI Gas, and Philadelphia Gas Works.[96] The RD provides no explanation of why National Fuel's proposed rider should be denied in light of the Commission's long-standing endorsement of 1307 surcharges

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[90] National Fuel St. No. 18, p. 6. The Commonwealth Court has long held that single issue ratemaking "does not apply to surcharges under Section 1307 of the Code." *Popowsky v. Pa. PUC*, 13 A.3d 583, 593 (Pa. Cmwlth. 2011) (citing *Pa. Indus. Energy Coalition v. Pa. PUC*, 653 A.2d 1336, 1350 (Pa. Cmwlth. 1995)).
[91] *Popowsky v. Pa. PUC*, 13 A.3d 583, 591 (Pa. Cmwlth. 2011).
[92] OCA MB, p. 103.
[93] National Fuel RB, p. 47.
[94] *See Re: Voluntary Energy Efficiency and Conservation Program*, Docket No. M-2009-2142851 (Dec. 23, 2009) ("EE&C Secretarial Letter").
[95] *Id.*, p. 2.
[96] *See Columbia 2025*, p. 381; *Petition of Philadelphia Gas Work for Approval of Demand-Side Management Plan for FY 2024-2026*, Docket No. P-2014-2459362 (Order entered Apr. 25, 2024); *Petition of UGI Utilities, Inc. – Gas Division for Approval of its Phase II Energy Efficiency and Conservation Plan*, Docket No. M-2024-3048418 (Order entered July 24, 2025).

for similar programs.

The RD further errs by disallowing recovery of EE Pilot costs altogether. The Company did not include the projected EE Pilot costs in its claim in this case. The five-year budget for the pilot is approximately $3.5 million, or approximately $700,000 annually.[97] If the Commission adopts the reasoning of the RD and denies recovery through a dedicated Rider, then the Commission should authorize the Company to recover EE Pilot program costs through base rates.[98]

The RD "made no findings of fact upon which a decision could be made" that the EE Pilot costs are "imprudent or excessive."[99] Rather, the RD acknowledges the undisputed benefits projected under the Pilot, finding that "[t]he Company used the Total Resource Cost (TRC) established under Act 129 for Energy Efficiency and Conservation Plans, to calculate the savings and benefits of the EEP over five years", which the Company projects to include "56,255 Mcf in natural gas savings, $497,300 in energy savings and a TRC benefit-cost ratio of 1.02."[100] As noted in the RD, the Pilot "will provide rebates to encourage the purchase and installation of high-efficiency natural gas appliances including space heating rebates for high-efficiency furnaces and boilers, upgrading high-efficiency water heaters and tankless water heaters, and ENERGY STAR® certified natural gas clothes dryers."[101] Through its EE Pilot, National Fuel seeks to incentivize all of its residential customers to utilize efficient equipment that will help control energy costs using the latest technology.[102]

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[97] National Fuel St. No. 18, p. 6.

[98] As explained in the Company's Reply Brief, recovery of program costs through a reconcilable rider provides multiple benefits, including: (1) prevention of over or under recovery of program costs; (2) increased transparency by allowing the Commission and stakeholders to track the costs of the program through annual reporting; (3) accurate allocation of costs to the appropriate customer class; and (4) facilitation of the evaluation of program costs and benefits, which is a core component of all EE Plans. National Fuel RB, p. 48.

[99] *Butler Township v. Pa. PUC*, 473 A.2d 219, 222 (Pa. Cmwlth. 1984).

[100] RD, p. 36, FOF Nos. 171-72.

[101] RD, p. 35, FOF No. 168.

[102] National Fuel RB, p. 48.

For these reasons, and as more fully explained in the Company's Briefs,[103] the Commission should authorize the implementation of the EE Pilot and allow recovery of EE Pilot costs through a dedicated, reconcilable rider.

