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August 24, 2026

Via Electronic Filing
Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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

Dear Secretary Homsher:

Attached for electronic filing please find the Office of Consumer Advocate's Reply Exceptions in this matter.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

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Enclosures
cc: The Honorable Katrina L. Dunderdale (email only)
Certificate of Service

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2025-3059428
	:	
National Fuel Gas Distribution Company	:	

I hereby certify that I have this day filed electronically on the Commission's electronic filing system and served a true copy of the following document, the Office of Consumer Advocate's Reply Exceptions, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 24th day of August 2026.

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Dated: August 24, 2026

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2025-3059428
	:	
	:	
National Fuel Gas Company		

REPLY EXCEPTIONS
OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: August 24, 2026

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I. INTRODUCTION AND OVERVIEW

On July 31, 2026, Administrative Law Judge Katrina Dunderdale (ALJ) issued her Recommended Decision (Recommended Decision or RD). The ALJ determined to reduce the original request of National Fuel Gas Distribution Company (NFG) to increase its rates to produce an additional overall revenue of $19.8 million per year, a 7.41% increase in overall distribution revenue requirement, to $8,227,867, or 3.1%. On August 17, 2026, NFG filed Exceptions to the RD. In response, the Office of Consumer Advocate (OCA) files these Reply Exceptions.

II. REPLY EXCEPTIONS

Reply to NFG Exception No. 1: The RD properly recognizes that the OCA's proposed hypothetical capital structure is supported by law and evidence. R.D. at 219-221; OCA M.B. at 50-52; OCA R.B. at 32-36.

NFG argues that the RD improperly denies NFG's proposed use of its fully projected future test year (FPFTY) capital structure of 56.4% common equity and 43.6% long-term debt, claiming that Commission precedent requires use of a utility's actual capital structure unless it falls outside the range of comparable companies and that the RD improperly placed great weight on the capital structures effect on customer costs.[1]

NFG's Exception should be denied because the RD's rejection of NFG's FPFTY capital structure is supported by substantial evidence and is consistent with Commission precedent.[2] Contrary to NFG's characterization, the RD did not adopt the OCA's proposed 50% equity/50% debt capital structure merely because it produces the lowest possible revenue requirement. Rather, the RD appropriately considered the evidence demonstrating that NFG's proposed equity ratio is unnecessarily equity-rich and would impose additional costs on customers because equity is more

[1] NFG Exc. at 5-10.
[2] R.D. at 219-220.

expensive than debt, while also acknowledging that "NFG must be allowed sufficient equity to maintain its financial integrity and attract capital . . .."[3]

NFG overlooks the substantial evidence presented by OCA witness Maureen Reno supporting the RD's adoption of a hypothetical capital structure. Ms. Reno demonstrated that NFG's equity-rich capital structure consisting of 56.4% common equity and 43.6% long-term debt is unreasonable, inconsistent with industry trends and would unnecessarily increase customer costs.[4] As Ms. Reno explained, the purpose of a ratemaking capital structure is not simply to replicate a utility's actual capitalization, but to establish a capital structure that produces just and reasonable rates.[5] Because equity is more expensive than debt, an excessive reliance on equity increases the overall cost of capital borne by ratepayers.[6] Ms. Reno found that:

> NFG's proposed 56.40% equity ratio exceeds recent average authorized equity ratios for regulated gas utilities, including 52.45% in 2023, 52.52% in 2024, and 51.63% in 2025. It also exceeds the proxy group expected average of 48.00% and median of 45.00% for 2026.[7]

Therefore, the RD's conclusion that NFG's proposed equity-rich capital structure will not result in just and reasonable rates is supported by substantial evidence.[8]

Further, the RD is supported by Vice Chair Barrow's statement released in response to NFG's filing in which she stated:

> I urge the parties to take a critical look at the Company's requested rate of return and return on equity (ROE) as well as the capital structure (common equity ratio and debt capital) to ensure reasonableness. Deviations in each of these items translate into millions of dollars charged to customers of all rate classes. Too often, the relationship between debt and ROE to cost of debt and capital is asserted as a general matter from basic economic principle alone. But, those relationships are not established empirically. That empirical relationship must periodically be re-

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[3] R.D. at 220.
[4] OCA M.B. at 50-51.
[5] OCA M.B. at 50.
[6] OCA M.B. at 50.
[7] OCA M.B. at 50 (quoting OCA St. 3SR at 5-6).
[8] OCA M.B. at 50-52.

> established. Therefore, I believe a careful and detailed review of NFG's claimed capital structure and ROE is warranted.[9]

Vice Chair Barrow also previously stated in reference to the Peoples Natural Gas 2024 Rate Case:

> I agree with the OCA's capital structure proposal of 50% debt and 50% equity. Not only does this capital structure comport with Commission precedent but, as I&E highlighted, it is optimal when trying to balance the financial integrity of a utility as well as trying to control costs to ratepayers. … Historically, this Commission has viewed capital structures hewing closer to 50/50 as reasonable.[10]

The RD aligns precisely with Vice Chair Barrow's statements as it critically evaluates NFG's proposal to determine whether it would result in just and reasonable rates.

NFG's reliance on *City of Lancaster – Water*, *ALLTEL*, and *PPL Electric 2012* does not compel a different result.[11] These Commission cases and others recognize that the Commission has longstanding discretion to determine the capital structure that results in just and reasonable rates based upon the evidentiary record in each proceeding.[12]

NFG also fails to address *Carnegie*, in its Exception, although it relied upon the case in its Main Brief.[13] In *Carnegie*, the Commonwealth Court recognized that, while a utility's actual capital structure is generally entitled to consideration, wholly owned subsidiaries present unique ratemaking concerns because their capital structures may not reflect the financing decisions they would make if they were required to obtain debt and equity independently in the capital markets.[14] Under those circumstances, the Commonwealth Court expressly recognized that "the commission

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[9] *Statement of Vice Chair Kimberly Barrow*, Docket No. R-2025-3059228, Public Meeting (Feb. 19, 2026).

