

BEFORE THE  
STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

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Case 16-G-0369

In the Matter Of  
Corning Natural Gas Corporation

October 2016

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Prepared Testimony of:

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Albany, New York 12223-1350

1 Q. Please state your name, employer and business  
2 address.

3 A. My name is Daniel Gadowski. I am employed by  
4 the New York State Department of Public Service  
5 (Department). My business address is Three  
6 Empire State Plaza, Albany, New York 12223.

7 Q. What is your position in the Department?

8 A. I am a Utility Analyst economist in the Office  
9 of Market and Regulatory Economics.

10 Q. Please briefly state your educational background  
11 and professional experience.

12 A. I received a Bachelor of Arts Degree in  
13 Economics, from the State University of New York  
14 at Albany in 2014. I have worked at the  
15 Department since 2014, originally as an  
16 Operations Clerk in Central Operations, and more  
17 recently as a Utility Analyst in the Office of  
18 Market and Regulatory Economics.

19 Q. Have you previously testified before the New  
20 York State Public Service Commission  
21 (Commission)?

22 A. I provided testimony on compensation and  
23 benefits issues in KeySpan Gas East Corporation,  
24 d/b/a National Grid, and The Brooklyn Union Gas

1 Company, d/b/a National Grid NY, Cases 16-G-0058  
2 and 16-G-0059; Suez Water NY, Case 16-W-0130;  
3 National Fuel Gas Corporation, Case 16-G-0257;  
4 and New York American Water Company, Case 16-W-  
5 0259.

6 Q. What is the purpose of your testimony?

7 A. I will discuss the reasonableness of the  
8 incentive compensation request for Corning  
9 Natural Gas Corporation (Corning, or the  
10 Company) and the support for that request  
11 presented by Company witnesses Firouzeh  
12 Sharhangi and L. Mario DiValentino.

13 Q. In your testimony, will you refer to, or  
14 otherwise rely upon, any information produced  
15 during the discovery phase of this proceeding?

16 A. Yes. I will refer to, and have relied upon,  
17 several responses to Staff Information Requests  
18 (IR). These responses are included in  
19 Exhibit \_\_ (DSG-1) and are referred to by the  
20 numerical designation assigned by Staff, for  
21 example, DPS-123.

22 Q. Are you sponsoring any other exhibits?

23 A. Yes. I am also sponsoring Exhibit \_\_ (DSG-2),  
24 Exhibit \_\_ (DSG-3), Exhibit \_\_ (DSG-4), and

1 Exhibit \_\_ (DSG-5).

2 Q. Please describe each exhibit.

3 A. Exhibit \_\_ (DSG-2) contains a diagram  
4 illustrating the requirements of the  
5 Commission's two-pronged test for allowing  
6 incentive pay in rates, as set forth in Case 10-  
7 E-0362 and further explained Case 13-W-0295.  
8 Exhibit \_\_ (DSG-3) contains the calculations  
9 supporting my analysis of the relative weight of  
10 financial performance incentives.

11 Exhibit \_\_ (DSG-4) contains my adjustments to  
12 the Company's internet survey based compensation  
13 benchmarking analysis. Exhibit \_\_ (DSG-5)  
14 contains the results of my independent  
15 compensation benchmarking analysis.

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**Background**

18 Q. Please summarize the Commission's requirements  
19 regarding what Corning must demonstrate in order  
20 to recover the costs of variable compensation in  
21 rates.

22 A. In Case 10-E-0362, on page 38 of its Order  
23 Establishing Rates for Electric Service, for  
24 Orange & Rockland Utilities, Inc. (O&R), issued

1 June 17, 2011 (2011 O&R Order), the Commission  
2 stated that a utility must demonstrate that its  
3 total compensation, inclusive of incentive pay,  
4 is reasonable relative to its peers. The  
5 Commission stated that the preferred methodology  
6 for this demonstration is a compensation study  
7 of similarly situated companies. However,  
8 according to the Commission, such a market  
9 reasonable plan cannot have performance targets  
10 that are detrimental to Commission interests.  
11 Alternatively, the Commission stated that the  
12 Company could clearly demonstrate that its  
13 compensation program provides quantifiable or  
14 demonstrable benefits to its ratepayers in a  
15 financial sense or in terms of reliability,  
16 environmental impact, or customer service.

