

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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March 14, 2014

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 1307(f)  
Docket No. R-2014-2404355

Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served as shown on the Certificate of Service.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Brandon J. Pierce".

Brandon J. Pierce  
Assistant Consumer Advocate  
PA Attorney I.D. # 307665

Enclosures

cc: Honorable Christopher P. Pell  
Honorable Darlene D. Heep  
Certificate of Service

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2014-2404355
	:	
Philadelphia Gas Works	:	

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333 and the Prehearing Conference Order issued by Administrative Law Judges Christopher P. Pell and Darlene D. Heep on March 6, 2014, the Office of Consumer Advocate (OCA) provides the following information:

**I. INTRODUCTION**

On January 31, 2014, Philadelphia Gas Works (PGW or the Company) filed its pre-filing information required for its annual 2014-2015 Purchased Gas Cost (PGC) Rate filing pursuant to Sections 1307(f), 1317, 1318 and 2212 of the Public Utility Code, and Sections 53.64 and 53.65 of the Commission's Rules and Regulations. 66 Pa. C.S. §§ 1307(f), 1317, 1318, 2212; 52 Pa. Code §§ 53.64, 53.65. On the same date, PGW filed a Petition for Special Permission to Depart from the Requirements of 52 Pa. Code §§ 53.45(b), 53.64(c), 53.64(i)(5)(i), and 53.68(a). Further, PGW requested to provide estimated data for January 2014 and February 2014 in the March 1, 2014 quarterly 1307(f) filing instead of actual data for January 2014.

On February 7, 2014, the Office of Small Business Advocate (OSBA) filed a Verification, Public Statement, Notice of Appearance, and a Formal Complaint. On February 11, 2014, the Bureau of Investigation & Enforcement (I&E) filed a Notice of Appearance. On February 12, 2014, the Office of Consumer Advocate (OCA) filed a Formal Complaint, Public Statement, and Notice of Appearance. Also on February 12, 2014, the Philadelphia Industrial and Commercial Gas Users Group (PICGUG) filed a Petition to Intervene.

On February 28, 2014, PGW filed its March 1, 2014 Section 1307(f) filing (March 1 or 1307(f) filing). On March 6, 2014, Administrative Law Judges Christopher P. Pell and Darlene D. Heep issued a Prehearing Conference Order. In that Order, the ALJs also granted, as unopposed, PGW's Petition for Special Permission to Depart from the Requirements of 52 Pa. Code §§ 53.45(b), 53.64(c), 53.64(i)(5)(i), and 53.68(a). In its March 1 filing, the Company proposed a PGC rate of \$6.2815 per Mcf to be effective September 1, 2014. The Company's PGC rate has changed over the last three quarters, with a September 1, 2013 rate of \$5.7484 per Mcf, a December 1, 2013 rate of \$5.4259 per Mcf, and a March 1, 2014 currently effective rate of \$5.7138 per Mcf.

The Public Utility Code provides that no rates of a natural gas distribution utility shall be deemed just and reasonable unless the Commission finds that the utility is pursuing a least cost fuel procurement policy, consistent with the utility's obligation to provide safe, adequate, and reliable service to customers. 66 Pa. C.S. § 1318. The Commission must find, among other things, that the utility has (1) fully and vigorously represented ratepayer interests before the Federal Energy Regulatory Commission, (2) taken all prudent steps to negotiate favorable gas supply contracts and to relieve its obligations under contracts that may be adverse to ratepayer

interests, (3) taken all reasonable steps to obtain lower cost gas supplies, and (4) not withheld or caused to be withheld gas supplies that should have been utilized as part of a least cost fuel procurement policy.

## **II. ISSUES AND SUB-ISSUES**

Based upon a preliminary analysis of PGW's January 31, 2014 pre-filing and its February 28, 2014 definitive PGC filing, the OCA has compiled a list of issues and sub-issues that it anticipates will be included in its investigation of the Company's proposed rate changes. It is anticipated that the OCA will identify other issues upon further review of PGW's filing, and that other issues may arise and may be pursued after the answers to all of the OCA's interrogatories have been received and analyzed.

As soon as the OCA has completed its review of the Company's filing, including issuing additional discovery and review of the Company's responses, it is expected that informal discovery meetings can be scheduled. At those meetings, the OCA will be able to narrow the scope of information requests. After the discovery process has been completed, the OCA will file its Direct Testimony, which will set forth the specific issues to be addressed in this proceeding. At that time, the OCA will also be able to make and to quantify its specific recommendations.

The following list sets forth a more specific identification of the issues that OCA anticipates it will investigate and may raise, in addition those discussed above:

1. Reasonableness and prudence of historic purchased gas costs, and assessment of compliance with Commission Orders in prior 1307(f) cases;
2. Reasonableness and accuracy of estimating gas costs during the interim and prospective periods;

3. Reasonableness and prudence of the Company's gas supply mix, including purchases of local gas suppliers, the use of LNG, and price volatility risk management programs and policies;
4. Reasonableness and prudence of the Company's mix of demand entitlements, storage and local production, to include an assessment of the reasonableness of the Company's estimate of design day requirements;
5. Reasonableness and prudence of contracts with pipelines and suppliers, and in particular, long-term contracts that provide for special reservation charges, minimum take commitments, or other fixed contract requirements, especially in light of any other subsidies or unreasonable discrimination between customer classes;
6. Reasonableness and prudence of the Company's use of capacity release, off-system sales and interruptible sales, and the crediting of such revenues to PGC ratepayers and PGW;
7. Assessment of the value of the purchased gas cost incentive mechanisms as components of a least cost fuel procurement policy. These may include incentive mechanisms for off-systems sales and capacity release;
8. Reasonableness of sales volumes projections;
9. Technical issues pertaining to the gas cost recovery mechanism, including computation of quarterly adjustments to purchased gas costs, treatment of supplier refunds, provision of carrying costs associated with gas in storage, interest on gas overcollections, and proper computation of the E-factor and migration riders; and
10. Reasonableness of hedging transactions and strategies entered into under the terms of previous PGC settlements.

