



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166
Tel: 717.232.8000 • Fax: 717.237.5300

Adeolu A. Bakare
Direct Dial: 717.237.5290
Direct Fax: 717.260.1744
abakare@mwn.com

April 25, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

RE: Petition of Philadelphia Gas Works for Approval of Distribution System Improvement Charge; Docket No. P-2012-2337737

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") are the Comments of the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG"), in the above-referenced proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Thank you.

Sincerely,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'Adeolu A. Bakare', is written over a horizontal line.

Adeolu A. Bakare

Counsel to the Philadelphia Industrial and
Commercial Gas Users Group

/lmc

Enclosures

c: Certificate of Service

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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

VIA E-MAIL AND FIRST-CLASS MAIL

Gregory J. Stunder, Esq.
Philadelphia Gas Works
800 West Montgomery Avenue
Philadelphia, PA 19122
greg.stunder@pgworks.com

Todd S. Stewart, Esq.
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
tsstewart@hmslegal.com

Daniel Clearfield, Esq.
Eckert Seamans Cherin & Mellott LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
dclearfield@eckertseamans.com

Philip L. Hinerman, Esq.
Fox Rothschild, LP
2000 Market Street – 10th Floor
Philadelphia, PA 19103-3291
phinerman@foxrothschild.com

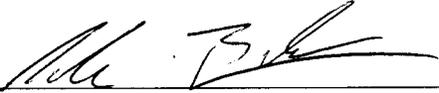
Sharon E. Webb, Esq.
Office of Small Business Advocate
1102 Commerce Building
300 North Second Street
Harrisburg, PA 17101
sgray@pa.gov
swebb@pa.gov
etriscari@pa.gov

Richard A. Kanaskie, Esq.
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265
rkanaskie@pa.gov

Erin Gannon, Esq.
Darryl Lawrence, Esq.
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101
egannon@paoca.org
dlawrence@paoca.org

Robert Ballenger, Esq.
Thu B. Tran, Esq.
Community Legal Services
1424 Chestnut Street
Philadelphia, PA 19102
rballenger@clsphila.org
ttran@clsphila.org

John Povilaitis, Esq.
409 North 2nd Street, Suite 500
Harrisburg, PA 17101-1357
john.povilaitis@bipc.com



Adeolu A. Bakare

Counsel to the Philadelphia Industrial and
Commercial Gas Users Group

Dated this 25th day of April, 2013, at Harrisburg, Pennsylvania

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

	:	Docket Numbers:
Petition of Philadelphia Gas Works for Approval of its Long-Term Infrastructure Improvement Plan	:	P-2012-2337737
	:	
Petition of Philadelphia Gas Works for Approval of a Distribution System Improvement Charge	:	P-2012-2337737 C-2013-2346939

**COMMENTS
OF THE PHILADELPHIA INDUSTRIAL AND
COMMERCIAL GAS USERS GROUP**

I. INTRODUCTION

On December 3, 2012, Philadelphia Gas Works ("PGW" or "Company") filed a Long-Term Infrastructure Improvement Plan ("LTIIP") with the Pennsylvania Public Utility Commission ("PUC" or "Commission"). The LTIIP, filed pursuant to Act 11 of 2012 and codified at 66 Pa. C.S. §§ 1350-60 ("Act 11" or "Act"), set forth planned infrastructural improvements. Both the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG")¹ and the Office of Consumer Advocate ("OCA") filed Comments to PGW's LTIIP but did not oppose the filing.

On January 18, 2013, PGW filed its initial Distribution System Improvement Charge ("Initial DSIC") with the Commission. The DSIC proposed terms and conditions for recovering the costs of PGW's DSIC-eligible infrastructural improvements. PICGUG, OCA, and the Office of Small Business Advocate ("OSBA") filed Answers raising concerns with PGW's Initial DSIC. The Bureau of Investigation and Enforcement ("I&E") filed an Answer in support of PGW's Initial DSIC. Additionally, OCA filed a Formal Complaint, which PGW subsequently answered.

¹ A description of PICGUG, including its membership, is set forth more fully in its Petition to Intervene and Answer ("Answer") filed on February 7, 2013.

