

COMMONWEALTH OF PENNSYLVANIA



PATRICK M. CICERO
Consumer Advocate

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

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

January 26, 2023

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission
v.
National Fuel Gas Distribution Corporation
1307(f) Proceeding
Docket No. R-2023-3037428

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Formal Complaint and Public Statement in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Mackenzie C. Battle
Mackenzie C. Battle
Assistant Consumer Advocate
PA Attorney I.D. # 330879
E-Mail: MBattle@paoca.org

Enclosures:

cc: The Honorable Charles E. Rainey, Jr. (**email only:** crainey@pa.gov)
Bureau of Technical Utility Services (**email only:** pdiskin@pa.gov)
Office of Special Assistants (**email only:** ra-OSA@pa.gov)
Certificate of Service

*340120

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
v. : Docket No. R-2023-3037428
National Fuel Gas Distribution Corporation :
1307(f) Proceeding :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate’s Formal Complaint and Public Statement, 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 26th day of January 2023.

SERVICE BY E-MAIL ONLY

Carrie B. Wright, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120
carwright@pa.gov
Counsel for I&E

Steven C. Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923
sgray@pa.gov
Counsel for OSBA

Anthony D. Kanagy, Esquire
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
akanagy@postschell.com
Counsel for NFG

/s/ Mackenzie C. Battle
Mackenzie C. Battle
Assistant Consumer Advocate
PA Attorney I.D. # 330879
E-Mail: MBattle@paoca.org

Aron J. Beatty
Senior Assistant Consumer Advocate
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org

Counsel for:
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: January 26, 2023
*339436

Pennsylvania Public Utility Commission

Formal Complaint Form

1. COMPLAINANT

Patrick M. Cicero, Consumer Advocate

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Dauphin County

Phone: (717) 783-5048

Facsimile: (717) 783-7152

2. RESPONDENT

National Fuel Gas Distribution Corporation, Docket No. R-2023-3037428

3. TYPE OF UTILITY

Gas

4. COMPLAINT

A. On December 30, 2022, National Fuel Gas Distribution Corporation (NFGD or the Company) submitted its pre-filing information in support of its annual reconciliation of purchased gas cost (PGC) rates, pursuant to Sections 53.64 and 53.65 of the Commission's Rules and Regulations, 52 Pa. Code §§ 53.64-65. On January 5, 2023, NFGD supplemented this pre-filing with three additional exhibits. On or about February 1, 2023, NFGD will submit its definitive annual PGC filing to the Commission pursuant to Section 1307(f) of the Public Utility Code, 66 Pa. C.S. § 1307(f).

B. NFGD's most recent quarterly update to its PGC rate became effective on November 1, 2022. Relative to the current rate, the Company's pre-filing anticipates a decrease of \$2.8253/Mcf. This assumes that there are no further changes to the currently effective PGC rate. NFGD, however, may file quarterly updates to take effect on February 1, 2023 and May 1, 2023, respectively, as well as actual over or under recoveries of purchased gas costs through June 30, 2023.

C. NFGD provides service to residential customers in Armstrong, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Venango, and Warren counties.

D. The Public Utility Code provides that no rates of a natural gas distribution utility shall be deemed just and reasonable unless the Commission finds that the utility is

pursuing a least cost fuel procurement policy, consistent with the utility's obligation to provide safe, adequate and reliable service. 66 Pa. C.S. § 1318. The Commission must find, among other things, that the utility has: (1) fully and vigorously represented ratepayer interests before the Federal Energy Regulatory Commission; (2) taken all prudent steps to negotiate favorable gas supply contracts and to relieve its obligations under contracts that may be adverse to ratepayer interests; (3) taken all reasonable steps to obtain lower cost gas supplies; and (4) not withheld or caused to be withheld gas supplies that should have been utilized as part of a least cost fuel procurement policy. 66 Pa. C.S. § 1318(a)(1-4).

