



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

IN REPLY PLEASE
REFER TO OUR FILE

May 28, 2019

Via Electronic Filing & First-Class Mail

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-2019-3007636

Dear Secretary Chiavetta:

Enclosed for filing please find the Bureau of Investigation and Enforcement's (I&E) **Statement in Support of Joint Petition for Settlement** for the above-captioned proceeding.

Copies are being served on all active parties of record. 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. No. 313863

GLM/jfm
Enclosure

cc: Hon. Marta Guhl, (OALJ, PUC Philadelphia)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2019-3007636
	:	
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 March 28, 2019, 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 First Class and Electronic Mail

Hon. Marta Guhl
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
801 Market Street
Room 4063
Philadelphia, PA 19107
mguhl@pa.gov
dharvell@pa.gov

Lauren M. Burge, Esq.
Harrison W. Breitman, Esq.
Office of Consumer Advocate
555 Walnut Street
5th Floor Forum Place
Harrisburg, PA 17101
lburge@paoca.org
hbreitman@paoca.org

Brandon J. Pierce, Esq.
Philadelphia Gas Works
800 W. Montgomery Ave.
Philadelphia, PA 19122
brandon.pierce@pgworks.com
Counsel for PGW

Sharon Webb, Esq.
Office of Small Business Advocate
300 North Second Street
Commerce Building, Suite 202
Harrisburg, PA 17101
swebb@pa.gov

Charis Mincavage, Esq.
Adeolu A. Bakare, Esq.
Alessandra L. Hylander, Esq.
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com
ahylander@mcneeslaw.com
Counsel for PICGUG

Robert D. Knecht
Industrial Economics, Inc.
2067 Massachusetts Ave.
Cambridge, MA 02140
rdk@indecon.com

Deanne O'Dell, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
DODell@eckertseamans.com



Gina L. Miller
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney I.D. No. 313863

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**BUREAU OF INVESTIGATION AND ENFORCEMENT
STATEMENT IN SUPPORT OF JOINT PETITION FOR SETTLEMENT
PHILADELPHIA GAS WORKS' 2019-2020 GAS COST RATE PROCEEDING**

Gina L. Miller
Prosecutor
Attorney ID No. 313863

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 787-8754

Dated: May 28, 2019

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**BUREAU OF INVESTIGATION AND ENFORCEMENT
STATEMENT IN SUPPORT OF JOINT PETITION FOR SETTLEMENT
PHILADELPHIA GAS WORKS' 2019-2020 GAS COST RATE 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’ 2019-2020 Gas Cost Rate 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,

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

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, 2019, PGW submitted pre-filed information regarding its 2019-2020 Gas Cost Rate ("GCR") filing pursuant to the Public Utility Code.³ Consistent with the terms of the settlement of PGW's 2018-2019 GCR filing at docket No. R-2018-2645938 and with the Commission's August 2, 2018 Order approving the settlement without modification, PGW departed from certain requirements of 52 Pa. Code Sections 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, 2019 quarterly 1307(f) filing.

3. By filing dated March 1, 2019, PGW submitted its annual GCR filing to become effective for services rendered on or after September 1, 2019. PGW also filed its prepared Direct Testimony.

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 5, 2019.

Additionally, The Office of the Small Business Advocate (“OSBA”) filed a Complaint (docketed at C-2019-3007819), Public Statement and Notice of Appearance on February 8, 2019, and the Office of the Consumer Advocate (“OCA”) filed a Formal Complaint (docketed at C-2019-3007837) and Public Statement on February 11, 2019. Finally, the Philadelphia Industrial and Commercial Gas Users Group (“PICGUG”) filed a Petition to Intervene on February 19, 2019.

5. A Prehearing Conference Order was entered on March 5, 2019, and the Order scheduled a telephonic prehearing conference for March 27, 2019 at 10 a.m.

