

Case 16-G-0257 Rebuttal Testimony of Kevin D. House

1 Q. Please state your name and business address.

2 A. My name is Kevin D. House. My business address is 6363 Main Street,  
3 Williamsville, New York 14221-5887.

4 Q. Are you the same Kevin House who offered testimony regarding National  
5 Fuel Gas Distribution Corporation's ("Distribution" or "the Company")  
6 Capital Budget and Leak Prone Pipe ("LPP") Replacement Program as well  
7 as testimony on the gas safety penalties imposed on the Company by New  
8 York Department of Public Service Staff ("Staff") and the New York State  
9 Public Service Commission ("Commission")?

10 A. Yes.

11 Q. What is the purpose of your rebuttal testimony?

12 A. I am providing rebuttal testimony in response to testimony filed by Staff's  
13 Policy Panel, Gas Safety Panel and Gas Rates Panel.

14 **Rebuttal to Staff Policy Panel**

15 Q. What areas of concern do you have with the Policy Panel's testimony?

16 A. I have several areas of concern related to the Panel's proposals for a net plant  
17 true up penalty mechanism, additional leak reporting requirements, methane  
18 detector deployment, gathering system odorization, and plastic fusion and  
19 qualification.

1     **1.     Staff's Net Plant True up Proposal**

2     Q.     What concerns do you have with the Policy Panel's net plant true up  
3           proposal?

4     A.     The Policy Panel states that "the Commission has established net plant true  
5           up mechanisms to protect customers from paying delivery rates that are too  
6           high because of slippage in project in-service dates or overall inflated cost  
7           estimates". Distribution does not agree that a net plant true up penalty  
8           mechanism is necessary in Distribution's case given the fact that Distribution  
9           consistently spends its capital budget as exhibited in the Company's response  
10          to UFR-83 attached as Exhibit\_\_(KDH -)2. The Gas Rates Panel recognized  
11          in their testimony regarding Distribution's historical capital spending that  
12          "without large unexpected expenditures like the increased LPP replacement  
13          target or special projects, the actual spending is close to the budget".

14    Q.     Are there any potential negative consequences that could result from the  
15           Policy Panel's net plant true up penalty mechanism proposal?

16    A.     Yes. In the Company's situation, where significant capital spending  
17           increases are being proposed by the Company to ramp up LPP replacements  
18           and system expansion, a net plant true up penalty mechanism is ill advised.  
19           Unintended negative consequences can result if Staff establishes a net plant

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1 target that does not consider the time lag in converting capital spending to  
2 plant in service, and merely establishes the target based on dividing the  
3 capital budget by twelve, to establish monthly plant additions, as was done in  
4 the Company's latest rate settlement in Case 13-G-0136. In order to meet its  
5 net plant target in Case 13-G-0136, the Company had to ramp up  
6 replacements very quickly and continue bidding as unit costs escalated  
7 significantly above historical averages. The timing of the rate settlement  
8 shifted spending in fiscal 2014 to later in the fiscal year, causing the  
9 Company to actually over commit to work in order to insure that a sufficient  
10 number of projects and spending went into service by the end of the fiscal  
11 year in order to meet its net plant true up target. The Company also had to  
12 shift a portion of its capital spending to high cost, large diameter  
13 replacements since these projects tend to increase net plant totals faster than  
14 multiple smaller projects, and also to hopefully engage a different group of  
15 contractors in an attempt to stem the tide of increasing costs on traditional  
16 replacement work.

17 Ramping up LPP replacement spending typically results in a 6-9  
18 month time lag before spending on capital projects is converted to plant in  
19 service. This time lag will be considerably longer for the Company's

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1 proposed large diameter and high pressure pipeline replacement program  
2 because the planning and construction timeline for these projects is  
3 considerably longer than traditional LPP replacements. In addition, the  
4 timing of high pressure pipeline replacements is heavily dependent on state  
5 and federal agencies issuing environmental permits for construction. Any  
6 delays in obtaining project approvals will have a significant impact on  
7 monthly average net plant totals. Therefore, the Company is opposed to a  
8 net plant penalty mechanism that could force the Company to make spending  
9 decisions that may not result in the optimal use of available capital dollars,  
10 merely to meet an ill conceived net plant target, to avoid a penalty. Such a  
11 true up penalty mechanism might be an appropriate response where a  
12 company had a record of chronic under spending of its construction budget  
13 allowed in rates. That, however, as I pointed out previously, is not the case  
14 for Distribution. In our situation, the penalty mechanism is actually a  
15 deterrent to properly managing our construction budget as it results in an  
16 inefficient allocation of resources.

17 **2. PRAs for Increased Efficiency**

18 Q. Does the Company agree with the Staff Policy Panel's proposal to increase  
19 efficiency and control costs?

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1     A.     Yes, in theory we do.  Where an incentive proposal is properly structured  
2             and voluntary, Distribution applauds Staff's concept of rewarding innovation  
3             and efficiency through positive rate adjustments ("PRA's") for controlling  
4             unit costs and for exceeding certain targets in the areas of damage prevention  
5             and leak management.  Notwithstanding the Company's currently high level  
6             of performance, Distribution welcomes the opportunity to work with Staff to  
7             develop fair and meaningful metrics that, in the appropriate circumstances,  
8             could provide an incentive (as opposed to penalties) for further  
9             improvement.  However, the Company does not agree with basing PRA's on  
10            the targets proposed by the Gas Safety Panel in the areas of leak  
11            management and damage prevention.  The Company's objections to the Gas  
12            Safety Panel targets will be addressed later in this testimony.

13                    The Company also does not agree with the Policy Panel's proposal to  
14                    require the Company to file an initial report within 90 days of the  
15                    Commission's Order in this proceeding, which ranks all existing Type 3  
16                    leaks by the volume of methane emitted, and on an annual basis, beginning  
17                    one year after that initial report, file a report detailing which leaks were  
18                    actually repaired, the costs of the repairs and which technology is being used  
19                    to quantify the emissions of individual leaks.  The Company objects to any

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1 new reporting requirements as unfunded mandates that unnecessarily  
2 increase costs and divert resources from performing and coordinating leak  
3 repairs and other safety related work. Furthermore, Staff's proposal for a one  
4 basis point PRA, inclusive of the cost to repair 500 additional leaks and  
5 including the proposed research, cost tracking of individual leak repairs, and  
6 reporting is unsubstantiated and unsound. The Company would require a  
7 minimum of several basis points of additional revenue to modify its  
8 accounting system to track the cost of individual leak repairs and several  
9 more basis points of additional revenue to research the available methane  
10 detection devices that might be suitable to quantify methane emissions,  
11 purchase the equipment and survey leaks on an ongoing basis to determine  
12 the level of methane emissions from each leak, plus submit an annual report  
13 to Staff detailing all of this information - all of this before a single leak is  
14 repaired. It would seem a better use of this money to simply repair more  
15 leaks.

16 **3. Residential Methane Detectors**

17 Q. The Policy Panel is proposing an incentive for Distribution to encourage the  
18 advancement of residential methane detectors by requiring Distribution to  
19 develop a proposal in consultation with Staff to deploy residential methane

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1 detectors within its service territory. Does Distribution have any concerns  
2 with the Policy Panel's proposal?

