

Environmental Defense Fund
128 Winding Brook Lane
Terrace Park, Ohio 45174

November 13, 2015

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17015-3265

Re: Petition of Philadelphia Gas Works for Waiver of Provisions of Act 11 to Increase the
Distribution System Improvement Charge Cap and to Permit Levelization of DSIC
Charges, Docket No. P-2015-2501500

Dear Secretary Chiavetta:

Enclosed, please find an original copy of Environmental Defense Fund's Initial Brief in the above-captioned matter.

Copies are being served in accordance with the attached Certificate of Service.

Sincerely,

/s/ John Finnigan

John Finnigan

cc: All Counsel of Record (w/ encl.)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Philadelphia Gas Works for :
Waiver of Provisions of Act 11 to Increase :
the Distribution System Improvement : Docket No. P-2015-2501500
Charge Cap and to Permit Levelization :
of DSIC Charges :

**INITIAL BRIEF OF
ENVIRONMENTAL DEFENSE FUND**

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I. INTRODUCTION AND STATEMENT OF THE CASE

Philadelphia Gas Works (PGW or Company) filed this application for a waiver of Act 11 to increase its Distribution System Improvement Charge (DSIC) cap. PGW sought to increase the current DSIC cap to 10%, including reconciliations; to bill the DSIC as an annualized, levelized charge, subject to true-up; to avoid paying interest on DSIC over-collections; and to file a Long-Term Infrastructure Improvement Plan (LTIIIP) on one day's notice. PGW subsequently withdrew its proposal for waiver of the requirement to pay interest on overcollections of DSIC charges.

PGW has a highly leak-prone system. PGW has been observing an increase in the number of leaks on its system, due in part, to the increasing age of its system. The leakage of natural gas into the atmosphere is undesirable from the perspective of customers, the environment and public safety. For these reasons, it is important to modernize PGW's distribution system by accelerating the rate of replacement of its leak-prone infrastructure. Accordingly, EDF recommends that the Pennsylvania Public Utility Commission (PUC or Commission) approve PGW's requests relating to an increase in its DSIC cap, and the annualization and levelization of DSIC, and to implement these changes effective January 1, 2016, in order to facilitate an accelerated pipeline replacement program, as proposed by PGW.

II. PROCEDURAL HISTORY

PGW filed its application on September 1, 2015. The following parties intervened in the case: the Office of Consumer Advocate (OCA); the Bureau of Investigation and Enforcement (I&E); the Office of Small Business Advocate

(OSBA); the Philadelphia Industrial and Commercial Gas Users Group; the Environmental Defense Fund (EDF); and the Clean Air Council.

The Administrative Law Judges held a prehearing conference on October 2, 2015, and issued a Prehearing Order on October 5, 2015.

The following parties submitted testimony on October 19, 2015: OCA (testimony of Ashley E. Everette); I&E (testimony of Rachel Maurer, Terri C. Cooper Smith and Robert Horensky); OSBA (testimony of Robert D. Knecht); and EDF (testimony of Simi Rose George). The Commission later granted I&E's motion to strike the testimony of Simi Rose George.

PGW entered into a stipulation with I&E. This stipulation was entered into evidence at the hearing as I&E / PGW Exhibit No. 1. The case proceeded to hearing before Administrative Law Judges Christopher P. Pell and Marta Guhl on November 4, 2015.

III. BURDEN OF PROOF

Under 66 Pa. Code § 332(a), the party seeking a rule or order from the Commission has the burden of proof in that proceeding. In this case, PGW seeks to change the terms of its DSIC charge, so it has the burden of proof.

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

a. Summary of Briefing Party's Position

PGW's request to increase the DSIC cap from 5% to 7.5% of distribution revenues, not including reconciliations, and to a total of 10%, including reconciliations, is reasonable and should be approved by the Commission. This will

allow PGW to implement a more effective gas main replacement program and to significantly reduce the leaks on its natural gas distribution system.

b. Standard for Granting the Waiver

66 Pa. Code § 1353(a) allows a utility to establish a DSIC to recover the costs to repair, improve or replace eligible property used in rendering natural gas service. Unless waived by the Commission, the DSIC may not exceed 5% of the utility's rates billed to customers. 66 Pa. Code § 1358(a) authorizes the Commission to approve a DSIC higher than 5% if necessary for the utility to provide safe, adequate and reliable service. In addition, 66 Pa. Code § 2212 generally authorizes the Commission to suspend or waive any part of the code.

c. Has PGW Met Standard for Waiver of 5% Cap?