6. Counsel for the following parties participated in the Prehearing Conference on March 27, 2019: 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 April 8, 2019, Prehearing Order #1 was entered, and it memorialized the procedural schedule and other 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 exhibits upon the Parties on April 16, 2019: I&E Statement No. 1: the Direct Testimony of Ethan H. Cline, I&E Exhibit No. 1: the Exhibit accompanying Mr.

Cline’s testimony, I&E Statement No. 2: the Direct Testimony of Christopher M. Henkel, and I&E Exhibit No. 2: the Exhibit accompanying Mr. Henkel’s direct 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”), 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.⁵

10. I&E submits that the proposed Settlement is in the public interest and should be approved without modification 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 \$4.9887 per Mcf effective September 1, 2019.⁶ 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....”⁷ The I&E review of all available information in this proceeding confirms this representation. A least cost fuel procurement policy protects

⁴ 52 Pa. Code § 5.231.

⁵ OSBA and PICGUG do not join in this Settlement, but these parties have also indicated that they do not oppose the Settlement (Joint Petition, p. 1, footnote 1).

⁶ Joint Petition at p. 5, ¶1(a); Joint Petition at Appendix A.

⁷ 66 Pa. C.S. § 1318.

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 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.⁸ 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. CHOICE SUPPLIER CAPACITY RELEASE CHARGES

As part of this Settlement, the parties agreed to the following terms in resolution of issues that OCA raised during the course of this case:

- a) PGW agrees to revise the release location on Transco to Zone 2 to City Gate (currently Zone 3 to City Gate). Releases from this location will begin on or about November 1, 2019. Charges shall be set at maximum pipeline rates.

⁸ Joint Petition at p. 9, ¶7; PGW St. No. 2, pp. 8-9.

- b) PGW agrees to revise the release location on TETCO to approximately 70% ELA to City Gate and 30% STX to City Gate, to the best of PGW's ability based on operational constraints, under contract 800232 (CDS). Releases from these locations will begin on or about November 1, 2019. Charges shall be calculated set at maximum pipeline rates.⁹

Although I&E did not take a position regarding the issues resolved by the above terms, I&E supports the above terms because they were necessary to facilitate the global resolution of this proceeding.

C. STUDY IN SUPPORT OF PEAK DAY METHODOLOGY

Pursuant to the Settlement, the Joint Petitioners have agreed to the following term, which was essential to I&E's agreement to enter this Settlement: "PGW agrees to present an updated study with next year's GCR filing that supports the validity of PGW's peak day methodology."¹⁰ This term resolved an issue that was raised in the direct testimony of I&E witness Cline. More specifically, witness Cline expressed concern with the age and accuracy of the 2006 ICF International PGW Natural Gas Supply Study ("2006 Study") that PGW relied upon to support its peak day methodology. The 2006 Study is a supply analysis that reviews PGW's design and peak day estimation methodologies, analyzes PGW's use of pipeline storage capacity, evaluates the effect of PGW's expanding LNG capabilities, and develops recommendations for optimal allocation of PGW's gas supply assets (I&E St. No. 1, p. 2; PGW Item 53.64(c)(13), 2006 Study, p. 2).

As witness Cline explained, it is undisputed that the 2006 Study is almost 13 years old, as it was completed in August 2006 (I&E St. No. 1, p. 2). Due to the 2006 Study's age,

⁹ Joint Petition, p. 5, ¶ 2.

¹⁰ Joint Petition at p. 5, ¶3.

witness Cline explained that it may no longer be accurate as it relates to the projection of the percentage of Liquefied Natural Gas represented in the overall U.S. gas supply, the impact of shale gas on natural gas supply and prices, the cost of gas, changes in weather on the estimate design year, and the availability of pipeline capacity (I&E St. No. 1, pp. 3-6). In recognition of the concerns that witness Cline identified, he recommended that PGW provide an update to the 2006 Study as part of its next purchased gas cost proceeding in order to ensure that its peak day analysis would be based on more accurate assumptions and up-to-date data (I&E St. No. 1, pp. 3-6).