On April 4, 2013, the Commission issued an Order addressing PGW's LTIP and Initial DSIC ("DSIC Order"). The DSIC Order approved PGW's LTIP without modification but concluded that PGW's proposed DSIC failed to comply with Act 11 or the Commission's Final Implementation Order at Docket No. M-2012-2293611 ("Implementation Order").

Accordingly, the Commission declined to approve PGW's DSIC. Rather than dismiss the filing entirely, however, the Commission set forth procedures for PGW to revise the DSIC consistent with the findings in the DSIC Order. The Commission required PGW to file a Revised DSIC by April 15, 2013, and invited parties to file Comments to PGW's Revised DSIC by April 25, 2013. Consistent with the Commission's schedule, PGW filed a Revised DSIC on April 15, 2013. PICGUG hereby submits these timely Comments to PGW's Revised DSIC.

II. BACKGROUND

As referenced above, PGW commenced this proceeding with submission of its LTIP, which proposes \$22 million in annual expenditures from 2013 through 2017 for replacement of cast iron pipelines. DSIC Order, pp. 13-14. PICGUG filed Comments requesting that the Commission ensure that only DSIC-eligible property is included in the LTIP and any subsequent DSIC. PICGUG LTIP Comments, pp. 2-3.

As anticipated in PICGUG's LTIP Comments, PGW filed its Initial DSIC to allow the Company to recover DSIC-eligible expenditures through a fully-reconcilable surcharge. PICGUG filed its Answer identifying concerns regarding the Company's request to modify the 60-day notice provision for expedited approval of the DSIC and the proposal to annualize DSIC expenses. Answer, p. 4. PICGUG further observed that various aspects of PGW's proposal would most likely require further investigation. *Id.*

The DSIC Order concurred with PICGUG's Answer and identified additional issues precluding adoption of PGW's Initial DSIC. The Commission concluded that PGW's DSIC must be denied based on insufficient evidence to support the following:

- 1) Annualization of DSIC-eligible costs;
- 2) Recovery of costs from November 2012 in the Initial DSIC;
- 3) Adoption of a volumetric surcharge rather than a percentage-based DSIC rate;
- 4) Departure from Act 11 provisions regarding quarterly updates and customer protections; and
- 5) Modification of filing schedule and DSIC effective date requirements set forth in Act 11.

DSIC Order, p. 36. As referenced above, the Commission developed a process for PGW to further address the above-referenced issues. Consistent with the procedural schedule set forth in the DSIC Order, PGW filed its Revised DSIC on April 15, 2013.

Rather than submitting a revised tariff supplement to incorporate the PUC's aforementioned recommendations into the DSIC, PGW's filing contained several different components. The Company filed a Petition styled as the Response of Philadelphia Gas Works to the April 4, 2012, Opinion and Order ("Petition"). The Petition attaches two proposed tariff supplements: the Compliance DSIC Tariff ("Compliance DSIC") and the Modified DSIC Tariff ("PGW-Specific DSIC"). The Compliance DSIC is intended to incorporate the recommendations set forth in the DSIC Order. The PGW-Specific DSIC is essentially a resubmission of the Company's original filing with minor changes.² As part of the Petition, the Company notes that the Commission has the ability to: (1) approve the PGW-Specific DSIC; (2) approve the Compliance DSIC; or (3) direct PGW to file an additional tariff supplement that

² As part of PGW's Petition, the Company sets forth its claims regarding why the Commission should approve the PGW-Specific DSIC rather than the Compliance DSIC.

would combine components of both proposals. Petition, p. 2. Regardless of which option the PUC chooses, PGW requests that the PUC direct its decision through a Secretarial Letter with the compliance filing to become effective on one day's notice. *Id.* at 12.

Following review of the Petition, Compliance DSIC, and the PGW-Specific DSIC, PICGUG remains concerned that PGW's proposals lack critical customer protections required pursuant to Act 11, which are designed to allow for implementation of DSICs without imposing unreasonable burdens upon customers. To ensure compliance with Act 11, PICGUG submits these Comments requesting that the Commission: (1) confirm that the language exempting interruptible transportation ("IT") customers from PGW's DSIC charges does not allow PGW unfettered discretion; (2) ensure that PGW adopts a percentage-based DSIC charge as a separate line item on customer bills; (3) reject PGW's proposal to annualize DSIC-eligible costs; (4) implement a backstop on the possibility of recovery of DSIC revenues in perpetuity; and (5) deny PGW's request for approval of a DSIC on one-day's notice.