17 Q. Was that order the subject of a petition for  
18 rehearing?

19 A. Yes.

20 Q. What did the Commission state at that stage of  
21 the proceeding?

22 A. In its subsequent Order Denying Petitions for  
23 Rehearing and/or Clarification, issued November  
24 21, 2011 (2011 O&R Rehearing Order), on page

1 five, the Commission clarified that its  
2 objective is to ensure that customers pay no  
3 more, and no less, in rates than what is  
4 necessary and sufficient to attract and retain  
5 employees with the qualifications and motivation  
6 to ensure the provision of safe and adequate  
7 service. The Commission indicated that if a  
8 utility can demonstrate, with a compensation  
9 study of similarly situated companies being the  
10 preferred methodology, that total compensation,  
11 inclusive of incentive compensation, for its  
12 employees is reasonable, the Commission's  
13 concerns about the relationship of incentive  
14 compensation plan objectives to customer  
15 interests is substantially diminished. As long  
16 as the plan does not promote employee behavior  
17 that would be contrary to customer interests or  
18 Commission policies, funding in rates could be  
19 allowed. See Exhibit \_\_ (DSG-2) for a diagram  
20 illustrating the Commission's incentive pay  
21 test.

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1 benchmark compensation level was derived. The  
2 Company also provided an updated study removing  
3 the CareerBuilder.com source stating that it is  
4 no longer available as a free database. For the  
5 Salary.com source, the Company used the median  
6 value of the base salary for each benchmark  
7 position. However, for each PayScale.com  
8 benchmark position, it appears that the Company  
9 combined the base salary and bonus values of the  
10 90th percentile in the website's national survey  
11 database.

12 Q. Does the Company conclude that its benchmarking  
13 study supports the reasonableness of its total  
14 compensation package based on this standard?

15 A. The Company did not explicitly indicate its  
16 position on the results of its study. It appears  
17 that the Company's presentation was intended to  
18 illustrate that Corning's compensation levels  
19 for each position included in the study fall  
20 significantly below the comparative levels taken  
21 from PayScale.com and Salary.com.

22 Q. Did the Company's analysis compare total  
23 compensation levels inclusive of benefits?

24 A. No. Although the value of benefits were not

1 included in the Company's benchmark study, the  
2 Company did separately provide the value of  
3 benefits in response to IR DPS-301.

4 Q. By what standard should a company's benefits and  
5 compensation package be viewed as market  
6 competitive?

7 A. According to the *World at Work Handbook of*  
8 *Compensation, Benefits & Total Rewards: A*  
9 *Comprehensive Guide for HR Professionals*, as a  
10 rule of thumb, a company's compensation and  
11 benefits should be within plus or minus 10% of  
12 the market.

13 Q. Have you adjusted the Company's analysis to  
14 reflect the 50<sup>th</sup> percentile of the PayScale.com  
15 study as opposed to the 90<sup>th</sup> percentile of the  
16 PayScale.com information that the Company relied  
17 upon?

18 A. Yes.

19 Q. Why did you make this adjustment?

20 A. Because comparing the 50<sup>th</sup> percentile of one  
21 distribution of one group's compensation levels  
22 to the 90<sup>th</sup> percentile of the distribution of  
23 another group's compensation levels seems to be  
24 inherently apples to oranges. Also, all of the

1 other compensation benchmarking studies I  
2 reviewed, which were filed with the Commission  
3 in rate proceedings over the last five years  
4 compared utility company compensation levels to  
5 either the mean or median (i.e., 50th  
6 percentile) of the compensation of a peer group.