[10] *Pa. PUC v. Peoples Natural Gas Co. LLC*, Docket No. R-2023-3044549 (Vice Chair Barrow Statement Sep. 12, 2024) at 2 (available at: https://www.puc.pa.gov/pcdocs/1848370.pdf).

[11] *Pa. PUC v. City of Lancaster – Water*, 433 A.2d 938, 940 (Pa. Cmwlth. 1981); *Pa. P.U.C. v. ALLTEL Pa., Inc.*, Docket Nos. R-942710, et al., 59 Pa. PUC 447 (May 24, 1985); *Pa. PUC v. PPL Electric Utilities Corp.*, Docket No. R-2012-2290597, Order (Dec. 28, 2012) (*PPL Electric 2012*).

[12] *Pa. PUC v. Columbia Gas of Pa.*, Docket No. R-2020-3018835, Order at 116-118 (Feb. 19, 2021) (*Columbia 2021*); *PPL Electric 2012* at 68.

[13] *Carnegie Natural Gas Co. v. Pa. PUC*, 433 A.2d 938, 940 (Pa. Cmwlth. 1981).

[14] *Id.*

must make adjustments based upon substantial evidence in order to reach a fair result."[15] That principle supports the RD's determination here because NFG is a wholly owned subsidiary whose financing decisions cannot be viewed in isolation from those of its parent company.[16]

NFG also overlooks Commission precedent demonstrating that a hypothetical capital structure may appropriately be based upon the average capitalization of the proxy group.[17] In *PPL Gas 2007*, PPL proposed an actual capital structure consisting of 55.68% common equity and 44.32% debt.[18] The Commission instead adopted the ALJ's recommendation of a hypothetical capital structure reflecting the average debt-to-equity ratio of the barometer group of 51.79 percent common equity and 48.21 percent debt, with appropriate adjustments for the company's use of short-term debt.[19] The Commission concluded that the adopted structure appropriately "align[ed] the hypothetical long-term debt and common equity used on average by the larger barometer group."[20] Thus, contrary to NFG's assertion that Commission precedent requires reliance on the Company's actual or projected capital structure whenever it falls within the barometer-group range, *PPL Gas 2007* confirms that the Commission may adopt a hypothetical structure that better reflects the capitalization of comparable companies when supported by the record.[21]

NFG's assertions regarding the purported risks of adopting a lower equity ratio are also unsupported by the record. NFG claims that reducing its equity ratio could impair its financial integrity, increase its cost of debt, affect its credit rating, or limit its access to capital.[22] But NFG identifies no actual evidence demonstrating that any of these consequences would result from the

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[15] *Id.*
[16] OCA R.B. at 34.
[17] OCA R.B. at 33.
[18] *Id.* (citing Pa. PUC v. PPL Gas Utilities Corporation, Docket No. R-00061398, 2007 Pa. PUC LEXIS 2 at **138-45 (Feb. 8, 2007) (PPL Gas 2007)).
[19] *Id.*
[20] *Id.*
[21] *Id.*
[22] NFG Exc. at 7-9.

50/50 capital structure recommended by OCA. Instead, NFG relies on generalized statements about the potential risks of an equity ratio that is "too low," without establishing that the OCA's recommended 50% equity ratio is, in fact, too low for NFG or that it would produce any of the adverse consequences NFG predicts. NFG does not identify a projected credit-rating impact, demonstrate that it would be unable to obtain financing, or quantify any increased borrowing costs that would result from the recommended structure. Speculation about hypothetical consequences cannot outweigh the affirmative record evidence supporting the OCA's and the RD's recommendation. Because NFG bears the burden of supporting its proposed capital structure, its unsupported assertions about potential risks provide no basis for rejecting the well-supported RD.

Further, contrary to NFG's representation, the recent *PAWC 2026* rate case decision contradicts, rather than supports, NFG's earlier claims that its actual capital structure must be adopted absent a finding that the utility's capital structure is atypical for the type of utility being offered.[23] In the *PAWC 2026* decision, the Commission chose to adopt the hypothetical capital structure recommended by I&E rather than PAWC's actual capital structure, using its discretion to determine the capital structure that would result in just and reasonable rates based on record evidence.[24] Here, the RD does the same.

The RD reasonably concluded that the Company failed to meet its burden, that the Company's proposed equity ratio is unjust and unreasonable, and that the OCA's recommended capital structure of 50% equity and 50% debt is supported by substantial evidence and the law.[25] For these reasons, NFG Exception No. 1 should be denied.

Reply to NFG Exception No. 2: The RD correctly adopted the OCA's 9.74% ROE

[23] NFG Exc. at 5, 9-10; *Pa. PUC, et al. v. Pennsylvania American Water Company*, Docket Nos. R-2025-3057983, et al. Order at 185 (July 16, 2026) (*PAWC 2026*).
[24] *PAWC 2026* at 185.
[25] R.D. at 220.

because it is supported by substantial evidence and affordability concerns. R.D. at 219-221; OCA M.B. at 53-60; OCA R.B. at 36-41.

NFG argues that the RD improperly selects the OCA's return on equity (ROE), claiming that OCA witness Maureen Reno's analysis departs from the Commission's market-based ROE methodology by using a growth rate other than analysts' projections, failing to provide a specific ROE under the Capital Asset Pricing model (CAPM), and relying in part on ROEs authorized in other jurisdictions.[26]

The Commission should reject NFG's Exception and adopt the RD's finding that OCA witness Reno's 9.74% ROE is the best-supported ROE that results in just and reasonable rates.[27] The RD correctly concluded that NFG failed to meet its burden of demonstrating that it faces materially greater financial risk than its peers or that it requires an ROE of 10.5%.[28]

Contrary to NFG's arguments, substantial evidence supports Ms. Reno's recommendation. Her 9.74% recommendation is grounded primarily in her Constant-Growth Discounted Cash Flow (DCF) analysis, which considered multiple measures of long-term growth, including earnings, dividends, book value, and sustainable growth, and produced a range of 8.88% to 10.61%, with a midpoint of 9.74%.[29] Contrary to NFG's assertion that the OCA's recommendation did not identify an ROE using the CAPM method,[30] Ms. Reno did indeed perform a CAPM analysis as a reasonableness check, which produced a midpoint of 8.99%, further confirming that her recommended ROE is reasonable.[31]

