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August 15, 2019

Via Electronic Filing

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

Re: Philadelphia Gas Works Negotiable Liquefied Natural Gas ("LNG-N") Tariff
Docket No. R-2019-3009016

Dear Secretary Chiavetta:

On behalf of Philadelphia Gas Works ("PGW") enclosed for electronic filing please find the Joint Petition for Settlement with regard to the above-referenced matter. Attached to the Joint Petition are Statements in Support of PGW, Bureau of Investigation and Enforcement and the Office of Consumer Advocate. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Daniel Clearfield

DC/lww
Enclosure

cc: Hon. Marta Guhl w/enc.
Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the **PGW's Joint Petition for Settlement and Statements in Support** upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via First Class Mail and/or Email

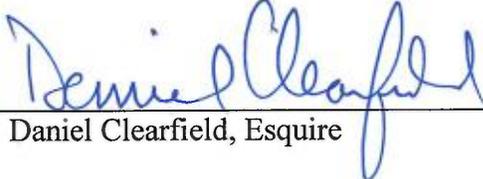
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Date: August 15, 2019



Daniel Clearfield, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:		
	:	Docket No.	R-2019-3009016
v.	:		C-2019-3009266
	:		C-2019-3009471
Philadelphia Gas Works	:		

**JOINT PETITION FOR SETTLEMENT
OF PHILADELPHIA GAS WORKS'
LNG-N TARIFF FILING**

Dated: August 15, 2019

Exhibits and Statements

Exhibit 1	Tariff Schedule
Statement A	Statement in Support of Joint Petition for Settlement of PGW
Statement B	Statement in Support of Joint Petition for Settlement of the Bureau of Investigation and Enforcement
Statement C	Statement in Support of Joint Petition for Settlement of the Office of Consumer Advocate

TO THE HONORABLE MARTA GUHL, ADMINISTRATIVE LAW JUDGE:

Philadelphia Gas Works (“PGW” or the “Company”), the Bureau of Investigation and Enforcement, (“BIE” or “I&E”), and the Office of Consumer Advocate (“OCA”) (collectively, the “Joint Petitioners”),¹ by their respective counsel, submit this Joint Petition For Settlement of Philadelphia Gas Works’ Negotiable Liquefied Natural Gas Tariff Filing (“Settlement” or “Joint Petition”), between and among all of the active parties, in the above-captioned proceeding and request that Administrative Law Judge Marta Guhl (“ALJ”) and the Pennsylvania Public Utility Commission (“Commission” or “PUC”): 1) approve the Settlement without modification; 2) and permit PGW to file the tariff supplement annexed hereto as Exhibit 1 (“Tariff Schedule” or “Rate LNG-N”) to become effective pursuant to the terms set forth therein.

In support of this Settlement, the Joint Petitioners state as follows:

I. BACKGROUND

1. PGW is a city natural gas distribution operation as defined in the Public Utility Code, 66 Pa.C.S. § 102. PGW manages a distribution system of approximately 6,000 miles of gas mains and service lines supplying approximately 500,000 customers in the City and County of Philadelphia.

2. On April 5, 2019, PGW filed Supplement No. 120 to PA PUC No. 2; effective June 4, 2019, and the materials supporting said Supplement (collectively, “Supplement No. 120”). Supplement No. 120 proposes to cancel all provisions for Liquefied Natural Gas Service

¹ The other parties, the Office of Small Business Advocate (“OSBA”), and the Philadelphia Industrial and Commercial Gas Users Group (“PICGUG”), have indicated that they do not oppose the Settlement. OSBA and PICGUG will, respectively, be submitting separate letters of non-opposition to the Settlement.

– “Rate LNG” and establish the availability, rates, and terms of service for new rate for eligible customers under a proposed Negotiated Liquefied Natural Gas Service – “Rate LNG-N”.

3. On April 18, 2019, the I&E filed a Formal Complaint which was docketed at Docket No. C-2019-3009266.

4. On April 25, 2019, the OSBA filed a Formal Complainant which was docketed at Docket No. C-2019-3009471.

5. Per letter filed on May 8, 2019,² PGW stated its intention not to file answers consistent with 52 Pa. Code § 5.61(d).

6. On May 9, 2019, the OCA filed a Notice of Intervention and Public Statement.

7. Pursuant to the Public Utility Code, 66 Pa.C.S. § 1308(b), by Opinion and Order dated May 9, 2019, the Commission suspended the proceedings until December 4, 2019 and sent the matter to the Office of Administrative Law Judge for evidentiary hearings and a Recommended Decision. The matter was assigned to Administrative Law Judge Marta Guhl. (the “ALJ”).

8. On May 16, 2019, the Philadelphia Industrial and Commercial Gas Users Group (“PICGUG”) filed a Petition to Intervene in this matter.

9. On June 5, 2019, a prehearing conference was held before ALJ Guhl and a schedule was established for the submission of testimony and the conduct of hearings. During the prehearing conference, the Petition to Intervene of PICGUG was granted.

10. The active parties conducted extensive formal and informal discovery throughout the proceeding.

² <http://www.puc.state.pa.us/pcdocs/1618518.pdf>.

11. Consistent with the litigation schedule, direct testimony and accompanying exhibits in response to Supplement No. 120 (and the accompanying direct testimony by PGW) were submitted on June 26, 2019 by I&E and OCA; rebuttal testimony and accompanying exhibits were submitted on July 10, 2019 by PGW; surrebuttal testimony was submitted on July 18, 2019 by I&E and OCA and written rejoinder testimony and accompanying exhibits were submitted on July 23, 2019 by PGW.

12. Negotiations were conducted by the Joint Petitioners in an effort to achieve a settlement of the issues in this proceeding. As a result of those negotiations, the Joint Petitioners were able to agree to the Settlement set forth herein that resolves all of the issues in this proceeding.

13. Before the commencement of the scheduled hearing on July 24, 2019, the Joint Petitioners advised the ALJ that they had achieved a settlement of the issues in this proceeding. PGW, I&E, OCA, OSBA and PICGUG agreed to enter into a stipulation (as a part of the Settlement) to provide for the identification and admission of the filing and the testimony and associated exhibits regarding this proceeding, as that has been the customary course of action in other PGW proceedings. Accordingly, the scheduled hearing was cancelled.

II. STIPULATION AND REQUEST FOR ADMISSION

14. PGW, I&E, OCA, OSBA and PICGUG hereby stipulate to the identification and admission of the Supplement No. 120 and the materials supporting said Supplement as “PGW Exhibit 1.”³

³ <http://www.puc.state.pa.us/pcdocs/1613982.pdf>.