3 A. The Company has several concerns with the Policy Panel proposal. The  
4 Company does not believe that installing methane detectors in urban  
5 housing developments, multi-family residences and apartment buildings is  
6 the responsibility of a gas utility. Similar to existing requirements for the  
7 installation of smoke alarms required by the Residential Code of New  
8 York State, the Property Maintenance Code of New York State and the  
9 Fire Code of New York State, this responsibility should reside with the  
10 property owner. The responsibility for continued maintenance and  
11 replacement and the liability for equipment misuse or failure should also  
12 not be the responsibility of a gas utility. Gas utilities are responsible for  
13 the operation and maintenance of gas piping, including periodic leak  
14 surveys, to the outlet of the customer meter, the connection to a customer's  
15 piping, or the outside of the building foundation wall, whichever is further  
16 downstream. The Company's obligations beyond that point are generally  
17 limited to those duties set forth in 16 NYCRR Part 261, Piping Beyond the  
18 Meter, none of which remotely address the concept of utilities installing,  
19 owning, operating or maintaining residential methane detectors. The

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1 Company cannot agree to a Policy Panel proposal that could potentially  
2 result in expanding the Company's responsibilities to include monitoring  
3 for leakage on customer owned piping beyond the limited requirements of  
4 Part 261.

5 The Policy Panel proposal would also have the Company  
6 consider the installation of methane detectors to monitor Company owned  
7 indoor natural gas facilities between the building wall and the meter. It  
8 should be pointed out that the Company takes the issue of leaks on  
9 customer-owned facilities and gas appliances seriously as demonstrated by  
10 its effective Warning Tag procedures implemented in accordance with 16  
11 NYCRR 261.51 and already has programs in place to mitigate the risk of  
12 leaks from Company owned indoor piping. Over 78% of Distribution's  
13 meters are located outside of buildings and the Company has a policy to  
14 relocate existing inside meters outside at the time of service renewal. In  
15 addition, Company meter readers wear personal methane detectors to  
16 monitor for leaks around Company piping when reading meters.

17 According to the Policy Panel's testimony residential methane  
18 detectors are commercially available, however, new technologies for  
19 detecting methane are being researched and tested to improve the overall

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1 effectiveness of detectors and to eliminate a common problem of false  
2 positives, or alarms in reaction to common household chemicals, The  
3 Panel also states that methane detectors on the market today alarm at  
4 methane levels much higher than the human nose detects, and the newer  
5 technology being developed will alarm at lower levels.

6 Based on the fact that the new methane detector technology is not  
7 available yet it would seem premature to develop implementation plans  
8 until the technology has been proven under real world conditions. A  
9 large-scale implementation of an unproven new technology could be  
10 costly and may do more harm than good if problems, like those  
11 encountered with first generation detectors, start to occur down the road.  
12 The Company recommends that this initiative be reevaluated in the future,  
13 preferably on a statewide basis and not in an individual company's rate  
14 proceeding.

15 **4. Gas Gathering Line Odorization**

16 Q. In order to encourage the Company to assist in Staff's gas safety efforts to  
17 odorize any gas gathering line within 150 feet of a residence or operating at  
18 125 pounds per square inch or higher, the Staff Gas Policy and Supply Panel  
19 recommends providing the Company with an incentive for ensuring that

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1 gathering systems directly connected to the distribution system meet the  
2 appropriate standard for odorized gas. What are the Company's concerns  
3 with such an incentive?

4 A. First of all, the authority and responsibility for enforcement of regulatory  
5 requirements for odorization in gathering systems lies with the New York  
6 Department of Public Service Office of Electric, Gas and Water, and not  
7 with the downstream gas utilities. Second, Staff spends a significant amount  
8 of time auditing the Company's records and field operations, including  
9 auditing odorization records, in order to identify areas of non-compliance.  
10 Distribution respectfully submits that Staff should audit local producers in a  
11 similar fashion and implement penalty mechanisms or incentives for local  
12 producers to comply with regulatory requirements.

13 The Gas Policy and Supply Panel proposes that: the Company should  
14 file a survey of the gathering lines for all 971 meter connections identified  
15 previously with the Secretary to the Commission within 60 days of the order  
16 in this case. This survey should include the responsible entity for each meter,  
17 the status of the annual production through each meter, and the status of  
18 compliance with the rules and regulations regarding odorization of gas. The  
19 Company should also recommend a possible incentive for itself to

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1           implement this effort for odorized gas at the same time it ensures that the  
2           production facilities can remain on the distribution system, eliminating the  
3           possible threat of shutting in wells. Based on Distribution's experience in  
4           odorizing its own gathering system, this is a significant undertaking that  
5           would require a major commitment in time, money and resources to  
6           complete such a survey. The Company would most likely need to locate,  
7           survey and map producer gathering lines in order to determine areas  
8           requiring odorization, within 150' of a residence and on lines operating  
9           above 124 Psig. The Company would then need to perform periodic  
10          inspections to monitor the producers' systems for proper odorant levels. The  
11          Company could not simply monitor odorant levels at interconnections with  
12          Distribution since this would not guarantee that all of the areas requiring  
13          odorization on the producer's system are properly odorized. This effort  
14          would require Distribution to hire additional personnel to monitor and  
15          oversee such a program. It is the Company's belief that the responsibility for  
16          enforcing pipeline safety regulations is best left with regulators and should  
17          not be delegated to gas utilities. In addition, as explained in greater detail in  
18          the Rebuttal Testimony of the Company's Gas Supply Administration Panel,  
19          Staff's proposal raises numerous issues regarding the legal ability of the

1 Company to enter private property to inspect third party facilities without the  
2 landowner's or the producer's permission.

3 **5. Plastic Fusion Penalty**

4 Q. Earlier in this testimony you stated that you had concerns with the Policy  
5 Panel's proposal related to plastic fusion and qualification. What are your  
6 concerns?

7 A. The Panel proposes a penalty of \$1,680,000 arising out of Case 14-G-0212  
8 that I believe is unwarranted for a number of reasons. First, I have some  
9 concerns with the factual accuracy of the Policy Panel testimony, particularly  
10 its effort to tie a completely unrelated event in our Pennsylvania territory in  
11 2004 with the circumstances in Case 14-G-0212. At page 39 of the Policy  
12 Panel testimony related to an incident that occurred on the Company's  
13 system in Dubois, Pennsylvania in 2004, the Panel states that "Investigators  
14 determined that the electrically fused joint was poorly aligned, which  
15 indicated workmanship concerns for Distribution." The Company disputed  
16 Staff's claims which Staff has since corrected in their responses to  
17 Information Requests NFG-DPS-176 and NFG-DPS-177 attached as  
18 Exhibits\_\_( KDH-) 3 and (KDH- 4). For the record, the fusion in question  
19 was a 2" plastic butt fusion joint and investigators never indicated a

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1 workmanship issue for Distribution. Furthermore, the Company never  
2 agreed with the National Transportation Safety Board's ("NTSB") finding of  
3 probable cause in the incident and contends that the probable cause was a  
4 third-party excavation that undermined and placed an undue bending stress  
5 on a butt fusion joint causing a failure in the pipe adjacent to the butt fusion  
6 joint. See attached Exhibits \_\_ ( KDH- 5) and ( KDH-6). Moreover, Staff's  
7 attempt to tie the two incidents is entirely misplaced. The issue in Case 14-  
8 G-0212 arose because there was an apparent lapse in the Company's fusion  
9 qualification program that omitted destructive testing of specimen joints  
10 between 2011 and 2014. The Dubois, PA incident occurred in 2004 and the  
11 NTSB neither identified training lapses nor even mentioned destructive  
12 testing. Furthermore, the 2004 incident occurred well before the training  
13 lapse apparently began in 2011. The incidents simply are not even remotely  
14 connected. Nor, as I mentioned, does the Company believe the NTSB report  
15 is accurate.