NFG's criticism of individual components of Ms. Reno's analysis does not undermine the

[26] NFG Exc. at 11.
[27] R.D. at 219-221.
[28] *Id.* at 220.
[29] OCA M.B. at 53-54.
[30] NFG Exc. at 11.
[31] OCA M.B. at 54.

substantial evidence supporting her ultimate recommendation, nor refute the RD's conclusion that there was a lack of evidence supporting NFG's recommendation.[32] Indeed, NFG's own litigation position demonstrates the weakness of its case. NFG originally requested an 11.25% ROE, reduced that request to 11.00% after withdrawing its management efficiency adjustment, and then reduced it again to 10.50% in its Main Brief.[33] Critically, NFG presented *no record evidence supporting its final 10.50% recommendation*.[34] No NFG witness testified that investors require a 10.50% return, and no Company witness performed a DCF, CAPM, or other financial analysis producing a 10.50% ROE.[35] NFG cannot cure the evidentiary deficiencies in its case by simply selecting a new number in its brief. All Commission decisions must be supported by substantial evidence and, in this case, there is no evidence that supports adopting at 10.5% ROE for NFG.

NFG's assertion that the RD selected OCA's recommendation merely because it was the lowest proposed ROE is similarly without merit. The RD expressly found that NFG's proposed ROE was "insufficiently supported, excessive and unreasonable" and that granting NFG's request would exacerbate affordability concerns.[36] The fact that the RD ultimately selected the lowest of the competing recommendations does not mean that it selected that recommendation because it was the lowest; it selected OCA's recommendation because it was reasonable, in the public interest and the *best supported by the record*.[37]

A lower ROE is also consistent with recent Commission decisions and the significant affordability pressures facing utility customers.[38] Notably, NFG itself recognized the importance

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[32] R.D. at 219.
[33] OCA R.B. at 37.
[34] *Id.*
[35] *Id.*
[36] R.D. at 220.
[37] *Id.*
[38] *PAWC 2026* at 219.

of affordability when it withdrew its proposed management efficiency adjustment, thereby reducing its ROE request.[39] NFG cannot simultaneously recognize that affordability concerns warrant reducing its requested return while arguing that those same concerns should have no bearing on the Commission's determination of the appropriate ROE.[40] Moreover, NFG's reliance on rising interest rates is misplaced because rising interest rates also impose substantial financial burdens on ratepayers through higher borrowing costs and other increased household expenses.[41] The Commission therefore should not consider changing interest rates solely from the perspective of the utility's investors while ignoring their direct effect on customers' ability to afford essential utility service. As Ms. Reno explained, those financial pressures are not unique to NFG and do not establish that NFG requires an ROE materially above prevailing utility returns.[42]

NFG cites to the *Columbia 2025* case to claim that it is inappropriate for the Commission to award an ROE that is 26-basis points lower than that ordered in *Columbia 2025*; however, the Commission maintains the discretion to determine the appropriate ROE based on the evidence presented, and the RD correctly confirmed that NFG has not presented sufficient evidence to justify its unreasonably high ROE.[43] The Commission in *Columbia 2025* supported Ms. Reno's ROE methodology by stating:

> We conclude that methodologies other than the DCF can be used as a check upon the reasonableness of the DCF derived ROE calculation. As such, where evidence based on other methods suggests that the DCF-only results may produce an unreasonable ROE, we will consider those other methods, to some degree, in determining the appropriate range of reasonableness for our determination as to the appropriate ROE to award Columbia.[44]

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[40] OCA M.B. at 61.
[40] OCA M.B. at 61.
[41] *Id.* at 59.
[42] *Id.*
[43] NFG Exc. at 12 (citing *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket No. R-2025-3053499 Order (Dec. 9, 2025) (*Columbia 2025*).
[44] *Columbia 2025* at 226.

The Commission's recent decision in the *PAWC 2026* rate case provides particularly strong support for considering affordability in establishing ROE, yet NFG conspicuously failed to cite that decision in the context of ROE despite relying upon it in its capital structure argument.[45] In PAWC, the Commission reduced the company's ROE by 25 basis points based, in part, on customer affordability concerns. The Commission explained:

> [B]ased upon our findings regarding: (1) the Company's minimal regulatory lag and its associated reduced business risk, given its frequent filing of base rate cases; and (2) affordability issues faced by PAWC's customers, we have further modified the ALJs' recommendation as to the appropriate cost of common equity for PAWC, by applying a reduction of 25 basis points, or 0.25%, thereto, resulting in a final ROE of 9.55%.[46]

The *PAWC 2026* decision therefore provides additional support for the RD's adoption of the OCA's 9.74% recommendation.

In light of the substantial evidence supporting the OCA's recommendation, NFG's unsupported and repeatedly reduced ROE request, and the Commission's demonstrated willingness to account for affordability in determining the appropriate return, the Commission should reject NFG's Exception and adopt the RD's recommended 9.74% ROE.

Reply to NFG Exception No. 3: <u>The ALJ's primary recommendation to discontinue NFG's proposed Weather Normalization Adjustment is correct and should be affirmed.</u> R.D. at 309-10; NFG Exception at 13-17; OCA M.B. at 82-101; OCA R.B. at 47-53.