By way of the above Settlement term, PGW has agreed to provide an updated study with its GCR filing for next year, thereby adopting witness Cline's recommendation. From I&E's perspective, PGW's commitment to providing an updating study is in the public interest because it will improve the accuracy and validity of PGW's peak methodology, which will in turn promote a more accurate prediction of future gas demands. I&E submits that both PGW and its customers benefit from ensuring that PGW's projected gas demands are as accurate as possible in order to ensure that PGW purchases enough gas to meet its customers' needs without incurring unnecessary and imprudent costs for excess purchases.

D. CONSERVATION INCENTIVE PROGRAM (CIP)

As part of this proceeding, PGW proposed to add a new cost element to its GCR in the form of a Universal Service and Energy Conservation Surcharge designed to recover certain Universal Service and Energy Conservation Plan ("USECP") costs including discounts provided to eligible Customer Responsibility Program ("CRP") participants (I&E St. No. 2, p. 2). In conjunction with the new cost element, PGW proposed to

recover the cost of bill credits that qualifying CRP participants could receive in the amount of \$100 (“CIP Credits”) for achieving usage reductions for the prior November to April period as follows:

- Reduction by 10% or more of their weather normalized usage during the prior November through April period for customers who did not receive PGW provided weatherization services in the prior two years; or
- Reduction by 20% or more of their weather normalized usage during the prior November through April period for customers who did receive PGW provided weatherization services in the prior two years.¹¹

By way of additional context, the Commission previously approved PGW’s pilot CIP on November 13, 2014 for the term of its 2014-2016 USECP and again October 5, 2017 in conjunction with PGW’s 2017-2020 USECP, meaning that the CIP program is effective through 2020 (I&E St. No. 2, p. 4; PGW St. No. 3, pp. 5-7). Although PGW indicated that it has not determined whether to continue the CIP in its next USECP period because it is still analyzing the pilot CIP data to gauge its effectiveness, through this case, it claimed a total of \$1,610,000 in CIP credits. PGW’s \$1,610,000 claim was comprised of \$337,100 for FY 2017; \$786,200 for FY 2018 and \$487,300 for FY 2019 (PGW St. No. 3, pp. 6-7; PGW Item 53.64(a), Schedule 9(b)). Additionally, while PGW did not officially include its 2016 CIP credits as part of the claim in this case, PGW witness Adamucci nonetheless opined that full recovery of those credits is appropriate and that pending the Commission’s approval, PGW wanted to recover those as well (PGW St. No.

¹¹ I&E St. No. 2, p. 3; PGW Statement No. 3, p. 5, lines 3-20.

3, p. 10). Therefore, it appears that along with its \$1,610,000 claim for 2017-2019 CIP credits, PGW also sought to recover its 2016 credit expense as well (I&E St. No. 2, p. 5).

Upon review of PGW's CIP claim, witness Henkel explained that while PGW's 2019 CIP credit expense claim of \$487,300 for 2019 was timely and therefore appropriate for recovery in this case, the claims of \$786,200 and \$337,100 for FYs 2018 and 2017, respectively, should be rejected by the Commission because they are not components of expenses associated with PGW's 2019 recoverable gas costs. Instead, PGW's CIP credit expenses for FY 2018 and FY 2017 should have been filed with its respective annual FY 2018 and 2017 GCR filings, and to the extent that PGW sought to recover its 2016 credit expense as part of this case, such recovery would also be untimely; therefore, along with the 2018 and 2017 claims, it should be denied (I&E St. No. 2, p. 6). Witness Henkel explained that allowing the untimely claim expenses from 2016 to 2018 to be recovered through PGW's current GCR filing would result in accumulated expenses that would impact its rates upwards. Additionally, allowance of the untimely claims here would potentially result in recovery of costs from PGW ratepayers who were not PGW customers when the costs accrued (I&E St. No. 2, p. 6).

In recognition of the concerns implicated by PGW's untimely CIP expense claims, I&E witness Henkel recommended that PGW's USECP surcharge be adjusted to remove the 2018 and 2017 CIP expenses, therefore reducing the rate from the claimed \$1.5383 per Mcf to \$1.5158 per Mcf (I&E St. No. 2, pp. 7-8). As an alternative, should the Commission permit PGW's recover of the 2018 and 2017 CIP credit expenses, witness Henkel recommended that PGW amortize those expenses over a three-year period in

order to reduce the impact of recovery upon ratepayers (I&E St. No. 2, pp. 9-10).

