



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

IN REPLY PLEASE
REFER TO OUR FILE

May 31, 2018

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

Re: Pennsylvania Public Utility Commission v.
Philadelphia Gas Works - 1307(f)
Docket No. R-2018-2645938

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement (I&E)
Statement in Support of 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/sea
Enclosure

cc: ALJ Marta Guhl
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

v.

PHILADELPHIA GAS WORKS

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Docket No. R-2018-2645938

**BUREAU OF INVESTIGATION AND ENFORCEMENT
STATEMENT IN SUPPORT OF JOINT PETITION FOR SETTLEMENT
PHILADELPHIA GAS WORKS' 2018-2019 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’ 2018-2019 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, 2018, PGW submitted pre-filed information regarding its 2018-2019 Gas Cost Rate ("GCR") filing pursuant to the Public Utility Code.³ Consistent with the terms of the settlement of PGW's 2017-2018 GCR filing at docket no. R-2017-2587526 and with the Commission's August 3, 2017 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, 2018 quarterly 1307(f) filing.

3. By filing dated March 1, 2018, PGW submitted its annual GCR filing to become effective for services rendered on or after September 1, 2018. 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 entered its appearance in this matter on February 6, 2018.

Additionally, The Office of the Small Business Advocate (“OSBA”) filed a Complaint (docketed at C-2018-2647156), Public Statement and Notice of Appearance on February 12, 2018, and the Office of the Consumer Advocate (“OCA”) filed a Formal Complaint (docketed at C-2018-3000048) and Public Statement on February 21, 2018. Finally, the Philadelphia Industrial and Commercial Gas Users Group (“PICGUG”) filed a Petition to Intervene on February 14, 2018.

5. A Prehearing Conference Order was entered on March 8, 2018, and the Order scheduled a telephonic prehearing conference for March 16, 2018.

6. Counsel for the following parties participated in the Prehearing Conference on March 16, 2018: PGW, I&E, the OCA, the OSBA and PICGUG (collectively, 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 27, 2018, Prehearing Order #1 was entered, and it memorialized the procedural schedule and other matters terms governing the conduct of this proceeding.

7. After the prehearing conference, the Parties continued to engage in the discovery process.

8. In accordance with the procedural schedule, I&E served the following testimony and exhibit upon the Parties on April 16, 2018: 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 \$4.0369 per Mcf effective September 1, 2018.⁷ While those costs are subject to review in a future GCR 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 GCR 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 p. 4, ¶1(a); 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. INTERSTATE PIPELINE PENALTY CREDITS

The Settlement includes the following term regarding PGW's treatment of received interstate pipeline penalty credits, which are funds that PGW receives from transmission companies in its course of providing natural gas service to ratepayers:

The parties agree that PGW has demonstrated that all received interstate pipeline penalty credits have been credited to PGW's GCR customers. PGW will continue to apply all received interstate pipeline penalty credits to its GCR customers in the future.¹⁰

⁹ Joint Petition at p. 8, ¶8.

¹⁰ Id. at p. 5, ¶2.

I&E submits that the above term memorializes PGW's appropriate treatment of pipeline credits, which was unclear at the outset of this case but clarified through the record as it progressed. More specifically, as I&E witness Keller explained in his direct testimony, he interpreted PGW's response to an I&E interrogatory, I&E-28, to indicate that while PGW received a total of \$144,581 in pipeline penalty credits¹¹ in the prior GCR period, the credits were sent to the Company separately and therefore not included in the filing. Witness Keller understood PGW's response to mean that PGW did not share the credits with ratepayers, which directly conflicted with his recommendation that PGW should be required to return all pipeline penalty credits to ratepayers through the GCR rate.¹² Notably, OCA witness Mierzwa also pointed to PGW's response to I&E-RE-28 as an indication that PGW did not reflect penalty credit in its GCR filing, noting that while it was unclear how PGW treated the penalty credits, they should be reflected as a reduction to purchased gas costs.¹³

In response to the direct testimonies of I&E and the OCA, PGW issued a revised response to I&E-28,¹⁴ which presented clearer and more concise information. Through the revised response, and his rebuttal testimony, PGW witness Snyder explained that PGW had, in fact, returned pipeline penalty credits to customers as required. PGW's initial response to I&E-28 was simply intended to convey that in certain identified cases, credited amounts had been wired to PGW separately instead of being credited on invoices. The

¹¹ \$1,944 of the \$144,581 was comprised of interest (I&E Ex. No. 1, Sch. 1, p. 2.