In its Exceptions, NFG argued that the RD errs by discontinuing the Weather Normalization Adjustment.[47] NFG argued that the ALJ does not provide a reasonable basis to justify this action and that the RD's criticisms of the WNA are policy-based arguments not specific to NFG's proposal.[48]

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[45] *PAWC 2026* at 219; NFG Exc. at 9-10.
[46] *PAWC 2026* at 219.
[47] NFG Exc. at 13.
[48] *Id.*

The RD correctly determined that the Commission should reject NFG's request to make the WNA permanent and end the pilot. The RD states:

> The ALJ is persuaded by OCA's arguments that the Commission should reject NFG's request to make the WNA permanent, and the Commission should end the pilot. In the event the Commission elects to continue the WNA, the ALJ recommends the Commission continue the WNA as a pilot, to provide NFG more time to collect data that would support continuation of the WNA because NFG did not provide sufficient evidence that the WNA produces rates that are just and reasonable.
>
> The WNA transfers the risk of price volatility and weather variability from NFG to the ratepayers. Over the three years of the pilot, NFG passed more charges onto residential customers than paid credits to ratepayers. During the three years of the pilot, residential customers were denied clear weather-related consumption and price signals. In addition, while the WNA shifted the risk of weather volatility to residential customers, the benefit of conserving energy did not remain concurrently with customers. OCA proved the WNA, as applied, is unfair by design because it results in shifting the traditional risk of natural gas distribution service from NFG to its customers by guaranteeing recovery of authorized revenues to NFG regardless of actual customer consumption. Further, the way the WNA was applied has resulted in billing statements that are not clear, and which residential customers cannot verify for correctness because customers are unable to access the information that explains and verifies the charges each month. In addition, OCA proved that winter weather has been warming and is projected to continue to warm. As the weather warms, residential customers will continue to be charged more often at greater amounts with fewer occasions when the customers will receive credits. For these reasons, and the reasons provided by OCA, the ALJ recommends the Commission reject NFG's proposal concerning the WNA and end the pilot program.[49]

The OCA agrees. Contrary to NFG's assertion that the RD's criticisms are only policy-based and cannot provide a reasonable basis to discontinue the WNA, the RD states that the recommendation was based on the highlighted policy reasons "*and* the reasons provided by the OCA."[50] This reflects the ALJ's agreement with *the reasons* provided by the OCA in its Main Brief which includes showing why NFG's proposal provides inequitable results based on NFG's pilot data.[51]

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[49] RD at 309-10.
[50] *Id.* at 310 (emphasis added).
[51] *See* OCA M.B. at 82-90

A system that can produce both charges and credits does not necessarily equate to "equal risk."[52] NFG's data shows that its customers have borne more cost over the three years of the current pilot.[53] Second, NFG's data shows that even with the WNA revenue removed, NFG has earned close to its authorized revenue, thus showing that discontinuing the WNA would not deny NFG a reasonable opportunity to earn its authorized revenue.[54] Third, NFG continues to assert that the WNA produced $2.6 million in net WNA credits in the most recent heating season, but that "net" credit was prior to April 2026, a month that produced approximately $1 million in surcharges and does not include May 2026.[55] Fourth, the Commission is not required to approve NFG's WNA merely because it has permitted other National Gas Distribution Companies (NGDCs) to utilize a WNA mechanism.[56] NFG bears the burden to prove that *its* specific proposal results in just and reasonable rates and failed to carry its burden here.[57]

Finally, the OCA fully addressed the reasons why its proposed modifications to any continued pilot WNA should be adopted in its own Exceptions.[58] The ALJ correctly recommended that the Commission discontinue NFG's proposed WNA mechanism. NFG's Exception Number 3 should be denied.

Reply to NFG Exception No. 4: <u>The ALJ's recommendation to approve I&E's proposed rate allocation, limiting the percent increase in basic service charges to approximately the same class percent increase as rate generally is correct and</u>

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[52] *See id.*; *see also* OCA M.B. at 84-86; OCA R.B. at 47-49.
[53] OCA M.B. at 85-86; OCA R.B. at 49.
[54] NFG Exc. at 14. *See* OCA M.B. at 87-89 (citing NFG St. 19R at 31, Figure 1).
[55] OCA M.B. at 84; OCA R.B. at 48-49.
[56] NFG Exc. at 15.
[57] *See* OCA M.B. at 83; OCA R.B. at 49-50.
[58] *See* OCA Exc. at xx.

should be affirmed. R.D. at 268-271; NFG Exception at 17-19; OCA M.B. at 70-78; OCA R.B. at 41-46.

In its Exceptions, NFG argued that the RD's analysis of issues related to the residential customer charge is flawed and therefore must not be accepted.[59] NFG argues that the decision by the ALJ does not make a clear recommendation for customer charges because it recommends that the I&E proposal for rate design be accepted, and further that the Commission should scale back proportionally the customer charge based upon the cost of service study, while ordering that the current customer charge of $14 remain the same.[60] Finally, NFG argued that there is no reasoning provided by the ALJ to adopt the I&E proposal to raise the customer charge proportionally to the overall rate increase.[61]

The RD ordered "[T]that the request of National Fuel Gas Distribution Corporation's to increase fixed charges for Residential customers to $19.00 is denied."[62] Further, "[T]hat the fixed charges for Residential customers shall [be] remain at $14.00."[63] These ordering paragraphs clearly state that the NFG current customer charge is to remain the same and further that the request by NFG to increase the charge by $5.00 or 35.7% is denied. This is in direct contrast to NFG's arguments in its Exceptions.

Both OCA and I&E argued in Main Briefs that the allocated cost of service study (ACOSS) completed by NFG was faulty. OCA witness Michael Deupree stated a zero-intercept study (ZIS), like the one conducted by NFG, is flawed because it deals with hypotheticals that do not and cannot exist in the real world making the results difficult if not impossible to verify.[64] I&E similarly argued against the use of the ZIS model. In its Main Brief, I&E cites to the testimony of Ethan

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[59] NFG Excp. at 17.
[60] *Id*.
[61] *Id*.
[62] R.D. at 415.
[63] *Id*.
[64] OCA St. 1 at 54, OCA M.B. at 64.

Cline stating "Mr. Cline also noted NFG performed two ACOSSs in this case,"[65] contrary to the assertions of NFG in its Exceptions.[66] I&E, citing to NFG's statement No. 19, argues: "The second ACOSS performed by the Company was based on the Peak and Average method, with no customer component, and was provided for informational and comparison purposes."[67] I&E witness Cline testified that he was unable to conduct the customer cost analysis because NFG did not provide enough information.[68] Contrary to the arguments raised by NFG in its Exceptions, its two cost of service studies were evaluated, to the extent possible.