16 Q. Do you agree with the Policy Panel's proposed penalty of \$1,680,000?

17 A. No. The Panel is proposing a penalty based on their assertion that  
18 Distribution's customers were put in added safety risk because the Company  
19 was out of compliance with its training procedures. The Company contends

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1 that the Panel's claim in this regard is totally unfounded and not supported  
2 by the facts. In fact, Distribution took prompt action to eliminate any  
3 potential risk that may have resulted from the lapse in its qualification  
4 program, as follows:

5 1.) In response to the Commission Order in Case 14-G-0212,  
6 issued on June 27, 2014, Distribution promptly performed an evaluation of  
7 its plastic fusion qualification program and discovered a lapse that omitted  
8 destructive testing of specimen fusions. Upon discovering the lapse,  
9 Distribution immediately notified Staff, on June 30, 2014, that it had  
10 stopped work on all plastic fusions and that it was commencing an effort  
11 to requalify its employees and contractors with destructive testing. The  
12 Company would point out that its employees have always been trained and  
13 qualified on an annual basis to perform plastic fusions, including during  
14 the time when destructive testing was omitted from the Company's  
15 program.

16 2.) Due to the fact that the Company maintained detailed records  
17 on the location and joiner of plastic fusions in its system, a practice that it  
18 began in 2006 following the Dubois incident, the Company was able to

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1 identify the location of plastic fusions that were performed by individuals  
2 who were not properly qualified or who failed a requalification test.

3 3.) Distribution filed a comprehensive remediation plan and  
4 completed a risk assessment as required in Case 14-G-0212. The Gas Safety  
5 Panel in their testimony stated that "Distribution's risk assessment plan  
6 consisted of targeted fusion inspections, random fusion inspections, normal  
7 course of business fusion inspections, destructive testing of fusions, and  
8 quarterly leak surveys." The Gas Safety Panel also stated that "Distribution  
9 inspected 644 fusions and performed 129 destructive tests, all of which  
10 passed. Leak surveys of over 763 miles were conducted to address the risk  
11 from the period of noncompliance." When asked to describe Distribution's  
12 performance in addressing the noncompliance, the Gas Safety Panel stated  
13 "Distribution took immediate action to address the noncompliance, fully  
14 assessed the risk posed by the noncompliance, took timely actions to  
15 mitigate possible risk during its assessment, and promptly eliminated or  
16 remediated every noncompliant plastic fusion found. To highlight  
17 Distribution's commitment to addressing the noncompliance, we note that  
18 316 inspections and 83 destructive tests of the inspections and tests  
19 performed were a result of Distribution following up on the results of one

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1 targeted fusion inspection".

2 4.) The Gas Safety Panel estimated that 31,500 fusions were  
3 performed by under-qualified persons during the period 2011 through 2014.  
4 A review of Company leak records, however, cannot find any reports of  
5 leaking fusions that were installed during this period.

6 5.) The Company has had in place since 2006 a program for the  
7 inspection of butt fusions by a second qualified individual and a  
8 comprehensive plastic fusion inspection and remediation program that  
9 requires a remediation plan for any projects where a visually questionable or  
10 leaking fusion is discovered during normal operation and maintenance  
11 activities.

12 6.) Since discovering the lapse in its fusion qualification procedures  
13 the Company has not only corrected the lapse but has significantly improved  
14 its plastic fusion training and qualification program and its plastic fusion  
15 joining and inspection procedures.

16 Distribution has fully cooperated with Staff in complying with the  
17 Commission Orders in Case 14-G-0212 and has demonstrated through  
18 inspections and remediation that its customers are not at risk as a result of a  
19 lapse in its qualification procedures that omitted destructive testing for a

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1 period of time. Based on the facts, the Policy Panel's proposed penalty is  
2 unwarranted.

3 Q. Do you have any other concerns with the Staff Policy Panel proposed  
4 penalty of \$1,680,000?

5 A. Yes. Aside from the fact that the penalty is unwarranted, the Company does  
6 not agree with Policy Panel calculation of its proposed penalty. The Panel  
7 based their penalty on the penalty mechanism in the Company's Gas Safety  
8 Violation Metric established in the joint proposal in Case 13-G-0136, for a  
9 violation of 16 NYCRR §255.603(d). The Panel calculated their proposed  
10 penalty by applying a 1/2 basis point penalty (\$28,000) capped at a  
11 maximum of 15 occurrences per year, over the four year period 2011-2014  
12 when destructive testing was omitted from the Company's qualification  
13 program ( $\$28,000 \times 15 \times 4 = \$1,680,000$ ). See the Policy Panel response to  
14 Information Request NFG-DPS-178 attached as Exhibit\_\_( KDH- 7).

15 As stated previously, the Company does not agree to the Policy Panel  
16 proposed penalty, however, the Company would point out that a penalty  
17 under the Company's Gas Safety Violation Metric established in the Joint  
18 Proposal in Case 13-G-0136 can only be applied beginning in 2014 when the  
19 Company, also, in fact, corrected the lapse in its qualification program.

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1           Therefore there should be no penalty under this mechanism. There is  
2           certainly no arguable basis for a penalty in 2011-2013 because the penalty  
3           for regulatory non-compliance was not in effect in those years.<sup>1</sup>  
4           Furthermore, if a penalty can be assessed for a procedural violation under 16  
5           NYCRR §255.603(d), in 2014, then there would only be one occurrence of  
6           a violation resulting in a 1/2 basis point penalty.

7    Q.     Are there any other penalties that have been proposed by Staff as a result of  
8           Case14-G-0212?

9    A.     Yes, the Gas Safety Panel has proposed that the Company be prohibited  
10           from recovering any costs associated with Case 14-G-0212 from ratepayers  
11           and that any such costs be normalized out of the historical period.

12   Q.     Does the Company agree with the Gas Safety Panel proposal?

13   A.     The Company agrees that its ratepayers should not bear the cost for the  
14           Company to identify and correct any deficiencies arising out of its lapse in  
15           destructive testing. The Company supports the Gas Safety Panel position  
16           that the remediation costs be absorbed by Distribution in the interest of  
17           fairness to our customers. We do not agree, however, that it is appropriate

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<sup>1</sup> The Commission Order in Case 07-G-0141 directed the Company to comply with the Safety Metrics recommended by Staff. Those metrics did not include a regulatory compliance metric. The metrics were replaced by those adopted in the JP in Case 13-G-0136, which were effective only for years commencing in 2014.

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1 for the Company to be double penalized as proposed by the Policy Panel,  
2 with both the remediation costs having to be absorbed by the Company and  
3 an additional penalty being imposed on top of that.

4 Q. Do you have any additional concerns with the Policy Panel's testimony

5 A. Not at this time.

6 **Rebuttal to Staff Gas Safety Panel**

7 Q. What are your comments or areas of concern with respect to the Staff Gas  
8 Safety Panel testimony?

9 A. I have several comments and concerns related to the Gas Safety Panel's  
10 proposals in the areas of Infrastructure Enhancement, Leak Management,  
11 Damage Prevention, Emergency Response, Non-Compliance with Pipeline  
12 Safety Regulations, Integrity Management, Inactive Accounts and Annual  
13 Reporting.

14 **1. Infrastructure Enhancement**

15 Q. What are the Company's comments and concerns with the Gas Safety  
16 Panel's proposals for Infrastructure Enhancement?

17 A. First of all, I would like to comment on a statement in the Gas Safety Panel  
18 testimony on page 12, which states that " Typically, the Company only  
19 proactively removes and replaces pipe, beyond the requirements of the

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1 pipeline safety regulations found in 16 NYCRR Part 255, because of  
2 significant customer complaints, or as a result of municipal or state  
3 construction projects." This statement is incorrect and does not accurately  
4 portray the Company's aggressive and long standing pipeline replacement  
5 program. The Company's "Systematic Replacement" program began in  
6 1995 and has resulted in the replacement of 2,061 miles or 51% of the  
7 Company's leak prone bare, cast iron and wrought iron mains and 103,348 or  
8 68%, of the Company's bare steel services, since that time. The Company's  
9 "Systematic Replacement" program is described in detail in the Company's  
10 response to Utility Filing Requirement ("UFR") Question 84, Attachment C,  
11 attached as Exhibit\_\_( KDH-8).

