



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

September 18, 2015

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission v.
Philadelphia Gas Works
Docket No. P-2015-2501500

Dear Secretary Chiavetta:

Enclosed please find an original copy of the Bureau of Investigation and Enforcement's (I&E) **Answer to Philadelphia Gas Works' Petition for Waiver** in the above-captioned proceeding.

Copies are being served on all active parties of record. If you have any questions, please contact me at (717) 783-6156.

Sincerely,

Carrie B. Wright
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #208185

Gina L. Lauffer
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313863

CBW/GLL/sea
Enclosure

cc: Parties of Record

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
v. : Docket Nos. P-2015-2501500
Philadelphia Gas Works :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Answer to Petition** dated September 18, 2015 either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. P-2015-2501500
	:	
Philadelphia Gas Works	:	

**THE BUREAU OF INVESTIGATION & ENFORCEMENT'S
ANSWER TO PHILADELPHIA GAS WORKS'
PETITION FOR WAIVER OF PROVISIONS OF ACT 11 TO INCREASE
THE DISTRIBUTION IMPROVEMENT CHARGE CAP AND TO PERMIT
LEVELIZATION OF DSIC**

I. Introduction

On September 1, 2015, pursuant to Sections 1358(a) and 2212 (c) of the Public Utility Code, 66 Pa. C.S. §§ 1358(a), 2212(c), and 52 Pa. Code § 5.41, Philadelphia Gas Works ("PGW" or "Company") filed the above referenced Petition. PGW requested that the Pennsylvania Public Utility Commission ("PUC" or "Commission"): (1) waive the current Distribution System Improvement Charge ("DSIC") cap of 5% of distribution revenues and approve a maximum allowed DSIC of 7.5% with a total 10% cap including any reconciliations, (2) waive or suspend the requirements of Act 11 of 2012 to permit PGW to use an annual, levelized charge as the basis for establishing a DSIC, subject to a true-up based on PGW's actual experience, (3) waive the requirements of Act 11 to exempt PGW from paying interest on DSIC over-collections, and (4) authorize the

filing, on one day's notice of a revised Long Term Infrastructure Improvement Plan ("LTIIP").

The Bureau of Investigation and Enforcement ("I&E") of the PUC, pursuant to at 52 Pa. Code §5.61, entitled "*Answers to complaints, petitions, motions and preliminary objections,*" hereby timely submits the following Answer in partial opposition to the Petition.

DSIC Maximum Cap Increase

In general, I&E does not object to PGW's request to increase its DSIC cap from 5% to 7.5%. On April 21, 2015 the Commission issued a *Staff Report: Inquiry into Philadelphia Gas Works' Pipeline Replacement Program* (the "Commission's Report") in which it was recommended that PGW take measures to accelerate the pace at which it replaced at risk mains. One of the steps PGW was asked to consider was increasing the current DSIC cap above the current 5% level. Increasing the DSIC cap to 7.5% of distribution revenues will allow PGW to accelerate its pipeline replacement substantially. PGW notes that this increase would result in a 44% reduction in the timeline for cast iron pipeline replacement. This is a goal that I&E supports.

A. Levelizing and Annualizing the DSIC Charge

Also contained in the PUC's Staff Report, was a recommendation that PGW levelize and annualize its DSIC charge. Normally, the DSIC charge for a natural gas utility is adjusted quarterly to reflect the amount of facilities placed into service in the prior quarter. In the warmer months, more plant is installed

than in the colder months. Because of this, PGW has rarely been able to bill the full, current 5% DSIC charge. Allowing PGW to annualize and levelize the DSIC charge will ensure that PGW can bill a flat 7.5% of distribution revenues each month, regardless of the amount of plant installed in the prior quarter. This will result in more predictable bills that are easier for the average customer to understand. It further provides a more predictable cash flow to PGW and, as such, will allow for a reduction to pipeline replacement times. Therefore, I&E does not object to this request either.