The Commission has consistently found and recently reaffirmed the use of the Peak and Average method to allocate revenues and design rates.[69] Neither the OCA, I&E, nor the ALJ misunderstand the application of Commission precedent in the use of the Peak and Average ACOSS to the fixed customer charge. Because the Commission has consistently preferred the use of the Peak and Average ACOSS over the customer demand methodology, NFG's basis of its claimed $27.17 cost per customer is unreasonable.

NFG argues that the Commission has found that cost of service principles apply to rate design and in particular to residential customer charges.[70] In that matter however, the Commission based the customer charge, on UGI's ACOSS which it accepted.[71] Here, the ALJ rejects the ACOSS proposed by NFG.[72] Further when NFG provided a second ACOSS, the Company did not provide enough information for I&E to conduct a full analysis.[73] The ALJ correctly determined

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[65] I&E M.B. at 35.
[66] NFG Excp. at 17-19.
[67] See. I&E M.B. at 35, see also, NFG St. 19 at 17.
[68] I&E St. No. 3 at 14, I&E M.B. at 38.
[69] *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2025-3053499, pp. 254-5 (Order Entered December 4, 2025).
[70] *Pa. PUC, et al. v. UGI Utilities Inc. – Electric Division*, Docket Nos. R-2017-2640058, *et al.* (Order entered Oct. 25, 2018).
[71] Id. at 173.
[72] R.D. at 268; *See also*, OCA St. 1 at 54, OCA M.B. at 64 and *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*
[73] I&E St. No. 3 at 14, I&E M.B. at 38.

that using either ACOSS provided to approve the fixed customer charge increase of 35.7% was unreasonable.[74] Since the ACOSS proposed by NFG was rejected, it is impossible to compare *Pa. PUC, et al. v. UGI Utilities Inc. – Electric Division* to this matter.

The ALJ's rejection of the increase in the fixed customer charge must be affirmed.

NFG's argument that the reference in the RD to a scale back provision is confusing is also without support. Both OCA and I&E argued in Main Briefs that should the Commission grant rate relief requested by NFG to a lesser extent than the requested $19.7 million, the customer charge should be scaled back.[75] In contrast, NFG witness Taylor argued that scale back should not apply to the customer charge, meaning that even if a lesser amount of overall revenue is granted, the customer charge increase should remain at 35.7%.[76] This argument is in direct contrast to Commission precedent. The Commission has consistently included customer charges as part of the scale back of authorizing a revenue requirement at a level less than that requested by the utility.[77] NFG's argument that this should not apply to their situation is without support.

The RD correctly rejected the ACOSS proposed by NFG, correctly denied an increase in fixed customer charges based on the NFG faulty ACOSS, and correctly found that a scale back in the customer charge is warranted if the Commission adopts a total revenue increase lower than the NFG request. The Exception by NFG with regard to these matters should be denied.

Reply to NFG Exception No. 5: <u>The ALJ's recommendation to reject NFG's proposal to implement Rider D to recover costs from its Energy Efficiency Pilot Program is</u>

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[74] R.D. at 268 and 271.
[75] OCA M.B. at 79, I&E M.B. at 39-40.
[76] NFG St. 19-R at 24-25.
[77] *See*, *e.g.*, *Columbia 2025* at *174 ("by this Opinion and Order, we are ultimately approving a lower revenue increase than that sought by the Company. Accordingly, Columbia's actual customer charge that results from the revenue increase of $ 55,627,800 that we shall approve in this Opinion and Order will be reduced as a result of the scale back that will be applied.").

correct and should be affirmed. R.D. at 330-331; NFG Exception at 20-23; OCA M.B. at 101-05; OCA R.B. at 53-54.

In its Exceptions, NFG argued that the RD errs by denying recovery of Energy Efficiency (EE) Pilot Costs.[78] NFG argues that the ALJ's finding that a reconcilable rider should not be used to recover the costs of the EE Pilot Program is flawed because, among other things, "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" and NRRI guidance does not provide a valid basis to disallow the rider.[79]

The RD correctly rejected NFG's request to implement Rider D. The RD states:

> The ALJ is persuaded by OCA that the Commission should not approve Rider D, at this time. NFG estimated the total cost of the pilot over five years would be approximately $700,000 per year. OCA argued Rider D fails to meet any criteria for a cost-recovery mechanism because: (1) the costs are within the control of NFG; (2) are not projected to rise to a level of substantial or material costs justifying recovery through a rider; and (3) projected costs for the EE Pilot Program as presented are "relatively flat and not expected to be significantly volatile. The ALJ notes that NFG projects participation by possibly 10,000 customers over five years. The ALJ is unconvinced by NFG's evidence and arguments that the program, as designed currently, will place a financial burden upon NFG prior to the next base rate case. Accordingly, the ALJ recommends the Commission reject NFG's request to implement Rider D.

The OCA agrees. Although the NRRI criteria are not binding on the Commission, they can provide guidance, and those same criteria support an analysis, as detailed in the OCA's Main Brief and summarized in the RD, that NFG's proposed rider does not meet the standard for Section 1307 reconcilable riders.[80] NFG states that it demonstrated how its proposed Rider D meets the standard for Section 1307 reconcilable riders,[81] but even though it has the burden of proof, NFG did not address in its Main Brief how its proposed rider met the requisite standard beyond stating that the

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[78] NFG Exc. at 20.
[79] *Id.*
[80] *See* OCA M.B. at 101-04; RD at 318-19.
[81] NDF Exc. at 20.

rider was consistent with Commission practice because the Commission has approved rider mechanisms for EE program recovery for other NGDCs.[82]

Not until its Reply Brief did NFG address how its proposed rider met the actual standard for reconcilable riders, which does not merely require a showing that the costs are "easily identifiable and beyond the utility's control" but also a showing that the costs are extraordinary, substantial, unexpected or non-recurring.[83] NFG did not attempt to rebut the OCA's arguments regarding the latter four factors to be considered or even acknowledge their existence.[84]