III. COMMENTS

A. The PUC Should Confirm That PGW Does Not Have Unfettered Discretion in Deciding Whether to Exempt Interruptible Transportation Customers with Competitive Alternatives or Negotiated Contracts from DSIC Charges.

Act 11 authorized the Commission to approve DSICs for various public utilities, including city natural gas operations such as PGW. The Commission's Implementation Order established further guidelines for implementing DSICs, including determining that customers with negotiated rates should be exempted from DSIC charges. PGW's Initial DSIC was silent on the exemption, but omitted any modifications to IT rates to include the DSIC.

Upon review of PGW's Initial DSIC, the Commission found that "PGW's failure to include a provision which excludes customers with competitive alternatives or negotiated rates appears to be inconsistent with the Final Implementation Order." DSIC Order, p. 32. The DSIC

Order clarified that PGW's DSIC should explicitly exempt customers with negotiated rates or competitive alternatives from the Company's Initial DSIC. DSIC Order, p. 32. The Commission observed that PGW proposed to apply the DSIC to "all customers," without explicitly addressing any applicable exemptions. *Id.*

In response to the DSIC Order, PGW's Petition acknowledged that the only customers with negotiated rates or competitive alternatives on the Company's systems are IT customers. *See* Petition, p. 10. The Company explained that the Initial DSIC was implicitly intended to exclude such customers from the DSIC by omitting any changes to the applicable tariff rates. *See id.* In recognition of the Commission's request for explicit language, however, the Company stated that it would "conform its Compliance DSIC to include specific provisions for IT and GTS customers to the effect that the Company *will* eliminate the DSIC Rider to *any* customers with competitive alternatives or negotiated contracts." Petition, p. 10 (emphasis added).

As such, the accompanying Compliance DSIC proposes the following language:

- E. All Customer classes:** The DSIC shall be applied equally to all customer classes, except that the Company *may* reduce or eliminate the DSIC to any customer with competitive alternatives or potential competitive alternatives and customers having negotiated contracts with the Company, *if it is reasonably necessary to do so.*

Compliance DSIC, p. 153 (emphasis added).

While the Commission's Implementation Order, the DSIC Order, and PGW's Petition set forth clear standards for exempting IT customers from the DSIC, the Compliance DSIC language seems to reduce the exemption to a discretionary "option" that PGW may or may not implement based on unclear and unarticulated standards. PICGUG recognizes that similar language has been reviewed and approved by the Commission in another DSIC proceeding.³ Even with this

³ *Petition of Columbia Gas of Pennsylvania, Inc. for Approval of its Distribution System Improvement Charge, Opinion and Order*, Docket No. P-2012-2338282 (March 14, 2013), p. 40.

prior approval, however, PICGUG believes that it is imperative that the Commission clarify that the language set forth therein does not allow for unfettered discretion with respect to applying the DSIC to customers with competitive alternatives or proposed competitive alternatives.⁴ Rather, PGW, as with other utilities implementing a DSIC, must adhere to the terms of Act 11 and the Implementation Order, which require a utility to reduce or eliminate the DSIC for any customer with competitive alternatives or potential competitive alternatives, as well as customers that have negotiated contracts with the Company. Implementation Order, p. 46.

Accordingly, while PICGUG would prefer clearer language that would specifically eliminate any discretion regarding a utility's requirement to reduce or eliminate the DSIC as it applies to certain customers, PICGUG recognizes that PGW's proposed language has been previously approved by the PUC. Moreover, PICGUG submits that PGW's recognition of the need to treat IT customers separately for purposes of the DSIC, and as further evidenced in the accompanying tariff pages, assists with the aforementioned concerns regarding the "discretionary" language set forth in the Compliance DSIC. Further review and revisions to this language, however, would not be unwarranted in order to address PICGUG's overarching concerns.