¹² I&E St. No. 1, pp. 2-4; I&E Ex. No. 1, Sch. 1.

¹³ OCA St. No. 1, pp. 11-12.

¹⁴ See PGW St. No. 2R, pp. 2-3; Exhibit RMS-1R.

initial response was intended to simply reflect the manner in which PGW received the credits, but PGW ultimately indicated that its GCR customers were credited for interstate pipeline penalties as follows:

For the non-Transco credits, the amounts were credited to PGW's invoices for the months March, May, and November 2017. The credits reduced PGW's net fuel cost for the invoice period in an amount equal to the pipeline penalty credit received. For the Transco credits, the amounts were wired to PGW and confirmed by an email from Transco. PGW then applied those funds as credits to its Natural Gas Account, thus reducing the cost of natural gas to PGW's GCR customers by the amount of the penalty credit.¹⁵

Upon review of PGW's detailed explanation, I&E agrees that PGW has properly credited its GCR customers for interstate pipeline penalty credits; therefore, the concerns that I&E raised in its direct testimony have been assuaged. Furthermore, the above settlement term memorializes PGW's continuing commitment to apply all received interstate pipeline penalty credits to its GCR customers in the future. Accordingly, this term is in the public interest because it ensures that PGW's GCR customers will to continue share in the pipeline penalty credits, which consist of funds that PGW receives from transmission companies in the process of providing natural gas service to those customers.

C. CHOICE SUPPLIER CAPACITY RELEASE CHARGES

As part of this Settlement, PGW has agreed to include a proposal in its next GCR proceeding to either (1) charge Choice suppliers for released capacity based on PGW's

¹⁵ PGW St. No. 2R, p. 3; PGW Ex. RMS-2R; PGW RMS-3R.

weighted average cost of Tetco and Transco capacity; or (2) demonstrate why such an approach is not appropriate for PGW.¹⁶ In either case, the Joint Petitioners reserve the right to support, oppose or to take no position regarding PGW's ultimate proposal.

Although I&E did not take a position on this issue, I&E notes that it developed through OCA witness Mierzwa's testimony indicating that the rates assessed to Choice suppliers were less than the weighted average cost that PGW pays for Tetco and Transco FT capacity. Mr. Mierzwa explained that Choice suppliers should not pay less for Tetco and Transco FT capacity that PGW's GCR customers pay; instead, Choice suppliers should be assessed for released capacity based upon PGW's weighted average cost for that capacity.¹⁷ In response, PGW witness Snyder explained that the rates that PGW charges to Choice suppliers are reasonable because they take into account the maximum rates on each of the interstate pipelines that govern how much PGW can charge for the capacity that it has released to the suppliers. Additionally, PGW only charges suppliers for the capacity that is released to them, and the weighted average cost of Tetco and Transco includes costs for capacity and therefore would not be appropriate.

In resolution of this matter, PGW and OCA agreed that to above-referenced term, committing PGW to take either of the following actions as part of its next GCR proceeding: (1) charge Choice suppliers for released capacity based on PGW's weighted average cost of Tetco and Transco capacity; or (2) demonstrate why such an approach is not appropriate for PGW.¹⁸ Although I&E did not take a position regarding this term, I&E

¹⁶ Joint Petition, p. 5, ¶ 3.

¹⁷ OCA St. No. 1, pp. 7-8.

¹⁸ Joint Petition, p. 5, ¶ 3.

I&E supports this term because it was necessary to facilitate the global settlement of this matter and it does not preclude the Joint Petitioners from further investigating and raising this issue in future GCR proceedings.