The OCA will examine each of these issues and all changes proposed in the Company's filing to ascertain if they comply with the Public Utility Code and sound ratemaking and cost allocation principles. The OCA will recommend any appropriate changes to ensure that customers pay only reasonable purchased gas costs and to address customers' reliability needs.

### **III. WITNESSES**

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of Jerome D. Mierzwa in this proceeding. Mr. Mierzwa will present testimony in written form and will also attach various exhibits, documents, and explanatory information that will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be mailed directly to its expert witness at the following address, as well as mailing a copy to counsel for the OCA:

Jerome D. Mierzwa  
Exeter Associates, Inc.  
10480 Little Patuxent Parkway  
Columbia, MD 21044  
Telephone: 410-992-7500  
E-mail: [jmierzwa@exeterassociates.com](mailto:jmierzwa@exeterassociates.com)

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, all parties of record will be notified.

### **IV. SERVICE ON THE OCA**

The OCA will be represented in this case by Assistant Consumer Advocates Aron J. Beatty and Brandon J. Pierce. Two copies of the documents should be served on the OCA as follows:

Aron J. Beatty  
Assistant Consumer Advocate  
Office of Consumer Advocate  
5<sup>th</sup> Floor, Forum Place  
555 Walnut Street  
Harrisburg, PA 17101-1923  
Telephone: (717) 783-5048  
Fax: (717) 783-7152  
E-mail: [ABeatty@paoca.org](mailto:ABeatty@paoca.org)  
[BPierce@paoca.org](mailto:BPierce@paoca.org)

The OCA requests that any documents served electronically also be directed to the OCA's consultant, Mr. Mierzwa, and to our Legal Assistant, Cammie Shoen at [CShoen@paoca.org](mailto:CShoen@paoca.org).

#### **V. PROPOSED REVISED RULES / DISCOVERY**

Because time for preparation of complainant testimony is limited, the OCA submits that a shortened discovery response time in this proceeding is necessary to enable complainant parties to have adequate time to investigate the Company's claims and present testimony. The OCA, therefore, requests the following modifications to the timeframes specified by the Commission's regulations for discovery matters on a going-forward basis. All parties have jointly agreed to these discovery modifications as follows:

1. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service of the interrogatories except that service of interrogatories on a Friday shall be deemed service on the following business day;
2. Objections to interrogatories shall be communicated orally within three (3) business days of service of the interrogatories; unresolved objections shall be served on the parties, with a certificate of service filed with the Secretary's Bureau, within five (5) business days of service of the interrogatories;
3. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) business days of service of the written objections;

4. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) business days of service of such motions;
5. Responses to requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days;
6. Requests for admission shall be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) business days of service of the requests;
7. Answers to on-the-record data requests shall be served in-hand within seven (7) calendar days of the requests;
8. Rulings over motions shall be issued, if possible, within seven (7) calendar days of the filing of the motion;
9. Any discovery or discovery related pleadings such as objections, motions, answers to motions served on a Friday or on any business day preceding a state holiday shall be deemed to have been served on the following business day for purposes of tracking responsive due dates; and
10. Due dates be “in-hand” and that electronic or fax service on the due date will satisfy the “in-hand” requirement, where such service is immediately followed by a hard copy sent by first-class mail.

## **VI. PUBLIC INPUT HEARINGS**

The OCA is unaware of any specific consumer requests for public input hearings in this matter to date. If the OCA becomes aware of substantial consumer interest, however, the OCA will promptly notify the Administrative Law Judges and parties to request a public input hearing.

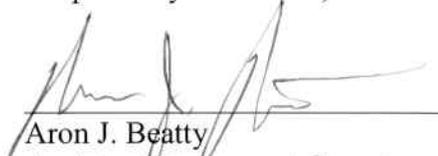
**VII. PROPOSED SCHEDULE**

All parties have agreed to the proposed schedule attached as Appendix A of the OCA's Prehearing Memorandum.

**VIII. SETTLEMENT DISCUSSIONS**

At present, settlement discussions have not been scheduled. The OCA will fully participate in any proposed settlement discussions throughout the course of this proceeding.

Respectfully Submitted,



Aron J. Beatty  
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Dated: March 14, 2014

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CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :  
 :  
 v. : Docket No. R-2014-2404355  
 :  
 Philadelphia Gas Works 1307(f) :  
 :

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Prehearing Memorandum, 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 14th day of March 2014.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

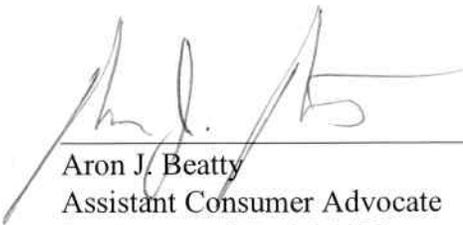
Regina L. Matz, Esquire  
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

SERVICE BY E-MAIL & FIRST CLASS MAIL

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Charis Mincavage, Esq.  
Adeolu A. Bakare, Esq.  
McNees Wallace & Nurick LLC  
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