

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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January 26, 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  
1307(f) Proceeding  
Docket No. R-2022-3030235

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](mailto: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](mailto:ra-OSA@pa.gov))  
Certificate of Service

\*323271

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :  
v. : Docket No. R-2022-3030235  
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 26<sup>th</sup> day of January 2022.

**SERVICE BY E-MAIL ONLY**

Carrie B. Wright, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120  
[carwright@pa.gov](mailto:carwright@pa.gov)

Teresa Wagner  
Office of Small Business Advocate  
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Anthony D. Kanagy, Esquire  
Post & Schell, P.C.  
17 North Second Street  
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[akanagy@postschell.com](mailto:akanagy@postschell.com)

/s/ Mackenzie C. Battle  
Mackenzie C. Battle  
Assistant Consumer Advocate  
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Phone: (717) 783-5048  
Fax: (717) 783-7152  
Dated: January 26, 2022  
\*323281

**Pennsylvania Public Utility Commission**

**Formal Complaint Form**

**1. COMPLAINANT**

Patrick M. Cicero, Acting 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-2022-3030235

**3. TYPE OF UTILITY**

Gas

**4. COMPLAINT**

- A.** On December 30, 2021, 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 or about February 1, 2022, 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, 2021. Relative to the current rate, the Company's pre-filing anticipates a decrease of \$1.0675/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, 2022 and May 1, 2022, respectively.
- 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 cause 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.** After initial review of NFGD's filing information, the Acting 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 Acting 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, Acting 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)*

01/26/2022  
*(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, 5<sup>th</sup> Floor, Forum Place  
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Dauphin County

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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 interests of consumers before the Pennsylvania Public Utility Commission (Commission). In accordance with Act 161, and for the following reasons, the Acting Consumer Advocate determined to file a Formal Complaint and participate 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-2022-3030235.

On December 30, 2021, 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. On or about February 1, 2022, 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.