

COMMONWEALTH OF PENNSYLVANIA



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October 15, 2020

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works
Docket No. R-2020-3017206

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Exceptions in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

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cc: The Honorable Darlene Heep (**email only**)
The Honorable Marta Guhl (**email only**)
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Certificate of Service

*297704

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :
v. : Docket No. R-2020-3017206
Philadelphia Gas Works :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Exceptions, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 15th day of October 2020.

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Dated: October 15, 2020
*297702

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2020-3017206
	:	
Philadelphia Gas Works	:	

EXCEPTIONS OF THE
OFFICE OF CONSUMER ADVOCATE

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Dated: October 15, 2020

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TABLE OF CONTENTS

I. INTRODUCTION.....	1
II. EXCEPTIONS.....	4
OCA Exception No. 1: The Settlement Provisions were Carefully Designed by the Joint Petitioners to Achieve an Acceptable Result and Serve the Public Interest.	4
III. CONCLUSION	8

TABLE OF AUTHORITIES

	Page(s)
Statutes	
66 Pa. C.S. § 1308(d)	5
66 Pa C. S. § 1308(e)	5, 6
66 Pa. C.S. § 1405	7
66 Pa. C.S. § 2212	1

I. INTRODUCTION

PGW is a municipal public utility company, owned by the City of Philadelphia and managed and operated by the Philadelphia Facilities Management Corporation. The Company is engaged in the business of furnishing natural gas to approximately 500,000 residential, commercial, and industrial natural gas customers in Philadelphia, Pennsylvania. The natural gas service being furnished or rendered by PGW became subject to the regulation and control of the Pennsylvania Public Utility Commission on July 1, 2000, pursuant to the Natural Gas Choice and Competition Act, 66 Pa. C.S. § 2212.

On February 28, 2020, PGW filed Supplement No. 128 to PGW's Gas Service Tariff- Pa. P.U.C. No. 2 (Supplement No. 128) and Supplement No. 85 to Gas Supplier Tariff – PA. P.U.C. No. 1 (Supplement No. 85).¹ As filed, the rates and regulations proposed were to become effective April 28, 2020, and sought a general rate increase calculated to produce \$70 million in additional annual revenues, or a 10.5% overall increase.² The Company proposed to increase the residential monthly customer charge from \$13.75 per month to \$19.25 per month, or by 40%.³ Additionally, for a residential customer, the delivery charge would increase from \$6.6967/Mcf to \$7.3893/Mcf, or by 10.3% under the Company's filing.⁴ According to PGW's initial filing, the bill for a typical

¹ For the sake of brevity, the Office of Consumer Advocate (OCA) is summarizing the procedural history in these Exceptions. A full procedural history is provided in the Joint Petition for Partial Settlement. Settlement ¶¶ 1-15.

² Settlement at ¶ 2.

³ OCA Formal Complaint at 2.

⁴ OCA Formal Complaint at 2.

PGW residential heating customer who uses 75 Mcf per year would have increased from \$99.52 to \$110.68 per month, or by 11.2%.⁵ The Company also proposed tariff modifications.⁶

On March 10, 2020, the Office of Consumer Advocate (OCA) filed a Formal Complaint in this proceeding. By Order entered April 16, 2020, the Commission instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rates, suspended Supplement No. 128 and 85 by operation of law until November 28, 2020, and assigned the matter to the Office of Administrative Law Judge. The suspension period was reflected in Supplement No. 131 to PGW's Gas Service Tariff – Pa. P.U.C. No. 2 and Supplement No. 88 to PGW's Gas Supplier Tariff – Pa. P.U.C. No. 1, which were filed on April 27, 2020. On March 6, 2020, the Governor of the Commonwealth of Pennsylvania, Tom Wolf, issued a Proclamation of Disaster Emergency due to the coronavirus (COVID-19) pandemic. Due to challenges created by COVID-19, PGW agreed to a voluntary extension of the suspension period to December 4, 2020. The extension of the suspension period to December 4, 2020, was reflected in Tariff Supplement No. 132 to its Gas Service Tariff – Pa. P.U.C. No. 2 and Tariff Supplement No. 89 to its Gas Supplier Tariff – Pa. P.U.C. No. 1, which were filed on May 12, 2020.

Through the course of the proceeding, the OCA challenged, among other things, PGW's timing and amount of the base rate increase. Specifically, the OCA presented evidence supporting its positions that: (1) reasonable reductions could be made to the revenue request without jeopardizing PGW's finances and ratings, and (2) this is an inopportune time for an immediate rate increase as the OCA recognized the impact of the unusual public health crisis and the resulting effects it has had on our economy. OCA St. 1 at 9.