F. EXCEPTION NO. 6 – THE RD ERRS IN DISALLOWING ALL MEMBERSHIP DUES

The RD significantly errs in denying the Company recovery of its entire claim for membership dues. This finding must be rejected because it is based on an adjustment proposed by the Office of Small Business Advocate ("OSBA") for the first time in its Main Brief. National Fuel claimed an amount of $234,266 for Company Dues and Memberships.[104] Both OCA and I&E filed testimony that proposed downward adjustments to some of the Company's Dues and Memberships expense claim, totaling $17,000 and $21,968, respectively.[105] These are the only adjustments to this expense that are properly before the Commission. OSBA waived its opportunity to challenge the Company's Dues and Membership expense by failing to raise it prior to briefing.[106] Having declined to challenge the Company's expense in testimony, OSBA's untimely opposition to the entire expense is unsupported in the record and deprived National Fuel of the opportunity to respond to its claims.[107] For this reason alone, the RD's disallowance of the

[103] National Fuel MB, pp. 84-85; National Fuel RB, pp. 46-48.
[104] National Fuel Exh. ATF-1, Sch. 1.
[105] National Fuel St. No. 3-R, p. 8.
[106] *See Pa. PUC v. Pa. Power & Light Co.*, Docket Nos. R-822169, et al., 57 Pa. PUC 559, 596-97 (Order entered Aug. 19, 1983) (citing *Pa. PUC v Philadelphia Electric Co.*, Docket No. R-811626 (Order dated May 21, 1982) ("Merits aside, it is highly inappropriate for a party to propose a completely new adjustment for the first time in its brief.").
[107] *Hess v. Pa. PUC*, 107 A.3d 246, 266 (Pa. Cmwlth. 2014) (*citing Davidson Unemployment Compensation Case*, 189 Pa. Super. 543, 151 A.2d 870 (Pa. Super. 1959); *Shenandoah Suburban Bus Lines, Inc.*, 46 A.2d 26 (Pa. Super. 1946)) (stating that "[a]mong the requirements of due process are notice and an opportunity to be heard on the issues, to be apprised of the evidence submitted, to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal."); *Mid-Atlantic Power Supply Ass'n v. PECO Energy Co.*, Docket Nos. P-00981615, *et al.*, 1999 Pa. PUC LEXIS 30, at *54-55 (Order entered May 19, 1999) (concluding that a party entitled to due process must be given "adequate notice" and a "[m]eaningful opportunity to be heard," which includes "reasonable examination and cross-examination").

entire Dues and Membership expense is not supported by substantial evidence and must be rejected.

The Company provided ample evidence rebutting OCA's and I&E's proposed adjustments to the Dues and Memberships expense. OCA and I&E failed to account for the positive impacts that the Company's participation in community and development organizations have on National Fuel's customers and the communities it serves. As supported by the record in this case, this expense provides benefits to customers by enabling National Fuel to operate more effectively in the communities it serves and it is improper to disallow the expense.[108]

The Commission previously has allowed recovery of chamber of commerce dues in rates. In its 1994 rate case, Pennsylvania American Water Company ("PAWC") included expenses related to membership in local chambers of commerce. The OCA argued that the dues associated with these specific organizations were connected to lobbying and thus unnecessary, and proposed adjustments for dues related to these organizations. The ALJ took the Company's position with respect to the local chambers of commerce dues, stated that he did not discern a forbidden activity under Section 1316 of the Public Utility Code, 66 Pa. C.S. § 1316, and agreed with the Company that local memberships are a proper part of the Company's relationship with the communities in which it serves customers.[109] The Commission adopted the recommendation of the ALJ with respect to the Company's dues to local chambers of commerce. The Commission stated, "these memberships can be viewed as part of a utility's economic development efforts. The memberships also provide essential sources of information about trends in growth and industrial and business activity which have an impact on current and future water demands."[110]

[108] National Fuel MB, pp. 30-31.
[109] *Pa PUC, et al. v. Pennsylvania-American Water Company*, Docket Nos. R-00943231, *et al.*, 1995 Pa. PUC LEXIS 170, at *44 (Order dated July 24, 1995).
[110] *Id.* at *45.