15. PGW, I&E, OCA, OSBA and PICGUG hereby stipulate to the identification and admission of the following pre-served written testimony and associated exhibits:

- (a) PGW St. 1, Direct Testimony of Raymond M. Snyder, dated April 5, 2019;
- (b) PGW St. 1-R, Rebuttal Testimony of Raymond M. Snyder and accompanying Exhibits RMS-1 and RMS-2, dated July 10, 2019;
- (c) PGW St. 1-RJ, Rejoinder Testimony of Raymond M. Snyder and accompanying Exhibit RMS-3, dated July 23, 2019;
- (d) I&E St. 1, Direct Testimony of Ethan Cline and accompanying Exhibit I&E Exhibit 1, dated June 26, 2019;
- (e) I&E St. 1-SR, Surrebuttal Testimony of Ethan Cline, dated July 18, 2019;
- (f) I&E St. 2, Direct Testimony of Christopher Whiteash and accompanying Exhibit I&E Exhibit 2, dated June 26, 2019;
- (g) I&E St. 2-SR, Surrebuttal Testimony of Christopher Whiteash, dated July 18, 2019;
- (h) OCA St. 1, Direct Testimony of Jerome D. Mierzwa and accompanying Appendix A, dated June 26, 2019;
- (i) OCA St. 1-SR, Surrebuttal Testimony of Jerome D. Mierzwa, dated July 18, 2019.

16. Having stipulated to the identification and admissibility of the above-mentioned filing and the above-mentioned pieces of testimony and associated exhibits, PGW, I&E, OCA, OSBA and PICGUG respectfully request that ALJ Guhl admit the filing and the testimony and associated exhibits into the record of this proceeding.

III. TERMS AND CONDITIONS OF SETTLEMENT

17. The Joint Petitioners hereby respectfully request that PGW's Tariff Schedule be approved as annexed hereto as Exhibit 1 in accordance with the following terms and conditions:

18. "Passyunk P3 Project" means the proposed public private partnership ("P3") project between Philadelphia Gas Works ("PGW") and Passyunk Energy Center, LLC ("PEC")

which would add a liquefier and related facilities (“New Facilities” or “Expanded LNG Facilities”) to PGW’s existing LNG plant at Passyunk.

Rate Impacts on Other Customers

19. The Settling Parties agree that once the Passyunk P3 Project is operational, PGW’s base rate and GCR cases are the appropriate venues to (a) evaluate the treatment of the revenues generated by transactions under Rate LNG-N; and (b) evaluate the impact of Rate LNG-N transactions on system capacity and design day requirements. PGW agrees to provide in future base rate and GCR cases the information necessary to separately identify LNG-N costs and revenues. It is also agreed that this Settlement does not impact the right of any of the Settling Parties to challenge the recovery and reflection of any costs and revenues under Rate LNG-N in PGW’s future base rate and GCR cases, as applicable.

Unauthorized/de facto LNG receiving facilities

20. The Settling Parties agree that I&E’s Safety Division may inspect PGW’s LNG transport vehicle (e.g., tanker truck) shipping records at PGW’s on-site premises. The records include: a physical address and a means to identify trucking associated with the proposed Rate LNG-N tariff.

Jurisdiction over the Passyunk P3 Project

21. The Settling Parties agree that the Passyunk P3 Project falls under the jurisdiction of the U.S. Department of Transportation’s (“DOT”) Pipeline & Hazardous Materials Safety Administration (“PHMSA”) and is governed by PHMSA’s Federal Regulations in Part 193 (“Part 193”) of the Code of Federal Regulations (“CFR” or “49 CFR”). This includes, but is not limited to, inspection of the Passyunk P3 Project by the Commission — as the agent of PHMSA.

22. PGW agrees to include explicit language in its negotiated contracts (under Rate LNG-N) that Gas delivered to customers under Rate LNG-N (such as PEC) may be redelivered by that customer, provided the means and conditions of such redelivery do not render PGW's LNG plants subject to FERC jurisdiction (unless PGW expressly agrees to such jurisdiction).

Design and Construction of Passyunk P3 Project; Notification Requirements

23. PGW will work cooperatively with I&E's Safety Division with regard to design and construction of the Passyunk P3 Project by facilitating I&E Safety Division's inspections. The existing LNG facilities at the Passyunk Plant and all of the Passyunk P3 Project at the Passyunk Plant used to provide services under Rate LNG-N at the Passyunk Plant will be designed, operated, and maintained in accordance with 49 CFR Part 193.

- (a) PGW agrees to schedule in-person informational meetings with I&E Safety Division every two weeks between the time of PGW's notification of the Effective Date of an LNG-N project agreement utilizing a P3 structure and the time when that project is fully in service. Any meeting or meetings can be cancelled upon mutual agreement.
- (b) The I&E Safety Division can request at any time additional updates/reviews/inspections, pursuant to applicable regulations, of the existing LNG facilities at the Passyunk Plant, all of the Passyunk P3 Project at the Passyunk Plant, or any future LNG construction projects utilizing a P3 structure. PGW will make efforts to accommodate all reasonable requests.

24. In addition to notice required under Part 193 and the in-person information meetings agreed to above (Paragraph 23(a)), upon finalization of any project agreements related to Rate LNG-N utilizing a P3 structure (including, but not limited to the agreement between PGW and PEC for the Passyunk P3 Project), PGW will within 30 days, provide written notification to the I&E Safety Division of the following information:

- (1) Effective Date of an LNG-N project agreement

- (2) Description and location of project;
- (3) Type of facility;
- (4) Provide preliminary design basis;
- (5) Estimated on-site construction start date;
- (6) New O&M procedures development schedule;
- (7) Training plan development schedule;
- (8) Estimated date to start performance testing; and
- (9) Name and address of PGW and PEC (or other prime P3 partner) contacts for the project.

25. PGW shall provide the I&E Safety Division with notification 90 days prior to the commencement of construction of the Passyunk P3 Project at the Passyunk Plant and other similar LNG-N projects utilizing a P3 structure. The above described meetings (*see* Paragraph 23(a)) that commence with notice of the Effective Date will provide an opportunity to review plans as they are developed.

Future Operations and Maintenance; Qualifications and Training

26. PGW agrees that it will review, with I&E's Safety Division, the O&M procedures for the Passyunk P3 Project and record review process, in addition to any modifications or amendments of the O&M procedures resulting from any proposed project related to Rate LNG-N utilizing a P3 structure, beginning with meetings every two weeks upon notification of the Effective Date (under Paragraph 23(a)). PGW will provide preliminary procedures 30 days prior to the date the Passyunk P3 Project, or any other LNG-N project plant utilizing a P3 structure, is anticipated to go into service after successful performance testing.

