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February 22, 2016

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

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:

Please find enclosed for filing with the Pennsylvania Public Utility Commission the Philadelphia Industrial and Commercial Gas Users Group's ("PICGUG") Answer to the Petition for Reconsideration and/or Clarification filed by Philadelphia Gas Works in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to this proceeding are being duly served.

Sincerely,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'Adeolu A. Bakare', written over a horizontal line.

Adeolu A. Bakare

Counsel to the Philadelphia Industrial and Commercial Gas Users Group

Enclosure

c: Administrative Law Judge Christopher P. Pell (via E-mail and First-Class Mail)
Administrative Law Judge Marta Guhl (via E-Mail and First-Class Mail)
Certificate of Service

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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

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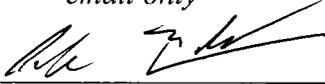
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Adeolu A. Bakare
Counsel to the Philadelphia Industrial and
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Dated this 22nd day of February, 2016, at Harrisburg, Pennsylvania

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PHILADELPHIA GAS	:	
WORKS FOR WAIVER OF PROVISIONS	:	Docket No. P-2015-2501500
OF ACT 11 TO INCREASE THE	:	
DISTRIBUTION SYSTEM	:	
IMPROVEMENT CHARGE CAP AND TO	:	
PERMIT LEVELIZATION OF DSIC	:	
CHARGES	:	

**PHILADELPHIA INDUSTRIAL AND COMMERCIAL
GAS USERS GROUP'S ANSWER TO
PETITION OF PHILADELPHIA GAS WORKS
FOR RECONSIDERATION AND/OR CLARIFICATION**

Pursuant to Section 5.572(e) of the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Regulations, 52 Pa. Code § 5.572(e), the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG") submits this Answer to the Petition for Reconsideration and/or Clarification ("Petition for Reconsideration") filed by Philadelphia Gas Works ("PGW" or "Company") in the above-captioned proceeding. In support thereof, PICGUG avers as follows:

I. INTRODUCTION

1. On January 28, 2016, the Pennsylvania Public Utility Commission ("PUC" or "Commission") entered a Final Order ("Final Order") partially approving the 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 ("Petition"). The Commission's Order, *inter alia*, approved PGW's request to increase the DSIC cap from 5% to 7.5%, but denied the Company's request to establish a separate 2.5% cap for purposes of recovering undercollection adjustments.

2. On February 12, 2016, PGW filed the above-referenced Petition for Reconsideration requesting, *inter alia*, that the Commission reconsider the Final Order and approve the additional 2.5% cap on undercollection expenses.¹ The Company petitions the Commission to permanently approve the 2.5% cap or, alternatively, grant a temporary waiver allowing PGW to exceed the 7.5% cap to recover an approximately \$11 million undercollection resulting from the Company's transition from the prior DSIC to the levelized and annualized DSIC rate design approved in the Final Order. *See* Petition, p. 8.

3. In support of the Commission's findings with regard to the lack of statutory basis for a separate cap for undercollection expenses, PICGUG hereby submits this Answer requesting that the Commission deny PGW's Petition for Reconsideration with regard to the proposed additional 2.5% cap.

II. ANSWER

4. As stated above, PGW's Petition for Reconsideration asks the Commission to reconsider its denial of PGW's proposal to implement a separate 2.5% cap for recovery of DSIC undercollections. PGW asks the Commission to authorize a permanent additional 2.5% cap or, alternatively, requests a temporary waiver of the current 7.5% cap to allow PGW to recover an approximately \$11 million undercollection from 2015. As described below, PGW's Petition for Reconsideration relies entirely on a flawed interpretation of the Commission's Final Order and fails to raise any issues meeting the Commission's standards for reconsideration of the Commission's prior decision that Act 11 makes no provision for separate recovery of undercollection expenses.

¹ The Petition for Reconsideration also requests reconsideration and/or clarification of the tracking and accounting requirements set forth in Ordering Paragraphs 8(c) and 8(d) of the Final Order. PICGUG takes no position on these matters and responds solely to PGW's request for reconsideration of the Commission's decision on the 2.5% undercollection cap.

5. The Commission has developed clear standards for reconsideration. The Commission may grant Petitions for Reconsideration when presented with "new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission." *Duick v. Pennsylvania Gas and Water Company*, 56 Pa. P.U.C. 553, 559 (1982). As described below, the Commission's Final Order considered the issues raised in PGW's Petition. Accordingly, PGW failed to meet the standard for reconsideration established in *Duick*.