In Columbia Water Company's ("Columbia Water") 2008 rate case, the utility claimed expenses related to membership in the Lancaster and Susquehanna Valley Chambers of Commerce. OCA argued that the Commission should disallow these expenses because they are similar to lobbying activities and do not provide direct benefits to ratepayers. The ALJ found in favor of Columbia Water, concluding that the dues were not for lobbying expenses, nor were they similar to lobbying expenses. The Commission agreed with the ALJ, finding in favor of Columbia Water and noting that Columbia Water's position on this issue was consistent with prior Commission decisions, citing *PAWC 1995*.[111]

For the foregoing reasons, and as more fully explained in the Company's Briefs,[112] the Commission should reject the RD's recommendation to disallow all membership dues, as well as OCA and I&E's proposed adjustments.

G. EXCEPTION NO. 7 – THE RD ERRS IN ADJUSTING THE COMPANY'S HEADCOUNT BELOW ITS PRESENT NUMBER

The RD errs in recommending an adjustment to the Company's headcount below the current number of full time employees ("FTEs"). This results in a $523,364 downward adjustment to the overall revenue requirement. The RD states that it is adopting the adjustment, "because it will bring more consistency and reduce charging ratepayers to pay for speculative thinking by the Company. The historical data shows what NFG has done and is the best predictor of what NFG will do."[113] This reasoning is directly contradicted by the evidentiary record and should be rejected.

The undisputed record shows that as of April 2026, the Company's actual headcount is 451

[111] *Pa. PUC, et al. v. The Columbia Water Company*, Docket Nos. R-2008-2045157, *et al.*, 2009 Pa. PUC LEXIS 1423, at *59-60 (Order entered June 10, 2009).
[112] *See* National Fuel MB, pp. 30-31; National Fuel RB, pp. 11-12.
[113] RD, p. 149. The Company notes that its claim in this case includes hiring three new employees to ensure that the Company is appropriately staffed to cover its current CAP program and local call center needs. National Fuel St. No. 3-R, p. 3.

FTEs. The Company's FPFTY headcount claim is for 450 FTEs. Thus, the Company has already surpassed the 450 FTEs included in the FPFTY. The recommended adjustment would include only 440.3 FTEs in the FPFTY and deny the Company recovery for nearly 10 full time employees who have already been hired. The RD's concern regarding "charging ratepayers for speculative thinking by the Company" is simply inapplicable to the actual circumstances in this case. The Company has explained that labor expenses are a key driver of National Fuel's requested rate increase, and demonstrated that the Company's FTE complement is the appropriate level to support safe and reliable operations.[114] Denying recovery for this critical expense on the basis that it is "speculative" when actual data supports the Company's position is unreasonable and should be rejected.

H. EXCEPTION NO. 8 – THE RD'S INCENTIVE COMPENSATION ADJUSTMENT DOES NOT CONSIDER THE RATEPAYER BENEFITS OF THE EXECUTIVE PERFORMANCE SHARES

National Fuel's incentive compensation claim in dispute in this case totals $2,285,546, consisting of: (1) $855,587 in executive cash bonuses; (2) $472,821 in restricted stock for both executives and non-executives; and (3) $957,138 in executive performance shares. The RD appropriately allows recovery of restricted stock incentive compensation, finding that the Company "did meet its burden of proving the claim concerning Restricted Stock-Based Compensation should be allowed because a program that is effective to retaining employees and promoting longevity at the Company is a program that will benefit the employees who provide services to ratepayers over time."[115] However, the RD adopts I&E's recommended disallowance of $1,289,012 in incentive compensation, which disallows $379,731 from executive cash bonuses

[114] *See* National Fuel MB, pp. 29-30.
[115] RD, p. 147.

and $909,281 from executive performance shares.[116] The RD states that these amounts should be disallowed because the Company "did not provide sufficient evidence to meet its burden of proving that the programs, at the amounts requested, will improve customer service, safety, or reliability" and that if "the claim is allowed, NFG's ratepayers will pay to cover the costs for programs that bring benefits to stockholders but do not bring benefits to ratepayers."[117] The Company is not filing an Exception to the entire disallowance, but rather only to the $909,281 disallowance related to executive performance shares, which adopts I&E's and OSBA's arguments that only 5% of the executive performance shares related to meeting emission reduction targets should be granted.[118]

