



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

IN REPLY PLEASE
REFER TO OUR FILE

June 7, 2017

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

Re: Pennsylvania Public Utility Commission v.
Philadelphia Gas Works - 1307(f)
Docket No. R-2017-2587526

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement (I&E)
Statement in Support of Joint Petition for Settlement in this proceeding.

Copies are being served as evidenced in the attached Certificate of Service. If you
have any questions, please contact me at (717) 787-8754.

Sincerely,

Gina L. Miller

Prosecutor

Bureau of Investigation and Enforcement
PA Attorney I.D. #313863

GLM/snc
Enclosure

cc: ALJ Marta Guhl
Certificate of Service

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2017-2587526
 :
 Philadelphia Gas Works 1307(f) :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Statement in Support of Joint Petition for Settlement** dated June 7, 2017, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

Served via Electronic and First Class Mail

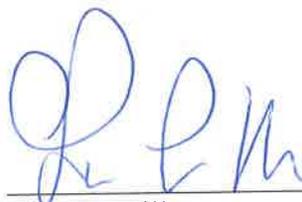
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Gina L. Miller
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Bureau of Investigation and Enforcement
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY
COMMISSION, et al.**

v.

PHILADELPHIA GAS WORKS

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:
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:
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Docket No. R-2017-2587526

**BUREAU OF INVESTIGATION AND ENFORCEMENT
STATEMENT IN SUPPORT OF JOINT PETITION FOR SETTLEMENT
PHILADELPHIA GAS WORKS' 2017-2018 GCR PROCEEDING**

TO ADMINISTRATIVE LAW MARTA GUHL:

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its Prosecutor, Gina L. Miller, hereby respectfully submits that the terms and conditions of the foregoing *Joint Petition for Settlement of Philadelphia Gas Works’ 2017-2018 GCR Proceeding* (“Joint Petition” or “Settlement”) are in the public interest and represent a fair, just, reasonable and equitable balance of the interest of Philadelphia Gas Works (“PGW”) and its customers. In support of this position, I&E offers the following enumerated Comments:

I. INTRODUCTION

1. I&E is charged with the representation of the public interest in proceedings relating to rates, rate-related services and application proceedings affecting the public

interest held before the Commission.¹ Consequently, in all contested proceedings, including those resolved through negotiated settlements, it is incumbent upon I&E to ensure that the public interest is served and to comment on how the amicable resolution of any such proceeding will benefit the public interest. The request for approval of this Joint Petition is based on I&E's conclusion that the Settlement meets all the legal and regulatory standards necessary for approval. "The prime determinant in the consideration of a proposed Settlement is whether or not it is in the public interest."² I&E concludes that the Joint Petition meets this standard.

2. On February 1, 2017, PGW submitted pre-filed information regarding its 2017-2018 Purchased Gas Cost ("PGC") rate filing pursuant to the Public Utility Code.³ Consistent with the terms of the settlement of PGW's 2016-2017 PGC rate filing at docket no. R-2016-2526700 and with the Commission's July 21, 2016 Order approving the settlement without modification, PGW departed from certain requirements of 52 Pa. Code Sections 53.45(b), 53.64(c), 53.68(a) and 53.64(i)(5)(i). These requirements address the timing of bill inserts, public notice and underlying data to be relied upon for the March 1, 2017 quarterly 1307(f) filing.

3. By filing dated March 1, 2017, PGW submitted its annual gas cost rate filing to become effective for services rendered on or after September 1, 2017. PGW also filed its prepared Direct Testimony.

¹ 66 Pa. C.S. 308.2(a)(11); Docket No. M-2008-2071852, Final Procedural Order entered on August 11, 2011, p. 10.

² *Pennsylvania Public Utility Commission v. Philadelphia Electric Company*, 60 PA PUC 1, 22 (1985).

³ 66 Pa. C.S. 1307(f).

4. I&E filed a Notice of Appearance in this matter on February 7, 2017. Additionally, The Office of the Small Business Advocate (“OSBA”) filed a Complaint (docketed at C-2017-2588484), Public Statement and Notice of Appearance on February 29, 2016, and the Office of the Consumer Advocate (“OCA”) filed a Formal Complaint (docketed at C-2017-2589993) and Public Statement on March 21, 2017. Finally, the Philadelphia Industrial & Commercial Gas Users Group (“PICGUG”) filed a Petition to Intervene on February 21, 2017.