Moreover, although NFG cites to the Commission's Secretarial Letter requiring smaller Electric Distribution Companies to propose a Section 1307 rider mechanism, [85] that letter does not apply to NGDCs, so nothing in the letter absolves NFG of meeting the burden of proof for Section 1307 reconcilable riders. And although NFG argues that the Commission has approved reconcilable riders as the preferred way of recovery of EE program costs,[86] it fails to recognize that the voluntary plans it cites to for UGI Utilities and PGW were adopted through settlements, not litigated cases.[87] NFG also cites to the most recent Columbia Gas rate case as evidence of the Commission's preference for Section 1307 riders to recover NGDC voluntary EE program costs, but the question of whether the utility had met its burden of proof regarding recovery of EE program costs through a Section 1307 reconcilable rider was not at issue in that case.[88] Moreover,

[82] *See* NFG M.B. at 14-15.
[83] See OCA M.B. at 102 (citing *Pa. PUC v. Aqua Pennsylvania Wastewater, Inc.*, 2022 Pa. PUC LEXIS 161 at *155 (Order, May 12, 2022)).
[84] *See* NFG R.B. at 46-47; NFG Exc. at 21.
[85] *See* NFG Exc. at 21.
[86] NFG R.B. at 47-48; NFG Exc. at 21
[87] See *Pa. PUC v. Columbia Gas of Pa., Inc.*, 2025 PA. PUC LEXIS 395, *219 (Order Dec. 9, 2025) (referring to the same UGI and PGW cases and noting that "those voluntary plans were established through settlements, not litigated cases, and are not precedential to our determination herein which requires consideration of Columbia's EE Plan within this specific proceeding." (internal citation omitted).
[88] *See id.* at *207-20.

the Commission is required to consider NFG's plan for recovery of these costs within the specific proceeding, not based on its decisions in other proceedings.[89]

NFG has the burden of proof on its proposed Section 1307 rider for the EE Pilot Program and proceeded at its own risk when proposing Rider D or choosing to include the program costs in its base rates. The ALJ correctly recommended that the Commission reject NFG's Rider D proposal and determined the costs of the EE Pilot Program would not place a financial burden on the company before its next base rate case. NFG's Exception Number 5 should be denied.

Reply to NFG Exception No. 6: The ALJ's recommendation to deny NFG's claims for membership dues because the membership dues do not benefit ratepayers or improve safety and reliability is correct and should be affirmed. R.D. at 149-151; NFG Exception at 23-25; OCA M.B. at 18-19; OCA R.B. at 11-12.

In its Exceptions, NFG argued that the RD errs in denying the Company recovery of its entire claim for membership dues.[90] NFG argued, among other things, that the 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."[91] NFG argued that this expense provides benefits to customers by enabling the Company to operate more effectively in the communities it serves and it is improper to disallow the expense.[92]

The RD correctly determined that the record does not support NFG's claim that the member dues provide a benefit to ratepayers or improve safety and reliability.[93] The ALJ concluded:

> …. these expenses are a form of employee benefit that produces goodwill for the Company but does not benefit ratepayers. Accordingly, the ALJ recommends for the Commission to remove all membership dues expenses from rates, because dues in civic and local organizations do not benefit ratepayers sufficiently, or improve the safety and reliability of providing natural gas service sufficiently to justify requiring ratepayers to pay for costs that do not benefit them.[94]

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[90] NFG Excp. at 23.
[90] NFG Excp. at 23.
[91] *Id.* at 24.
[92] *Id.*
[93] R.D. at 151.
[94] R.D. at 151.

The OCA agrees. NFG's claim for $17,000 related to dues membership in economic development organizations should be removed from the cost of service.[95]

NFG relied on Commission cases from 1994 and 2008 in support of its Exception.[96] Yet, neither of these cases relied upon by the Company negate the fact none of the organizations in which NFG seeks recovery of due membership are focused on employee development or related to utility operations.[97] OCA witness Morgan reviewed the websites of the particular organizations – the Erie Downtown Development Corporation, Penn-Northwest Development Corp and the Clarion County Economic Development – and testified that "membership in these entities has very little to do with providing service to current ratepayers and is more closely aligned with corporate image building. Moreover, economic development is not a function of a public utility, so it is not appropriate to recover these costs from ratepayers."[98] Mr. Morgan also demonstrated that local governments can perform its functions without NFG's membership in these organizations, in part, because one function of a utility is to stay abreast of local development initiatives in order to capture new customers, noting that NFG's economic development fees are more related to charitable contributions and less related to economic development.[99]

Simply put, economic development is not a function of a public utility.[100] It is not sufficient to have this claim accepted that the membership dues have created "positive impacts," as NFG argues. The justification is whether the dues contributes to or is necessary for the provision of utility service. NFG has not provided substantial evidence that these dues are necessary for the

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[95] OCA M.B. at 18, *citing*, OCA St. 2 at 20-21 and OCA Exh. LKM-15A-SR.

[96] NFG Excp. at 24-25, *citing*, *Pa PUC v. Pennsylvania-American Water Co*., Docket Nos. R-00943231, et al., 1995 Pa. PUC LEXIS 170 (Order dated July 24, 1995) and *Pa PUC v. The Columbia Water Company*, Docket Nos. R-2008-2045157, 2009 Pa. PUC LEXIS 1423 (Order entered June 10, 2009).

[97] OCA M.B. at 18.

[98] OCA M.B. at 18-19, *citing*, OCA St. 2 at 21.

[99] OCA M.B. at 19, *citing*, OCA St. 2SR at 21-22.

[100] OCA R.B. at 11-12, *citing*, OCA St. 2SR at 21.

provision of utility service. The ALJ correctly recommended that NFG's claim for membership dues should be denied. NFG's Exception Number 7 should be denied as well.

Reply to NFG Exception No. 8: The ALJ's recommendation to deny NFG's claim for Executive Cash Bonuses and Executive Performance as part of its incentive compensation expenses is correct and should be affirmed. R.D. at 144-147; NFG Exception at 25-29; OCA M.B. at 16-18; OCA R.B. at 9-11.

