

COMMONWEALTH OF PENNSYLVANIA



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January 11, 2015

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

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

Dear Secretary Chiavetta:

Please find enclosed for filing the Office of Consumer Advocate's Reply Exceptions in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully submitted,

A handwritten signature in cursive script that reads "Erin L. Gannon".

Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487
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Attachment

cc: Honorable Marta Guhl
Honorable Christopher P. Pell

Certificate of Service

*215488

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 following document, the Office of Consumer Advocate's Reply Exceptions 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 11th day of January 2015

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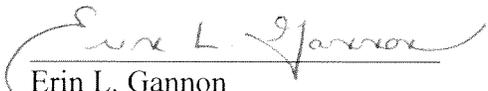
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

REPLY EXCEPTIONS OF THE
OFFICE OF CONSUMER ADVOCATE

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DATED: January 11, 2016

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I. INTRODUCTION

On April 3, 2014, the Office of Administrative Law Judge issued the Recommended Decision (R.D.) of Administrative Law Judges Christopher P. Pell and Marta Guhl (ALJs). Exceptions were due on December 31, 2015. The OCA excepted to the ALJs' recommended approval of Philadelphia Gas Works' (PGW or Company) requested waivers of the Public Utility Code without modification. R.D. at 105-06. The waived provisions of statute authorizing utilities to charge a Distribution System Improvement Charge (DSIC) provide important consumer protections and the Company did not show that their waiver was necessary for the utility to ensure and maintain adequate, efficient, safe, reliable and reasonable service. If waived, however, other protections should be incorporated in PGW's proposed DSIC mechanism to mitigate potential harm to customers. The ALJs did not recommend any mitigating protections for the DSIC. The ALJs did recommend that the Company make a formal request of the City of Philadelphia to waive its City fee, which would provide funds that the Company could choose to apply to additional infrastructure investment. R.D. at 106. PGW filed an Exception to this recommendation, in response to which the OCA files this Reply Exception.

As discussed in the OCA's Briefs, a waiver or grant back of all or a portion of PGW's \$18 million annual payment is a potential alternative to increasing the DSIC rate to fund infrastructure investment. OCA M.B. at 10-12; OCA R.B. at 7-8. In the past 11 years, the City granted back the payment seven times. PGW St. 3R at 10; OCA St. 1S at 8. The record also shows that PGW has yet to formally ask the City and, in particular, the new administration that took office in January 2016, to grant back any portion of the payment to avoid or offset a rate increase. OCA M.B. at 11-12; OCA R.B. at 7.

The OCA respectfully submits the following Reply to PGW's Exception to the Recommended Decision of ALJs Pell and Guhl.

II. EXCEPTIONS

OCA Reply to PGW Exception No. 1: The ALJs Correctly Recommended that PGW Make a Formal Request of the City of Philadelphia to Waive Its City Fee. R.D. at 57, 71, 106; OCA M.B. at 10-12; OCA R.B. at 7-8.

The ALJs recommended that PGW “make a formal request of the City of Philadelphia to waive its [annual \$18 million] City fee.” R.D. at 106. In its Exception, PGW argues that it “would not be reasonable or in the public interest to avoid or delay increasing PGW’s DSIC cap on the hope that the City might voluntarily agree to waive the payment PGW is statutorily required to make.” PGW Exc. at 3. As the ALJs correctly found, however, it is necessary to consider the availability of alternative sources of funding in determining whether it is necessary to increase the DSIC cap. The ALJs stated:

The 5% DSIC cap is in place to protect customers from excessive charges. Since this provision affords utility customers protections from excessive charges, we find it reasonable that one factor to be considered when determining if granting waiver of the DSIC cap is necessary is whether or not there are other funding sources available in lieu of increasing the DSIC cap. Only by considering the availability of alternative funding sources can we ensure that utility customers are protected from excessive charges, and that a grant of the waiver is warranted.

R.D. at 16.