⁵ Id.

⁶ OCA Formal Complaint at 2.

The parties engaged in a number of settlement discussions during the course of this proceeding. As a result of these settlement discussions, the Company, OCA, I&E, OSBA, and PICGUG (collectively, Joint Petitioners) were able to agree to resolve certain contested issues in this proceeding, resulting in a partial Settlement of this matter. On August 19, 2020, the ALJs were notified that a partial settlement had been reached. The Settlement as agreed to by the Joint Petitioners permitted PGW to increase base rates at half the amount originally requested, on a delayed and phased in schedule.⁷ PGW also agreed to not file for a general rate increase any sooner than January 1, 2022.⁸ Furthermore, the Settlement provides for a COVID-19 Relief Plan (C19RP)⁹ to operate as an additional source of relief for the many vulnerable PGW customers during this time.¹⁰

On October 05, 2020, the Office of Administrative Law Judge issued the Recommended Decision (R.D.) of Administrative Law Judges Darlene Davis Heep and Marta Guhl (ALJs). In their Recommended Decision, the ALJs recommended modifying the Joint Settlement. R.D. at 2. The ALJs recommended the start of the phased-in rate increases be delayed by six months, beginning July of 2021; that PGW's stay-out be extended to January 1, 2023; and that PGW meet with the Commission's Pipeline Safety Division to review PGW's increasing costs of pipeline replacement and to develop a plan to reduce pipeline replacement costs and leaks. R.D. at 2.

⁷ Settlement at ¶¶16-17.

⁸ Id.

⁹ Settlement at ¶¶ 18-22.

¹⁰ C19RP is a product of settlement negotiations and was not originally introduced as a part of PGW's rate increase filing.

The OCA appreciates the efforts of ALJ Heep and ALJ Guhl and their recommendations. The OCA respectfully requests that the Settlement be approved without modification to maintain the careful balance that was struck.

II. EXCEPTIONS

OCA Exception No. 1: The Settlement Provisions were Carefully Designed by the Joint Petitioners to Achieve an Acceptable Result and Serve the Public Interest. (R.D. at 48-72.)

As mentioned above, the ALJs recommended a modified Partial Settlement.¹¹ The key modifications include, delaying the start of the settlement increase by 6 months, recommending July 1, 2021, as opposed to January 1, 2021, and delaying the length of the stay-out provision by a full year, recommending January 1, 2023, as opposed to January 1, 2022.¹² In part, the ALJs support their conclusions by citing to the fact that we are still in the midst of the COVID-19 pandemic.¹³ The OCA fully agrees with the ALJs that we remain in the midst of a pandemic with uncertainty for the Commonwealth and the nation. The OCA submits that the issues raised by the ALJs were at the forefront of consideration and are addressed in the Partial Settlement through the Settlement provisions, by among others, limiting and phasing in the rate increase, maintaining the customer charge level, developing a COVID Relief plan, and improving the delivery of services to low income customers.

In their Recommended Decision, the ALJs acknowledge that there is evidence that PGW will require a rate increase to operate, maintain, and improve its infrastructure.¹⁴ Approaching this proceeding, the OCA recognized the impact of this unusual public health crisis and the resulting

¹¹ R.D. at 2.

¹² R.D. at 2.

¹³ R.D. at 3.

¹⁴ R.D. at 75.

effects it has had on our economy. Consequently, the Settlement provides that the Company shall be permitted to increase base rates on a delayed and phased-in schedule.¹⁵ Specifically, the Settlement results in rates designed to produce \$35 million in additional revenue at the conclusion of the phase-in timeline, in lieu of the \$70 million in additional annual revenue by December 4 of 2020, as originally requested by PGW.¹⁶ Importantly, this rate increase will be delayed, and then implemented by a phased-in schedule over an extended period of time. Also, under the Settlement, PGW will not file a general rate increase pursuant to 66 Pa. C.S. 1308(d) any sooner than January 1, 2022.¹⁷ This stay-out provision will provide for some level of rate stability for the Company's customers as the prolonged phase-in is completed.

While the OCA recognizes the ALJs' efforts in recommending the Settlement modifications, the OCA submits that there are two important facts here that the ALJs may not have thoroughly considered. For one, PGW is a municipal entity and as such is regulated on a cash-flow basis. PGW has no shareholders to support or buttress its revenues if its financial picture becomes more challenging in the coming months. The Joint Petitioners recognized this fact in agreeing that a \$10 million increase could go into effect in January of 2021.

