

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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October 1, 2015

Honorable Marta Guhl
Honorable Christopher P. Pell
Office of Administrative Law Judge
Pa. Public Utility Commission
801 Market St, Suite 4063
Philadelphia, PA 19107

Re: Petition of Philadelphia Gas Works for
Approval to Establish a Distribution System
Improvement Charge
Docket No. P-2015-2501500

Dear Judge Guhl and Judge Pell

Attached for electronic filing is the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Darryl Lawrence', with a long horizontal flourish extending to the right.

Darryl Lawrence
Senior Assistant Consumer Advocate
PA Attorney I.D. # 93682
E-Mail: DLawrence@paoca.org

Enclosure

cc: Rosemary Chiavetta, Secretary
Certificate of Service

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CERTIFICATE OF SERVICE

Re: Petition of Philadelphia Gas Works :
for Approval to Establish a Distribution : Docket No. P-2015-2501500
System Improvement Charge :

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 1st day of October 2015

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Gina L. Lauffer
Carrie B. Wright
Bureau of Investigation & Enforcement
Pa Public Utility Commission
400 North Street,
Harrisburg, PA 17101

SERVICE BY EMAIL & FIRST CLASS MAIL, POSTAGE PAID

Carl Shultz, Esquire
Daniel Clearfield, Esquire
Eckert Seamans Cherin & Mellott LLC
213 Market Street 8th Floor
Harrisburg, PA 17101

Sharon Webb
Office of Small Business Advocate
Suite 202, Commerce Building
300 N. Second Street
Harrisburg, PA 17101

Adeolu A. Bakare, Esquire
McNees Wallace & Nurick, LLC
100 Pine Street
P.O. Box 1166
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Counsel for
Tanya McCloskey, Acting Consumer
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Office of Consumer Advocate
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Phone: (717) 783-5048

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Philadelphia Gas Works for	:	
Approval of a Distribution System	:	Docket No. P-2015-2501500
Improvement Charge	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 33 and the Prehearing Conference Order issued by Administrative Law Judges Christopher P. Pell and Marta Guhl on September 30, 2015, the Office of Consumer Advocate (OCA) provides the following:

I. BACKGROUND

On September 1, 2015, Philadelphia Gas Works (PGW or the Company) filed a Petition for multiple waivers of the provisions of Act 11 relating to the Distribution System Improvement Charge (DSIC), 66 Pa. C.S. §§ 1350-1360, and expedited approval of its proposed changes to the DSIC mechanism. On September 17, 2015, the OCA filed a Notice of Intervention, Public Statement and Answer to PGW's Petition. On the same date, the OCA filed a Formal Complaint against the Petition, which was docketed at C-2015-2504092.

On September 18, 2015, the Bureau of Investigation and Enforcement (I&E) filed an Answer to PGW's Petition. On September 21, 2015, the Office of Small Business Advocate (OSBA) filed an Answer, Verification, Public Statement, Notice of Appearance, and Notice of Intervention. On September 21, 2015, the Philadelphia Industrial and Commercial Gas Users Group (PICGUG) filed an Answer.

The OCA now files this Prehearing Memorandum to set forth the procedure and issues that the OCA submits are relevant to this proceeding.

II. ISSUES

PGW's proposed modifications to its DSIC present several important issues of law and fact. The OCA emphasizes that it continues to review PGW's filing and this list should not be considered inclusive or binding. The OCA has identified the following preliminary concerns, which are discussed in its Answer:

1. Proposal to increase the DSIC cap to 7.5%.
2. Proposal to allow PGW to exceed the DSIC cap, up to 10%.
3. Proposal to pay no interest on over-collections.
4. Proposal to levelize and annualize DSIC collections.
5. Proposal that DSIC rates become effective prior to conclusion of investigation and hearings.
6. Proposal to file supporting LTIIP on one (1) day's notice.

Further, all of PGW's requested waivers must be carefully considered to determine that they are legal, absolutely necessary, and needed to the degree proposed. PGW's DSIC rate must be just and reasonable.

As stated above, this list is preliminary and made without benefit of discovery and comprehensive review and investigation. The OCA reserves the right to address any additional issues that arise during the course of the proceeding.

III. WITNESSES

The OCA intends to present the Direct, Rebuttal and Surrebuttal testimony, as may be necessary, of Ashley E. Everette regarding the accounting and policy issues identified above. Ms. Everette will present testimony in written form and will also attach various exhibits, documents, and explanatory information, which will assist in the presentation of the OCA's case.