- (a) PGW acknowledges that any O&M procedural concerns that trigger revisions to the procedures may also facilitate the need for an additional review by I&E and the need for PGW to train their employees to the new requirements. Upon notice from I&E of its determination that concerns exist in PGW's procedures reviewed in the above paragraph, PGW shall, within 60 days, provide a response to such concerns including an assessment of whether, in PGW's view, the concerns are justified. If PGW concludes that the concerns are justified, in whole or in part,

PGW will make revisions to address those concerns and train PGW's employees on the new requirements.

Continued Operations; Regulatory Impact Analysis

27. PGW agrees that following design completion it will meet with I&E and discuss the Passyunk P3 Project design, the intent of which is to review the project for compliance with Part 193 and the Pa. Code, as applicable, and confirm that existing customers' service will not be materially affected by the Passyunk P3 Project. PGW will provide a summary of the meeting to I&E.

Notice To Customers Under Current Rate LNG

28. PGW agrees to notify the entities with contracts under the current Rate LNG of the terms and conditions of Rate LNG-N. The Settling Parties acknowledge that Rate LNG-N would permit the same contractual arrangements, but would continue to make any such contract available only at PGW's discretion under Rate LNG-N.

Site Restoration

29. Mr. Mierzwa, on behalf of the OCA, expressed concern that PGW protect itself and its ratepayers from the potential for liabilities related to environmental remediation costs, if it has not already done so. In response, PGW indicated that protections are in place. Specifically, at the end of the Term, PGW may elect to have PEC remove the facilities at PEC's sole cost, and restore the premises to the condition existing prior to the construction of the Passyunk Plant Project. Term Sheet at p. 6 and 19; PGW St. 1-R at 24-25. Approval of Rate LNG-N does not waive the right of any of the Settling Parties to challenge PGW's recovery of any existing or

future costs associated with projects entered into pursuant to Rate LNG-N including, but not limited to, site restoration costs.

IV. THE SETTLEMENT IS IN THE PUBLIC INTEREST

30. The Joint Petitioners have each prepared, and attached hereto, as Statements A through C, their Statements in Support setting forth the bases upon which they believe that the Settlement, including the Tariff Schedule, is fair, just, reasonable, non-discriminatory, lawful and in the public interest.

31. The Joint Petitioners submit that the Settlement is in the public interest for the following additional reasons:

- (a) **The Settlement Provides A Reasonable Resolution.** The Settlement represents a balanced compromise of all of the active parties in this proceeding and is a reasonable resolution of PGW's claims for increased rates while balancing the interests of ratepayers and the public. The Settlement provides for the implementation of the Tariff Schedule, which will permit PGW to replace the existing Rate LNG with the Rate LNG-N would expand the types of LNG sales that PGW could offer to customers (who executed contracts with PGW) under Rate LNG-N.
- (b) **Substantial Litigation And Associated Costs Will Be Avoided.** The Settlement amicably and expeditiously resolves most of the important and potentially contentious issues. The administrative burden and costs to litigate these matters to conclusion would be significant.
- (c) **The Settlement Is Consistent With Commission Policies Promoting Negotiated Settlements.** The Joint Petitioners arrived at the Settlement, including the Tariff Schedule, after conducting extensive discovery, submitting testimony into the record, and having in-depth discussions. The Settlement constitutes reasonably negotiated compromises on the issues addressed. Thus, the Settlement is consistent with the Commission's rules and practices encouraging settlements, 52 Pa.Code §§ 5.231, 69.391, 69.401-69.406, and is supported by a substantial record.

V. ADDITIONAL TERMS AND CONDITIONS

32. The Commission's approval of the Settlement shall not be construed as approval of any Joint Petitioner's position on any issue, except to the extent required to effectuate the terms and agreements of the Settlement. This Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement the Settlement.

33. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by any party in this or any other proceeding, if it were fully litigated.

34. This Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable. The Settlement is the product of compromise. This Settlement is presented without prejudice to any position which any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.

35. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission should disapprove the Settlement or modify any terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all parties within five (5) business days following entry of the Commission's Order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement or the Company or any other Joint Petitioner elects to withdraw from the Settlement as provided above, each of the Joint Petitioners reserves their respective rights to fully litigate this case, including, but not limited to,

presentation of witnesses, cross-examination and legal argument through submission of Briefs, Exceptions and Replies to Exceptions.

36. All Joint Petitioners shall support the Settlement will make reasonable and good faith efforts to obtain approval of the Settlement by the ALJ and the Commission without modification. The Parties agree that such good faith efforts do not include opposing or responding to comments or oppositions to the Settlement. The Joint Petitioners acknowledge and agree that this Settlement, if approved, shall have the same force and effect as if the Joint Petitioners had fully litigated these proceedings resulting in the establishment of rates that are Commission-made, just and reasonable rates.

37. If the ALJ, in her Recommended Decision, recommends that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions with respect to any issues addressed by the Settlement. However, the Joint Petitioners do not waive their rights to file Exceptions with respect to: (a) any modifications to the terms and conditions of this Settlement; or (b) any additional matters proposed by the ALJ in her Recommended Decision. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed. The Joint Petitioners further reserve the right to file Exceptions to the compliance filing in the event that any of the exhibits therein are inconsistent with the Settlement and the exhibits attached thereto, the Commission's Final Order, or pertain to issues upon which there was no settlement.

38. This Settlement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original; and such counterparts shall constitute but one and the same instrument.

VI. CONCLUSION

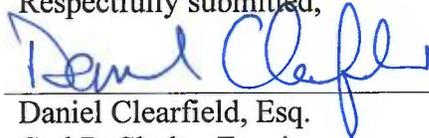
WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request as follows:

1. That the ALJ approve the Settlement as set forth herein, including all terms and conditions, without modification;
2. That the Commission's investigation at Docket No. R-2019-3009016 and the complaints of the I&E and OSBA at Docket Nos. C-2019-3009266 and C-2019-3009471, respectively, be marked closed.
3. That the Commission, consistent with the Settlement, find the Tariff Schedule to be just, reasonable, non-discriminatory, lawful and in the public interest.
4. That the Commission enter an Order approving the Settlement, including the Tariff Schedule, without modification, and permit PGW to file the Tariff Schedule annexed hereto as Exhibit 1 to become effective pursuant to the terms set forth therein.

Of Counsel:

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Respectfully submitted,



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Counsel for OCA

Tariff Schedule

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NEGOTIATED LIQUEFIED NATURAL GAS SERVICE - RATE LNG-N

Rate: Applicable to all Negotiated Liquefied Natural Gas Services rendered pursuant to this Rate Schedule as described below.