6. In denying PGW's proposal to add a separate 2.5% cap solely for recovery of undercollection expenses, the Commission stated as follows:

Upon careful consideration of the record evidence, the positions of the Parties, and the applicable law, we decline to grant PGW an additional 2.5% increase to its DSIC for reconciliation purposes. While it is clear that Act 11 contemplates the possibility that an increase to the 5% DSIC cap may be advisable under certain circumstances in order to ensure safe and reliable service, **it does not mandate that the Commission guarantee that a utility be able to collect DSIC revenues at the full percentage designated by the cap in any given quarter.**

Final Order, pp. 54-55 (Emphasis added). Accordingly, the Commission established that Act 11, while designed to accelerate recovery of infrastructural expenses, fully contemplated that undercollection expenses would constitute a component of the utility's capped DSIC expenses.² *See id.* at 55.

7. Contrary to the Commission's express finding, PGW professes an entitlement to collect 100% of its DSIC for current expenses. After the Commission thoroughly explained its decision that DSIC collections should include undercollection expenses, PGW simply reiterates its desire to do the opposite without any justification other than its inability to apply 100% of DSIC revenues to current main replacements. *See* Petition, p. 8. Specifically, PGW asserts that

² The Commission concluded "we do not find it necessary to eliminate one-hundred percent of the risk to PGW posed by undercollections in order to ensure "adequate, efficient, safe, reliable, and reasonable service" under Section 1358(a)(1) of the Code. Final Order, p. 55.

"[a]uthorizing a permanent 2.5% DSIC cap would provide PGW with the flexibility to manage the existing as well as future DSIC undercollections without any delay in its accelerated main replacement program if a material undercollection arises in the future." *Id.* at 8. This argument fails to meet the *Duick* standard for reconsideration as the Commission already concluded that Act 11 contemplates that utilities will not be able to accelerate infrastructural investment up to the full level of the cap during all periods because of undercollections from prior periods.

8. Further, the fact that PGW experienced a larger than anticipated undercollection due to a one-time transitional reconciliation does not remove the Company's experience from the scope of anticipated developments articulated in the Commission's Final Order. The Final Order, in addition to finding that Act 11 fully contemplated recovery of undercollection expenses as part of the DSIC cap, also concluded that PGW's undercollections should be minimized under a levelized and annualized rate design. *See* Final Order, p. 55. PGW's Petition confirms that almost all of the \$11 million undercollection, save \$500,000, is attributable to the transition to a levelized and annualized DSIC rate design. *See* Petition, p. 7 n. 15. Therefore, when properly assessed in the context of the relief granted by the Final Order, *i.e.* a 50% increase to the Company's DSIC intended to accelerate main replacements over a **48-year period**, the occurrence of a one-time undercollection that delays some investment solely at the outset of the program constitutes a rather insignificant development that can be resolved through normal operation of the DSIC reconciliation. *See id.* at 42 n. 8. The one-time transitional nature of PGW's reported \$11 million undercollection should only reinforce the Commission's finding that future undercollections will be manageable, thereby affirming that the DSIC approved by the Final Order will lead to substantial acceleration of PGW's pipeline replacement, as intended.

9. Finally, the Commission should reject any contention that additional rate increases resulting from approval of PGW's Petition would not significantly impact customers. *See* Petition, p. 9. PGW provided information only as to the impact of its Petition upon Residential customers, with no documentation of the impact upon larger Commercial or Industrial accounts. *See id.* The Commission should additionally consider that PGW does not exist in a vacuum. In addition to the 50% increase to PGW's DSIC already granted by the Final Order, Philadelphia residents and businesses experienced an electric rate increase effective January 1, 2016, and have already received notice of a Philadelphia Water Department Rate increase effective July 1, 2016.³ As the 50% DSIC increase granted in the Final Order already allows PGW to significantly accelerate main replacements over a 48-year period, subjecting customers to yet another utility rate increase would be unjust and unreasonable.

10. Accordingly, for the reasons set forth above, the Commission should deny PGW's request to further increase its DSIC for additional recovery of undercollection expenses on a permanent or temporary basis.

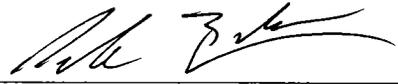
³ *See Pennsylvania Public Utility Commission et al, v. PECO Energy Company – Electric Division*, Opinion and Order, R-2015-2468981 (Pa. PUC December 17, 2015); *see* Official Philadelphia Water Department Rate Filing February 8, 2016 *available at* <http://www.phila.gov/water/rateboard/Pages/filing.aspx>.

IV. CONCLUSION

WHEREFORE, the Philadelphia Industrial and Commercial Gas Users Group respectfully requests that the Pennsylvania Public Utility Commission deny the Petition of Philadelphia Gas Works for Reconsideration and/or Clarification.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By _____

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