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June 23, 2017

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

Re: PA Public Utility Commission v. Philadelphia Gas Works  
Docket No. R-2017-2586783

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' ("PGW") Motion to Strike Certain Portions of Testimony Submitted by Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia ("TURN") with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Daniel Clearfield  
DC/lww

Enclosure

cc: Hon. Christopher Pell  
Hon. Marta Guhl  
Certificate of Service w/enc.

## CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PGW's Motion to Strike Certain Portions of Testimony Submitted by TURN upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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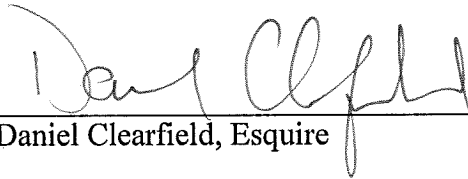
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\* Notes signed Protective Order

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2017-2586783
Office of Consumer Advocate	:	C-2017-2592092
Office of Small Business Advocate	:	C-2017-2593497
Philadelphia Industrial & Commercial	:	
Gas Users Group	:	C-2017-2595147
William Dingfelder	:	C-2017-2593903
	:	
v.	:	
	:	
Philadelphia Gas Works	:	

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**MOTION OF PHILADELPHIA GAS WORKS  
TO STRIKE CERTAIN PORTIONS OF  
TESTIMONY SUBMITTED BY TURN**

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**TO ADMINISTRATIVE LAW JUDGES PELL AND GUHL:**

Pursuant to 52 Pa. Code § 5.103 of the regulations of the Pennsylvania Public Utility Commission (“Commission”), Philadelphia Gas Works (“PGW” or “Company”) files this Motion to Strike certain portions of the pre-served surrebuttal testimony submitted on behalf of the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (“TURN”), namely, page 17, line 12 through and including page 23, line 4 (the “Contested Portions”). In the Contested Portions of TURN’s Statement No. 1-SR, TURN witness responds, for the first time in this proceeding, to the Direct Testimony of OCA Witness Colton regarding LIURP funding issues and his low-income heater repair or replacement proposal. The Contested Portions of TURN’s Statement No. 1-SR should not be admitted because TURN presents this information belatedly and improperly as surrebuttal testimony.

## I. BACKGROUND

1. On February 27, 2017, PGW filed Supplement No. 100 to the Company's Gas Service Tariff – PA. P.U.C. No. 2 to become effective April 28, 2017, seeking a general rate increase calculated to produce \$70 million (11.6%) in additional annual revenues. PGW also filed a Petition for Waiver seeking a waiver of the application of the statutory definition of the fully projected future test year (“FPFTY”) so as to permit PGW to use a FPFTY on September 1, 2017, in this proceeding.

2. By Order entered March 16, 2017, the Commission instituted an investigation into the lawfulness, justness and reasonableness of the proposed rate increase. Pursuant to Section 1308(d) of the Public Utility Code (“Code”),<sup>1</sup> Supplement No. 100 to PGW's Gas Service Tariff – PA. P.U.C. No. 2 was suspended by operation of law until November 28, 2017, unless permitted by Commission Order to become effective at an earlier date. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness and reasonableness of PGW's existing rates, rules and regulations. The matter was assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

3. A call-in telephonic prehearing conference was held on March 29, 2017, which resulted in the issuance of a Prehearing Order dated March 30, 2017.

4. Pursuant to the March 30, 2017 Prehearing Order, other parties' direct testimony was required to be served on May 16, 2017.<sup>2</sup> Rebuttal testimony was due on June 9, 2017 and surrebuttal testimony was due on June 22, 2017. Hearings are scheduled for June 28-30, 2017.\

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<sup>1</sup> 66 Pa. C.S. § 1308(d)

<sup>2</sup> Pursuant to an agreement among the parties, the due date for serving the direct testimony of the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia was extended to May 19, 2017 and rebuttal by June 13. *See*, Interim Order dated May 17, 2017.

5. On June 22, 2017, TURN served TURN Statement No. 1-SR which is the surrebuttal testimony of Harry Geller. In the Contested Portions of the TURN testimony, Mr. Geller inappropriately responds to the Direct Testimony of OCA Witness Colton regarding LIURP funding issues and his low-income heater repair or replacement proposal. For the reasons set forth above and as more fully explained hereinafter, the Contested Portions of TURN Statement No. 1-SR should be stricken.

## II. APPLICABLE LEGAL STANDARDS

6. Section 5.403(a)(1) of the Commission's regulations authorizes the presiding officer to control the receipt of evidence, including ruling on the admissibility of evidence. 52 Pa. Code § 5.403(a)(1).

7. The Commission's regulations at 52 Pa. Code § 5.243(e) provide that "[a] party will not be permitted to introduce evidence during a rebuttal phase which: ... (2) Should have been included in the party's case-in-chief . . ." (Emphasis added.).

## III. ARGUMENT

8. The Contested Portions of Mr. Geller's surrebuttal testimony were submitted for the clear purpose of raising issues that should have been included in TURN's case-in-chief. See TURN St. 1-SR at 17, which acknowledges that this issue was not addressed in TURN's direct or rebuttal testimony. The Contested Portions of Mr. Geller's surrebuttal testimony do not rebut any opinion, position or statement in rebuttal testimony. To the contrary, the Contested Portions of Mr. Geller's surrebuttal testimony were submitted for the clear purpose of advancing a new position, TURN's "agreement" with and support of OCA witness Colton. The Contested

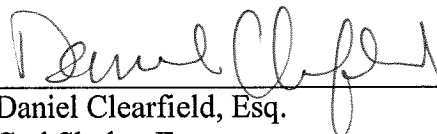
Portions of Mr. Geller's testimony could properly have been addressed in Mr. Geller's rebuttal testimony but should not be permitted into the record at this late stage of the proceeding in this case.

9. Consequently, the Contested Portions of Mr. Geller's testimony should not be permitted into the record at this late stage of the proceeding in this case as it would be patently unfair to PGW.

### III. CONCLUSION

For the reasons set forth above, the ALJs should issue an order finding and determining that the Contested Portions of TURN Statement No. 1-SR should not be admitted into the evidentiary record in this case because they attempt to raise issues that should properly have been addressed in TURN's rebuttal testimony.

Respectfully submitted,



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Dated: June 23, 2017

Counsel for Philadelphia Gas Works