B. The Company Must Be Required to Implement a Percentage-Based DSIC as a Separate Line Item on Customer Bills.

Act 11 prescribes specific customer protections, including a requirement to report the DSIC surcharge as a percentage on customer bills. 66 Pa. C.S. § 1358(d)(1). Regardless, PGW's Initial DSIC proposed a volumetric surcharge. Initial DSIC, p. 9. The DSIC Order subsequently

⁴ In the PUC Order approving Columbia's DSIC language, the PUC specifically stated that the Company's language "excludes those customers with competitive alternatives or negotiated contracts," rendering it consistent with the Implementation Order. *Petition of Columbia*, Docket No. P-2012-2338282, p. 40. In other words, Columbia's language requires exclusion of these customers and does not allow for unfettered discretion in any such determination.

denied PGW's proposal as contrary to Act 11. DSIC Order, p. 32. This ruling generated dual responses from PGW. Through the PGW-Specific DSIC, the Company again petitions for approval of a volumetric DSIC rate. As an alternative, PGW's Compliance DSIC adopts a percentage-based DSIC rate, but conditions the proposal upon confirmation that PGW is not required to report the surcharge as a separate line item. In this instance, the Company's preferred DSIC calculation is completely inconsistent with the requirements of Act 11, while the Company's alternative DSIC calculation would unreasonably circumvent the effectiveness of the customer protections afforded through the Act. Accordingly, if the Commission approves a DSIC for PGW, PICGUG requests that the Commission reject both the proposed volumetric surcharge and the proposed percentage-based surcharge rolled into distribution rates and, instead, require PGW to adopt a percentage-based surcharge appearing as a separate line items on customer bills.

As referenced above, Act 11 includes several customer protections intended to balance the interests of the public utility and its customers. The customer protections include the requirement that DSIC charges be applied as a percentage of each customer's billed revenues. 66 Pa. C.S. § 1358(d)(1). Conversely, PGW's Initial DSIC requested approval of a volumetric surcharge. Initial DSIC, p. 9. The DSIC Order appropriately denied PGW's proposed volumetric DSIC, finding that a volumetric DSIC creates a disconnect between the charge to customers and the 5% cap on billed DSIC charges under Act 11. DSIC Order, p. 32.

PGW now contends that the Commission improperly rejected the volumetric DSIC rate. The Company acknowledges that Act 11 mandates a percentage-based DSIC, but requests a Commission waiver to use a volumetric charge. Petition, p. 5. PGW asserts that a volumetric charge would be consistent with the Company's proposal to annualize DSIC costs and less likely

to result in rate volatility. *Id.* These arguments fail to support the proposed volumetric DSIC rates.

As extensively discussed below, PGW's proposal to annualize DSIC costs is, in and of itself, flawed and contrary to Act 11. Moreover, while PGW claims that a volumetric charge will reduce rate volatility, those purported benefits have not been fully supported by PGW, much less shown to outweigh the resulting burdens that would be shouldered by customers. Although the Commission possesses discretionary authority to waive application of certain statutes to PGW, the observable differences between the undercollections and a volumetric or percentage-based DSIC are insufficient to justify exercising such authority here. *See* 66 Pa. C.S. § 2212(c); *but cf.* 66 Pa. C.S. § 1357(d)(1).

Importantly, approving volumetric rates for PGW's DSIC would also subvert the customer protections set forth in Act 11. *See id.*; *see also* 66 Pa. C.S. § 1357(d)(1). The General Assembly wisely and correctly determined that the DSIC, which recovers costs from improvements to distribution plant, should be based on customers' billed distribution revenues. *Id.* PGW's proposal to charge *consumption-based* rates for *distribution-based* costs directly violates Act 11 and general cost causation principles. *See* 66 Pa. C.S. § 1357(d)(1). Approval of PGW's proposal would unfairly require high volume users to pay excessive proportions of PGW's DSIC revenues and subsidize infrastructural improvements benefitting lower volume users. As such, PGW's suggestion that a volumetric surcharge would benefit customers through less volatility does not outweigh the cost causation principles that would otherwise be violated.