AVAILABILITY

Available at the Company's sole discretion when Customer and Company have executed a customer agreement ("Customer Agreement") for service under this Rate Schedule. The Customer must be able to arrange for the withdrawal/delivery of the commodity (via pipeline, transport vehicle, exchange services, or other delivery mechanisms agreed to by the parties) from the Company's Liquefied Natural Gas facilities. If the Customer is providing the commodity, then the Customer must also be able to arrange for the transportation of the commodity (via pipeline to Company's City Gate or via transport vehicle or pipeline) to the Company's Liquefied Natural Gas facilities.

RATES and TERMS OF SERVICE

Service under this schedule is for LNG services and may include, but is not limited to: 1) the provision of the commodity; 2) transportation of natural gas from the Company's City Gate to the Company's Liquefied Natural Gas facilities; 3) the liquefaction of the natural gas by the Company's Liquefied Natural Gas facilities; 4) the injection of the Customer's liquefied natural gas into the Company's Liquefied Natural Gas facilities; 5) the storage of liquefied natural gas; 6) the vaporization of liquefied natural gas; 7) the withdrawal of the liquefied natural gas via transport vehicle; and 8) the delivery of commodity from the Company's Liquefied Natural Gas facilities via pipeline, exchange services, or other delivery mechanism.

A Customer Agreement stipulating the negotiated rate(s) and negotiated terms of service shall be entered into between the Company and Customer when the Company, in its sole discretion, deems such offering to be economically advantageous to the Company. Depending on the negotiated terms, service under this rate will be either on a firm basis, which shall be interrupted only in cases of operating emergencies determined by the Company in its sole discretion, or on an interruptible basis in which case the Company reserves the right to interrupt service at Company's discretion pursuant to criteria set forth in the Customer Agreement. The negotiated rate(s) shall be in excess of the Company's incremental costs to provide service to the Customer.

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LIQUEFIED NATURAL GAS SERVICE - RATE LNG

Rate: Applicable to Liquefied Natural Gas Service as described below.

AVAILABILITY

Available at the Company's sole discretion where the Customer is able to arrange for the transportation of Liquefied Natural Gas via truck from the Company's Liquefied Natural Gas facilities.

RATES and TERMS OF SERVICE

Contracts stipulating the negotiated rate and negotiated terms of Liquefied Natural Gas Service may be entered into between the Company and Customer when the Company, in its sole discretion, deems such offering to be economically advantageous to the Company. Service under this rate is interruptible, and the Company reserves the right to interrupt service at Company's discretion.

The Company reserves the right to determine whether the customer will be charged the current Gas Cost Rate (GCR) or the current Weighted Average Cost of Gas (WACOG). The charge will not be less than the current GCR or the current .

NEGOTIATED LIQUEFIED NATURAL GAS SERVICE - RATE LNG-N

Rate: Applicable to all Negotiated Liquefied Natural Gas Services rendered pursuant to this Rate Schedule as described below.

AVAILABILITY

Available at the Company's sole discretion when Customer and Company have executed a customer agreement ("Customer Agreement") for service under this Rate Schedule. The Customer must be able to arrange for the withdrawal/delivery of the commodity (via pipeline, transport vehicle, exchange services, or other delivery mechanisms agreed to by the parties) from the Company's Liquefied Natural Gas facilities. If the Customer is providing the commodity, then the Customer must also be able to arrange for the transportation of the commodity (via pipeline to Company's City Gate or via transport vehicle or pipeline) to the Company's Liquefied Natural Gas facilities.

RATES and TERMS OF SERVICE

Service under this schedule is for LNG services and may include, but is not limited to: 1) the provision of the commodity; 2) transportation of natural gas from the Company's City Gate to the Company's Liquefied Natural Gas facilities; 3) the liquefaction of the natural gas by the Company's Liquefied Natural Gas facilities; 4) the injection of the Customer's liquefied natural gas into the Company's Liquefied Natural Gas facilities; 5) the storage of liquefied natural gas; 6) the vaporization of liquefied natural gas; 7) the withdrawal of the liquefied natural gas via transport vehicle; and 8) the delivery of commodity from the Company's Liquefied Natural Gas facilities via pipeline, exchange services, or other delivery mechanism.

A Customer Agreement stipulating the negotiated rate(s) and negotiated terms of service shall be entered into between the Company and Customer when the Company, in its sole discretion, deems such offering to be economically advantageous to the Company. Depending on the negotiated terms, service under this rate will be either on a firm basis, which shall be interrupted only in cases of operating emergencies determined by the Company in its sole discretion, or on an interruptible basis in which case the Company reserves the right to interrupt service at Company's discretion pursuant to criteria set forth in the Customer Agreement. The negotiated rate(s) shall be in excess of the Company's incremental costs to provide service to the Customer.

Statement A

**Statement in Support of
Joint Petition for Settlement of
PGW**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:		
	:	Docket No.	R-2019-3009016
v.	:		C-2019-3009266
	:		C-2019-3009471
Philadelphia Gas Works	:		

**PHILADELPHIA GAS WORKS’
STATEMENT IN SUPPORT OF THE
JOINT PETITION FOR SETTLEMENT
OF PHILADELPHIA GAS WORKS’
LNG-N TARIFF FILING**

Philadelphia Gas Works (“PGW” or the “Company”) offers this Statement In Support (“Statement”) of the Joint Petition for Settlement of Philadelphia Gas Works’ Negotiable Liquefied Natural Gas Tariff Filing (“Settlement” or “Joint Petition”) entered into by PGW, the Bureau of Investigation and Enforcement, (“BIE” or “I&E”), and the Office of Consumer Advocate (“OCA”) (collectively, the “Joint Petitioners” or “Settling Parties”).¹

The Settlement is either supported or not opposed by all of the active parties.² The Settlement, if approved, resolves all of the issues among the Joint Petitioners in this proceeding. The Joint Petitioners agree that PGW’s “Tariff Schedule” for Rate LNG should be approved, subject to the terms and conditions of the Settlement. The Tariff Schedule provides that PGW will cancel all provisions for Liquefied Natural Gas Service – “Rate LNG” – and establish the

¹ The other parties, the Office of Small Business Advocate (“OSBA”), and the Philadelphia Industrial and Commercial Gas Users Group (“PICGUG”), have indicated that they do not oppose the Settlement.

² See footnote 1. OSBA and PICGUG did not submit any testimony in this proceeding.

availability, rates, and terms of service for new rate for eligible customers under a proposed Negotiated Liquefied Natural Gas Service – “Rate LNG-N”.