Unless PGW makes a formal request to the City, it cannot be known whether or not the \$18 million – or any portion of that amount – is available and, thus, whether or not the DSIC cap waiver is warranted. PGW objects to being directed to make a formal request because it “finds it unlikely that the City will be willing to grant its request for waiver based on recent [informal] inquiries.” PGW Exc. at 7. The record shows, however, PGW witness Golden’s only communication with the City on this matter was a phone call on the eve of hearings to a single City Deputy Director. According to Mr. Golden, the contact told him that “it would not be something they would do through the term of this Administration.” Tr. 85. Mr. Golden

acknowledged that a new administration will take office at the beginning of January 2016. Tr. 89. There is no reasonable basis to prejudge the new administration's decision. See OCA M.B. at 11-12; OCA R.B. at 7.

PGW suggests that the ALJs' recommendation is inconsistent with their finding that the Commission has no power to order the City to waive or grant back the annual fee. PGW Exc. at 5. The ALJs in no way recommend, however, that the Commission "forcibly appropriate" the \$18 million, as PGW asserts. PGW Exc. at 5. Rather, they direct the Company to make the formal request – nothing more. R.D. at 106; see R.D. at 57, 71.

PGW also argues that it would be "unfair" to ask the City to waive the \$18 million because it represents the only available return on the City's investment. PGW Exc. at 6. PGW says this is similar to requiring the shareholders of an investor-owned utility to fund infrastructure investments. Id. As OSBA witness Knecht pointed out, however, this "would only be comparable if the City had contributed the equity in the business." OSBA St. 1S at 11. He explained:

In my limited experience with PGW over the past 15 years, I do not believe the City has made any such equity contributions. As I demonstrated in my direct testimony, the improvement in PGW's financial condition over the past six years has resulted from ratepayer provided equity. Under the logic of Mr. Golden's statement, the City of Philadelphia would appear to demand that ratepayers provide all of the equity needed by the Company to operate in a financially prudent manner, and would then require ratepayers to pay the City a return on the equity that the ratepayers themselves have contributed.

Id.

With regard to "fairness," ratepayers have increased PGW's (owner's) equity by \$210 million since 2009 and are expected to increase equity by an additional \$380 million by 2021. OSBA St. 1 at 6. Mr. Knecht explained:

Table IEc-1 also shows that the impact of the acceleration of mains replacement with the proposed DSIC changes would result in an even greater improvement in PGW's financial status. By 2021, the DSIC changes will add an additional \$67 million to city equity, further reduce the debt ratio, and further improve financial coverage ratios. From a financial perspective, the Company's proposal in this proceeding has the appearance of a program designed to benefit the shareholder, rather than an effort to sensibly finance a mains replacement program.

OSBA St. 1 at 5. Thus, the Company's position that the City can bear none of the incremental infrastructure investment – and ratepayers must fund all through an increased DSIC – is not credible or reasonable.¹

PGW's rates are already very high compared with other Pennsylvania utilities and the Company's service territory has the highest percentage of households in "deep poverty" of any large city in the United States. OCA St. 1 at 19; OCA M.B. at 12-15. Ratepayers have already increased PGW's (owner's) equity by \$210 million since 2009 and are expected to increase equity by an additional \$380 million by 2021. OCA R.B. at 8 (citing OSBA St. 1 at 5-6). Yet, PGW is unwilling to even ask the new City administration about granting back a portion of the City fee. This is not a reasonable position.

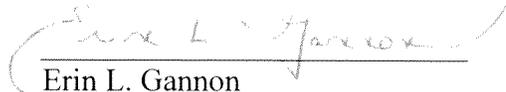
For all of these reasons, the OCA submits that the Commission should adopt the ALJs recommendation to direct PGW to make a formal request to the City.

¹ As part of its unfairness argument, PGW also equates ratepayers with taxpayers. PGW Exc. at 6. While ratepayers are likely to be taxpayers, the reverse is not true. Accordingly, PGW's speculation about the City's budgetary priorities should be ignored. PGW Exc. at 6-7.

III. CONCLUSION

As set forth above, and in the OCA's Main and Reply Briefs and Exceptions, the OCA respectfully submits that the Exception of Philadelphia Gas Works on the issue discussed herein should be denied.

Respectfully Submitted,



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