- E.** The Consumer Advocate is empowered to represent the interests of Pennsylvania consumers before the Pennsylvania Public Utility Commission (the “Commission”) pursuant to Act 1976-161 of the General Assembly, as amended, 71 Pa. Stat. Ann. §§309-1, *et seq.*
- F.** The Consumer Advocate will investigate all aspects of NFGD’s filing, including NFGD’s findings from the volatility study NFGD conducted on its Gas Cost Management Plan pursuant to the Settlement from NFGD’s 2022 PGC rate proceeding. Pa. PUC v. NFG, Docket No. R-2022-3030235, Settlement ¶ 57.
- G.** After initial review of NFGD's filing information, the Consumer Advocate files this Formal Complaint in order to ensure that the Company's proposed PGC rate is consistent with a least cost fuel procurement policy and does not result in rates or charges that are excessive, unjust or unreasonable, discriminatory or otherwise contrary to Commission Regulations or policy.

5. RELIEF

The Consumer Advocate respectfully requests that the Commission:

- A.** Hold evidentiary hearings as mandated by Section 1307(f) of the Public Utility Code;
- B.** Hold at least one public input hearing, if there is sufficient public interest in holding one;
- C.** Deny any rate or tariff changes, which are not the result of a least cost fuel procurement policy as defined by the standards set forth in Section 1318 of the Public Utility Code, 66 Pa. C.S. § 1318, and as defined by other applicable ratemaking standards;
- D.** Ensure that the Company's PGC customers are only allocated those costs that should be borne by them;
- E.** Deny any rate or tariff that is unjust, unreasonable, unduly discriminatory or contrary to sound ratemaking principles; and;

- F. Grant such other relief that the Commission may deem to be necessary, just or proper.

6. VERIFICATION

Verification:

I, Patrick M. Cicero, Consumer Advocate, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

/s/ Patrick M. Cicero
(Signature)

01/26/2023
(Date)

7. LEGAL REPRESENTATION

Aron J. Beatty, Senior Assistant Consumer Advocate, PA Bar No. 86625
Mackenzie C. Battle, Assistant Consumer Advocate, PA Bar No. 330879

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Dauphin County

Phone: (717) 783-5048
Facsimile: (717) 783-7152

E-mail: ABeatty@paoca.org
MBattle@paoca.org

**PUBLIC STATEMENT OF THE OFFICE OF CONSUMER ADVOCATE
PURSUANT TO 71 P.S. SECTION 309-4(e)**

Act 161 of the Pennsylvania General Assembly, 71 P.S. § 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Pennsylvania Public Utility Commission (Commission). In accordance with Act 161, and for the following reasons, the Consumer Advocate determined to file a Formal Complaint in the proceedings before the Commission involving the proposed rate change by National Fuel Gas Distribution Corporation (NFGD or the Company) at Docket No. R-2023-3037428.

On December 30, 2022, pursuant to Sections 53.64 and 53.65 of the Commission's Rules and Regulations, 52 Pa. Code §§ 53.64-65, NFGD submitted its pre-filing information in support of its annual reconciliation of purchased gas cost (PGC) rates. NFGD supplemented this filing with three additional exhibits on January 5, 2023. On or about February 1, 2023, NFGD will submit its definitive annual PGC filing to the Commission pursuant to Section 1307(f) of the Public Utility Code. 66 Pa. C.S. § 1307(f).

The Office of Consumer Advocate has filed this Formal Complaint to ensure that the Commission examines NFGD's PGC filing and that any implemented PGC rate is consistent with the least cost fuel procurement obligation under the Public Utility Code. A thorough analysis and review are appropriate because Section 1318 of the Public Utility Code mandates that purchased gas costs cannot be determined to be just and reasonable unless such rates result from a least cost fuel procurement policy. 66 Pa. C.S. §1318(a). The OCA will seek to ensure that only those purchased gas costs which meet the requirements of Section 1318 will be paid by NFGD's ratepayers. The OCA will also seek to ensure that the rates approved by the Commission are otherwise just and reasonable, and not unduly discriminatory or excessive.