B. Waiver of Interest on Over-Collections

PGW is requesting that the Commission waive the requirement that PGW pay interest on its overcollections. I&E objects to this request. Act 11 requires that utilities pay interest on any over-collections that are returned via the reconciliation mechanism at the residential mortgage rate.¹ PGW requests a waiver of this provision based on the fact that paying interest on over-collections will reduce PGW's cash flow. While this is true, PGW's request to annualize and levelize its DSIC charge almost ensures that some over-collection will occur. I&E understands the need for the levelized DSIC in this instance, but the interest of the ratepayers who may overpay as a result must also be taken into account.

¹ 66 Pa. C. S. § 1358(e)(3).

ANSWER

1. Admitted.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted.

6. Admitted.

7. To the extent that averments contained in Paragraph 7 are consistent with PGW's LTIP, they are admitted. To the extent that such averments are inconsistent with the LTIP, they are denied.

8. Admitted in part, denied in part. It is admitted that PGW filed its DSIC Petition on January 18, 2013, that the DSIC was approved on May 9, 2013, and that Supplement No. 62 to Gas Service Tariff-Pa P.U.C. No.2 went into effect on June 1, 2013. To the extent that the remaining averments contained in Paragraph 8 are consistent with the Commission's Final DSIC Order, they are admitted. To the extent that such averments are inconsistent with Commission's Final DSIC Order, they are denied.

9. The averment contained in Paragraph 9 is a conclusion of law to which no response is required.

10. The averment contained in Paragraph 10 is a conclusion of law to which no response is required.

**WAIVER OF 5% LIMITATION AND AUTHORIZATION FOR HIGHER
MAXIMUM ALLOWABLE DSIC**

11. Admitted.

12. Admitted in part, denied in part. To the extent that the averments contained in Paragraph 12 regarding its approved LTIP and DSIC are consistent with the provisions of the approved LTIP and DSIC, they are admitted. To the extent that such averments are inconsistent with the LTIP and the DSIC, they are denied. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of the remaining averments contained in Paragraph 12.

13. Admitted.

14. To the extent that averments contained in Paragraph 14 regarding PGW's 2013 LTIP are consistent with such LTIP, they are admitted. To the extent that such averments are inconsistent with the LTIP, they are denied.

15. The averments contained in Paragraph 15 contain PGW's conclusory opinion, which is unsupported by any facts that I&E can admit or deny. Accordingly, after reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of the averments contained in Paragraph 15.

16. Admitted in part, denied in part. It is admitted that the Staff of the PUC issued a Report entitled "Staff Report: Inquiry into Philadelphia Gas Works' Pipeline Replacement Program." To the extent that the remaining averments

contained in Paragraph 16 are consistent with the Commission's Report, they are admitted. To the extent that such averments are inconsistent with Commission's Report, they are denied.

17. To the extent that the averment contained in Paragraph 17 is consistent with the Commission's Report, it is admitted. To the extent that the averment is inconsistent with Commission's Report, they are denied.

18. Admitted in part, denied in part. It is admitted that The Commission's Report included, as Appendix A, a letter from City Council to Mayor Nutter dated October 27, 2014 ("the City Council's letter"). To the extent that the remaining averments contained in Paragraph 18 are consistent with the City Council's letter, they are admitted. To the extent that such averments are inconsistent with the City Council's letter, they are denied.

19. To the extent that the averments contained in Paragraph 19 are consistent with the authorities referenced therein, they are admitted. To the extent that such averments are inconsistent with the cited authorities, they are denied.

20. Admitted in part, denied in part. It is admitted that PGW has made the requests to the Commission as averred in Paragraph 20. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of whether PGW's requests were made [i]n light of [these] various recommendations."

21. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of the averment contained in Paragraph 21.

22. The averments of Paragraph contain both a conclusion of law, and PGW's conclusory opinion, neither of which require a response.

23. Admitted in part, denied in part. To the extent that the averments contained in Paragraph 23 are consistent with the Commission's Report, they are admitted. To the extent that such averments are inconsistent with the Commission's Report, they are denied. By way of further response, after reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the extent and type of encouragement "others" have provided for PGW to accelerate its cast iron main replacement, or the specific reasons that PGW "concur in the view that the acceleration of PGW's at risk mains would be the most prudent course."