PGW has clearly met the standard for waiving the 5% cap. PGW supported its application with the Direct Testimony of Daniel P. Murray, its Senior Vice President of Customer Affairs and Operations, which was admitted into evidence at the hearing as Exhibit PGW St. No. 1 (Ex. PGW-1). Mr. Murray testified that PGW has 3,000 miles of gas mains, and that 66% of these mains are cast iron or unprotected steel, and are at risk for leaks (Ex. PGW-1 at p. 2). PGW also has 3,000 miles of service lines and 25% of these lines are cast iron or unprotected steel. *Id.* PGW is replacing its cast iron mains at a rate of approximately 25 miles per year. *Id.* At this rate, it would take PGW 86 years to completely replace this pipe.

On April 21, 2015, the Commission's Staff issued a report (Staff Report) recommending that PGW accelerate its replacement of these gas mains and service lines.

(Ex. PGW-1 at p. 4). Mr. Murray gave several reasons for accelerating the replacement rate:

(1) PGW has among the highest percentage of at-risk pipe of any natural gas utility in the state;

(2) in the last few years, an industry consensus has emerged to replace these pipes as quickly as reasonably possible; and

(3) PGW is experiencing an upward trend in leaks and breaks. (Ex. PGW-1 at pp. 5-9).

Finally, Mr. Murray testified that, if the Commission approves PGW's application, then this would reduce the time needed to replace all of the pipe from the current projected time horizon of 86 years to 48 years. (Ex. PGW-1 at pp. 10).

Mr. Murray's testimony establishes that the waiver is necessary for PGW to render safe, adequate and reliable service. PGW has a very high proportion of at-risk pipe, compared to the other natural gas utilities in the state. PGW's current replacement rate is too slow, in light of the amount of at-risk pipe, because it would take PGW 86 years to replace the pipe using the current replacement rate. This pipe is a public safety hazard because of the risk of explosions and the methane emissions from the leaks are environmentally harmful, being a significant source of greenhouse gas emissions. The Commission should therefore approve PGW's request to increase the DSIC to 7.5% excluding reconciliations and to 10% with reconciliations.

d. 7.5% Cap for DSIC Expenditures

Increasing the DSIC to 7.5% would only have a modest impact on customer bills. It would result in a monthly increase of \$1.65 for residential customers and \$5.30 for

commercial customers. (Ex. PGW-2 at p. 6). This would increase customer rates by 1.7% annually for residential customers and by 1.5% annually for commercial customers. *Id.* Thus, the incremental cost to customers resulting from the proposed DSIC increase is minimal, when compared to the multiple benefits to customers and the public interest from accelerating PGW's pipeline replacement program, discussed above. The Commission should therefore approve PGW's request to increase the DSIC to 7.5%, excluding reconciliations.

e. 10% Cap for Reconciliation

PGW proposes to increase the DSIC cap to 10% for reconciliations. This request is reasonable and should be approved. This will help ensure that PGW actually receives the amount of revenue contemplated. The DSIC results in under-collections from time-to-time, and increasing the cap to 10% including reconciliations will permit PGW to adjust its billings to account for these under-collections. (Ex. PGW-2 at p. 11).

V. WAIVERS TO PERMIT LEVELIZATION AND ANNUALIZATION OF DSIC-ELIGIBLE COSTS

a. Summary Of Briefing Party's Position

PGW's request for a waiver to permit levelization and annualization of DSIC-eligible costs is reasonable and should be approved by the Commission. These changes were recommended by Commission Staff in the Staff Report and would allow PGW to administer its DSIC program more efficiently.

b. Standard For Granting The Waiver

The standard for granting the waiver to allow for levelization and annualization of the DSIC costs is the same standard discussed earlier for granting a waiver of the 5% DSIC cap.

c. Has PGW Satisfied the Standard For Granting Waiver Permitting Annualization/Levelization?

PGW's proposal to annualize and levelize the DSIC is reasonable and should be approved. PGW does not currently annualize and levelize its current DSIC charge. This has resulted in an uneven stream of revenue and seasonal variations in the amount of revenue received. (Ex. PGW-2 at p. 5). The DSIC charge is calculated as a percentage of PGW's base rates, so the amount of the charge is highest during the winter months, when customers are using the highest volumes of gas and paying their highest bills. *Id.* This makes it difficult for PGW to bill and administer the DSIC, and for customers to understand the amount of the DSIC charge on their monthly gas bill (Ex. PGW-2 at p. 7). The Commission Staff recommended that PGW annualize and levelize its DSIC charges. (Ex. PGW-1 at p. 8).