The Commission has reviewed and approved incentive compensation programs in numerous prior rate cases.[119] In these cases, and others, the Commission has established a bright line test for incentive compensation expense. If the incentive compensation programs of the utility are reasonable, prudently incurred, not excessive in amount, and provide a benefit to ratepayers, then they may be recovered in their entirety.[120] In this proceeding, the sole basis for disallowance of the Company's claim is that the criteria for granting the incentive compensation include financial performance. In various cases, the Commission has rejected proposals to disallow incentive compensation that included, in part, a financial metric.[121]

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[116] *Id.*
[117] *Id.*
[118] I&E St. No. 1, p. 17; OSBA St. No. 1, p. 9.
[119] *See e.g., PPL Electric 2012*, p. 26; *Pa. PUC v. Aqua Pa. Inc.*, Docket No. R-00072711, 2008 Pa. PUC LEXIS 50, at *20-26 (Opinion and Order entered July 17, 2008); *Pa. PUC v. Duquesne Light Co.*, 63 Pa. P.U.C. 337, 1987 Pa. PUC LEXIS 342 (Order dated March 10, 1987); *Pa. PUC v. PPL Gas Utilities Corporation*, Docket No. R-00061398, 2007 Pa. PUC LEXIS 2 (Order entered Feb. 8, 2007); *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-2008-2073938, 2008 Pa. PUC LEXIS 32 (Order dated Dec. 19, 2008).
[120] *See, e.g., PPL Electric 2012*, p. 26 (citing *Butler Township Water Co. v. Pa. PUC*, 473 A.2d 219, 221, 222 (Pa. Cmwlth. 1984).
[121] *See Pa. PUC v. UGI Utilities, Inc.–Electric Division*, Docket No. R-2017-2640058 (Order entered Oct. 25, 2018), pp. 73-74; *Pa. PUC v. Aqua Pa. Inc.*, Docket No. R-2021-3027385 (Order entered May 16, 2022), pp. 98-101.

While the Commission has moved away from this bright line test in recent cases, it continues to recognize that incentive compensation may be recovered when utilities "(1) demonstrate, with credible evidence, that its financial metrics are reasonable or that they provide a benefit to ratepayers; and (2) meet its burden of proving that its claim in allocated performance compensation expenses is fair and necessary, or that it pertains to providing safe, adequate, and reliable service to customers."[122] The Company's claim for executive performance shares meets this standard.[123]

The RD's disallowance of nearly all of the Company's executive performance share claim fails to consider the impact of two key elements of the plan that warrant recovery: employee retention and long-term performance. Regarding retention, the Company's executive performance shares are granted on a three-year performance cycle, meaning awards granted under this program do not vest for three years.[124] In addition, unvested performance shares are forfeited if an executive's employment terminates for a reason other than retirement, death, disability, or divestiture by the parent of a subsidiary.[125] These strong retention elements benefit ratepayers by promoting longevity at the Company and rewarding experienced employees who provide services to ratepayers over time. This approach also fosters long-term perspectives and decision-making from the management of National Fuel, recognizing that financial strength and sustainable rates are achieved through continued focus and commitment on numerous factors, including efficiently investing in the utility's delivery system, prudently operating the business, and providing safe, reliable, and affordable service to its customers.[126] For a utility like National Fuel that is

[122] PAWC 2026, p. 114.
[123] *See Butler Township Water Co. v. Pa. Public Util. Com,* 81 Pa. Commw. 40, 44 (1984) *(citing Aizen v. Pennsylvania Public Utility Commission,* 163 Pa. Superior Ct. 305, 60 A.2d 443 (1948)) (The declaration of a policy based on general conclusions may not be substituted for an evaluation of the evidence in each case.")
[124] National Fuel St. No. 5-R, p. 5-R, p. 10.
[125] National Fuel St. No. 5-R, pp. 10-11.
[126] National Fuel St. No. 4, p. 16.