24. Admitted.

25. Admitted in part, denied in part. It is admitted that the testimony of PGW Senior Vice President Dan Murray is attached to PGW's instant Petition. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of the remaining averments contained in Paragraph 25.

26. Admitted.

27. The averments contained in Paragraph 27 contain PGW's conclusory opinion, which is unsupported by any facts that I&E can admit or deny.

Accordingly, after reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of the averments contained in Paragraph 27.

28. The averment contained in Paragraph 28 is a statement of PGW's "opinion," which requires no response.

29. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of the averments contained in Paragraph 29.

30. The averments contained in Paragraph 30 are allegations of PGW's intentions for the future. I&E is without knowledge or information to form a belief of the as to the truth of PGW's alleged intentions.

31. Admitted in part, denied in part. It is admitted that funding accelerated pipeline via a DSIC can be reasonable and in the public interest, and that the revenue generated by the DSIC is restricted to eligible infrastructure projects. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of the remaining averments of Paragraph 31.

32. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of the averments contained in Paragraph 32.

33. The averment contained in Paragraph 33 is a statement of PGW's conclusory opinion, which requires no response.

34. Admitted.

WAIVERS SO AS TO PERMIT LEVELIZATION AND ANNUALIZATION OF DSIC-ELEIGIBLE COSTS

35. Admitted.

36. Admitted in part, denied in part. Admitted in part, denied in part. To the extent that the averments contained in Paragraph 36 are consistent with Act 11 and the referenced Commission Order, they are admitted. To the extent that such averments are inconsistent with Act 11 and/or the Commission Order, they are denied.

37. Admitted in part, denied in part. To the extent that the averments contained in Paragraph 37 are consistent with 66 Pa. C.S. §§ 1353(b)(i)(iv), 1354(3), 1357(a)(2), 1357(b)(3) (relating to quarterly updates of the DSIC), 66 Pa. C.S. §§ 1357(a)(1)(ii), (a)(2), and (b)(1), they are admitted. To the extent that such averments are inconsistent with the aforementioned sections of Title 66 of Pennsylvania's Consolidated Statutes, the Pennsylvania Public Utility Code, they are denied.

38. To the extent that the averments contained in Paragraph 38 are consistent with the Commission's Report, they are admitted. To the extent that such averments are inconsistent with the Commission's Report, they are denied. By way of further response, after reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of the reaming averments contained in Paragraph 38.

39. Admitted in part, denied in part. It is admitted that in Paragraph 39, PGW includes a table that purports to show PGW's experienced DSIC as a percentage of its distribution revenues. By way of further response, after reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of the averments contained in Paragraph 39.

40. To the extent that the averments contained in Paragraph 40 are consistent with the Commission's Report, they are admitted. To the extent that such averments are inconsistent with the Commission's Report, they are denied.

41. Admitted in part, denied in part. It is admitted that the allegations contained in Paragraph 41 reflect PGW's proposal. By way of further response, after reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of whether the adjustments, as proposed, will not increase the DSIC above 7.5% of distribution revenues, exclusive of reconciliation.

42. Paragraph 42 contains only a statement of PGW's professed intentions, for which no response is required.

43. To the extent that the averments contained in Paragraph 43 are consistent with the Commission's Report, they are admitted. To the extent that such averments are inconsistent with the Commission's Report, they are denied.

44. The averments contained in Paragraph 44 contain PGW's conclusory opinion, which is unsupported by any facts that I&E can admit or deny.

Accordingly, after reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of the averments contained in Paragraph 44.

45. The averments contained in Paragraph 45 are PGW's conclusory opinions and a statement of its belief, which are unsupported by any facts that I&E can admit or deny. Accordingly, after reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of the averments contained in Paragraph 45.