5. A Prehearing Conference Order was entered on March 6, 2017, and the Order scheduled a telephonic prehearing conference for March 15, 2017.

6. Counsel for the following parties participated in the Prehearing Conference on March 15, 2017: PGW, I&E, the OCA, the OSBA and PICGUG (the “Parties”). Administrative Law Judge (“ALJ”) Marta Guhl presided, and during the Conference, PICGUG’s Petition to Intervene was granted and the Parties established a procedural schedule for this proceeding. On March 16, 2017, Prehearing Order #1 was entered.

7. Discovery was undertaken by the parties during the pendency of the proceeding.

8. In accordance with the procedural schedule, I&E served the following testimony and exhibit upon the parties on April 19, 2017: I&E Statement No. 1: the Direct Testimony of Christopher Keller and I&E Exhibit No. 1: the Exhibit accompanying Mr. Keller’s testimony.

9. In accordance with the Commission’s policy favoring settlements over costly and time consuming litigation,⁴ PGW, I&E, and the OCA (“Joint Petitioners”),⁵ were successful in achieving a full and complete settlement of all issues by reviewing both discovery and testimony and by engaging in the settlement negotiation process.⁶

10. I&E submits that the proposed Settlement is in the public interest and should be approved by the ALJ and the Commission for the following reasons:

II. SETTLEMENT

A. PURCHASED GAS COST RATES

Pursuant to the Joint Petition, PGW is adopting a GCR of \$4.8158 per Mcf effective September 1, 2017.⁷ While those costs are subject to review in a future PGC proceeding, I&E maintains that ratepayers are protected in that PGW gains no unwarranted financial advantages through its projected gas purchases and projected gas purchasing policies. As provided for in the Public Utility Code, “[n]o rates for a natural gas distribution utility shall be deemed just and reasonable unless the commission finds that the utility is pursuing a least cost fuel procurement policy....”⁸ The I&E review of all available information in this proceeding confirms this representation. A least cost fuel procurement policy protects ratepayers from unnecessary and imprudent gas costs and prevents the Company from making a profit on gas supplies provided to its PGC customers. PGW’s average costs

⁴ 52 Pa. Code §5.231.

⁵ The OSBA and PICGUG do not oppose the Settlement, but do not join in it as Joint Petitioners.

⁶ OSBA and PICGUG do not join in this Settlement, but these parties have also indicated that they do not oppose the Settlement.

⁷ Joint Petition at 4; Joint Petition at Appendix A.

⁸ 66 Pa. C.S. §1318.

reported to the Commission in its quarterly filings demonstrate the prudence of its purchasing practices.

The Settlement also provides that the natural gas costs that PGW expects to incur in the upcoming period will be based on PGW's adherence to its established least cost fuel procurement policy. Specifically, PGW's procurement approach attempts to shield customers from the risk of the gas market's volatility through using a mix of daily index priced swing contracts, physical forward purchase contracts, storage, and liquefied natural gas, as appropriate to market conditions.⁹ PGW's diligence in adhering to a least cost procurement strategy benefits customers directly in their gas bills. PGW's procurement strategy is in the public interest as it benefits ratepayers on an annual basis by ensuring that PGW will continually obtain gas on a reliable basis for its customers, at the most advantageous prices possible.

B. INTEREST RATE FOR OVER/UNDER COLLECTIONS

As part of the Settlement, PGW agreed to the following term:

PGW will calculate the interest rate for over/under collections for the period September through November 2016 using the prime rate for commercial borrowing in effect sixty (60) days prior to the filing of PGW's 2017-2018 GCR annual filing made on March 1, 2017, as reported in the Wall Street Journal.¹⁰

The above term resolved an issue that was raised in the direct testimony of I&E witness Christopher Keller. In his testimony, witness Keller indicated that the interest rates that

⁹ Joint Petition at 7.

¹⁰ Joint Petition at 4-5, ¶2.