Alternatively, the Company requests leave to adopt a percentage-based rate that would not be a separate line item on customer bills. Rather, PGW would apply the percentage to each element of a customer's bill. Petition, p. 9. In an attempt to circumvent the customer protections

of the Act, PGW argues that Act 11 and the Implementation Order do not specifically require public utilities to itemize the DSIC on customer bills. Petition, p. 9. The Company further claims that specialized treatment is necessary because PGW's current billing system lacks the capability and necessary system upgrades to report the DSIC as a separate line item. *Id.* PGW further submits that such system upgrades would require costly investment and approximately 12-18 months to complete development. *Id.*

While a separate line item may not be a requirement under Act 11, billing the DSIC as a separate line item ensures that customers can track their charges, the PUC can ensure that the utility is correctly applying the 5% cap, and the necessary transparency remains between PGW's 5% cap and the collection of the resulting costs from customers. Failing to provide the DSIC as a line item eliminates those protections. Moreover, PGW's claim that it would apply the 5% charge to the "components" of customers' rates does not provide adequate assurance that PGW is accurately and reasonably utilizing the correct billing components.

In addition, while PGW's concerns regarding its billing system capabilities are understandable, the Company's desire to implement the DSIC as quickly as possible cannot supersede compliance with customer protections. Act 11 empowers the Commission to approve DSICs for public utilities, but the Act does not automatically entitle any utility to application of a DSIC. If PGW does not have the capability to implement the DSIC pursuant to the protections required via Act 11 and the Implementation Order, then the Company must forestall such implementation until the necessary procedures are implemented to ensure that the DSIC is being justly and reasonably billed to customers.

To uphold the requirements of Act 11, PGW must be prohibited from implementing a volumetric surcharge. Moreover, to ensure the customer protections intended under Act 11 are

met, PGW should be required to include the percentage-based DSIC charge as a separate line item on customer bills, or, at a minimum, PGW must provide detailed information regarding each of the cost components to which the 5% surcharge would be applied for each of the customer classes. *See* 66 Pa. C.S. § 1358(d)(1). Unless and until the Company is able to ensure these protections, the Commission must deny both PGW's proposed volumetric DSIC and the alternative proposal to apply the 5% surcharge to individual rate components (rather than via a line item).

C. PGW's Proposal to Annualize DSIC Costs, as Reiterated in the PGW-Specific DSIC, Remains Fundamentally Flawed and Must be Rejected.

As noted previously, PGW's Petition sets forth two alternative DSIC compliance filings. The Compliance DSIC addresses the PUC's request to eliminate the annualization of DSIC costs. The PGW-Specific DSIC, however, retains this provision, with a request by the Company in its Petition that the Commission approve the annualized DSIC cost collection, even though it is contrary to Act 11. As with the other divergences from Act 11, PGW's request to annualize DSIC-costs is unsupported and must be rejected.

Act 11 clearly directs the Commission to limit DSIC-eligible costs for Investor-Owned Utilities ("IOU") *and* city natural gas distribution operations to plant actually placed in service within 120 days of a DSIC period. *See* 66 Pa. C.S. § 1357(a). Additionally, the General Assembly already adopted specific modifications to accommodate PGW's cash flow accounting methods:

Utilities may file tariffs establishing a sliding scale of rates or other method for the automatic adjustment of the rates of the utility to provide for recovery of the depreciation and pretax return fixed costs of eligible property, as approved by the commission, that are completed and placed in service between base rate proceedings. For city natural gas distribution operations, recoverable costs shall be amounts reasonably expended or incurred to purchase and install eligible property *and associated financing*

costs, if any, including debt service, debt service coverage and issuance costs.

66 Pa. C.S. § 1357(c)(emphasis added).

As part of its Petition, PGW no longer disputes that its annualization proposal violates Act 11, and the Company acknowledges the inconsistency with Act 11. Instead, the Company utilizes its Petition to request a waiver to use the alternative annualization methodology. Petition, pp. 4-5. As support for the waiver, PGW claims that the Company should not be compelled to comply with the provisions of Act 11 for calculating DSIC-eligible costs because PGW utilizes cash flow accounting. Petition, p. 7, note 9. PGW claims that the requirement to recover costs of actually installed distribution plant derives from the "used and useful" ratemaking principles applicable only to IOUs. *Id.* Because the Company does not have a rate base and does not earn a return on its plant investments as IOUs do, PGW requests that the Commission waive application of the statutory requirement to base DSIC-eligible costs on actually installed plant. *Id.*