12 Q. In its rate request, Distribution is proposing to ramp up its already aggressive  
13 LPP replacement program to 100 miles in 2017 and 110 miles in 2018,  
14 including 5 miles of large diameter and high pressure LPP replacement. Has  
15 the Gas Safety Panel proposed any penalties if Distribution fails to meet  
16 these targets?

17 A. Yes, the Panel has proposed an annual penalty of 8 basis points if  
18 Distribution fails to meet its LPP replacement targets. In 2017, Distribution  
19 would be subject to an 8 basis point penalty for failure to replace 100 miles

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1 of LPP. Each year thereafter Distribution would be subject to a 6 basis  
2 point penalty for failure to replace 105 miles of LPP and a 2 basis point  
3 penalty for failure to replace 5 miles of larger diameter and high pressure  
4 LPP pipe. The Panel is also recommending that the Commission should  
5 require the Company to replace leak prone services in conjunction with the  
6 associated mains. As the Company replaces the mains and services, it  
7 should also be required to install meters in a readily accessible location,  
8 preferably located outside and protected from corrosion and other damage.

9 Q. Does Distribution agree with the Gas Safety Panel's proposal for an LPP  
10 replacement penalty mechanism?

11 A. No, Distribution is opposed to any such penalty mechanism and we are  
12 certainly opposed to a penalty mechanism with an "all or nothing" approach  
13 as proposed by Staff. Under Staff's proposal, Distribution would have to pay  
14 the same 8 basis point penalty for failing to meet its LPP replacement target  
15 by 1/2 mile as by 20 miles. Staff's proposal has no gradation of the penalty  
16 amount and no flexibility to allow the Company to make up a mileage  
17 shortfall in the following year. The problem with a penalty mechanism of  
18 this nature is that it may have unintended consequences of creating an  
19 incentive for the Company to make decisions that may not be in the best

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1 interest of the rate payers, such as potentially overpaying for pipe  
2 replacements in order to avoid a penalty. A penalty mechanism should never  
3 be so severe, or structured in a way that it could force an individual to  
4 prioritize work with the knowledge that selecting one project over another  
5 could result in a penalty for the Company. Distribution has consistently met  
6 or exceeded its LPP replacement targets in the past and therefore a penalty  
7 mechanism is unwarranted. The Company has committed to ramping up its  
8 LPP replacement program and we believe that we can do it in a way that will  
9 improve safety and reliability in a cost effective manner, however,  
10 introducing a penalty mechanism will bring other factors into the decision  
11 making process.

12 Q. Do you have any concerns with the Gas Safety Panel's proposals for  
13 replacing service lines and relocating meters outside?

14 A. No. The Company has been diligently upgrading services and relocating  
15 meters outside in conjunction with main replacements for many years  
16 without a Commission order.

17 Q. Does the Company have any concerns with the new reporting requirements  
18 proposed by the Gas Safety Panel related to LPP replacements?

19 A. Yes. The Panel is recommending that Distribution submit a quarterly report

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1 to the Secretary of the Commission detailing its leak prone pipe replacement  
2 progress. The recommendation requires that the report should include  
3 material type, mileage, project location, rank of the segment replaced at the  
4 time of replacement using the risk based model, project cost, and include a  
5 forecast of the scheduled leak prone pipe replacement projects and their rank  
6 on risk based replacement model for the upcoming quarter, at a minimum.  
7 Staff further recommends that the report should also be required to include a  
8 reconciliation of proposed replacements versus what was actually replaced  
9 and that the Company should be required to submit these quarterly reports no  
10 later than thirty days after the end of the quarterly reporting periods ending  
11 March 31st, June 30th, September 30th, and December 31st.

12 These added reporting requirements are burdensome and wholly  
13 unwarranted. First of all, the Company does not currently have a computer  
14 system that is capable of supporting this added reporting requirement. To  
15 create this report will either require a new system designed to pull this  
16 information from various other reporting systems and manual reports, or the  
17 Company will need to add staff to manually maintain the data and create the  
18 reports. A new system will need to be flexible to accommodate the changing  
19 nature of reporting requirements in each new rate case or rate settlement.

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1 Second, in the absence of standardized reporting for all New York utilities,  
2 the Company does not believe that Staff or the Company will use these  
3 reports in any meaningful way other than to check the box that we have  
4 completed a mandated requirement each quarter. The Company has been  
5 able to maintain its LPP replacement program, meeting replacement targets,  
6 and reducing leak rates and outstanding leaks, using our existing systems and  
7 internal reports. We already submit semi-annual reports to Staff on the  
8 status of our LPP replacements, as required under the joint proposal in Case  
9 13-G-0136. Therefore, we do not believe that this significant new reporting  
10 requirement is warranted or cost effective.

11 **2. Leak Management**

12 Q. What are the Company's comments and concerns with the Gas Safety  
13 Panel's proposals for Leak Management?

14 A. The Company does not agree with the total leak backlog target established  
15 by the Gas Safety Panel. Over the past four years Distribution has been able  
16 to reduce its total year end leak backlog by nearly 55% to a total of 2,066  
17 leaks at year end 2015, based on the year-end Statewide Performance  
18 Measure report to Staff, exceeding the Company's latest rate settlement  
19 target of 3,500 leaks by a considerable margin. These reductions have been

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1 achieved through our continued commitment to the Company's LPP  
2 replacement program and a considerable allocation in Company employee  
3 resources and O&M spending on leak repairs. The Gas Safety Panel is now  
4 proposing a NRA if the Company does not achieve another 22% reduction to  
5 1,600 total leaks in 2017, essentially penalizing the Company for its good  
6 past performance. The overly aggressive target proposed by the Panel,  
7 which is based on the Company's excellent past performance, now puts the  
8 Company at risk for a Panel proposed 4 basis point penalty. Distribution  
9 would have been better off, from a potential penalty standpoint, stopping  
10 leak repairs when it reached its previously established rate case backlog  
11 target of 3,500 leaks. This point highlights why penalty mechanisms  
12 establish a disincentive for significantly exceeding targets in the future.

13 Q. If Staff prevails in establishing a penalty mechanism, how would  
14 Distribution reach Staff's proposed target?

15 A. This is a good question. The Staff Policy Panel is under the impression that  
16 Distribution can achieve this 22% reduction in total leak backlog in 2017 as  
17 a result of its modest 5% increase in LPP replacements and, therefore, Staff  
18 has not allowed any additional funding for this initiative. Staff's position is  
19 highlighted in their response to Information Request NFG-DPS-170,

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1 attached as Exhibit\_\_( KDH- 9). Contrary to Staff's opinion, the Company  
2 can only achieve a limited number of leak repairs and leak reductions  
3 through its LPP replacement program. In 2015 the Company only repaired  
4 1,027 leaks or 23% of its total leak repairs through LPP pipeline replacement  
5 or abandonment. All things being equal, the Company's proposed increase  
6 in LPP replacements may possibly result in an estimated reduction of 54  
7 leaks. The remaining reduction of 412 leaks will need to come at the  
8 expense of reducing other safety related work or through additional funding  
9 – funding that has not been recognized by Staff.

10 Q. Does the Company have any other concerns with the Gas Safety Panel's leak  
11 backlog penalty mechanism or targets?

12 A. Yes. The Panel has proposed an 8 basis point penalty if the Company fails  
13 to meet a repairable leak backlog of 25 leaks at year-end. Distribution is  
14 proud of the fact that we were able to reduce our year-end repairable leak  
15 backlog in 2014 to one leak and in 2015 to zero leaks. Distribution plans to  
16 continue to strive for a zero year-end repairable leak backlog, however, we  
17 recognize that there may be circumstances beyond the Company's control  
18 such as an early frost at the end of the year or a natural disaster such as  
19 flooding or an earthquake, that could result in a significant number of new

1 leaks, that could prevent the Company from reaching the Panel proposed  
2 target. In the past, Staff has said that they would make allowances for a  
3 significant event, however, there is nothing guaranteeing that in the Panel's  
4 proposal and therefore the Company cannot agree to the Panel's proposed  
5 penalty mechanism. Another area of concern for the Company is that there  
6 is no penalty gradation in the Panel's proposal. The Company would be  
7 subject to the full 4 or 8 basis point penalty by missing the proposed targets  
8 by one leak or by 100 leaks, thus evidencing a lack of proportionality.