The Settlement, and the Tariff Schedule, will facilitate the optimization of PGW’s existing liquefied natural gas (“LNG”) facilities through sales of excess liquefaction and storage capacity. The existing Rate LNG covers only interruptible LNG sales (with commodity supplied by PGW) and requires that the LNG be withdrawn from PGW’s LNG facilities by transport vehicle (such as a truck). Rate LNG-N would subsume the existing tariff (Rate LNG) and would expand the types of LNG sales and services that PGW could offer to customers. In that way, proposed Rate LNG-N is broader than the existing Rate LNG.

In addition, once the Rate LNG-N is approved and effective, PGW may be able to further optimize its LNG capabilities through expansion projects with public private partnerships (“P3”), that benefit PGW ratepayers. This optimization will permit additional LNG sales and service transactions that will produce millions of dollars of incremental revenue that will be used to offset PGW’s cost of providing gas service while enhancing its reliability. For example, one currently contemplated P3 project, the “Passyunk P3 Project,” would add a liquifier to PGW’s Passyunk LNG facilities (at no cost to PGW or risk to PGW or its ratepayers) pursuant to which PGW will provide the expanded LNG services available under Rate LNG-N. That P3 project is projected to produce \$1.35 to \$4 million per year of additional revenue net of incremental expenses for PGW, all of which will flow back to ratepayers.

The Settlement reflects a carefully balanced compromise of the interests of the Joint Petitioners. PGW submits that the Settlement is in the public interest, just and reasonable, and supported by substantial evidence and, therefore, should be approved without modification. Accordingly, for the reasons set forth herein and in the Settlement, PGW respectfully requests

that the Tariff Schedule be approved without modification by Administrative Law Judge Marta Guhl (“ALJ”) and the Pennsylvania Public Utility Commission (“Commission” or “PUC”).

I. BACKGROUND

PGW is a city natural gas distribution operation as defined in the Public Utility Code, 66 Pa.C.S. § 102. PGW manages a distribution system of approximately 6,000 miles of gas mains and service lines supplying approximately 500,000 customers in the City and County of Philadelphia (“City” or “Philadelphia”).

PGW’s experience with LNG goes back 50 years, and its expertise is second-to-none. PGW St. 1-R at 9, 24. PGW’s gas distribution system is located in Southeastern Pennsylvania in Philadelphia PGW St. 1 at 2. Since this is not a gas-producing area, PGW and its natural gas customers are dependent upon the interstate natural gas pipeline system to deliver natural gas into the PGW gas distribution system. PGW St. 1 at 2. PGW relies on the interstate pipeline for all natural gas supply, storage, and transportation services, except for PGW’s own on-system peak shaving facilities. PGW St. 1 at 2, 3. PGW owns and operates two LNG facilities³ that are used primarily both to meet intraday, daily and seasonal supply needs as well as to meet peak day requirements. PGW St. 1 at 2. PGW operates its own LNG peak shaving liquefaction, vaporization, and storage facilities. PGW St. 1 at 2.

Once operational requirements are met, PGW’s LNG assets are then used in PGW’s overall cost saving strategies. PGW St. 1 at 3. For example, once design winter sendout requirements are ensured, the Company may utilize bundled storage and LNG as a substitute for

³ PGW currently operates one of the nation’s largest LNG facilities at its Richmond LNG plant (“Richmond” or “Richmond Plant”) located in the Port Richmond section of Philadelphia. The Richmond Plant consists of LNG storage, liquefaction capability, vaporization facility, and truck/trailer loading capabilities. PGW also operates an LNG storage and vaporization facility in South Philadelphia at its Passyunk LNG plant (“Passyunk” or “Passyunk Plant”). Since it lacks liquefaction capability, the Passyunk Plant currently receives its liquefied gas supply from the Richmond Plant via cryogenic trailer trucks.

higher priced gas. PGW St. 1 at 3. PGW’s summer gas procurement policy uses a similar approach to address system supply and storage refill. PGW St. 1 at 3.

Presently, PGW provides LNG service — under Rate LNG — from its existing facilities at its Richmond plant. PGW St. 1 at 4. At Richmond, PGW can presently liquefy natural gas purchased by PGW, store the liquefied natural gas and then offload the gas in liquid form (via transport vehicle) to a customer. PGW St. 1 at 4. In comparison, at its Passyunk Plant, PGW is able to store liquefied gas trucked from Richmond and to similarly offload that LNG via truck. PGW St. 1 at 4. For the last several years PGW has used its Rate LNG in its Tariff (Third Revised Page No. 142 at Tariff Pa. PUC No. 2) to provide this LNG service to customers. PGW St. 1 at 4. However, the current tariff is limited to the provision of PGW-supplied gas that was liquefied and delivered to a customer by transport vehicle. PGW St. 1 at 4. This is done on an interruptible basis. PGW St. 1 at 4.

In 2015, a Commission Staff Report, *Inquiry into Philadelphia Gas Works’ Pipeline Replacement Program* (“2015 Staff Report”), stated that PGW “should continue to explore such [LNG expansion] opportunities and analyze what potential value, if any, it will have for its regulated customers and its infrastructure improvement plans.”⁴ PGW St. 1 at 8. Consistent with that statement, PGW issued a request for proposals (RFP # 30552) related to LNG sales and asset optimization. PGW St. 1 at 8.

PGW is proposing to expand its existing LNG services tariff (Rate LNG) so that it will accommodate a full range of LNG-related services. This proposal was made on April 5, 2019.⁵

⁴ Pennsylvania Public Utility Commission Staff Report, *Inquiry into Philadelphia Gas Works’ Pipeline Replacement Program* at 57 (Apr. 21, 2015), available at: [http://www.puc.pa.gov/NaturalGas/pdf/PGW Staff Report 0421 15.pdf](http://www.puc.pa.gov/NaturalGas/pdf/PGW%20Staff%20Report%200421%2015.pdf).

⁵ PGW proposed the expansion of LNG services as part of its 2019-2020 gas cost rate proceeding (Docket No. R-2019-3007636). PGW St. 1 at 7. In that proceeding, consistent with the Interim Order dated March 26, 2019 (<http://www.puc.state.pa.us/pcdocs/1612073.docx>) the subject proposal was removed and stricken.

On that date, PGW filed Supplement No. 120 to PA PUC No. 2; effective June 4, 2019, and the materials supporting said Supplement (collectively, “Tariff Schedule” or “Rate LNG-N”). Rate LNG-N would subsume the existing tariff and would expand the types of LNG sales that PGW could offer to customers. PGW St. 1 at 4.