7 Q. What are the results of your changes to the  
8 Company's analysis?

9 A. The results of my modified analysis are shown in  
10 Exhibit \_\_ (DSG-4). The combined base salary  
11 and bonus levels are still considerably below  
12 salaries and bonus levels associated with the  
13 internet survey based levels.

14 Q. How do the benefit values for Corning's  
15 employees compare to benefit values for other  
16 utilities on average, and if they could be added  
17 to the benchmarking comparison, how might that  
18 impact the analysis?

19 A. The benefit values for Corning's employees  
20 appear to be higher than benefit levels included  
21 in recent rate cases for other utilities, and  
22 could possibly be higher than the benefit levels  
23 for the unidentified companies in the internet  
24 surveys. However, given that Corning's

1 compensation levels are so far below the "minus  
2 10%" band around the internet survey peer group,  
3 it is unlikely that adjusting for the relevant  
4 size of the benefit levels would raise Corning's  
5 total compensation, inclusive of benefit levels  
6 high enough to in line with total compensation  
7 of the internet survey companies. This leads me  
8 to conclude that the companies underlying the  
9 internet surveys are probably not similarly  
10 situated to Corning. To conclude otherwise  
11 would suggest that Corning is severely under  
12 compensating its employees and is at risk of not  
13 being able to either attract or retain  
14 employees.

15 Q. Do you have other concerns regarding Corning's  
16 use of PayScale.com and Salary.com information  
17 in its compensation benchmarking study?

18 A. Yes. As I will later discuss, I was unable to  
19 determine the reasonableness of the compositions  
20 of the peer groups used in the internet website  
21 based compensation benchmarking studies relied  
22 upon by the Company.

23

24

1                    **Peer Group Used For Benchmarking Analysis**

2    Q.    Please describe your review of the Company's  
3           peer group selection.

4    A.    IR DPS-308 asked for a list of where the  
5           Company's new hires were previously employed.

6    Q.    Why is it important to review a listing of where  
7           the Company's new hires were previously employed  
8           when evaluating the reasonableness of the peer  
9           group used in a compensation benchmarking study?

10   A.    Because a primary goal of a good compensation  
11           program is to attract and retain employees while  
12           not paying too much. Thus, it is necessary to  
13           evaluate the compensation levels of those  
14           companies in competition with the utility in the  
15           labor market. A listing of where Corning's new  
16           hires were previously employed reveals the group  
17           of firms from which the Company actually hired  
18           away workers. A reasonable peer group should be  
19           composed of companies that are similar to those  
20           companies on the list. The Company's response  
21           to DPS-308 supplied a list of previous employers  
22           for management employees.

23   Q.    Is the Company's peer group comprised of  
24           reasonably similar companies?

1 A. I am not able to determine this. The response  
2 to IR DPS-329 indicated that the peer group  
3 benchmark positions were chosen based on a  
4 search by job title without considering the  
5 information about the companies associated with  
6 those benchmarked positions essential to  
7 deriving a reasonable comparison. For example,  
8 it is uncertain whether the positions summarized  
9 in the internet compensation surveys are  
10 associated with companies of similar size to  
11 Corning, or located in regions of the country  
12 having a similar cost of living as faced by  
13 Corning employees. I should note that, although  
14 the Company did provide location information for  
15 seven out of 15 positions selected from the  
16 Salary.com source, as indicated in the Company's  
17 response to IR DPS-329, location-specific  
18 information was not available for the remaining  
19 Salary.com positions or for any of the  
20 Payscale.com positions.

21

22 **Independent Benchmarking Analysis**

23 Q. It has been argued that smaller companies, such  
24 as Corning, do not have the resources available

1 to hire a compensation benchmarking consulting  
2 firm. Did you attempt to perform your own  
3 independent analysis to determine the  
4 reasonableness of Corning's compensation levels?

5 A. Yes. I benchmarked Corning's compensation  
6 levels to compensation data that other utilities  
7 supplied in previous rate cases.