9 In light of the inherent problems with a leak backlog penalty  
10 mechanism discussed above, the Company would encourage Staff to  
11 eliminate their proposed NRA for leak backlog in favor of a PRA as  
12 proposed by the Policy Panel although beginning with a more reasonable  
13 total leak backlog target of 1,800 leaks for a PRA.

14 **3. Damage Prevention**

15 Q. What are the Company's comments and concerns with the Gas Safety  
16 Panel's proposals for Damage Prevention?

17 A. The Gas Safety Panel is recommending that Distribution be required to  
18 maintain the 2015 statewide averages of 0.42 for damages due to  
19 mismarks, 0.09 for damages due to Company and Company contractors,

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1 and 1.87 in total. In the area of total damages the Panel is recommending  
2 that a three year approach be implemented to allow the Company to  
3 progressively work towards the 1.87 level. The targets for total damages  
4 proposed by the Panel are shown in the following table along with  
5 Distribution's most recent performance for comparison.

6

Damage Prevention Metric	Actual Company Results Damages/1000 Tickets			Panel Proposed Targets Damages/1000 Tickets		
	2015	2016 YTD Old Guidelines	2016 YTD New Guidelines	2017	2018	2019
Mismarks	.23	.18	.18	.42	.42	.42
Company	.02	.01	.01	.09	.09	.09
Total	2.20	<b>2.01</b>	<b>2.50</b>	2.17	2.02	1.87

7  
8  
9  
10

11 The Panel has also proposed that Distribution's reporting of Company  
12 performance on these measures be in compliance with the most recent Gas  
13 Safety guidance letter dated December 11, 2015, issued by the Deputy  
14 Director of the Office of Electric, Gas, and Water.

15 Q. Does Distribution have any concerns with the targets established by the  
16 Gas Safety Panel?

17 A. Aside from the fact that I am advised by counsel that imposition of such  
18 penalty mechanisms are beyond the Commission's power, in practical  
19 terms, Distribution does not have any concerns with the targets proposed

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1 by the Panel for mismark damages and Company and Company contractor  
2 damages because the Company already meets or exceeds the performance  
3 targets proposed by the Panel and these metrics are unchanged by Staff  
4 Gas Safety reporting guidance issued December 11, 2015.<sup>2</sup> Distribution  
5 does not agree with the targets established for total damages since this  
6 metric has been significantly changed by Staff's new reporting guidance.  
7 Reporting guidance that was previously in place for 2015 Performance  
8 Measure reporting excluded hand digging damages and homeowner  
9 damages, when there was no locate request. These damages are now  
10 included under the new reporting guidance. The impact of this change is  
11 significant as highlighted by the difference in the Company's 2016 YTD  
12 total damage performance using both the new and old reporting guidance  
13 (2.50 vs. 2.01) as shown in red in the table above. The new reporting  
14 guidance results in the Company including 30 additional damages YTD  
15 (168 vs. 135) in calculating its performance. Based on the new reporting  
16 guidance it is improper for the Gas Safety Panel to establish targets for the  
17 Company based on the 2015 statewide average performance which was

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<sup>2</sup> I am also advised by counsel, however, that the Company rejects the notion that compliance standards can lawfully be established in guidance documents, rather than in notice and comment rulemaking proceedings in keeping with the State Administrative Procedure Act.

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1 reported using old reporting guidance and which would now be higher  
2 simply based on the reporting differences.

3 Q. Does the Company have any concerns with the damage prevention  
4 penalties proposed by the Gas Safety Panel?

5 A. Yes. The Panel is recommending that Distribution be subject to a negative  
6 revenue adjustment totaling 18 basis points should the Company fail to  
7 achieve the recommended damage prevention targets. Specifically, the  
8 Panel is recommending penalties of 7 basis points for damages due to  
9 mismarks, 7 for damages due to Company and Company contractors, and  
10 4 for total damages.

11 Consistent with the Company's previous testimony, Distribution is  
12 opposed to any penalties associated with gas safety performance measures  
13 for the same reasons as outlined previously. In addition, damages caused  
14 by excavator error and no call damages are not within the Company's  
15 control and the Company's ability to influence excavators is limited.  
16 Therefore a penalty associated with total damages is completely  
17 unwarranted. With that said, Distribution is not opposed to Staff setting  
18 goals and expectations for Company performance that are reinforced with  
19 PRA's as proposed by the Staff Policy Panel which is recommending a

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1 new positive incentive of 4 basis points should the Company be able to  
2 maintain fewer than 1.50 damages per 1,000 one-call tickets in a given  
3 calendar year.

4 Q. Do you agree with the Gas Policy Panel target for earning the proposed  
5 PRA?

6 A. No, the Panel's target is too aggressive to be meaningful, especially given  
7 the impact of new reporting guidance on total damage performance levels.  
8 Based on the new guidance, Distribution would recommend a target  
9 starting at 2.40 for a PRA of 1 basis point, 2.30 for 2 basis points, 2.20 for  
10 3 basis points and 2.10 for 4 basis points.

11 Q. Do you have any other comments in the area of damage prevention?

12 A. Yes. The Gas Safety Panel stated in their testimony that the Company can  
13 minimize damages caused by no-calls and excavator error by influencing  
14 excavator activity through education and outreach efforts to excavators, by  
15 continuing to bill excavators for repair costs when the excavator is at fault,  
16 and by referring problem contractors to Department Staff for enforcement  
17 purposes. In addition, the Panel contends that Distribution should consider  
18 developing best practices, in conjunction with other companies affiliated  
19 with the Northeast Gas Association and/or other trade associations.

1           Based on Panel’s testimony, someone could conclude that the  
2           Company does not already take these steps to minimize damages. In fact  
3           the Company takes all of these steps and more as highlighted in the  
4           Company's response to Staff's Annual Performance Measure Report to the  
5           Commission, that is attached as Exhibit\_\_( KDH-10).

6   **4.   Emergency Response**

7   Q.   What are the Company's comments and concerns with the Gas Safety Panel  
8       proposals for Emergency Response?

9   A.   Distribution is opposed to any penalties associated with the Company's  
10       failure to meet the Panel proposed emergency response targets. Distribution  
11       has been a leader in statewide performance in emergency response for many  
12       years. The Company continually evaluates its performance and makes  
13       adjustments as needed to ensure that we respond to all emergency calls in the  
14       shortest time possible. We adjust staffing levels on various shifts to better  
15       respond to emergency calls and we work to remove any and all impediments  
16       that could potentially slow down a first responder. It is the Company's firm  
17       belief that the most hazardous condition is the unknown condition, so we  
18       strive to respond to any emergency situation in the least amount of time.  
19       Despite the Company's excellent performance in this area, we recognize that

1           there may be circumstances beyond the Company's control, such as a natural  
2           disaster or severe weather event, that could prevent the Company from  
3           meeting the Panel's proposed targets. In the past Staff has said that they  
4           would make allowances for a significant event, however, there is nothing  
5           guaranteeing that in the Panel proposal and therefore the Company cannot  
6           agree to the Panel's proposed penalty mechanism. Regardless, the Company  
7           will continue to strive for a high level of performance in this area, as the  
8           Company strongly believes that a rapid emergency response coupled with a  
9           thorough investigation is essential to operating a safe system.

10   **5. Non-Compliance With Pipeline Safety Regulations**

11   Q.    What are the Company's comments and concerns with the Gas Safety Panel  
12        proposals for Non-Compliance With Pipeline Safety Regulations?