46. Admitted.

47. To the extent that the averments contained in Paragraph 47 are consistent with the respective authorities cited, they are admitted. To the extent that such averments are inconsistent with those respective authorities, they are denied.

MECHANICS OF THE PGW DSIC AND RECONCILIATION

48. Admitted in part, denied in part. It is admitted that PGW is making the requests and proposals as stated. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of the remaining averments.

49. The averments contained in Paragraph 45 contain PGW's conclusory opinion and a statement of its perception, which are unsupported by any facts that I&E can admit or deny. Accordingly, after reasonable investigation, I&E is

without knowledge or information sufficient to form a belief as the truth of the averments contained in Paragraph 49.

50. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of the averments contained in Paragraph 50. By way of further response, PGW's averment appears to rely on its expectations of future data that will not be available until January 1, 2016, making such averment speculative, at best.

51. Admitted in part, denied in part. It is admitted that PGW's infrastructure is reviewed and approved by the named entities and in the manner alleged. It is denied that such review is adequate so as to negate the need for an investigation into the instant Petition. It is also denied that the request for a 10% total cap will provide adequate additional protection for customers.

52. Admitted.

53. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as the truth of the averments contained in Paragraph 53.

54. Paragraph 54 contains only a statement of PGW's professed intentions, for which no response is required.

WAIVER OF INTEREST REQUIREMENT

55. Admitted.

56. To the extent that the averments contained in Paragraph 56 are consistent with Act 11, they are admitted. To the extent that such averments are inconsistent with Act 11, they are denied.

57. It is admitted that PGW is requesting a waiver on paying interest on its overcollections. By way of further response, I&E avers that granting such a waiver to PGW would be contrary to the public interest.

58. Denied. By way of further response, waiving interest on any overcollection by PGW is unreasonable under 66 Pa. C.S. 1301 because it fails to protect ratepayers who may overpay. I&E's concern regarding potential ratepayer overpayment is compounded by PGW's request to annualize and levelize its DSIC charge, which increases the likelihood of PGW's over-collection.

59. The averments contained in Paragraph 59 are allegations of PGW's intentions for the future. I&E is without knowledge or information to form a belief of the as to the truth of PGW's alleged intentions.

60. The averments contained in Paragraph 60 are allegations of PGW's intentions for the future and projected DSIC revenues. I&E is without knowledge or information to form a belief of the as to the truth of such averments.

EXPEDITED APPROVAL

61. Admitted in part, denied in part. It is admitted that PGW is making a request for the Commission's approval in an expedited manner so that the charge becomes effective on January 1, 2016 or, in the alternative, for the DSIC tariff be permitted to be placed into effect, subject to an investigation. It is denied that PGW's request to circumvent the investigative process and/or place unapproved rates into effect subject to an investigation is appropriate in this matter because either action subjects ratepayers to additional costs without adequate protection.

62. Admitted in part, denied in part. It is admitted that PGW served a copy of the Petition upon the main parties that participated in PGW's initial DSIC filing and that a bill insert is attached to the instant Petition as Attachment "B." After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to whether PGW provided a bill insert to all of its firm customers.

CONCLUSION

WHEREFORE, for the reasons stated herein, the Bureau of Investigation and Enforcement respectfully requests that the Pennsylvania Public Utility Commission Deny Philadelphia Gas Works' Petition for Waiver of Provisions of Act 11 to Increase the Distribution System Improvement Cap and to Permit Levelization of DSIC, as filed. The Bureau of Investigation and Enforcement respectfully requests that the Commission Deny Philadelphia Gas Works' request to authorize the proposed tariff supplement on one day's notice in order to address the requested waiver of the payment of interest on over-collections. I&E alleges that PGW's request for exemption from the requirement of Act 11 of 2012 that assesses interest on over recoveries fails to protect ratepayers from over-collection. I&E requests that the Commission suspend Philadelphia Gas Works' Petition for investigation and for assignment of the proceeding to the Office of Administrative Law Judge ("OALJ") for resolution of the issue regarding interest on over-collections.

Respectfully submitted,



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Dated: September 18, 2015