While PGW is a unique utility in the Commonwealth, the Commission should reject the Company's efforts to essentially restructure the carefully crafted DSIC provisions set forth in Act 11. As evidenced by the General Assembly's recognition that PGW's DSIC costs should include debt service components beyond the items specified for IOUs, the General Assembly was well informed of PGW's reliance on cash flow accounting when drafting Act 11. 66 Pa. C.S. § 1357(c). PGW's utilization of cash flow accounting should not be leveraged to erode the customer protections deemed necessary for implementation of the Act, especially when no reasonable support for such a waiver of these requirements exists. *See* 66 Pa. C.S. 1357(a).

Moreover, for purpose of calculating DSIC-eligible costs, applying the underlying concept of the used and useful principle is appropriate and fair to customers. Limiting PGW to

recovering the cost of plant actually placed in service within 120 days of a DSIC period still provides more accelerated cost recovery for the Company than traditional ratemaking, while providing some assurance that customers are immediately benefitting from the projects being funded by the DSIC. If PGW were permitted to recover annualized DSIC costs, customers would have no assurance that expenditures are promptly invested in infrastructure improvements.

PGW has not presented valid reasons for departing from the provisions of Act 11 limiting DSIC-eligible costs to actually installed plant. If the General Assembly intended to exempt PGW from recovering only costs of actually installed plant, language would have been included in Act 11. Accordingly, because PGW has not provided any reasoning that would warrant a waiver of Act 11, the Commission must deny PGW's request to annualize its costs under the DSIC.

D. The PUC Must Ensure a "Backstop" That Would Prohibit PGW from Collecting DSIC Revenues in Perpetuity.

Act 11 contains customer protections to ensure that a utility is not "overcollecting" with respect to its DSIC. Because PGW is not an IOU, not all of these provisions are applicable. While subjecting PGW to the same requirements as IOUs would not be appropriate in all situations, the PUC must ensure that appropriate backstops are present to prevent the Company from collecting DSIC revenues in virtual perpetuity without the necessary full and complete review and investigation by the PUC and interested parties.

Pursuant to the Act, IOUs recover depreciation expenses and a Rate of Return ("ROR") on their infrastructural expenses. *Id.* Because the ROR on prior investment is recovered through each subsequent DSIC period, DSIC revenues must increase cumulatively, even if the IOU does not increase its annual infrastructure improvements. This results in a structural "build-up," as the DSIC revenues will inevitably increase towards the 5% cap due to the compounded recovery of

an ROR component for each successive period of DSIC-eligible investments. When the IOU DSIC recoveries reach the 5% threshold, the utility must file a base rate case to roll DSIC revenues into base rates and reset the DSIC to 0%. *See* 66 Pa. C.S. § 1358(a)(1). In addition, as part of the customer protections, Act 11 provides that the DSIC will be reset to 0% if, in any quarter, the IOU's most recent annual or quarterly earnings report show that the IOU will earn an ROR that would exceed the allowable ROR used to calculate its fixed costs under the DSIC. *Id.* at 1358(a)(3).

Conversely, investments recovered through PGW's DSIC are expensed immediately with no ROR component. Petition, p. 4. The absence of an ROR component compounding expenses from one DSIC period to the next eliminates the relationship between the 5% cap and PGW's cumulative DSIC expenses. Similarly, PGW does not have an ROR that would trigger any reset under Section 1358 of the Act. In light of that, PGW plans to seek recovery of \$22 million annually via the DSIC surcharge for the first five years of its LTIP and plans to spend a corresponding \$22 million annually for its accelerated main replacement program. DSIC Order, p. 13. Moreover, PGW recognizes that a base rate filing would roll-into distribution base rates the aforementioned collections from the DSIC. Initial DSIC, p. 10. The concern, however, arises that, because PGW is not an IOU, the customer protections set forth in Act 11 regarding the reset of the DSIC to 0% would be less effective in terms of application to PGW as compared to IOUs. As a result, the possibility exists that PGW could seek to recover \$22 million (or 5%) annually for the next 10, 20, or 30 years without filing for a base rate case with the PUC. As such, PGW could collect \$220, \$440, or \$660 million (or more) from customers without filing for a base rate case. Moreover, the ability to collect these sums through the DSIC (*i.e.*, via a

means by which was not previously available to PGW) could potentially deter PGW from submitting a base rate case with the PUC anytime in the next decade (or longer).