Annualizing and levelizing the DSIC would make it much simpler for PGW to bill and administer the DSIC charges. This would also make it easier for customers to understand the amount of the DSIC charges applied to their monthly gas bills. The Commission Staff's recommendation in the Staff Report that PGW make this change, based on an in-depth analysis of PGW's system and assessment of all relevant information, supports the conclusion that PGW's requested waiver to annualize and levelize the DSIC is reasonable.

d. Implementation of and Conditions on the Levelization/Annualization Waiver

PGW proposed that the DSIC changes and the levelization/annualization become effective January 1, 2016. (Ex. PGW-2 at p. 9). By making the new changes effective at the beginning of the year, this would fund an annual pipeline replacement program of \$33.75 million, which is significantly higher than the current program funding of \$22.5

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Appendix A – Proposed Findings of Fact

1. PGW has 3,000 miles of gas mains, and 66% of these mains are cast iron or unprotected steel, and are at risk for leaks (Ex. PGW-1 at p. 2).
2. PGW has 3,000 miles of service lines and 25% of these lines are cast iron or unprotected steel. (Ex. PGW-1 at p. 2).
3. PGW is replacing these mains at a rate of 25 miles per year. (Ex. PGW-1 at p. 2).
4. On April 21, 2015, the Commission’s Staff issued a report (Staff Report) recommending that PGW accelerate its replacement of these gas mains and service lines. (Ex. PGW-1 at p. 4)
5. PGW has among the highest percentage of at-risk pipe of any natural gas utility in the state. (Ex. PGW-1 at p. 5).
6. In the last few years, an industry consensus has emerged to replace these pipes as quickly as reasonably possible. (Ex. PGW-1 at p. 5).
7. PGW is experiencing an upward trend in leaks and breaks. (Ex. PGW-1 at pp. 5-9).
8. If the Commission approves PGW’s application, then this would reduce the time needed to replace all the pipe from the current time horizon of 86 years to 48 years. (Ex. PGW-1 at pp. 10).
9. Increasing the DSIC to 7.5% would result in a monthly bill increase of \$1.65 for residential customers and \$5.30 for commercial customers. (Ex. PGW-2 at p. 6).

10. Increasing the DSIC to 7.5% would increase customer rates by 1.7% annually for residential customers and by 1.5% annually for commercial customers. (Ex. PGW-2 at p. 6).

11. The DSIC results in under-collections from time-to-time, and increasing the cap to 10% including reconciliations will permit PGW to adjust its billings to account for these under-collections. (Ex. PGW-2 at p. 11).

12. PGW does not currently annualize and levelize its DSIC charge, and this has resulted in seasonal variations in the amount of revenue received. (Ex. PGW-2 at p. 5).

13. The DSIC charge is calculated as a percentage of PGW's base rates, so the charge is highest during the winter months, when customers are using the highest volumes of gas and paying their highest bills. (Ex. PGW-2 at p. 5).

14. The current uneven DSIC charge makes it difficult for PGW to bill and administer the DSIC, and for customers to understand the amount of the DSIC charge on their monthly gas bill (Ex. PGW-2 at p. 7).

15. The Commission Staff recommended in the Staff Report that PGW annualize and levelize its DSIC charges (Ex. PGW-1 at p. 8) and that the DSIC cap be increased beyond the current level of 5% (Ex. PGW-1 at p. 5).

Appendix B – Proposed Conclusions of Law

1. 66 Pa. Code § 1353(a) allows a utility to establish a DSIC to recover the costs to repair, improve or replace eligible property used in rendering natural gas service.

2. Unless waived by the Commission, the DSIC may not exceed 5% of the utility's rates billed to customers.

3. 66 Pa. Code § 1358(a) authorizes the Commission to approve a DSIC higher than 5% if necessary for the utility to provide safe, adequate and reliable service.

4. 66 Pa. Code § 2212 generally authorizes the Commission to suspend or waive any part of the code.

5. PGW's request for a waiver under Act 11 to increase the DSIC to 7.5% excluding reconciliations and to 10% including reconciliations is reasonable and is necessary for PGW to render safe, adequate and reliable service.

6. PGW's request for a waiver under Act 11 to annualize and levelize the DSIC is reasonable and is necessary for PGW to render safe, adequate and reliable service.

7. PGW's request for a waiver under Act 11 to implement the DSIC changes and the levelization/annualization effective January 1, 2016 is reasonable and is necessary for PGW to render safe, adequate and reliable service.

Appendix C – Proposed Ordering Paragraphs

1. PGW's request for a waiver under Act 11 to increase the DSIC to 7.5% excluding reconciliations and to 10% including reconciliations is reasonable and is necessary for PGW to render safe, adequate and reliable service, and is hereby approved.

2. PGW's request for a waiver under Act 11 to annualize and levelize the DSIC is reasonable and is necessary for PGW to render safe, adequate and reliable service and is hereby approved.

3. PGW's request for a waiver under Act 11 to implement annualized and levelized DSIC changes effective January 1, 2016 is reasonable and is necessary for PGW to render safe, adequate and reliable service and is hereby approved.

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2015, I served a true copy of the foregoing document upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), via email and first class mail, upon the persons listed below:

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