13   A.    The Company has several comments and concerns in this area, however, I  
14        will begin by affirming that Distribution's first priority is to ensure the safety  
15        of our customers and the communities we serve. To that end, we support a  
16        comprehensive approach to gas safety, as reinforced by the field and records  
17        audits conducted by Staff. The Company takes Staff's findings in such  
18        audits very seriously, and we immediately implement corrective action to  
19        rectify any instances of non-compliance and to prevent a reoccurrence in the

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1 future. Staff's findings are also used to enhance our training and quality  
2 assurance programs.

3 In their testimony, the Panel states that they do not find  
4 Distribution's compliance performance acceptable and that "any number of  
5 violations can indicate a lack of the Company control, an issue with internal  
6 quality assurance, or a Company culture that is willing to accept a level of  
7 non-compliance with the regulations". The Company assures the Panel that  
8 the Company suffers no "lack of control," maintains a vigorous program for  
9 quality assurance, and has a proactive culture of safety compliance that  
10 begins at the top and is integral to the Company's operations, planning and  
11 resource deployment. Distribution categorically denies any such assertion  
12 that the Company has a culture willing to accept non-compliances. To the  
13 contrary, the Company's culture is one that is not willing to accept any level  
14 of non-compliance.

15 The Company has taken many proactive steps to reduce the  
16 possibility of violations such as beginning an initiative to replace its  
17 mainframe based Pipeline Facilities Inspection system and hardcopy  
18 inspection records with a new system that will accommodate electronic field  
19 data collection that should significantly help reduce human error. In the

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1           meantime, the Company has established many new manual reviews to act as  
2           safety nets to catch and correct any human errors that could negatively affect  
3           our compliance. While these reviews require additional resources to  
4           complete, the fact that we are performing them now exemplifies  
5           Distribution's commitment to safety and compliance.

6    Q.    In their testimony, the Panel states that "on average, from 2010 through  
7           2014, Staff has cited Distribution for 36.6 high risk and 8.4 other risk  
8           violations of the minimum pipeline safety regulations". Does the Company  
9           agree with the number of violations cited by the Panel?

10   A.   No, we do not. The Company questioned the Panel on the development of  
11           the number of violations to which the Panel affirmed in their response to  
12           Information Request NFG-DPS-130, attached as Exhibit\_( KDH-11), that  
13           "The data as reported within Appendices G, and H of the 2015 Gas Safety  
14           Performance Measures Report, Case 16-G-0254, were extrapolated from  
15           the record and field audit compliance letters". At the conclusion of each  
16           audit, Staff issues record and field audit compliance letters to which the  
17           Company is given 30 days to respond outlining any actions the Company  
18           will take or has taken to prevent similar violations from occurring in the  
19           future. The Company's responses to Staff's compliance letters during the

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1 period 2010 through 2014 disputed many of Staff's alleged violations,  
2 however, there is no evidence that Staff considered the Company's  
3 objections in the number of reported violations in the 2015 Gas Safety  
4 Performance Measures Report. Therefore the number of violations  
5 reported by Staff in the 2015 Gas Safety Performance Measures Report  
6 and in their testimony are actually only alleged violations that have not  
7 considered the Company's objections and that have not been subject to any  
8 formal dispute process other than a post-audit compliance meeting with  
9 local Staff.

10 Q. What are some of the reasons that the Company has for disputing violations  
11 identified by Staff?

12 A. Each alleged violation has its own set of unique circumstances that need to  
13 be evaluated to determine if the Company's actions violated a regulatory  
14 requirement. Many regulatory requirements are general in nature and  
15 therefore they require the Company to develop specific procedures to meet  
16 the intent or meaning of the regulation. The majority of the reasons for  
17 disputes can be categorized in a few primary areas.

18 1.) Over-counting: Staff often times will cite several violations  
19 stemming from a single infraction. One example of this would be a situation

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1 where a Company gas mechanic reinvestigates a leak and when sampling the  
2 area for gas readings the gas mechanic fails to recognize that the new  
3 readings require an upgrade to the leak classification to a higher grade. This  
4 would result in a violation, if discovered by Staff during a records audit. In  
5 this situation, however, Staff will typically document several violations since  
6 an upgraded leak would then be subject to more frequent surveillance and a  
7 shorter mandated time frame for repair. In the case of leak management, the  
8 Company has procedures that have the same requirements for classification,  
9 surveillance and repair, as the regulatory language in 16 NYCRR Part 255.  
10 Therefore the Company may also be cited for procedure violations for  
11 classification, surveillance and repair, resulting in a minimum of six  
12 violations for a single infraction. If more than one surveillance frequency  
13 would have been missed at the higher classification, or if the higher graded  
14 leak required a recheck after repair, then there could be eight or more alleged  
15 violations stemming from a single infraction. In many cases, an infraction of  
16 a regulation results in two violations, one for the regulation and one for a  
17 violation of a Company procedure that implements that regulation.

18 2.) Interpretation: As mentioned before, many regulatory  
19 requirements are general in nature and therefore subject to interpretation as

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1 to whether or not the Company's actions met the intent of the regulatory  
2 requirement.

3 3.) Incorrect or Missing Documentation: Almost every action taken  
4 by the Company requires documentation. During the course of an audit,  
5 Staff may discover a record that is missing information or that has incorrect  
6 information. Disputes in this area generally arise when Company personnel  
7 have taken the appropriate action for compliance, but did not document the  
8 action correctly or completely.

9 4.) Interpretation of Company Procedures: Disputes will sometimes  
10 occur when Staff inspectors have a different interpretation of a Company  
11 procedure than the Company does. These situations are especially  
12 frustrating for the Company when the Company's procedures exceed the  
13 regulatory requirement. These types of violations can create a disincentive  
14 for the Company to adopt procedures that go beyond regulatory  
15 requirements even though they may result in a greater margin of safety.

16 Q. Does the Company have any concerns with Staff's consistency in conducting  
17 audits or determining violations?

18 A. Yes. The Company has concerns with the consistency of the audit process  
19 from year to year, and also, now that Staff is reporting audit statistics in their

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1 Annual Gas Performance Measures Report, we are concerned with the  
2 consistency of audits from company to company since comparisons will  
3 certainly be made in the future.

4           Regarding the consistency of Staff's audits from year to year, in the  
5 Panel's testimony, at page 40, the Panel states "*Historically* [emphasis  
6 added], audit letters outlined findings that note a violation of a specific  
7 requirement, and then associated it with the total number of occurrences  
8 found. The term violation is commonly referred to in discussions and is  
9 widely understood within the pipeline industry. Thus, for the purpose of this  
10 non-compliance measure, there is no difference between a violation and an  
11 occurrence. These words are and can be used interchangeably. Staff  
12 considers both terms as an instance of non-compliance with the  
13 Commission's pipeline safety regulations". The Company is concerned that  
14 Staff has adopted the use of the term "occurrences" in a fashion that  
15 increases the total number of violations cited that are subject to an NRA.  
16 The Company has raised its concern with Staff on several occasions,  
17 including in letters dated February 14, 2014 and November 20, 2015. To  
18 reiterate the Company's position shared with Staff, Distribution entered into  
19 the Joint Proposal in Case 13-G-0136, the terms of which were adopted in

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1 the Commission's Order dated May 8, 2014, with the understanding – and  
2 reasonable expectation – that future audits would be conducted using the  
3 same terms, interpretations and practices of prior Staff audits. The Company  
4 believes Staff's current approach to be different from Staff's historical  
5 approach, which was also the approach relied on when Distribution entered  
6 into the Gas Safety Violations Metric in the Joint Proposal.