Second, PGW is a natural gas utility with the bulk of its revenues being produced during the heating season. As discussed, PGW's as-filed case would have new rates going into effect on December 4, 2020. In seeking to balance the interests of PGW and its customers, the Joint Petitioners agreed to only a slight increase in January of 2021, while recognizing that pushing any

¹⁵ Settlement at ¶¶ 16-17.

¹⁶ Settlement ¶ 16.

¹⁷ This Settlement provision does not apply to extraordinary or emergency rate relief pursuant to 66 Pa C. S. Section 1308(e), or tariff changes required or authorized by PUC order or industry-wide changes in regulatory policy which affect PGW's rates; Settlement ¶ 17.

rate relief beyond the heating season, as the ALJs recommend, could lead to near-term financial difficulties for PGW. In the OCA's view, it would not be in any of the stakeholders' best interests to put PGW in a situation where it could potentially need to seek emergency rate relief on the heels of a base rate case based on the uncertainty of the COVID-19 pandemic's effect on its financial future.

As mentioned earlier, the OCA advocated against any large rate increase in this matter. OCA witness Scott J. Rubin testified, at length, about the financial hardships faced by many Philadelphians.¹⁸ Through the Settlement, a COVID-19 Relief Plan (C19RP) was developed to help the many struggling customers. The C19RP provides that PGW will apply GCR Pipeline Refunds towards a one-time \$300 per eligible customer credit on the PGW gas bill (C19RP credit).¹⁹ The \$300 C19RP credit will be distributed up to a total of \$2 million, or to 6,660 customers, on a "first-come-first-serve" basis to eligible customers²⁰ and will roll over to the eligible customer's subsequent PGW gas bills until exhausted.²¹ In addition to the \$300 C19RP credit, the Settlement also includes provisions which provide for a suspension of PUC-related collection efforts and waivers of late and reconnection fees for eligible customers.²²

¹⁸ OCA St. 1 at 9.

¹⁹ Settlement at ¶ 18.

²⁰ According to the Settlement, residential customers are eligible for the C19RP credit if they fall into the following categories: contract employees and self-employed, households in which a household member is caring for someone with COVID-19, households in which a household member is caring for children at a time when the children's school or childcare is normally open but is not open, households with a member on furlough, households experiencing financial hardship related to the pandemic, and households in which a member has lost work, even if there is another income-earning member in the household. Settlement at ¶ 19.

²¹ Id.

²² Settlement at ¶¶ 12 and 22(c)-(d).

The Settlement further protects low-income customers as it ensures that customers who may be otherwise eligible for CRP are encouraged to apply for CRP.²³ Furthermore, if a C19RP-eligible customer is not eligible for CRP, any remaining current applicable balance that customer may have will be eligible for a long-term deferred payment arrangement (including the suspended amount) of no less than 12 months, even if the customer has a prior PGW payment arrangement and/or Commission-authorized payment arrangement.²⁴ Moreover, the C19RP payment arrangement will not be considered regarding future payment arrangement eligibility.²⁵ The Settlement specifically provides that customers who receive C19RP payment agreements do not waive their right to also obtain a Commission-authorized payment agreement under Section 1405 of the Public Utility Code.²⁶ The Company may also offer longer payment arrangements to C19RP participants at the discretion of the Company.²⁷ These provisions are in the public interest as they ensure that eligible customers are informed of the CRP program and encouraged to apply, the CRP and C19RP programs do not conflict and PGW is prepared to work with consumers in order to better suit the customer's needs.

The various provisions of the settlement are interrelated and designed to address the unique circumstances of PGW as a municipal entity regulated on a cash flow basis and the realities of the COVID-19 pandemic. The OCA appreciates ALJ Heep's and ALJ Guhl's concerns and thoughtful consideration of the issues presented. The OCA respectfully submits that the Partial

²³ Settlement at ¶ 22(b). To be clear, customers will be encouraged to apply for CRP but enrollment in CRP is not required in order for customers to enroll and receive the benefits of C19RP.

²⁴ Settlement at ¶ 22(b).

²⁵ Settlement at ¶ 22(b).

²⁶ Settlement at ¶ 22(b); 66 Pa. C.S. § 1405.

²⁷ Settlement at ¶ 22(b).

Settlement achieves the right balance and is in the public interest. Lastly, under C19RP, if by March 1, 2021, the PUC's Emergency Order has not ended, PGW agrees to meet with the parties by no later than March 5, 2021, to discuss a possible extension of the customer benefits contained in the C19RP.²⁸

III. CONCLUSION

For the reasons set forth in the Joint Petition for Settlement and above, the OCA respectfully requests that the Partial Settlement be approved.

Respectfully submitted,

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²⁸ Settlement at ¶ 22(g).