Her contact information is as follows:

Ashley Everette
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg PA 17101-1923
aeverette@paoca.org
Telephone: (717) 783-5048

The OCA specifically reserves the right to call additional witnesses and to expand the issues addressed in testimony, as necessary. If the OCA determines that an additional witness is necessary for any portion of its case, it will notify all parties of record immediately.

IV. PROPOSED SCHEDULE

The Presiding Officers propose to issue a Recommended Decision by December 11, 2015. This provides 10 weeks for discovery, testimony, hearings, briefs and decision. In Appendix A, the OCA proposes a truncated schedule that eliminates Reply Briefs and provides for oral surrebuttal and rejoinder at hearings, if needed. The OCA will work with the parties to develop a litigation schedule that is acceptable to the Presiding Officers and the parties.

As noted in Appendix A, the OCA anticipates that only one day of hearings will be needed.

V. SETTLEMENT

The OCA is willing to participate in settlement discussions, to the extent possible within the extremely brief litigation timeframe.

VI. PROPOSED REVISED RULES FOR DISCOVERY

The OCA proposes that the Commission's rules and regulations, 52 Pa. Code §5.321, *et seq.*, be modified as follows:

1. Answers to written interrogatories will be served in-hand within five (5) calendar days of service of the interrogatories;
2. Objections to interrogatories will be communicated orally or by email within two (2) business days of service; unresolved objections shall be served on the parties in writing within four (4) business days of service of the interrogatories;
3. Motions to dismiss objections and/or direct the answering of interrogatories will be filed within two (2) business days of service of written objections;
4. Answers to motions to dismiss objections and/or direct the answering of interrogatories will be filed within two (2) business days of service of such motions;
5. Responses to requests for document production, entry for inspection, or other purposes will be served in-hand within seven (7) calendar days;
6. Requests for admission will be deemed admitted unless answered within five (5) calendar days or objected to within three (3) business days of service;
7. Answers to on-the-record data requests will be served in-hand within five (5) calendar days of the request;
8. Rulings over motions shall be issued, if possible, within four (4) calendar days of the filing of the motion;
9. Any discovery or discovery related pleadings such as objections, motions, answers to motions served after 12 p.m. on a Friday or 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 will be "in-hand" with electronic or fax service on the due date satisfying the "in-hand" requirement and where such service is immediately followed by a hard copy sent by first-class mail.

VII. SERVICE ON THE OCA

The OCA will be represented in this proceeding by Senior Assistant Consumer Advocates Erin L. Gannon and Darryl Lawrence. Two copies of all documents should be served on the OCA as follows:

Erin L. Gannon
Senior Assistant Consumer Advocate
Office of Consumer Advocate
5th Floor, Forum Place
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Telephone: 717-783-5048
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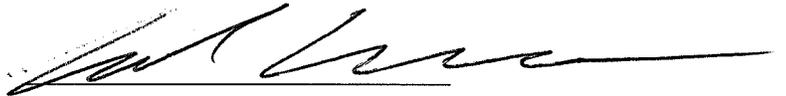
In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be mailed directly to the expert witness(es) responsible for the area of the case, as well as mailing a copy to counsel for the OCA. The OCA also requests that emails containing any interrogatory responses be emailed directly to the expert witness(es) and to the OCA's support person, Valerie Hironimus.

Ashley Everette aeverette@paoca.org
Valerie Hironimus vhironimus@paoca.org.

VIII. MOTION TO CONSOLIDATE

The issues underlying the OCA's Formal Complaint against PGW's proposed, modified DSIC are the same issues the OCA has identified in this Petition proceeding. At the October 2, 2015 Prehearing, the OCA will move to consolidate the two proceedings to avoid unnecessary duplication of administrative resources and financial costs associated with litigating the proceedings separately.

Respectfully Submitted,



Erin L. Gannon
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E-Mail: EGannon@paoca.org
Darryl Lawrence
Senior Assistant Consumer Advocate
PA Attorney I.D. # 93682
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Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

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Phone: (717) 783-5048
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DATE: October 1, 2015

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APPENDIX A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Philadelphia Gas Works for :
Approval of a Distribution System : Docket No. P-2015-2501500
Improvement Charge :

OFFICE OF CONSUMER ADVOCATE
PROPOSED LITIGATION SCHEDULE

October 23	Non-Company Direct
October 30	Company Rebuttal
November 4	Hearings Oral Surrebuttal and Oral Rejoinder, if needed
November 16	Main Brief (no Reply Briefs)
December 11	Recommended Decision