


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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November 9, 2022

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
Docket No. R-2022-3035730

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: Office of Administrative Law Judge (**email only**)
Bureau of Technical Utility Services (**email only**)
Office of Special Assistants (**email only**: ra-OSA@pa.gov)
Certificate of Service

*337378

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
:
v. : Docket No. R-2022-3035730
:
National Fuel Gas Distribution Corporation :

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 9th day of November 2022.

SERVICE BY E-MAIL ONLY

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Dated: November 9, 2022
*337492

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Formal Complaint

1. CUSTOMER NAME (COMPLAINANT)

Patrick M. Cicero, Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Dauphin County
Phone: (717) 783-5048

2. UTILITY NAME (RESPONDENT)

National Fuel Gas Distribution Corporation – Docket No. R-2022-3035730

3. TYPE OF UTILITY

Natural Gas

4. COMPLAINT:

A. On October 28, 2022, National Fuel Gas Distribution Corporation (NFG or the Company) filed Supplement No. 248 to Tariff Gas – PA. P.U.C. No. 9 to become effective December 27, 2022. Through the tariff, the Company proposes to increase rates to produce additional annual operating revenues of \$28.1 million, or an increase of 9.2%, based on a fully projected future test year ending July 31, 2024.

B. The Company is engaged in the business of furnishing natural gas to approximately 214,000 customers in northwest Pennsylvania and 541,000 customers in Western New York. Of the 214,000 customers in Pennsylvania, approximately 197,000 are residential customers. NFG serves customers in parts of Armstrong, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Venango, Warren counties.

C. The Company is proposing to allocate \$21.8 million, or 77% of the proposed \$28.1 million increase, to the residential customer class. The Company produces this result, in part, by

increasing the residential monthly customer charge by \$6.00, from \$12.00 to \$18.00 or by 50%. The Company's allocation is based on a cost of service study methodology that is different than the methodology used in its last rate case.

D. The Company states that its proposal is driven by several factors, including a need to earn a fair return on its investments, a need to fund an accelerated infrastructure replacement program, and a need to increase wages to attract and retain skilled employees. The Company also proposes to recover \$7.7 million of other post-employment benefits (OPEB) expenses as part of its revenue increase in this proceeding.

E. The Company proposes to implement two alternative ratemaking mechanisms. The first is a Weather Normalization Adjustment (WNA), which the Company claims would stabilize revenues independent of weather variability. For bill periods that are warmer than normal, NFG would apply a surcharge to customer bills, and for bill periods that are colder than normal, NFG would apply a credit to customer bills. The second alternative ratemaking mechanism being proposed by NFG is an Energy Efficiency (EE) pilot program that would last for three years, beginning in August 2023. The program would offer residential customers rebate incentives to install high-efficiency space heating appliances in place of standard equipment. NFG estimates that the pilot program would cost \$1.2 million/year, to be collected from residential customers on an annual basis through a reconcilable rider separate from typical rates.

F. If the Company's request is approved by the Commission, the Company would also be allowed an overall rate of return of 7.94%, which includes a 11.20% return on common equity. The Company has proposed to apply this return to equity based on a proposed capital structure of 45.1% debt and 54.9% common equity.

G. The Consumer Advocate is empowered to represent the interests of consumers before the Pennsylvania Public Utility Commission (Commission), pursuant to Act 161 of the General Assembly, as amended, 71 P.S. §§ 309-1, *et seq.*

H. A preliminary examination of the Company's Supplement No. 248 to Tariff Gas – PA. P.U.C. No. 9 indicates that the Company's existing and proposed changes in rates, rules and regulations may be unjust, unreasonable, in violation of the law and will or may produce an excessive return on investment in violation of the Public Utility Code, 66 Pa. C.S. § 1301, *et seq.*

I. The Consumer Advocate also avers that the proposed tariff changes and proposed rate structure and rate design may be unlawfully discriminatory, in violation of the Public Utility Code, 66 Pa. C.S. §§ 1301 and 1304, *et seq.*, and may otherwise be contrary to sound ratemaking principles and public policy.

J. The Consumer Advocate files this Complaint to ensure that the Commission will fully and fairly adjudicate issues pertaining to whether the Company's existing and proposed rates--and any and all rate policy changes--are just and reasonable and are not unduly discriminatory or otherwise unlawful.

5. RELIEF

The Consumer Advocate respectfully requests that the Commission take the following actions:

A. Suspend and investigate the operation Supplement No. 248 to Tariff Gas – PA. P.U.C. No. 9 pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S. § 1308(d);

B. Consolidate all complaints filed against Supplement No. 248 to Tariff Gas – PA. P.U.C. No. 9;

C. Hold full evidentiary hearings examining the reasonableness of the Company's current rates and its proposed increases in rates;

D. After providing the public with adequate notice, hold public input hearings in order to provide customers with an opportunity to be heard on the record, and hold those hearings as early in the case as feasible;

E. Deny any increase or change in the Company's rates that is unjust, unreasonable, discriminatory or inconsistent with the Public Utility Code, sound ratemaking principles, and public policy;

F. Determine the justness and reasonableness of the Company's current and proposed rates and tariff; and

G. Grant such other relief it deems appropriate.

6. VERIFICATION AND SIGNATURE

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)

11/9/2022
(Date)

7. LEGAL REPRESENTATION

Aron J. Beatty, Senior Assistant Consumer Advocate, PA Bar No. 327217
Lauren Guerra, Assistant Consumer Advocate, PA Bar No. 323192
Mackenzie C. Battle, Assistant Consumer Advocate, PA Bar No. 330879
Andrew Zerby, Assistant Consumer Advocate, PA Bar No. 332222

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**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 interest 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 and participate in proceedings before the Commission involving the proposed rate increase requested by National Fuel Gas Distribution Corporation, docketed at R-2022-3035730.

The Company is engaged in the business of furnishing natural gas to over 214,000 customers in Northwestern Pennsylvania, including approximately 197,000 residential customers. NFG serves portions of Armstrong, Butler, Cameron, Clarion, Clearfield, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Venango, Warren counties. The proposed tariff, if approved, would allow the Company an increase of \$28.1 million, or 9.2%, to its annual operating revenues. The Company would also be allowed an overall rate of return of 7.94% which includes an 11.20% return on common equity. Under the Company's proposal, the total average monthly bill of a UGI Gas residential customer using 84 Cubic Feet (Ccf) per month would increase from \$99.93 to \$109.67 per month, or by 9.7%.

The Consumer Advocate files this Complaint to ensure that the rate increase and other charges and mechanisms sought by the Company are just and reasonable. The Consumer Advocate will represent the interests of NFG ratepayers before the Commission and will seek to ensure that customers are not charged rates that are unjust, unreasonable, discriminatory or otherwise contrary to law.