7 With regard to the consistency of audits from utility to utility,  
8 Appendices G and H of the 2015 Gas Safety Performance Measures  
9 Report, (the relevant pages of which are attached as Exhibit\_\_( KDH-12),  
10 compare the number of violations for the major NY utilities along with the  
11 number of Operating Headquarters ("OHQ"). The number of OHQ's vary  
12 by company, but they do not appear to be proportionate with the size or  
13 complexity of their systems. Figure #12, in the same report, shows a  
14 graphical representation of historical violations by utility normalized by  
15 the number of OHQ's for each utility, a metric where the Company clearly  
16 has the lowest non-compliance rate in the state. In Information Request  
17 NFG-DPS-134, attached as Exhibit\_\_( KDH-13), the Panel states that,  
18 "Staff conducts record and field audits annually for each operating  
19 headquarter found within an LDC. The sampling of records is determined

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1 by the specific regulations to be audited in a given calendar year, the  
2 population size within each operating headquarter of the regulations to be  
3 audited. Sample sizes are selected so that the audit results have a 95%  
4 confidence level with a 15% confidence interval." Given Staff's response,  
5 it appears that companies with more OHQ's would have a larger number  
6 of records sampled and therefore potentially a larger number of alleged  
7 violations identified by Staff. This methodology of sampling clearly  
8 discriminates against companies with more OHQ's.

9 Finally, the Company is not aware that Staff has procedures for  
10 conducting their audits in order to insure consistency from office to office  
11 and among inspectors in the same office. To be valid, a statistical sample  
12 should audit a random sample of records. The Company understands that  
13 Staff can audit the Company's records as they deem necessary to insure  
14 safety, however, to insure consistency in applying penalties under a  
15 performance measure, Staff should follow a strict set of rules when  
16 conducting their audits by selecting their sample in advance from a list of  
17 available records, and selecting only the number of records required for a  
18 95% confidence level with a 15% confidence interval.

19 Q. Does the Company have any comments or concerns with how Staff has

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1 assigned risk to the various code sections for the purpose of assessing  
2 penalties?

3 A. Yes. The Company believes that Staff's methodology for designating "high  
4 risk" and "other risk" code sections is too simplistic and does not accurately  
5 assess risk. It does not make sense that missing an annual valve inspection  
6 by one day is deemed a "high risk" violation. For instance, was the system  
7 really any safer if the valve had been inspected the day before? How is  
8 completing a follow-up inspection after repair of a type 2 leak 13 days after  
9 repair vs. the code required 14 days a high risk violation? If there were no  
10 readings on day 13 then it is highly unlikely that there will be readings on  
11 day 14. If there are readings on day 13, then a new leak report would be  
12 filled out, arguably actually making the system safer than if visited on day  
13 14. Staff should reconsider their methodology for assessing the risk of a  
14 violation and consider assigning risk on a case by case basis relative to the  
15 circumstances. As it is, save for Staff's claim that the risk designations were  
16 devised by Staff's "subject matter experts" who were trained in PHMSA  
17 procedures, there is simply no way to ascertain how risk was assigned to a  
18 particular violation of a code section. Moreover, the regulations in Part 255  
19 are not denoted for risk and I am unaware of any such designation by

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1 PHMSA.

2 Q. Based on Distribution's experience with Staff's non-compliance penalty  
3 mechanism in the Company's current rate settlement in Case 13-G-0136 does  
4 the Company believe that the Gas Safety Panel's proposed non-compliance  
5 penalty mechanism is in the best interest of its customers.

6 A. The Company is in full support of the Panel's goal to reduce non-compliance  
7 with gas safety regulations. We also applaud the Panel's proposal to reinvest  
8 any penalties back into pipeline safety initiatives. However, Staff's non-  
9 compliance penalty mechanism is overly punitive given Staff's practice of  
10 counting multiple violations for a single action, compounded by intimidating  
11 penalty levels that are disproportionate to the risk. We do not believe that it  
12 is in the best interest of our customers when the Company is hesitant to write  
13 a procedure that exceeds code requirements because it could then be used  
14 against us to assess a significant penalty in an audit. The Company is  
15 strongly opposed to Staff's practice of citing the Company for both a code  
16 violation and a procedure violation when the procedure is written to comply  
17 with the code.

18 The Company would urge the Panel to rethink their penalty levels  
19 and to develop more structure around the audit process to insure a level of

1           certainty in the identification of non-compliances. The goal should be to  
2           develop a fair audit process that will be able to measure performance  
3           consistently over time.

4   **6. Integrity Management**

5   Q.   What are the Company's comments and concerns with the Gas Safety Panel  
6       proposals for Non-Compliance With Integrity Management?

7   A.   First of all, the Company would like to correct the record regarding a  
8       comment in the Gas Safety Panel Testimony which stated "The completed  
9       assessments of Distribution's systems have identified several threats which,  
10      if left unrepaired, could directly impact public safety. The rehabilitation  
11      projects to mitigate these threats prolong the asset life with lower  
12      remediation costs in the future, and avoid the need for costly full pipe  
13      replacement." The Company disputed the Panel's statement and Staff has  
14      since corrected that statement in their response to Information Request NFG-  
15      DPS-127-REVISED attached as Exhibit\_\_( KDH-14). For the record,  
16      Distribution has no unrepaired integrity threats from its pipeline integrity  
17      assessments. Distribution has one 6" diameter transmission pipeline,  
18      approximately 1.6 miles in length, that requires periodic assessments under  
19      pipeline integrity regulations. Distribution uses External Corrosion Direct

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1           Assessment as an assessment method since ILI is not possible given the  
2           pipeline's current configuration and operating conditions. The latest  
3           assessment of this pipeline was performed in 2013 and did discover a minor  
4           coating anomaly which was promptly repaired. A baseline assessment was  
5           performed in 2006 which also discovered some minor coating anomalies and  
6           the potential for AC corrosion. All coating anomalies were promptly  
7           repaired and an AC model was developed and Zinc ribbon installed to  
8           mitigate the potential for AC corrosion. It should be pointed out that these  
9           anomalies would not have been discovered by ILI, the assessment method  
10          proposed by Staff, since there was no metal loss present.

11    **7. Plastic Fusions and Qualifications**

12    Q.    You previously discussed the Gas Policy Panel's recommendations  
13          concerning the plastic fusion situation. Do you also have comments and  
14          concerns with the Gas Safety Panel's proposals for Plastic Fusions and  
15          Qualifications?

16    A.    Yes. The Company appreciates the Panel's comments regarding the  
17          Company's response in addressing the non-compliance issue and mitigating  
18          the potential risks. The Company also appreciates the guidance provided by  
19          Staff in this effort.

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1           Regarding the Gas Safety Panel’s proposal that the Company be  
2 prohibited from recovering any costs associated with Case 14-G-0212 from  
3 ratepayers, and that any such costs be normalized out of the historical period,  
4 the Company has already stated that we agree that its ratepayers should not  
5 bear the cost for the Company to identify and correct any deficiencies arising  
6 out of its lapse in destructive testing. The Company supports the Gas Safety  
7 Panel position that the remediation costs be absorbed by Distribution in the  
8 interest of fairness to our customers. We do not agree, however, that it is  
9 appropriate for the Company to be double penalized as proposed by the Staff  
10 Policy Panel, with both the costs having to be absorbed by the Company and  
11 an additional penalty being imposed on top of that.

12           The Company has no objections or comments regarding the Panel’s  
13 proposal for annual reporting of fusion inspection results in lieu of monthly  
14 reporting.

15 **8. Inactive Accounts**

16 Q. What are the Company's comments and concerns with the Gas Safety Panel  
17 proposals for Inactive Accounts?

18 A. The Company is in general agreement with the Panel's recommendation  
19 "that all meters and services are required to be installed in a readily

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1 accessible location and be protected from corrosion and other damage,  
2 including any vehicular damage that may be anticipated." It is an ongoing  
3 process to attempt to relocate all meters to the outside where possible and  
4 permitted under law and individual circumstances. The Company  
5 proposes to continue its existing practices.