experiencing very little customer and load growth in its service territory, maintaining affordable delivery rates is primarily achieved through the disciplined management of utility costs and finances over the long term, and requires a culture of cost containment and a commitment to capital efficiency that is set and continuously reinforced by skilled executive leadership. Thus, the long-term nature and underlying focus on financial responsibility of the performance shares drive positive outcomes for ratepayers.[127]

The positive outcomes for ratepayers derived from these incentives are not theoretical. With the lowest delivery rates and average customer bills in the Commonwealth, the Company's approach has had a significant and durable impact on affordability for ratepayers that will last beyond the period that is the subject of this proceeding. For these reasons, and as detailed in the Company's Briefs,[128] the RD's recommendation to disallow nearly all of the executive performance share claim should be rejected. The Commission should approve the $909,281 incentive compensation claim related to executive performance shares.

I. EXCEPTION NO. 9 – THE RD'S RECOMMENDATION FOR NATIONAL FUEL TO ABSORB CUSTOMER PAYMENT TRANSACTION FEES SHOULD BE REJECTED (FOF NOS. 51-56)

The RD's recommendation for National Fuel to absorb customer payment transaction fees should be rejected. The RD "recommends the Commission disallow $930,000 in recovery of customer payment transaction costs and, in addition, the Commission should require NFG to transition to fee-free payments for residential customers within six months of the effective date of rates in this proceeding."[129] The RD also concludes that "[r]equiring payment fees for customers to pay bills by electronic payment methods is unjust and unreasonable rate discrimination."[130]

[127] National Fuel St. No. 5-R, p. 10.
[128] *See* National Fuel MB, pp. 28-29; National Fuel RB, pp. 9-10.
[129] RD, p. 153.
[130] Conclusion of Law No. 59, p. 413.

There are several flaws with this finding that must be corrected to match the record in this case, starting with the fact that National Fuel never requested recovery of customer payment transaction costs in this proceeding. It was OCA, not the Company, that proposed requiring the Company to transition to fee-free payments for residential customers and absorb those costs in base rates. OCA proposed a $930,000 increase to O&M expense to reflect this recommendation.[131] The Company opposed this proposal.[132] The RD goes farther than any party in this proceeding by both adopting OCA's proposal for the Company to transition to fee-free payments *and* denying the Company recovery of customer payment transaction costs. The RD's overall recommended revenue increase also appears to include the $930,000 adjustment proposed by OCA, which contradicts the RD's findings. These conflicting findings muddy the record and require correction by the Commission. It would not be reasonable for the Commission to require the Company to provide fee-free online payments and deny recovery of those costs.

As explained in the Company's Briefs, OCA's proposal must be rejected because OCA failed to show that its $930,000 adjustment reflects an accurate forecast of the cost to transition to and implement a fee-free payment structure.[133] OCA's proposed adjustment is slightly less than the processing fees paid by customers in 2025.[134] However, OCA witness Wise acknowledged that "[i]t is also likely that eliminating payment fees <u>will encourage more customers to adopt online payment methods</u>" and her exhibit demonstrates a 14% growth in fees between 2024 and 2025.[135] Clearly, OCA has understated the actual cost of its proposal.[136] OCA, as the proponent of the

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[131] OCA St. No. 2, p. 21.
[132] National Fuel St. No. 17-R, p. 37.
[133] National Fuel St. No. 17-R, p. 37.
[134] *See* OCA Exhibit LMW-3 (showing that fees totaled $930,384 in 2025).
[135] OCA St. No. 5, p. 17.
[136] OCA's argument in its Reply Brief, that the Company fails to account for the proposal's purported "benefits," which it claims may include improved cash flow and lower processing times, are unsupported by any data demonstrating that those operational efficiencies would be realized or would offset the additional costs the Company incurs beyond OCA's recommended recovery.