Two complaints were filed against the Tariff Schedule. On April 18, 2019, I&E filed a Formal Complaint which was docketed at Docket No. C-2019-3009266. On April 25, 2019, the OSBA filed a Formal Complainant which was docketed at Docket No. C-2019-3009471. Per letter filed on May 8, 2019,⁶ PGW stated its intention not to file answers consistent with 52 Pa. Code § 5.61(d).

Pursuant to the Public Utility Code, 66 Pa.C.S. § 1308(b), by Opinion and Order dated May 9, 2019, the Commission suspend the proceedings until December 4, 2019 and sent the matter to the Office of Administrative Law Judge for evidentiary hearings and a Recommended Decision. The matter was assigned to ALJ Guhl.

Two interventions were filed in this proceeding. On May 9, 2019, the OCA filed a Notice of Intervention and Public Statement. On May 16, 2019, PICGUG filed a Petition to Intervene in this matter. During the prehearing conference (of June 5, 2019), the Petition to Intervene of PICGUG was granted.

The active parties conducted extensive formal and informal discovery throughout the proceeding. PGW had informal discussions with I&E on June 11, 2019 and with OCA on July 2, 2019. PGW responded to approximately 85 formal discovery requests, many of which included subparts.

from that proceeding. PGW St. 1 at 7. Having been stricken from the proceeding, the proposal was filed on a “stand-alone” basis on April 5, 2019.

⁶ <http://www.puc.state.pa.us/pdocs/1618518.pdf>.

The active parties submitted five rounds of written testimony. PGW's direct testimony was submitted on April 5, 2019. Consistent with the litigation schedule, direct testimony and accompanying exhibits in response to Tariff Schedule (and the accompanying direct testimony by PGW) were submitted on June 26, 2019 by I&E and OCA; rebuttal testimony and accompanying exhibits were submitted on July 10, 2019 by PGW; surrebuttal testimony was submitted on July 18, 2019 by I&E and OCA and written rejoinder testimony and accompanying exhibits were submitted on July 23, 2019 by PGW.

Negotiations were conducted by the Joint Petitioners in an effort to achieve a settlement of the issues in this proceeding. As a result of those negotiations, the Joint Petitioners were able to agree to the Settlement that resolves all of the issues in this proceeding.

II. COMMISSION POLICY FAVORS SETTLEMENT

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231(a). Settlements lessen the time and expense the parties must expend litigating a case and, at the same time, conserve administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. *See* 52 Pa. Code § 69.401.

In order to approve a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *PUC v. Peoples TWP LLC*, Docket Nos. R-2013-23355886, *et al.*, Opinion and Order entered December 19, 2013; *Warner v. GTE North, Inc.*, Docket No. C-00902815, Opinion and Order entered April 1, 1996); *PUC v. C.S. Water and Sewer Assocs.*, 74 Pa. P.U.C. 767, 771 (1991).

For the reasons set forth herein and in the Settlement, PGW believes that the Settlement is just, reasonable, and in the public interest and should be approved without modification.

III. APPROVAL OF THE SETTLEMENT IS IN THE PUBLIC INTEREST

The Joint Petitioners agree that the Settlement is in the public interest. Settlement at § IV. The Settlement was achieved only after a comprehensive investigation of PGW's Tariff Schedule. In addition to informal discovery, PGW responded to approximately 85 formal discovery requests, many of which included subparts. The active parties filed five rounds of written testimony. Further, the Joint Petitioners engaged in numerous settlement discussions and negotiations which ultimately led to the Settlement, which balances the interests of PGW customers, PGW, and all of the other active parties in this proceeding.

A. Tariff Schedule

PGW intends to have Rate LNG-N in place before entering into contracts to provide expanded LNG sales and services. PGW St. 1 at 10. This proceeding is only seeking approval of PGW's LNG-N tariff filing, PGW St. 1-R at 9; PGW St 1-RJ at 3,4. This proceeding is not seeking approval for the Project or any other future LNG infrastructure projects. PGW St. 1-R at 9; PGW St 1-RJ at 3,4, In other words, the Tariff Supplement is not contingent on the Passyunk P3 Project (which is discussed in greater detail in Section III.B of this Statement) or any other P3 project. So, even without the Passyunk P3 Project, the ability to provide expanded LNG services would be present and would create the opportunity for PGW to generate revenue, albeit on a smaller magnitude, for the benefit of customers. PGW St. 1 at 10.

The Settlement provides for approval of the Tariff Schedule, which is an expanded "LNG Services" tariff. The Tariff Schedules set forth an optional and voluntary rate that is designed to provide additional opportunities to meet LNG customer needs and would be available when a LNG customer and the Company have executed a customer agreement. The Tariff Schedule is designed to provide LNG customers with a greater array of products, and greater flexibility in

utilizing PGW's LNG assets, while producing additional revenues that would ultimately help keep rates lower than they otherwise would be for other customers.

Expanded LNG services under Rate LNG-N

PGW's proposed LNG-N filing will aid the Company in continuing to provide safe and reliable service to the public within its service territory while, at the same time, providing an option that will better maximize PGW's LNG assets for the benefit of its ratepayers.

Under Rate LNG-N, PGW will have a mechanism to offer LNG-related gas sales, transportation, liquefaction, storage, vaporization, delivery methods, and exchange services in response to market demands for LNG and LNG Services. See PGW St. 1 at 7. Rate LNG-N would only be available to customers that have negotiated an agreement with PGW regarding LNG sales and services. PGW St. 1 at 4.

Depending upon the needs of the LNG customer, these LNG-related sales and services could include: 1) the provision of the commodity; 2) transportation of natural gas from the Company's City Gate to the Company's Liquefied Natural Gas facilities; 3) the liquefaction of the natural gas by the Company's Liquefied Natural Gas facilities; 4) the injection of the Customer's liquefied natural gas into the Company's Liquefied Natural Gas facilities; 5) the storage of liquefied natural gas; 6) the vaporization of liquefied natural gas; 7) the withdrawal of the liquefied natural gas via transport vehicle; and 8) the delivery of commodity from the Company's Liquefied Natural Gas facilities via pipeline, exchange services, or other delivery mechanism. PGW St. 1 at 4-5. In contrast, only one service (sale of LNG to transport vehicle) is available under the existing Rate LNG.

Under the Settlement and Tariff Schedule, PGW will be able to provide for the sale of LNG in ways other than by truck and also to provide a full range of LNG-related services. PGW

St. 1 at 7. The market is looking for, and demanding, services beyond the delivery of LNG by transport vehicle, and PGW is positioned to provide these services, if Rate LNG-N is approved.

