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February 24, 2010

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**VIA HAND DELIVERY**

**RE: Philadelphia Industrial and Commercial Gas Users Group v. Philadelphia Gas Works; Docket Nos. R-2009-2139884, P-2009-2097639, and C-2010-2160512**


Dear Secretary McNulty:

Enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") are the original and three (3) copies of the Prehearing Memorandum of the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG"), in the above-referenced proceedings.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Please date stamp the extra copy of this transmittal letter and Prehearing Memorandum, and kindly return it for our filing purposes.

Sincerely,

McNEES WALLACE & NURICK LLC

By   
Barry A. Naum

Counsel to the Philadelphia Industrial and  
Commercial Gas Users Group

BAN/sds  
Enclosures

c: Administrative Law Judge Charles E. Rainey Jr. (via E-mail and First-Class Mail)  
Certificate of Service

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Pennsylvania Public Utility Commission	:	
v.	:	Docket No. R-2009-2139884
Philadelphia Gas Works	:	
	:	
Philadelphia Gas Works' Revised Petition for Approval of Energy Conservation and Demand Side Management Plan	:	Docket No. P-2009-2097639
	:	
Philadelphia Industrial and Commercial Gas Users Group	:	
v.	:	Docket No. C-2010-2160512
Philadelphia Gas Works	:	

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**PREHEARING MEMORANDUM OF THE PHILADELPHIA INDUSTRIAL  
AND COMMERCIAL GAS USERS GROUP**

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As requested by Administrative Law Judge ("ALJ") Charles E. Rainey Jr., in his February 12, 2010, Prehearing Conference Order, the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG") hereby submits this Prehearing Memorandum in the above-captioned proceeding.

**I. HISTORY OF THE PROCEEDING**

On December 18, 2009, Philadelphia Gas Works ("PGW" or "Company") filed Supplement No. 36, requesting an overall base rate increase of approximately \$102.5 million to become effective on February 16, 2010. Specifically, the Company's filing requests approval for permanent inclusion in base rates of the \$60 million emergency and extraordinary rate increase approved by the Pennsylvania Public Utility Commission ("PUC" or "Commission") in December 2008, at Docket Number R-2008-2073938,<sup>1</sup> as well as an additional \$42.5 million in increased revenues primarily to provide funding for the Company's non-pension post-

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<sup>1</sup> See PGW Statement ("St.") No. 1, p. 2.

employment benefits liability.<sup>2</sup>

On December 18, 2009, PGW also filed a motion to consolidate its proposed base rate increase request with the Company's ongoing DSM Plan proceeding, which, if approved, would impose an additional \$54 million in costs on the Company's ratepayers, including any revenues that the Company may lose through reduced sales of natural gas that occur as a result of the proposed DSM Plan.<sup>3</sup> The Commission granted the Company's Motion and consolidated these proceedings on February 11, 2010. Although PGW has prepared and submitted the DSM Plan entirely voluntarily, without any legislative or Commission requirement, the Company claims that it "is in no position to absorb either the cost of implementing the proposed DSM plan or any significant portion of the revenue lost as a direct result of such implementation."<sup>4</sup>

On February 12, 2010, PICGUG filed a Complaint in this proceeding. A description of PICGUG is set forth in Paragraph 7 of PICGUG's Complaint. As noted in Paragraph 11(c) of the Complaint, PICGUG respectfully requests consolidation of its Complaint with the combined proceeding on the Company's proposed base rate increase and DSM Plan.

A Prehearing Conference is scheduled in this proceeding for March 2, 2010.

## II. ANTICIPATED ISSUES AND SUB-ISSUES

PICGUG's preliminary review of the Company's filing indicates the need for Commission investigation into at least the following issues:

- (a) the justness and reasonableness of the proposed base rate increase;
- (b) whether the proposed base rate increase will ensure nondiscriminatory treatment of PGW's customer classes;

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<sup>2</sup> See *id.*; see also PGW St. No. 2, p. 10.

<sup>3</sup> See PGW St. No. 11, p. 17.

<sup>4</sup> See PGW St. No. 1, p. 8.

- (c) whether PGW has provided a reasonable justification for implementation of a voluntary DSM Plan and recovery of associated costs and lost revenues;
- (d) the appropriate ratemaking methodology to be used to determine base rates;
- (e) the accuracy and legitimacy of the Cost of Service Study allocation;
- (f) the appropriate allocation of the proposed base rate increase among and within PGW's rate classes;
- (g) the appropriate cost of service allocation for interruptible transportation customers as required by the Company's Restructuring Proceedings.
- (h) the reasonableness of PGW's proposed rate design and rate structure for recovery of costs associated with the requested base rate increase and the proposed DSM Plan; and

PICGUG reserves the right to address additional issues, as well as respond to issues raised by other parties in this proceeding.

### **III. PROPOSED WITNESSES**

PICGUG is still evaluating whether it will present any witnesses in this proceeding. If PICGUG determines that it will present such witnesses, PICGUG will inform the ALJ and the other parties as soon as possible. PICGUG intends to participate in this proceeding through the submission of discovery, cross-examination of other parties' witnesses, and the submission of briefs, exceptions and reply exceptions, if necessary.

### **IV. PROPOSED SCHEDULE AND DISCOVERY RULES**

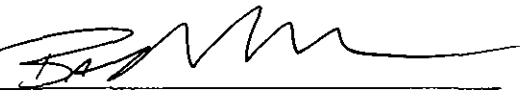
PICGUG will cooperate with the ALJ and the parties at the Prehearing Conference to develop an appropriate procedural schedule and discovery rules in accordance with the Commission's regulations and any directives issued by the ALJ.

**V. POSSIBILITY OF SETTLEMENT**

At this point in time, it is difficult to determine those issues that can be resolved via settlement. PICGUG is willing, however, to participate in discussions with the other parties to amicably resolve through settlement any and all issues in this proceeding.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Dated: February 24, 2010

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

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Barry A. Naum

Dated this 24<sup>th</sup> day of February, 2010, in Harrisburg, Pennsylvania.