8 Q. What are the results of your study?

9 A. The results are inconclusive at this point.  
10 Data limitations became apparent while  
11 attempting to match up Company positions with  
12 peer group positions. In order to assess  
13 whether a peer group position title is a  
14 representative match to a Company position  
15 title, there are many details associated with  
16 each title that must be scrutinized. The duties  
17 and responsibilities of a particular job title  
18 may vary significantly across different  
19 companies. Thus, without additional information  
20 for each Corning and potential peer group  
21 comparison position it is not possible to  
22 determine the reasonableness of the study. The  
23 inability to come up with reasonable position  
24 matches likely explains why my preliminary

1 benchmarking results varied so considerably for  
2 each position I attempted to match.  
3 Exhibit \_\_ (DSG-5) illustrates the difficulty I  
4 encountered with position matching using  
5 compensation data that was supplied in previous  
6 rate cases.

7 Q. In summary, do either the Company's benchmarking  
8 study based upon PayScale.com and Salary.com  
9 information, or your independent attempt to  
10 benchmark the compensation of Corning positions  
11 using data filed in previous rate cases,  
12 demonstrate that Corning's total compensation is  
13 reasonably comparable to compensation levels of  
14 similarly situated companies?

15 A. No.

16

17 **Performance Targets**

18 Q. Please describe your review of the Company's  
19 incentive pay performance targets.

20 A. Corning provided additional information  
21 regarding its incentive pay metrics in response  
22 to IRs DPS-19 through DPS-34 and DPS-269. In  
23 its response to IRs DPS-19 through DPS-34,  
24 specifically, in "Attachment CNG 13-27 Bonus

1           Incentive Comp Program," Corning provided the  
2           underlying design, performance targets and  
3           associated award allocation for its Fiscal 2016  
4           Senior Employee Incentive Program. The  
5           Company's response to IR DPS-269 provided the  
6           actual incentive awards paid, the maximum awards  
7           possible, and associated incentive metrics for  
8           years 2013 through 2015.

9    Q.    Why did you request this information?

10   A.    To determine if these performance incentive  
11           targets are in line with Commission objectives  
12           and performance targets for other utilities.  
13           Under one prong of the Commission's test for  
14           including incentive pay in rates, the Company  
15           must demonstrate that the compensation program  
16           provides quantifiable or demonstrable benefits  
17           to ratepayers in a financial sense or in terms  
18           of reliability, environmental impact or customer  
19           service. Alternatively, under the other prong  
20           of the test, as described in the 2011 O&R Order,  
21           the utility "should confirm that the incentives  
22           will support the provision of safe and adequate  
23           service and will have no potential to adversely  
24           affect ratepayer interests or to promote results

1           that are inconsistent with Commission policies."  
2           Thus, under either prong, it is necessary to  
3           determine how the performance incentive plan's  
4           goals align with the Commission's.

5    Q.    Does Corning's incentive program contain target  
6           performance goals related to Commission  
7           objectives associated with customer service, the  
8           environment, safety and reliability?

9    A.    Yes.  The incentive program does contain target  
10           performance goals related to customer service,  
11           the environment, safety and reliability.  
12           However, the program also contains financially  
13           focused goals which overwhelm these objectives.  
14           According to the 2011 O&R Order, absent a  
15           demonstration that a company's overall  
16           compensation is reasonable, a company's  
17           incentive compensation program must be "focused  
18           solely or in large part on goals for safety,  
19           reliability, environmental protection, or  
20           customer service."

21   Q.    Please summarize the Company's incentive program  
22           performance goals.

23   A.    As indicated in "*Attachment CNG 13-27 Bonus*  
24           *Incentive Comp Program*," the Company has

1 department specific incentive goals that apply  
2 to 14 individuals. These goals are awarded  
3 based on the achievement of three-to-five  
4 quantifiable targets specific to an employee's  
5 area of responsibility. The total incentive  
6 award possible is based on a percentage of the  
7 employee's base salary, and the number of  
8 targets achieved determine the amount of the  
9 total incentive award an employee is eligible to  
10 receive. However, the Company's established  
11 earnings target must be met before any incentive  
12 amount can be awarded. If the Company performs  
13 below 90% of its financial earnings target, then  
14 no incentive compensation is paid even when an  
15 individual's performance targets are met. If  
16 the Company performs at 110% or greater of its  
17 financial target, up to 12% of the 14  
18 individuals base salaries will be paid based  
19 upon the individuals' performance with regard to  
20 his or her department's specific goals. Thus,  
21 unless and until the financial earnings target  
22 threshold is triggered, the Company's program  
23 incents these employees to focus 100% of their  
24 efforts on reaching that financial trigger.

