

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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April 5, 2017

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission  
v.  
Philadelphia Gas Works  
Docket No. R-2017-2586783

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Reply to PGW's Answer in Opposition to the Petition to Intervene of CAUSE-PA in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Christy M. Appleby  
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Assistant Consumer Advocate  
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Attachment

cc: Honorable Christopher P. Pell, ALJ  
Honorable Marta Guhl, ALJ  
Certificate of Service

\*231461

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,	:	
	:	
v.	:	Docket No. R-2017-2586783
	:	
Philadelphia Gas Works	:	

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REPLY OF THE OFFICE OF CONSUMER ADVOCATE  
TO PHILADELPHIA GAS WORKS' ANSWER IN  
OPPOSITION TO THE PETITION TO INTERVENE OF  
THE COALITION FOR AFFORDABLE UTILITY SERVICES  
AND ENERGY EFFICIENCY IN PENNSYLVANIA

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The Pennsylvania Office of Consumer Advocate (OCA) submits this Reply to Philadelphia Gas Works' (PGW) Answer in Opposition to the Petition to Intervene of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA). The OCA hereby replies to one of the arguments raised by PGW in opposition to the CAUSE-PA Petition to Intervene.

**I. INTRODUCTION**

On March 22, 2017, CAUSE-PA filed its Petition to Intervene in this matter on behalf of low and moderate income customers. At the Prehearing Conference on March 29, 2017, PGW's counsel stated that PGW opposed the intervention of CAUSE-PA in this matter. Tr. 9. The ALJs established an expedited schedule for responses with an Answer due from the Company on March 31, 2017 and responses due on April 5, 2017. Tr. 11. On March 31, 2017, PGW filed its

Answer in Opposition to the Petition of CAUSE-PA to Intervene.<sup>1</sup> The OCA files this Answer in support of the Petition to Intervene of CAUSE-PA.<sup>2</sup>

In its Answer, PGW opposes the Intervention of CAUSE-PA based in part upon the interventions of the Bureau of Investigation and Enforcement (BIE) and the OCA in this matter.

In its Answer, PGW provided that:

The Petition filed by CAUSE-PA does not allege that CAUSE-PA has an interest that is not adequately represented by existing participants. Nor can it. BIE filed a Notice of Appearance, and is examining all issues relevant to the proposed rate increase on behalf of all consumers. BIE indicated in its Prehearing Memorandum that it intended to examine issues affecting senior citizens and low income customers. Similarly, OCA has filed a Complaint and is also examining all issues relevant to the proposed rate increase on behalf of all customers, with an emphasis on residential customers. It too stated in its prehearing memorandum that it intended to investigate issues affecting low income customers. Extensive discovery has already been served by BIE and OCA regarding the effect of the proposed rate increase on all customers, including moderate and low income individuals.

The basis for the standing rule is to protect a participant from expending resources to litigate against multiple parties on the same issues. Since BIE and OCA can adequately represent the interests of all residential customers, no justification exists for permitting the intervention of CAUSE-PA.

Answer at 5-6 (footnotes and citations omitted). The OCA submits that any reliance on the Office of Consumer Advocate's participation in this proceeding as a basis for the Commission to deny CAUSE-PA's Petition is in error. For the reasons set forth below, the OCA submits that the presence of the OCA in this proceeding may not be used as a basis upon which to prevent CAUSE-PA's participation in this proceeding. Moreover, the OCA supports the Intervention of CAUSE-PA in this matter.

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<sup>1</sup> On March 31, 2017, PGW also filed an Answer in Opposition to Petition to Intervene of Tenant Union Representative Network and Alliance of Senior Citizens of Greater Philadelphia (TURN *et al.*).

<sup>2</sup> The OCA has also separately filed a Reply in Support of the Petition of TURN *et al.* to intervene.

## II. ANSWER

Contrary to PGW's arguments in this matter, it is well-settled that the OCA's participation in this proceeding cannot serve as a bar to the participation of other interested parties. Section 309-6 of the Consumer Advocate's authorizing legislation specifies that: "Nothing contained herein shall in any way limit the right of any consumer to bring a proceeding before either the commission or a court." 71 P.S. § 309-6; see also, Barasch v. Pa. PUC, 546 A.2d 1296 (Pa. Commw. 1988), *modified on denial of reargument by*, 550 A.2d 257 (Pa. Commw. 1989) (notice to the Office of Consumer Advocate does not constitute notice to the customers of a utility.)

The Commonwealth Court has established that notice to the Office of Consumer Advocate does not constitute notice to customers and that customers, such as those represented by CAUSE-PA, should be afforded an opportunity to participate in the proceeding if they choose to do so. In South River Power Partners, L.P., v. Pennsylvania Public Utility Commission, 673 A.2d 422, 426 (Pa. Commw. 1996), the Court stated:

We must reject South River's contention that the active participation in this case by the Office of Consumer Advocate and various other parties eliminates the need for notice to be provided to West Penn's customers.

The Court continued:

While the majority of West Penn's customers would undoubtedly be content to allow the Office of Consumer Advocate to fight their battle for them, due process requires at a minimum that West Penn's customers be notified of the PUC hearing and be afforded an opportunity to participate in that proceeding if they so choose.

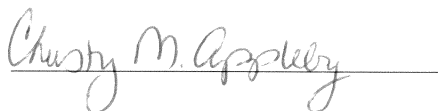
South River at 427. The OCA submits that parties may not be excluded from a proceeding for the reasons that have been advanced here, namely that the OCA already is participating in that same proceeding and has raised issues in its Prehearing Memorandum related to universal services issues.

The OCA submits that the interests represented by the OCA and CAUSE-PA are not identical. The OCA represents the interests of all of the Company's customers, both those who are low-income and those who are not. It would be incorrect to assume that the OCA's broad-based presence will adequately accommodate the specific concerns that CAUSE-PA seeks to address in this proceeding. While the OCA acknowledges that its interest and that of CAUSE-PA may overlap to some degree in this matter, as much can be said of numerous other parties to this proceeding. Likewise, the OCA and CAUSE-PA may also present different perspectives. The OCA submits that both its authorizing legislation and the appellate courts have clearly provided that the OCA's participation in a proceeding should never serve as a bar to customers or customer representatives such as CAUSE-PA from participation in the same proceeding. For the reasons set forth above, the OCA supports the participation of CAUSE-PA in this matter.

### III. CONCLUSION

WHEREFORE, the Office of Consumer Advocate respectfully submits that PGW's Answer in Opposition to the Petition to Intervene of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania may not be granted on the basis of the OCA's participation in the case.

Respectfully Submitted,



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231334.docx

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2017-2586783
	:	
Philadelphian Gas Works	:	

I hereby certify that I have this day served a true copy of the foregoing documents, Reply of the Office of Consumer Advocate to PGW's Answer in Opposition to the Petition to Intervene of CAUSE-PA, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 5th day of April 2017.

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