PGW St. 1 at 7.

The ability to provide expanded LNG services is reasonable, is in the public interest and should be approved. None of the active parties objected to the need for expanded LNG services. The expanded LNG services under Rate LNG-N pave the way for PGW to optimize PGW's existing LNG facilities and/or to explore LNG expansion opportunities, such as the one discussed in Section III.B of this Statement.

Rates and revenues under Rate LNG-N

The rates charged under Rate LNG-N will be negotiated. The Customer Agreement will stipulate the negotiated rate(s) and negotiated terms of service. These Agreements must be economically advantageous to PGW, as determined by PGW in its sole discretion. PGW St. 1 at 5. This is substantially the same as the negotiated rates under the Company's existing, voluntary Rate LNG. See PGW St. 1 at 5.

The negotiated rate(s) shall be in excess of the PGW's incremental costs to provide the negotiated services to the Customer. For example, if PGW is the party who is supplying the commodity itself, the incremental cost to provide that commodity is either the current Gas Cost Rate ("GCR") or the current Weighted Average Cost of Gas ("WACOG"). So, the charge for the commodity itself will not be less than the current GCR or the current WACOG. This is the same treatment given to sales of the commodity under the current Rate LNG. PGW St. 1 at 5.

The treatment of revenues under Rate LNG-N will depend on the party that supplies the LNG or natural gas commodity. PGW St. 1 at 6. All net proceeds of such transactions (i.e., after all costs have been covered) will be applied for the benefit of PGW's retail rate customers. PGW

St. 1-R at 3. Under Rate LNG-N, it is anticipated – based on market demand – that many (if not all) customers will be supplying the natural gas commodity to PGW (for liquefaction or storage). PGW St. 1-R at 4. This means that – in those circumstances (which are expected to the majority of the circumstances encountered) – there will be no actual sale of LNG or natural gas by PGW. PGW St. 1-R at 4. Instead of providing natural gas in the form of LNG, PGW will be supplying LNG *services* (such as liquefaction, and/or storage, and/or exchange or some combination thereof) to that customer, such as the Passyunk Energy Center, LLC , the counterparty in the Project discussed in Section III.B of this Statement. PGW St. 1-R at 4-5. That being said, there may still be transactions (such as sales to a transport vehicle) under Rate LNG-N where PGW is the party that is supplying the commodity. PGW St. 1-R at 5. Revenues from sales of that commodity will be included in the computation of the GCR. PGW St. 1 at 6; PGW St. 1-R at 5. If that commodity is provided in liquefied form by PGW, there will be an additional negotiated charge for the liquefaction of the natural gas which will be reflected in base rates. PGW St. 1 at 6; PGW St. 1-R at 5. This is the same treatment given to sales under current Rate LNG. PGW St. 1 at 6; PGW St. 1-R at 5.

No party opposed the rate structure or treatment of revenues as filed by PGW. Under the Settlement and Tariff Schedule, PGW will use negotiated rates and the net proceeds of such transactions (i.e., after all costs have been covered) will be applied for the benefit of PGW's retail rate customers. This rate structure and treatment of revenues is reasonable, is in the public interest, and should be approved.

Impact on existing LNG customers

The only customers impacted by the implementation of Rate LNG-N will be PGW's current LNG customers. Those customers will need to negotiate agreements under Rate LNG-N -

if they desire to continue to purchase LNG or use LNG services from PGW's LNG facilities. PGW St. 1 at 6. This is expected to have a minimal impact. PGW St. 1 at 6. None of PGW's customers under Rate LNG have deliveries scheduled under their existing agreements with PGW (under Rate LNG). PGW St. 1 at 6. PGW does not anticipate receiving requests, in the near future, for deliveries under those existing agreements (under Rate LNG). PGW St. 1 at 6.

The OCA expressed concern that the non-residential customers (entities) who have contracts under the current Rate LNG were not notified of the elimination of the current Rate LNG and of the need to make new arrangements for service under Rate LNG-N. OCA St. 1 (Mierzwa) at 7.

In the Settlement, PGW agreed to undertake actions to mitigate OCA's concern. Under the Settlement, PGW agrees to notify the entities with contracts under the current Rate LNG of the terms and conditions of Rate LNG-N. [Settlement at ¶ 28]. That being said, the Joint Petitioners acknowledge that Rate LNG-N would permit the same contractual arrangements, but would continue to make any such contract available only at PGW's discretion under Rate LNG-N. [Settlement at ¶ 28]. Providing the above-described notice represents a compromise, is reasonable, is in the public interest, and should be approved.

Lack of impacts on non-LNG customers

The Settlement and Tariff Schedule will have no effect on the rates charged⁷ or service rendered by the Company to non-LNG customers. *See* PGW St. 1-R at 3, 6; PGW St. 1-RJ at 3,

⁷ Since Rate LNG-N does not require the Commission to review any portion of the overall ratemaking equation for non-LNG rates and does not require any adjustment to non-LNG rates, the consideration of Rate LNG-N does not constitute single issue rate making (which is impermissible according to the Commission). *See, e.g., PUC v. Equitable Gas Company, LLC*, Docket Nos. R-2012-2304727, R-2012-2304731, R-2012-2304735, Opinion and Order entered December 20, 2012 at 16-18 (wherein Equitable sought to change a single determinant, the increased Btu content resulting in reduced throughput, to adjust delivery charge revenues for all customers).

4. The Settlement and Tariff Schedule will not adversely impact residential customers. Nor will they adversely impact non-residential retail service, transportation service, or interruptible service customers. That being said, it is PGW's position that approval of Rate LNG-N will have no impact on the right of parties to challenge the justness and reasonableness of any LNG-N enabled transactions in future base rate or GCR proceedings. PGW St. 1-R at 3; PGW St 1-RJ at 4.

In direct testimony, I&E and the OCA expressed concern that Rate LNG-N (and/or the Passyunk P3 Project, which is discussed in Section III.B of this Statement) could impact the rates of PGW's existing non-LNG customers. I&E St. 1 (Cline) at 6-9; OCA St. 1 (Mierzwa) at 6. In response, PGW indicated that PGW's next base rate case and GCR case — once the Project contracts are in place — are the appropriate venues to deal with such issues. PGW St. 1-R at 5-6, 7.