1           Conversely, if it is clear early on that 110% of  
2           the financial target will be met, at most 47% of  
3           these individuals' performance targets will  
4           involve reaching non-financial goals, assuming  
5           an equal weighting for each target. Details on  
6           how I developed these percentages are shown in  
7           Exhibit \_\_ (DSG-3).

8    Q.    Has the Commission previously addressed  
9           incentive compensation plans which relied on the  
10          achievement of a net income target?

11   A.    Yes. In Case 08-E-0539, Order Setting Electric  
12          Rates for Con Edison, issued on April 24, 2009,  
13          the Commission expressed concern about a net  
14          income target requirement that must be overcome  
15          before customers could benefit from any of the  
16          other features of the plan. The Commission  
17          stated that a net income threshold for receiving  
18          any incentive pay ensures that managers will see  
19          meeting that threshold as more important than  
20          achieving any of the operating goals. Page 53  
21          of that order states, "In addition, the net  
22          income threshold for receiving any incentive pay  
23          ensures that managers will see meeting that  
24          threshold as more important than achieving any

1 of the operating goals, especially since a  
2 maximum of only 30 percent of the potentially  
3 achievable pay depends on meeting the non-  
4 financial targets." For Corning, the maximum  
5 achievable incentive pay based upon non-  
6 financial targets is 44%.

7 Exhibit \_\_ (DSG-3) contains my analysis of the  
8 relative number of financial performance  
9 targets, and the related incentive pay dollars,  
10 that are associated with non-financial  
11 performance incentives.

12 Q. In summary, would the performance targets in the  
13 Company's incentive compensation program provide  
14 demonstrable benefits to ratepayers under the  
15 prong of the two prong test which requires that  
16 the incentive program provide a demonstrable  
17 benefit to ratepayers and the incentive program  
18 be focused solely or in large part for safety,  
19 reliability, environmental protection, or  
20 customer service?

21 A. No, because the program targets are focused  
22 substantially enough on the company's financial  
23 performance such that the program should not be  
24 considered to be focused solely, or in large

1 part on safety, reliability, environmental  
2 protection, or customer service.

3 Q. The other prong of the two prong test hinges on  
4 the reasonableness of total compensation as  
5 compared to overall compensation for similarly  
6 situated companies. If this requirement is met,  
7 this prong also requires that no elements of the  
8 incentive program be potentially adverse to  
9 ratepayer interests. Do the performance targets  
10 in the Company's incentive program promote  
11 results that are inconsistent with Commission  
12 policies, and/or results that are potentially  
13 adverse to ratepayer interests?

14 A. I am not aware of any reason why the incentive  
15 program targets in the company's incentive pay  
16 program would be potentially adverse to  
17 ratepayer interests.

18

19 **Summary and Recommendation**

20 Q. Do you recommend an adjustment to disallow the  
21 Company's request for rate recovery of its  
22 incentive compensation program?

23 A. Yes. Unless and until the Company can provide  
24 more detailed underlying information which

1           addresses the concerns I have outlined above,  
2           the Company has not reasonably shown it has met  
3           the requirements for including incentive  
4           compensation under either prong of the  
5           Commission's two pronged test.

6    Q.    What impact does your recommendation have on the  
7           Company's revenue requirement?

8    A.    My recommendation reduces Corning's revenue  
9           requirement by \$68,355.

10   Q.    Does this conclude your testimony at this time?

11   A.    Yes.

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