Finally, witness Henkel recommended that PGW should submit an annual report showing participants' gas usage for the year that they received a CIP credit and the following year afterward in order to help evaluate the effectiveness of the CIP credit program (I&E St. No. 2, p. 10).

As memorialized in the Settlement, PGW and I&E have agreed to a resolution of this issue, which is encompassed in the terms listed below¹²:

- a) PGW agrees to review and address the OCA's issues regarding the weather normalization process and consider revising the process as part of the calculation for the 2019 credits.
- b) PGW will report on the weather normalization process as part of the USECP stakeholder process in the meeting to be scheduled in 2019 or 2020 to discuss the CIP.
- c) PGW agrees to report on the CIP and the CIP stakeholder process in its next filed USECP (2021-2023).
- d) The OCA retains its right to address issues related to the CIP weather normalization process in future proceedings to include the issues raised during the testimony of this proceeding.
- e) PGW is permitted to recover its 2017 and 2018 CIP credit expenses in the total amount of \$1,123,300, and agrees to amortize recovery of those costs over a two-year period. PGW is also permitted to recover its CIP costs for 2019 and on a going-forward basis. PGW will revise its tariff consistent with Exhibit DA-1 to reflect recovery of the CIP costs. PGW will begin billing for the CIP credit by December 1, 2019.¹³

¹² I&E notes that these terms also represents a compromise achieved between PGW and OCA; however, I&E will defer to those parties' description of that resolution.

¹³ Joint Petition at p. 6, ¶4(a)-(e).

I&E notes that terms (c) and (e) above are responsive to the issues I&E raised, and represent a fair resolution of those terms in protection of the public interest in several ways.

First, regarding term (c), PGW's agreement to report on the CIP in its next USECP proceeding will ensure that PGW, parties, and the Commission will have the information necessary to gauge the effectiveness of the CIP pilot in order to assist in the determination of whether the CIP program is beneficial in usage reduction and should be continued. The public interest is protected by this term because if PGW's reporting yields information that reveals that its CIP program is not proving to be effective in usage reduction and therefore is not beneficial to PGW's ratepayers, or, if, alternatively, it proves to be cost-effective and does benefit ratepayers, parties and the Commission will be able to make informed decisions about the continuation of the CIP beyond the existing pilot period.

Finally, regarding term (e) above, the parties' agreement for PGW to recover its 2017 and 2018 CIP credit expenses in the total amount of \$1,123,300, amortized over a two-year period, and to recover its 2019 expenses on a going-forward basis, protects the public interest in several ways. First, permitting recovery of the expenses in this manner protects PGW's operations by permitting it to recover a valid expense that it incurred. Additionally, this resolution protects ratepayers by extending the 2017 and 2018 recovery period by amortizing recovery of these expenses over two years, which will mitigate to mitigate accumulated expenses and the impact on rates. I&E submits that these terms strike a balance that protects the public interest by (1) permitting PGW the opportunity to

implement and recover costs from the CIP pilot program approved by the Commission for PGW's current USECP term; (2) protects ratepayers from an increased impact on rates; and (3) promotes accountability of PGW's programming.

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 \$125,000.¹⁴ 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.¹⁵ 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.¹⁶ 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

¹⁴ Joint Petition at p. 6, ¶5.

¹⁵ 66 Pa. C.S. 1307(h).

¹⁶ 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 GCRs 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 2020-2021 GCR proceeding, as outlined in the Joint Petition.¹⁷ 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

¹⁷ Joint Petition at p. 7, ¶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 addresses and resolves the issues and 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' 2019-2020 Gas Cost Rate 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
Bureau of Investigation & Enforcement
PA Attorney I.D. #313863

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120
(717) 787-8754

Dated May 28, 2019