PGW used in calculating its over/under collections were inconsistent with the interest rate identified in Act 47 of 2016.¹¹ As Mr. Keller indicated, Act 47 provides, in part:

[r]efunds to customers shall be made with and recoveries from customers shall include **interest at the prime rate for commercial borrowing in effect 60 days prior to the tariff filing** made under paragraph (1) and as reported in a publicly available source identified by the commission or at an interest rate which may be established by the commission by regulation.¹²

Mr. Keller pointed out that in its filing, PGW calculated its over/under collections by utilizing an interest rate of 3.50% for September, October, and November 2016, and 3.75% for the period December 2016 through August 2017.¹³ As Mr. Keller explained, the use of 3.50% for September through November of 2016 was inappropriate, given that PGW filed its tariff on March 1, 2017, and that the prime rate for commercial borrowing within sixty days prior was 3.75%.¹⁴ For this reason, Mr. Keller recommended that PGW use an interest rate of 3.75% for the calculation of over/under collections, producing a reduction of \$28,048 (\$362,341 - \$334,293) to PGW's calculated interest adjustment.¹⁵

I&E submits that PGW's agreement to calculate its over/under collections in the manner prescribed by Act 47 is in the public interest. The public interest is served when utilities calculate over/under collections using the statutorily specified interest rate because such use eliminates subjective judgment in the calculation. Additionally, applying the interest rate specified by Act 47 promotes order and certainty in the resulting

¹¹ 66 Pa. C.S. §1307(f)(5); I&E St. No. 1, p. 5-7.

¹² Id (emphasis added).

¹³ I&E St. No. 1, p. 6 (referencing PGW Book 2, Tab 2, Sch. 5(b)).

¹⁴ I&E St. No. 1, p. 7.

¹⁵ Id, pp. 7-8.

calculations, and promotes consistency of the regulated community. Accordingly, I&E opines that adoption of this Settlement term is in the public interest.

C. INTEREST RATES FOR SUPPLIER REFUNDS

Pursuant to the Settlement, PGW has agreed to the following term, which represents a compromise between PGW and I&E:

PGW, will, in future GCR proceedings, calculate supplier refunds at the rate of six percent (6%) unless and until the Commission makes an alternate ruling or such rate is changed by legislative or other legal process.¹⁶

As I&E witness Keller explained, the calculation of supplier refunds impacts PGW's customers:

Supplier refunds are monies refunded to an NGDC, such as PGW, from an interstate pipeline company as a result of an order of the Federal Energy Regulatory Commission (FERC). The refund amount includes the difference between the interstate pipeline company's original charges and its FERC adjusted charges multiplied over applicable volumes. The refund amount also includes interest. The total refund is flowed back to customers because they had previously paid the higher unadjusted rates.¹⁷

In this case, Mr. Keller acknowledged that PGW calculated supplier refunds with an interest rate of 3.50% for September, October, and November 2016, and 3.75% for months December 2016 through August 2017.¹⁸ As Mr. Keller explained, the interest rates that PGW employed in its calculation of supplier refunds did not comport with Commission precedent which set the interest rate to be applied for supplier refunds at

¹⁶ Joint Petition at 5, ¶3.

¹⁷ I&E St. No. 1, p. 8.

¹⁸ Id. at 9.

6%.¹⁹ Taking into account the de minimis impact (\$101) that would be derived from PGW's adjustment of the interest rate in this proceeding, witness Keller recommended that PGW simply adjust the interest rate to 6% in its future 1307f (GCR) proceedings.²⁰ Through the above-referenced Settlement term, PGW has adopted Mr. Keller's recommendation.

I&E opines that PGW's agreement to calculate supplier refunds with a 6% interest rate in future GCR proceedings serves the public interest in several ways. First, as I&E explained, supplier refunds are flowed back to customers who previously paid higher unadjusted charges, so ensuring that the refunds are correctly calculated is in the public interest. Additionally, applying the interest rate specified by the Commission promotes order and certainty in the resulting calculations, and promotes consistency of the regulated community. Finally, recognizing that the impact of making an adjustment to the interest in this proceeding would be de minimis avoids wasting PGW's resources, which would likely exceed the \$101 impact of the adjustment. At the same time, this term also ensures that PGW will honor the Commission's directive in future proceedings where the impact to customers could be of greater significance. Accordingly, I&E avers that this term is in the public interest.

¹⁹ I&E St. No. 1, p. 10, citing *Re Gas Cost Rate No. 5*, 58 P.U.R. 4th 369, 377 (March 16, 1984).
²⁰ I&E St. No. 1, pp. 9-10.

D. PLANALYTICS FEE FOR PRICE ANALYSIS AND BUYING ADVISORY SERVICE

Pursuant to the Settlement, PGW is permitted to continue to recover the Planalytics fee for price analysis and buying advisory services, not to exceed \$125,000.²¹ I&E agrees that PGW's permitted recovery of the price analysis and buying advisory service fee is in the public interest, as the Public Utility Code provides that risk management tools are included in the definition of gas costs.²² Therefore this cost, subject to a cap of \$125,000, is appropriately recovered from PGC customers to enable PGW to mitigate the financial risk in its gas supply portfolio.