adjustment, "bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment."[137] OCA admits that its adjustment is solely based on the transaction fees paid by National Fuel customers in 2025. This cursory method is insufficient considering that OCA's witness testified that online transactions will grow if fees are eliminated. As the Company described in testimony and Briefs, developing an accurate forecast of the costs requires the consideration of several factors that OCA failed to evaluate, including negotiating a reasonable rate with the Company's third party vendor, performing any system changes required to implement the change, and anticipating any growth in the adoption of online payments by customers if fees are eliminated.[138]

The Commission rejected a similar proposal by OCA in Philadelphia Gas Works' ("PGW") 2023 rate case, finding that: (1) no provision of the Public Utility Code or the Commission's regulations, orders, or policies prohibited PGW from collecting credit card processing fees; (2) OCA failed to provide substantial evidence that credit card fees should be shared among all residential customers rather than the individual customers; and (3) PGW offered multiple fee-free payment options.[139] The Commission should make the same findings here, as OCA has not identified any authority prohibiting National Fuel from offering online payment options with third-party processing fees. OCA has not provided sufficient support for its forecasted budget for the credit card processing fees but instead appears to have just rounded down the fees collected in a recent year, which fails to account for the increased adoption for this payment method predicted by its own witness.[140] In addition, the Company already offers multiple fee-free payment options,

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[137] *NRG Energy, Inc. v. Pa. PUC*, 233 A.3d 936, 950 (Pa. Cmwlth. 2020).
[138] National Fuel St. No. 17-R, p. 38.
[139] *See Pa. PUC, et al. v. Philadelphia Gas Works*, Docket Nos. R-2023-3037933, *et al.*, 2023 Pa. PUC LEXIS 298 (Order entered Nov. 9, 2023), at *110.
[140] *See* National Fuel MB, pp. 31-32; OCA Exhibit LMW-3.

including two in-person payment drop boxes, automatic online payments using a checking or savings account, and one-time fee-free online payments using a checking or savings account.[141]

If the Commission were to require National Fuel to absorb customer payment transaction fees, the Company would have a right to seek recovery of those funds. National Fuel is entitled to recover in rates all expenses reasonably necessary to provide service to its customers.[142] The costs incurred as a direct result of complying with the Commission's directive to pay online transaction fees would become a prudently incurred expense and would have to be included in rates.

Finally, there is no support in the record for the RD's finding that requiring customers to pay online transaction fees constitutes discriminatory service. Regarding impact on low income customers, OCA witness Wise asserts that online payment fees "particularly have a discriminatory impact on fixed and lower income customers who often need to make a last-minute payment to avoid termination of service."[143] This singular assertion does not support a finding that requiring customers to pay online transaction fees results in discriminatory service to the Company's low-income customers, or other customers. Moreover, as described above, the Commission's decision in PGW's 2023 rate case specifically found that utilities are not prohibited from collecting credit card processing fees.[144]

For these reasons, the RD's recommendations regarding customer payment transaction fees should be rejected.

[141] National Fuel St. No. 17-R, pp. 36-37.
[142] *Butler Township v. Pa. PUC,* 473 A.2d 219, 221 (Pa. Cmwlth. 1984); *T.W. Phillips Gas and Oil Co. v. Pa. PUC,* 474 A.2d 355 (Pa. Cmwlth. 1984).
[143] OCA St. 5, p. 16.
[144] *See Pa. PUC, et al. v. Philadelphia Gas Works,* Docket Nos. R-2023-3037933, *et al.*, 2023 Pa. PUC LEXIS 298 (Order entered Nov. 9, 2023), at *110.

J. EXCEPTION NO. 10 – THE RD ERRS IN NORMALIZING RATE CASE EXPENSE OVER A FIVE-YEAR PERIOD

The RD recommends that the Company's rate case expense be normalized over a three-year period, adopting I&E's downward adjustment. As the Company explained in its Main Brief, a three-year normalization period is appropriate because the Company anticipates the need to file rate cases more frequently than it has in the past due to continued inflationary pressures on labor and other operating expenses, coupled with accelerated infrastructure replacement and system modernization capital investments.[145] I&E's recommendation is outdated, because it includes two data points from over 20 years ago, and does not reflect the Company's current operating model.[146] The Commission does not exclusively rely on historical data to determine normalization of rate case expense and should not do so under the circumstances of this case, where a longer normalization period simply does not reflect the accelerated investments the Company is making to increase the safety and reliability of its distribution system.[147] The RD erred in failing to consider the Company's current operating model in its determination on this issue. The Company's three-year normalization period for rate case expense should be adopted.