D. MONTHLY IMBALANCE RECONCILIATION PROCEDURES

Pursuant to the Settlement, the Joint Petitioners have agreed to the following term, which represents a compromise between PGW and the OCA:

PGW agrees to present an analysis in next year's 2019-2020 GCR proceeding of the impact of its interruptible transportation ("IT") reconciliation procedures for the period September 2017 – August 2018 consistent with that presented in the Rebuttal Testimony of Mr. Raymond Snyder in this proceeding. Parties are free to propose changes to the Company's existing IT reconciliation procedures in next year's proceeding.¹⁹

The above term resolved an issue that was raised in the direct testimony of OCA witness Mierzwa. In his testimony, witness Mierzwa expressed concern with the Company's imbalance reconciliation procedures whereby the Company purchases deliveries in excess of usage which are less than or equal to 3.5% of deliveries. Mr. Mierzwa explained that deliveries which are in excess of usage by 3.5 percent or less are purchased by the Company at an average of daily Tetco Zone M-3 and Transco Zone 6 Non-New York index prices during the month. As an example, for January 2018, he calculated that resulted in the Company purchasing gas at a price of \$15.04 per Dth to serve GCR customers. Mr. Mierzwa opined that this was unreasonable given that if the Company needed to purchase additional gas in January 2018, it would have paid Transco Zone 3 or Tetco Zone M-2

¹⁹ Joint Petition at p. 5, ¶4.

prices for those supplies, which during January 2018, were generally in the \$3.00 to \$4.00 per Dth range.²⁰ To remedy this, Mr. Mierzwa recommended that for Company's purchases which are less than 3.5% of deliveries, the Company utilize a Daily Market Index Price based on an average of daily Transco Zone 3 and Tetco Zone M-2 prices.²¹

In response, PGW witness Snyder argued that witness Mierzwa took issue with only one of the four reconciliation procedures that operate in total as a suite of procedure that work together to protect PGW's GCR customers.²² Witness Snyder also claimed that the OCA's recommendation was not consistent with how monthly imbalance reconciliation procedures should operate because an imbalance should be priced in the zone in which it is being delivered and witness Mierzwa's recommendation could create asymmetric Daily Market Index Prices.²³ Finally, PGW pointed to the fact that the OCA recently participate in its 2017 base rate case whereby parties to that proceeding spent a considerable amount of time and effort in negotiating revisions of its monthly imbalance reconciliation procedures; therefore, it is not inclined to now revisit this topic.²⁴

In resolution of these conflicting positions, PGW and OCA have agreed to a resolution whereby PGW has agreed to present an analysis of its interruptible transportation ("IT") reconciliation procedures for the period of September 2017- August 2018 in its next GCR proceeding. Additionally, all Joint Petitioners have reserved the right to propose changes to PGW's IT reconciliations procedures in its next GCR

²⁰ OCA St. No. 1, pp. 9-11.

²¹ Id. at p. 11.

²² PGW St. No. 2R, pp. 5-7.

²³ Id. at pp. 7-8.

²⁴ Id. at p. 8.

proceeding. Although I&E did not take a position regarding this issue, I&E supports this term because it was necessary to facilitate the global settlement of this matter and it does not limit the Joint Petitioners' remedies in future GCR proceedings.

E. PLANALYTICS ENERGY BUYER SERVICES

Pursuant to the Settlement, PGW is permitted to continue to recover the Planalytics fee for price analysis and buying advisory services, not to exceed \$125,000.²⁵ 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.²⁶ Therefore this cost, subject to a cap of \$125,000, is appropriately recovered from GCR customers to enable PGW to mitigate the financial risk in its gas supply portfolio.

F. OFF-SYSTEM SALES MARGIN, CAPACITY RELEASE CREDIT, AND ASSET MANAGEMENT MARGIN/CREDIT/FEE 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.²⁷ 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

²⁵ Joint Petition at p. 5, ¶5.

²⁶ 66 Pa. C.S. 1307(h).

²⁷ Joint Petition at p. 6, ¶6.

release and off-system sales activity. In turn, GCR customers benefit from PGW's efforts in the form of reduced gas costs.

G. 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 2019-2020 GCR proceeding, as outlined in the Joint Petition.²⁸ I&E notes that PGW's request simply outlines a process for its commitment to ensure that customers receive advance notice of its next GCR proceeding and advises of its intent to provide certain estimated data. Additionally, PGW's use of the public notice process and estimated data is consistent with previous requests that PGW made 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

²⁸ Id. at p. 6, ¶7.

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 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 addressed and resolved the concerns raised in I&E's 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 GCR 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' 2018-2019 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
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 787-1976

Dated May 31, 2018

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2018-2645938
 :
 Philadelphia Gas Works 1307(f) :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Statement in Support** dated May 31, 2018, 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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