E. OFF-SYSTEM SALES MARGIN, CAPACITY RELEASE CREDIT, AND ASSET MANAGEMENT MARGIN/CREDIT RETENTION

Under the terms of the Settlement, PGW will retain 25% of all off-system sales margins, capacity release credits (excluding capacity released to firm transportation suppliers), and asset management margins/credits/fees with the remaining 75% applied as an offset to purchased gas costs.²³ I&E avers that permitting PGW to continue its longstanding asset management sharing mechanism serves the public interest because it benefits both PGW and its ratepayers. More specifically, PGW benefits from the arrangement by receiving a monetary incentive to maximize its efforts to increase capacity release and off-system sales activity. In turn, PGC customers benefit from PGW's efforts in the form of reduced gas costs.

²¹ Joint Petition at 5, ¶5.

²² 66 Pa. C.S. 1307(h).

²³ Joint Petition at 5-6, ¶7.

F. NOTICE OF FUTURE ANNUALS GAS COST RATE FILINGS AND USE OF ESTIMATED DATA FOR MARCH QUARTLERY FILING

The Joint Petitioners indicate that they do not object to PGW's request to use the public notice process and estimated data for the March 1 quarterly filing for its 2018-2019 GCR proceeding, as outlined in the Joint Petition.²⁴ PGW's use of the public notice process and estimated data is consistent with previous requests that PGW made²⁵ and which were granted in several of PGW's past GCR proceedings. I&E avers that the Joint Applicants' non-opposition to the request in advance of PGW's next GCR filing will save PGW time and resources by negating PGW's need to confer with the Joint Petitioners again on the same basis for PGW's next annual GCR filing.

III. CONCLUSION

11. The Settlement provides that PGW may place into effect the natural gas supply rates as proposed and identified in the appendices attached to the Joint Petition. The proposed rates are subject to quarterly updates, with limited exceptions, as required by the Commission's Regulations. The I&E analysis in this proceeding supports that these rates are just and reasonable, accurately reflect the costs of its purchased natural gas and are based on sound regulatory practices. As such, I&E opines that these rates are in the public interest and should be approved.

12. I&E and, apparently, the Parties to this proceeding, are in agreement that PGW will adhere to the purchasing plan as established by the data and calculations provided in PGW's testimony and associated exhibits, as modified by the Settlement. The purchasing

²⁴ Id. at 6, ¶8.

²⁵ See paragraph 2, above.

plan provides reasonable protections for ratepayers and enables the company to adhere to the regulatory requirements in acquiring supplies for its customers. PGW's projections and plans are reasonable and are in the public interest. Therefore, they should be adopted as presented.

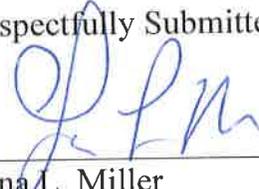
13. Although I&E did serve Direct Testimony in this proceeding, I&E fully supports the Settlement, which adopts the I&E position set forth in its testimony. Accordingly, I&E avers that all issues have been satisfactorily resolved through discovery and discussions with PGW and are incorporated in the Settlement. Line by line identification of the ultimate resolution of every averment is not necessary, as I&E represents that the Settlement maintains the proper balance of the interests of all parties. I&E is satisfied that no further action is necessary and considers its investigation of this filing complete.

14. Based upon I&E's analysis of the filing, acceptance of this proposed Settlement is in the public interest because the provisions adequately protect the interests of all affected parties, including the signatories to this Joint Petition.

15. I&E is satisfied that the provisions and data contained in the PGW's annual PGC filing, as confirmed by this Joint Petition, accurately support the finding that PGW's purchased gas costs and its practices adequately protect the public interest.

WHEREFORE, the Commission's Bureau of Investigation and Enforcement represents that it supports the *Joint Petition for Settlement of Philadelphia Gas Works' 2017-20178 GCR Proceeding* as being in the public interest and respectfully requests that Administrative Law Judge Marta Guhl recommend, and the Commission subsequently approve, the foregoing Settlement, including all terms and conditions contained therein.

Respectfully Submitted,



Gina L. Miller
Prosecutor
PA Attorney I.D. #313863

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
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Dated June 7, 2017