In its Exceptions, NFG argued that the RD's incentive compensation adjustment does not consider the ratepayer benefits of the Executive Performance Shares.[101] NFG discusses the multiple components of its incentive compensation program, arguing that the RD correctly allows recovery of restricted stock incentive compensation, but then disallows $379,731 from Executive Cash Bonuses and $909,281 from Executive Performance Shares.[102] NFG does not file an Exception to the entire disallowance, but rather only to the $909,281 disallowance related to Executive Performance Shares.[103]

The OCA filed an Exception in response to the RD's allowance of Restricted Stock-Based Compensation.[104] Here, however, the RD correctly determined that NFG's claim for Executive Cash Bonuses and Executive Performance should be denied. The RD states:

> … based on the evidence and positions of the parties, that NFG failed to provide sufficient proof that the following programs and amounts should be approved as requested: Executive Cash Bonuses and Executive Performance. These programs may benefit the employees and stockholders, but NFG 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. NFG's proposal is supposed to benefit the ratepayers but, 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.[105]

The OCA agrees. The RD correctly determines that NFG failed to satisfy its burden to demonstrate that it is entitled to claim $909,281 in Executive Performance shares.

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[101] NFG Excp. at 26-29.
[102] *Id.* at 26-27.
[103] *Id.* at 27.
[104] OCA Excp. at 14-17.
[105] R.D. at 147.

Only where an incentive compensation plan is reasonable, prudently incurred, not excessive and provides a benefit to ratepayers may the Company recover the expense of that program.[106] Yet, as OCA witness Morgan testified, NFG's incentive compensation plans specifically provides that the stated purpose of the plan is to "advance the interests of the Company and its stockholders," noting that the goals of increasing shareholder value are not necessarily consistent with the interests of NFG's ratepayers.[107]

NFG's argument in its Exception that its claim for Executive Performance Shares both "1) demonstrates with credible evidence that its financial metrics are reasonable or that they provide a benefit to ratepayers, and 2) meets its burden of proving that its claim in allocated performance compensations expenses is fair and necessary, or that it pertains to providing safe, adequate and reliable service to customers,"[108] in fact supports adopting the RD and denying NFG's Exception here because NFG has not provided the necessary "credible evidence" in this proceeding. NFG has not satisfied the very standard that it cites to in support of its Exception. Instead, the record in this case demonstrates that the payments are not tied to ratepayer benefits such as improved quality of service, for example.[109]

Similarly, NFG's argument in its Exception that employee retention and long-term performance as two "key elements of the plan that warrant recovery,"[110] should also be rejected. NFG has not demonstrated in this case with substantial record evidence that employee retention and long-term performance have, in fact, provided a benefit to ratepayers that is sufficient to warrant recovering NFG's incentive compensation costs in rates. As such, the ALJ correctly

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[106] *Pa. PUC v. PPL Elec. Util. Corp.*, R-2012-2290597, Order (entered Dec. 28, 2012).
[107] OCA M.B. at 17, *citing*, OCA St. 2 at 13.
[108] NFG Excp. at 28, *citing*, *Pa. PUC v. Pennsylvania American Water Company*, Docket Nos. R-2025-3057983 (Order entered July 16, 2026).
[109] OCA M.B. at 17, *citing*, OCA St. 2 at 14.
[110] NFG Excp. at 28.

recommended that NFG's claim for Executive Performance Shares should be denied. NFG's Exception Number 8 should be denied as well.

Reply to NFG Exception No. 9: The RD's recommendation for NFG to absorb customer payment transaction fees should be approved. RD at 151-153, 377-379; NFG Exc. at 29-32; OCA Exc. at 22-24; OCA M.B. at 106-107; OCA R.B. at 57-59

NFG argues that the RD's recommendation that NFG's customer payment transaction fees for electronic payments be eliminated should be rejected.[111] NFG argues that the OCA's recommendation was unreasonably based on transaction fees paid by NFG customers in 2025.[112] NFG further argues that a similar proposal was rejected in Philadelphia Gas Works' (PGW) 2023 rate case.[113] NFG also claims that requiring transaction fees for certain types of payments is not discriminatory service.[114]

The RD's recommendation to disallow $930,000 in recovery of customer payment transactions and to eliminate payment transaction fees is reasonable and supported by substantial record evidence.[115] NFG argues that the subsequent $930,000 O&M adjustment is improperly calculated as it is slightly less than the $930,000 in payment transaction fees paid by customers in 2025.[116] However, the $930,000 disallowance for 2025 is based on the actual transaction fees paid by NFG's customers in 2025.[117] Any other amount would not be based on the FPFTY.

NFG's argument that the OCA's recommendation to eliminate transaction fees because the OCA has not developed an accurate forecast is unreasonable.[118] These additional fees resulted in a $114,825 increase in customer transaction fees between 2024 ($815,559 in customer transaction

[111] NFG Exc. at 29-32.
[112] NFG Exc. at 30-32.
[113] NFG Exc. at 31.
[114] NFG Exc. at 32.
[115] RD at 153; OCA M.B. at 106-107; OCA R.B. at 57-59.
[116] NFG Exc. at 30-31.
[117] *Id.*
[118] NFG Exc. at 30-31.

fees) and 2025 ($930,384 in customer transaction fees).[119] NFG claims that the amount of unreasonable transaction fees may, in fact, be higher in future years once fees are eliminated.[120] However, NFG does not argue for a higher adjustment, it merely states that the OCA did not develop "an accurate forecast" of the costs required to transition to fee free payments.[121] Requiring from the OCA an accurate forecasting of future costs that are not within the control of the OCA is not only unreasonable, it is unnecessary for purposes of this rate case as the actual transaction fees paid by NFG's customers in 2025 is the basis for the OCA's recommendation and the disallowance to NFG's O&M expense.[122]

Moreover, NFG's reliance on *PGW 2023* to prevent the elimination of NFG's transaction fees is improper for NFG's customers in 2026.[123] As discussed throughout the OCA's testimony, affordability of rates coupled with high inflation is becoming a significant concern for NFG's ratepayers in 2026.[124] Eliminating payment fees helps mitigate affordability concerns.

Reply to NFG Exception No. 11: <u>The ALJ's recommendation to deny NFG's proposed adjustment to Office Employee Expense and Postage Expense is correct and should be affirmed.</u> R.D. at 158-159; NFG Exception at 33-34; OCA M.B. at 42-43; OCA R.B. at 26-27.