A base rate proceeding provides the Commission and interested parties an opportunity for full investigation and review of PGW's cash flow, expenses, and investments. Moreover, a base rate proceeding provides customers assurances that the dollars being collected from them are being appropriately utilized by PGW for necessary improvements. While the aforementioned IOU customer protections are not necessarily applicable to PGW in the same manner, the Commission must still ensure that PGW's ability to utilize a DSIC effectively in perpetuity does not eliminate the intentions of Act 11. Specifically, the Commission should consider implementing an appropriate "backstop," which would ensure parties adequate opportunity to review PGW's DSIC projects and proposals in the context of a full base rate proceeding at appropriate timeframes.

To ensure that PGW's customers receive the same protections as customers of IOUs, the PUC must consider implementing a process to establish that the Company is not permitted to collect revenue through the DSIC in perpetuity, without full and complete opportunity for due process by its customers. Such action would ensure that PGW's cash flow, expenses, and projects result in just and reasonable rates for customers.

E. PGW's DSIC Should Conform to the Statutory Filing Schedule and the Commission's Procedural Process.

PGW's Petition proposes several scheduling and procedural modifications. The PGW-Specific DSIC requests an alternate quarterly reconciliation schedule while the Compliance Tariff adopts the quarterly reconciliation schedule set forth in Act 11. Petition, p.10. Additionally, if the Commission approves the PGW-Specific DSIC, PGW requests that the Commission approve the DSIC "with an effective date of one (1) day's notice subject to

investigation, refund, and recoupment." Petition, p. 12. For approval of the Compliance DSIC, the Company requests that the DSIC become effective on "one one day's notice." *Id.* Finally, the Company requests that the Commission approve the DSIC via Secretarial Letter. *Id.* PICGUG submits that each of PGW's scheduling and procedural modifications is improper and should be denied.

PGW has not shown cause to depart from the reconciliation schedule set forth in Act 11 or the Commission's procedural regulations. Act 11 requires quarterly reconciliations on the first of April, July, October, and January of each year. DSIC Order, p. 31. PGW requests to modify the reconciliation schedule to correspond with its Gas Cost Rate ("GCR") reconciliation schedule. Petition, p. 10. PICGUG submits that the Commission and stakeholders benefit from uniform standards and requests that the Commission approve the statutory reconciliation schedule set forth in the Compliance DSIC. *Id.*

PGW's request for approval of the DSIC on one day's notice via Secretarial Letter must also be denied to preserve parties' due process rights. As referenced in PICGUG's Answer, the Commission should reserve approval of any DSIC for PGW pending conclusion of any necessary litigation or investigation concerning PGW's proposal. Answer, p. 5. A Secretarial Letter divests parties of due process rights associated with the Commission's formal adjudicative process, including the right to appeal a Final Commission Order. PGW should not be authorized to implement a DSIC at any time prior to entry of a Final Commission Order approving a proposed DSIC.

Accordingly, the Commission should adopt the statutory reconciliation period as set forth in PGW's Compliance DSIC, deny PGW's request for approval of a DSIC on one day's notice, and issue a Final Commission Order disposing of PGW's Petition.

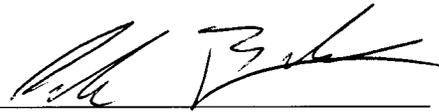
IV. CONCLUSION

WHEREFORE, the Philadelphia Industrial and Commercial Gas Users Group respectfully requests that the Pennsylvania Public Utility Commission adopt these Comments in disposing of Philadelphia Gas Works' proposed Distribution System Improvement Charge.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By



Charis Mincavage (Pa. I.D. No. 82039)
Adeolu A. Bakare (Pa. I.D. No. 208541)
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Fax: (717) 237-5300
cmincavage@mwn.com
abakare@mwn.com

Counsel to the Philadelphia Industrial and
Commercial Gas Users Group

Dated: April 25, 2013