K. EXCEPTION NO. 11 – THE RD ERRED IN FAILING TO ACCOUNT FOR EXPECTED GROWTH IN OPERATING EXPENSES

The RD recommends rejecting the Company's proposed adjustments to Office Employee Expense and Postage Expense, adopting flawed OCA's arguments against the Company's use of a compound annual growth rate ("CAGR") to project these expenses. As a result, the RD incorrectly denies the Company proper recovery of these growing expenses and fails to provide any explanation for its reasoning.[148] The Office Employee Expenses line item is primarily made up of

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[145] National Fuel MB, p. 22.
[146] *Id.*
[147] *PPL Electric 2012*, pp. 44-45.
[148] *See* RD, pp. 158-59.

software, office equipment, and employee training/travel expenses, all of which are subject to inflationary price increases.[149] Importantly, the CAGR adjustment is not a blanket inflation adjustment but is based on the actual price increases experienced between 2023 and 2025.[150] OCA's proposed adjustment is unreasonable because it assumes that the prices for these items will remain flat through the FPFTY.[151] Regarding Postage Expense, the Company's projection is based on the three-year CAGR of 9.14% for postage rates for 1 ounce stamps between the January 2023 ($0.60) and December 2025 ($0.78).[152] OCA's proposed $175,000 downward adjustment is unreasonable because it does not account for any increase to postage expenses past July 2026, although the U.S. Postal Service is facing significant financial challenges and continues to warn of additional increases beyond July of 2026.[153] The Company appropriately employed the use of tailored CAGRs for Office Employee Expense and Postal Expense based on the actual price increases for these expense items in recent years. The RD's recommended disallowances should be rejected and the Company's claims should be accepted.

L. EXCEPTION NO. 12 – THE COMMISSION SHOULD RESOLVE THE UNCERTAINTY IN THE RD

As noted above, there are several inconsistencies in the RD that require clarification or correction before the Company can implement new rates. Specifically, the Company notes:

- The RD recommends adopting both OCA's and I&E's ROEs;[154]

[149] National Fuel St. No. 3-R, p. 5.
[150] National Fuel St. No. 3-R, p. 5.
[151] *See* OCA St. No. 1, pp. 10-13. As explained in the Company's Briefs, OCA's arguments regarding zero-based budgeting and the inclusion of certain items in the adjustment are misstated lateral attacks to the claim that should be rejected. The Company will develop a firm zero-based budget for the expense when it is able but could not do so for the FPFTY projections. OCA's claim that the adjustment does not include software licensing and office equipment is incorrect. *See* National Fuel MB, pp. 45-46; National Fuel RB, pp. 22-23.
[152] National Fuel MB, p. 46.
[153] National Fuel MB, pp. 45-46.
[154] *See* RD, pp. 220-21.

- The RD recommends a proportional increase to the residential customer charge but also denies any increase in its Ordering Paragraphs;[155]

- The RD states that it is denying recovery of costs related to customer payment transactions but appears to include the expense in its recommended rate increase;[156]

- Table VI overstates the adjustment to the Company's cash working capital ("CWC") claim because it uses the Company's claim from its original filing rather than the update contained in National Fuel's Main Brief. The Company's updated CWC claim is $7,130,000.[157]

[155] *See* RD, pp. 272, 415 (Ordering Paragraph No. 7).
[156] *See* RD, pp. 153, 413 (Conclusion of Law No. 59.)
[157] *See* RD, Appendix A, Table VI.

III. CONCLUSION

For all of the foregoing reasons, National Fuel Gas Distribution Corporation respectfully requests that the Pennsylvania Public Utility Commission grant the above Exceptions.

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