6 **9. Annual Reporting**

7 Q. What are the Company's comments and concerns with the Gas Safety Panel  
8 proposals for Annual Reporting?

9 A. The Company agrees with the Panel's recommendation.

10 **Rebuttal to Staff Gas Rates Panel**

11 Q. What areas of concern do you have with the Gas Rates Panel's testimony?

12 A. I have concerns related to the Panel's proposed reduction in the LPP  
13 replacement budget, annual reporting requirements and proposed unit cost  
14 cap.

15 **1. LPP Replacement Budget Reduction**

16 Q. What concerns do you have with the Panel's proposed \$1.39 Million  
17 reduction in the Company's Rate Year Budget related to LPP replacement.

18 A. In their testimony, the Panel accepted the Company's analysis and proposed  
19 unit cost for 2016, However, the Panel does not believe that the Company's

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1 proposed 4.3% increase in unit costs for 2017 is reasonable . Specifically the  
2 Panel does not agree with the additional 5% for “ramp up costs”, for bid  
3 contractors and Company crews , due to increasing LPP mileage targets.  
4 The Panel believes that because the Company has already replaced 97.35  
5 miles of LPP in CY 2015 and because the target for 2017 is 100 miles, a 5%  
6 ramp up cost is not required. The Panel believes the proposed two year  
7 ramp-up from 95 to 105 miles should allow a ratable transition for bid  
8 contractors to plan for the additional work. As a result, the Panel is only  
9 proposing a 2% annual increase to the Company's proposed unit cost,  
10 beyond 2016, which was based on 95 miles of LPP replacement.

11 Basically the Panel is only allowing for 2% annual inflation to the  
12 Company's pipeline replacement budget while the Company ramps up its  
13 annual LPP replacement rate 10 miles or 10.5% over two years. Other than  
14 the proportionate increase in total budget for the additional mileage there is  
15 no allowance for ramp up costs from 95 miles to 105 miles of LPP  
16 replacement.

17 The table below shows the Company's main and service replacement  
18 spending and unit costs for the recent period which highlights the Company's  
19 increasing LPP replacement costs at a 95 mile LPP replacement rate.

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<b>Main and Service Replacement Costs</b>	<b>FY 2014 ACTUAL</b>	<b>FY 2015 ACTUAL</b>	<b>FY 2016 FORECAST</b>
Spending	\$31,854,679	\$34,318,397	\$36,789,322
% Increase		10.0%	7.2%
LPP Unit Cost/Mile	\$340,328	\$359,732	\$387,256
% Increase		5.7%	7.7%

The Panel's allowance for only a 2% inflation rate for the Company's LPP budget does not take into consideration our pricing experience over the past three years and it does not consider increasing overheads such as inspection, engineering and design, additional training and qualification, increasing contractor administration costs, etc. Staff's assumption is that these costs will increase proportionate to the LPP mileage replaced, which is simply not the case and has not been our experience.

Staff believes that a two-year ramp up will allow our contractors to plan for the additional work, however, Staff fails to recognize that our contractor workforce has a finite pool of people to draw from when hiring new employees. Utility construction work requires a certain level of aptitude and not all construction workers qualify. Another dynamic is that some of our contractors do not want to get any bigger and are not willing to add personnel.

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1           In 2015 the Company installed approximately 98 miles of main, to  
2 retire 109 miles of main, of which 97 miles was leak prone. The fact that the  
3 Company replaced 97.35 miles of LPP main in 2015 does not mean that it  
4 will be that much easier to get to 100. Each year you start at zero. The mix  
5 of work can vary from year to year. Some years it is a struggle to meet the  
6 target and others are easier and result in more mileage. In addition to LPP  
7 replacement the Company's construction budget must also accommodate  
8 non-leak prone pipeline replacements to relocate mains due to conflicts with  
9 highway and municipal construction projects and system improvement  
10 projects. The Company is currently working on a relocating a large diameter  
11 pipeline for a bridge reconstruction project. The replacement will install  
12 approximately 900' of 24" main at an estimated cost of \$1.5 Million  
13 (\$8,800,800/Mile). This project will comprise a significant portion of our  
14 2017 capital replacement budget, but it will not result in any LPP  
15 replacement. When the Panel proposes to reduce the Company's  
16 construction budget in order to insure that we are controlling unit costs, they  
17 are taking away any flexibility that we have in absorbing this type of project.  
18 At a reduced capital budget, the Panel wants the Company to replace more  
19 pipe, replace the riskiest pipe, replace the pipe with the highest volume leaks,

1           reduce year-end leak backlogs solely through our LPP replacement program,  
2           increase inspections, etc. If we are not able to accomplish all of these items  
3           under the proposed reduced budget, then we may be subject to significant  
4           negative revenue adjustments for not achieving LPP replacement , leak  
5           backlog and net plant targets. The Company simply cannot agree to  
6           accomplish all of these items with a reduced capital budget.

7   **2. Annual Reporting**

8   Q. Will the Company be able to comply with the significant new reporting  
9       requirements proposed by the Gas Rates Panel?

10 A. No. The Company does not have the systems in place nor the personnel to  
11       comply with the Panel's new reporting requirement at this time. The  
12       Company has already testified that it would not be able to meet new  
13       reporting requirements proposed by the Gas Safety Panel without investing  
14       in a computer system or hiring additional personnel to maintain and report  
15       on the requested data manually.

16               Some of the information being requested by the Gas Rates Panel is  
17       similar or has some of the same elements as existing reports submitted to  
18       Staff or that have been proposed in this proceeding by other Panels. The  
19       annual report requested by the Gas Rates Panel will take a considerable

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1 amount of time to prepare and it will require an ongoing effort throughout  
2 the year to track cost and schedule variances for each project. This report  
3 will also require a significant effort by our project engineers to develop a  
4 narrative on project design, permitting and or construction status (including a  
5 detailed construction schedule for each project) for any ongoing projects.  
6 Since the Company is in the safety and service business project schedules are  
7 constantly changing based on new information and changing priorities. For  
8 most capital construction projects in our backlog of approved work, the  
9 Company does not establish a project schedule until the project is added to  
10 the weekly construction plan. To establish schedules and track variances on  
11 a monthly basis, as suggested by the Panel, would be time consuming,  
12 impractical and would have little value.

13 The Company would propose that it continue to submit the semi-  
14 annual LPP Replacement Report and Annual Capital Construction Report, in  
15 their current formats, as agreed to in the Joint Proposal in Case 13-G-0136.  
16 If these reports will no longer work for Staff, the Company would propose  
17 meeting with Staff to develop enhancements that would provide Staff with  
18 the information they need to monitor the Company's programs, but that can  
19 be accomplished at a reasonable cost and commitment of resources.

1    **2.    Unit Cost Cap**

2    Q.    The Gas Rates Panel is recommending a cost per mile cap as an incentive for  
3           the Company to control costs, incent synergistic opportunities and limit  
4           customers' bill increases. Does the Company agree with the Panel's  
5           proposal?

6    A.    The Company does not support the reduced unit cost cap calculated by the  
7           Panel. The Panel has underestimated the cost for standard LPP replacements  
8           and have excluded the substantially higher cost per mile of high pressure and  
9           large diameter LPP replacements from their analysis. Therefore, the  
10          Company respectfully disagrees with this feature of the proposal as the  
11          Company has shown that it has always carefully managed its construction  
12          costs; Staff has no reason to believe this will not be the case going forward.  
13          Due to the varying nature of unique construction projects, the proposed cap  
14          could expose the Company to financial loss despite the fact that the  
15          Company may have undertaken the most reasonable and effective  
16          construction practices for a particular situation.

17   Q.    Does this conclude your rebuttal testimony?

18   A.    Yes, at this time.