

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :  
et al. :

v. :

Philadelphia Gas Works :

Docket Nos. R-00005654  
R-00005654C0001-C0004

**DOCKETED**  
NOV 01 2000

**POSTHEARING ORDER #2**

By Motion to Take Official Notice or, in the Alternative, to Reopen the Record (Motion) dated October 18, 2000, Philadelphia Gas Works (PGW) requested that the Pennsylvania Public Utility Commission (Commission) either take official notice of, or permit the record to be reopened to admit into the record of this proceeding, an announcement by Moody's Investors Service (Moody's) which was issued on October 17, 2000 after the close of the record and the filing of Main Briefs but prior to the filing of Reply Briefs on October 20, 2000.

PGW contends that this announcement is "highly relevant to the Commission's determination of whether interim rate relief for PGW is justified," is "a public record for which official notice is appropriate," and "will not prejudice the rights of any participant in this proceeding . . ." Motion at 1.

On October 19, 2000 the Office of Consumer Advocate (OCA) and the Commission's Office of Trial Staff (OTS), both of which were active parties, filed a Joint Answer to the Motion (Answer). In this response, they state that if the record is reopened

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(or the Commission takes official notice of the announcement), then the Commission similarly should consider other recent events, such as the status of the proposed \$45 million loan from the City of Philadelphia. Also, parties should be permitted to respond to any arguments raised by PGW in its Reply Brief pertaining to the Moody's announcement. Answer at 2.

On October 19, 2000, the Office of Small Business Advocate (OSBA), another active party, sent a letter supporting the Joint Answer. A similar letter was sent by the Philadelphia Industrial and Commercial Gas Users Group (PICGUG) also on October 19, 2000.

There is no question that the financial condition of the company, including its ability to make the payments required by its various bond issuances, is a relevant issue in this proceeding. The Commission in its August 17, 2000 Order at Docket No. P-00001831 made this clear:

. . . PGW must present substantial evidence to support its assertion that an interim rate increase is necessary to maintain a minimal, adequate, level of financial health required to fund operations and meet debt service requirements through the winter heating season until the Commission can conduct and rule upon a full base rate proceeding. In particular, PGW must present substantial evidence to support its assertion that an interim rate increase is necessary for PGW to comply with its covenants to the holders of any approved bonds.

In fact, the issue of PGW's bond rating, possible downgrade and ability to make the required payments was the subject of testimony presented by a number of parties.

Clearly, the Commission should be able to consider currently available relevant information, subject, of course to the parties being able to respond appropriately

to it. This can be accomplished by reopening the record to receive the announcement as well as information relating to the status of the proposed \$45 million loan as of October 20, 2000, and by permitting the parties to respond to the arguments concerning them contained in other parties reply briefs.

By e-mail dated October 19, 2000 the company indicated that it had no objection to the conditions proposed by the other parties, and that therefore the parties requested permission to be permitted to file supplemental briefs addressing the new additions to the record on or before October 25, 2000.

This resolution is reasonable and should be adopted. It appropriately balances the necessity for the Commission to have available to it recent, relevant information and also provides an opportunity for the parties to respond in a manner which allows the Commission sufficient time to review their supplemental briefs, if any are filed.

THEREFORE,

IT IS ORDERED:

1. That the Motion to Take Official Notice or, in the Alternative, to Reopen the Record filed by the Philadelphia Gas Works on October 18, 2000 is granted.

2. That the October 17, 2000 Moody's Investors Service announcement which is the subject of the Motion is admitted into the record as PGW Exhibit 4.

3. That Philadelphia Gas Works is directed to file on or before October 25, 2000 an affidavit which describes the status of the proposed \$45 million loan from

3. That Philadelphia Gas Works is directed to file on or before October 25, 2000 an affidavit which describes the status of the proposed \$45 million loan from the City of Philadelphia as of October 20, 2000 and which will be admitted into the record as PGW Exhibit 5.

4. That supplemental reply briefs, limited strictly to discussion of the late-admitted exhibits, may be filed and served no later than 4:30 p.m., October 25, 2000. The Commission's regulations relating to the filing of briefs, as well as any directives contained in the various prehearing orders, apply to the filing and service of these briefs.

Date: October 20, 2000



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MARLANE R. CHESTNUT  
Administrative Law Judge

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