In its Exception, NFG argued that the RD erred in failing to account for expected growth in operating expenses.[125] NFG argued that the RD should not have adopted "flawed OCA arguments against the Company's use of a compound annual growth rate (CAGR) to project these

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[119] OCA St. 5 at 16.
[120] NFG Exc. at 31.
[121] NFG Exc. at 31.
[122] OCA St. 5 at 16.
[123] NFG Exc. at 31 *citing 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 (*PGW 2023*).
[124] OCA St. 1 at 8-11; OCA St. 4 at 15.
[125] NFG Excp. at 33-34.

expenses" and that, therefore, the RD incorrectly denies the Company proper recovery of these growing expenses and fails to provide any explanation for its reasoning.[126]

In the RD, the ALJ recommended that NFG failed to provide sufficient proof that its adjustments would lead to rates that are just and reasonable, and recommended OCA's proposed downward adjustment for Office Employee Expenses ($64,000), compound annual growth rate ($175,000), reimbursements for damage to NFG's gas lines ($156,000) and regulatory liability related to insurance settlement proceedings ($312,000 per year).[127] The RD correctly makes these adjustments to NFG's claims.

The Commission should reject NFG's use of CAGR because it is not a known and measurable approach. NFG argued that "the CAGR adjustment is not a blanket inflation adjustment but is based on the actual price increases experienced between 2023 and 2025."[128] As OCA witness Morgan testified:

> applying a compound growth rate to historical costs is not consistent with zero-based budgeting and does not produce results that are representative of the cost that would be incurred in the FPFTY because there is no correlation of planned activities for the budget year and the underlying costs used to develop the budget.[129]

Mr. Morgan used the examples of postage expenses and office equipment to demonstrate the point. Ultimately, NFG's use of an inflation escalation for projecting FPFTY expenses is inappropriate because a CAGR is not an inflation escalation rate and if NFG's intention was to capture inflation, it should just use the annual inflation rate.[130] Using an inflation escalation solely as the basis of determining the FPFTY level of expenses is inappropriate because inflationary adjustments are not

[126] NFG Excp. at 33, *quoting*, R.D. at 158-159.
[127] R.D. at 159.
[128] NFG Excp. at 34.
[129] OCA St. 2 at 16.
[130] OCA M.B. at 43, *citing*, OCA St. 2SR at 14.

known and measurable but are blanket cost increases.[131] As Mr. Morgan testified, "costs should be based upon evidence or documentation that can be identified, supported and calculated with a degree of certainty, which the inflation escalation does not do."[132] As such, the RD correctly denies NFG's claim and likewise NFG's Exception should be denied.

Reply to NFG Exception No. 12: The Commission should resolve the uncertainty in the RD. R.D. at 151-153, 220-221, 272, 377-379, 413, 415; NFG Exc. at 34-35; OCA Exc. at 13, 22-24; OCA M.B. at 10-12, 106-107; OCA R.B. at 5-7, 57-59.

In its Exception, NFG notes that the following are several inconsistencies in the RD that require clarification or correction regarding: adopting both OCA's and I&E's ROE, increasing or denying the residential customer charge, whether or not to deny recovery of costs related to customer payment transactions, and adjustments to cash working capital.[133]

The OCA agrees that there is uncertainty in the RD that the Commission should resolve:

- First, the RD clearly states that "[t]he ALJ recommends the Commission adopt OCA's recommendation for 9.74% ROE."[134] Yet, the RD also states that "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…with its calculated return on common equity of 9.81%."[135] As the RD clearly recommends that "the Commission adopt OCA's recommendation for a 9.74% ROE," the OCA agrees that the Commission should adopt the OCA's 9.74% ROE and resolve any inconsistencies.[136]

- Second, the RD recommends "the Commission scale back proportionally the revenue allocation and customer charges, based upon the cost of service study approved by the Commission."[137] However, the RD includes two ordering paragraphs that make its determination very clear in rejecting NFG's customer charge increase proposal and maintaining the current fixed residential customer charge: 6. That the request of National Fuel Gas Distribution Corporation's [sic] to increase fixed charges for Residential customers to $19.00 is denied. And 7. That the fixed charges for Residential customers shall be [sic] remain at $14.00

[131] *Id.*
[132] OCA M.B. at 43, *quoting*, OCA St. 2SR at 15.
[133] NFG Exc. at 34-35 (internal citations omitted).
[134] RD at 220.
[135] RD at 220-221.
[136] R.D. at 220.
[137] RD at 272.

monthly.[138] The fact that two ordering paragraphs reach the same conclusion that NFG's residential customer charge should not increase, the proportional scale back language contained in the RD does not affect the ALJ's determination that the residential charge should not be increased. An interpretation that the RD argued for any increase to the residential customer charge is not supported by the RD and the Commission should clarify any inconsistency.

- Third, as discussed above, the RD's recommendation to disallow $930,000 in recovery of customer payment transactions and to eliminate payment transaction fees is reasonable and supported by substantial record evidence.[139] However, the RD errs in failing to adopt that recommendation in an ordering paragraph. Moreover, as NFG correctly notes, the RD's Appendix A appears to not adopt the ALJ's recommendation to disallow payment fees.[140] As the RD recommends that the Commission disallow $930,000 in recovery of customer payment transactions and that NFG eliminate payment transaction fees, these recommendations should be included in the Commission's ordering paragraphs.

- Fourth, the OCA agrees with NFG that Table VI utilizes NFG's originally filed $7,195,000 cash working capital (CWC) claim, instead of its updated $7,130,000 CWC claim.[141]

III. CONCLUSION

Based on the foregoing and for the reasons articulated in the OCA's Main and Reply Briefs, as well as the OCA's Exceptions and Reply Exceptions, the OCA respectfully requests that the Commission deny the Exceptions of NFG and grant the OCA's Exceptions in this matter.

Respectfully submitted,

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138 RD at 415.
139 RD at 153; OCA M.B. at 106-107; OCA R.B. at 57-59.
140 App. A at iv, vii.
141 RD App A at vii.