In the Settlement, PGW agreed to undertake actions to mitigate the concerns of I&E and OCA. Under the Settlement, the Settling Parties agree that once the Passyunk P3 Project is operational, PGW's base rate and GCR cases are the appropriate venues to (a) evaluate the treatment of the revenues generated by transactions under Rate LNG-N; and (b) evaluate the impact of Rate LNG-N transactions on system capacity and design day requirements. PGW agrees to provide in future base rate and GCR cases the information necessary to separately identify LNG-N costs and revenues. [Settlement at ¶ 19]. It is also agreed that this Settlement does not impact the right of any of the Settling Parties to challenge the recovery and reflection of any costs and revenues under Rate LNG-N in PGW's future base rate and GCR cases, as applicable. [Settlement at ¶ 19]. Without any actual transactions under Rate LNG-N, there are no impacts. Impacts can only be evaluated once contracts under Rate LNG-N are in place, so future

proceedings are the appropriate venues to deal with such issues. Providing the above-described information in future proceedings represents a compromise, is reasonable, is in the public interest, and should be approved.

B. Other Settlement Terms

PGW made the active parties aware of one currently contemplated transaction under Rate LNG-N, the “Passyunk P3 Project.” But, as noted above, this proceeding is not seeking approval for the Passyunk P3 Project or any other future LNG infrastructure projects. PGW St. 1-R at 9; PGW St 1-RJ at 3,4,

By way of background, the Passyunk P3 Project is the proposed P3 project between PGW and Passyunk Energy Center, LLC (“PEC”) which would add a liquefier and related facilities (“New Facilities” or “Expanded LNG Facilities”) to PGW’s existing LNG plant at Passyunk. [Settlement at ¶ 18]. The Expanded LNG facilities at Passyunk would allow for everything to be done at the Passyunk facilities, eliminating the need for transporting LNG from Richmond to Passyunk. PGW St. 1 at 9. Expanded LNG facilities will also further reinforce PGW’s system reliability and add additional redundancy. PGW St. 1 at 10.

The Passyunk P3 Project is unique. It will require a private entity, PEC, to put up all the capital and construct the Expanded LNG Facilities at Passyunk in accordance with PGW approved specifications, reducing the risk to PGW and its customers. PGW St. 1 at 9. With the Project, PGW will lease the new liquefier and new loading facilities at the Passyunk Plant for a nominal fee. PGW St. 1 at 9. These facilities will enhance PGW's system reliability by adding liquefaction capacity (at Passyunk) to PGW's system, add to PGW's system redundancy, and allow PGW to have more opportunities to generate revenue by providing LNG services under Rate LNG-N. PGW St. 1 at 9. Additionally, there are no net costs for PGW, and any ongoing

incremental operating costs will be reimbursed to PGW as part of agreements entered into pursuant to Rate LNG-N. PGW St. 1 at 9-10.

The Passyunk P3 Project is projected to produce \$1.35 to \$4 million per year of additional revenue net of incremental expenses for PGW, all of which will flow back to ratepayers. PGW St. 1 at 9. The Commission has specifically recommended that PGW explore transactions such as this P3 project. In 2015, the 2015 Staff Report, stated that PGW “should continue to explore such [LNG expansion] opportunities and analyze what potential value, if any, it will have for its regulated customers and its infrastructure improvement plans.”⁸ PGW has heeded the Commission’s recommendation to explore such possibilities and this P3 project represents the first fruits of that process.

At this time, the Passyunk P3 Project is in the early stages. Key terms have been reduced to a Term Sheet,⁹ which has been reviewed by the Philadelphia Gas Commission and the City. *See* PGW St. 1 at 10; PGW St. 1-R at 8. The Passyunk P3 Project, however, has not been reduced to fully executed contracts. PGW St. 1-R at 8-9. That should be done by November, 2019. *Id.* The following activities will need to be completed before the New Facilities will be operational and accepted by PGW: detail design development, construction, operations and maintenance (O&M) procedure development, performance testing and training. PGW St. 1-R at 9. Once the New Facilities are operational, the LNG sales/service phase begins at Passyunk under Rate LNG-N. PGW St. 1-R at 9.

In negotiating the Term Sheet, PGW was mindful of the transactional risks occasioned by the project and has sought to eliminate risk to PGW and its ratepayers. PGW St. 1-RJ at 2; Exh. RMS-3. In fact, the Term Sheet contains numerous provisions that protect PGW and its

⁸ 2015 Staff Report at 57.

⁹ The Term Sheet can be found in Exh. RMS-1; PGW Response to Interrogatory I&E-PS-7.

ratepayers. The key terms related to risk mitigation are summarized in Exh RMS-3. For example, in the section of the Term Sheet titled, “Performance Security,” there are three provisions that specifically protect PGW and its ratepayers against default/non-payment situations. PGW St. 1-RJ at 2; Exh. RMS-3; Term Sheet at 15.

The Passyunk P3 Project facilities are subject to inspection by the Commission. PGW St. 1-R at 11; Settlement at ¶ 21. The jurisdiction over the Project will be consistent with current jurisdiction over PGW’s LNG activities. PGW St. 1-R at 11. Simply put, PGW will comply with all applicable Part 193 regulations, as it has for many years. PGW St. 1-R at 9, 15. Specifically, the Passyunk Plant Project will: (a) be subject to Part 193 (“Part 193”) of the Code of Federal Regulations (“CFR” or “49 CFR”) — including inspection by the Commission, as the agent of Pipeline & Hazardous Materials Safety Administration (“PHMSA”); and (b) not fall under the jurisdiction of the Federal Energy Regulatory Commission (“FERC”). PGW St. 1-R at 11. There will not be interstate peak shaving. PGW St. 1-R at 11-12.

No party opposed the Passyunk P3 Project itself. However, I&E and OCA raised limited concerns about the Passyunk P3 Project. I&E asserted that requirements and obligations beyond those in applicable safety regulations¹⁰ should be mandated to proactively promote safety for the Passyunk P3 Project and any future P3 project. *See* I&E St. 2-R (Whiteash) at 8; I&E St. 2 (Whiteash) at 9-23. I&E also expressed concern over PGW’s ability to sell LNG to transport vehicles. I&E St. 2 (Whiteash) at 8-10. The OCA expressed concern over site remediation at the end of the Passyunk P3 Project. OCA St. 1 at OCA St. 1-SR at 3.

¹⁰ LNG facilities fall under the jurisdiction of the PHMSA and are governed by, among other things, PHMSA’s Federal Regulations in Part 193, which contains safety regulations applicable to LNG facilities. The Passyunk Plant Project would also be subject to the safety regulations in Part 193. The Commission, as an agent for PHMSA, inspects LNG facilities in the Commonwealth pursuant to the requirements of Part 193. *See* I&E St. 2 (Whiteash) at 8-9. The requirements of 49 CFR are incorporated into the Commission’s regulations by reference. *See* 52 Pa.Code § 59.33(b).

PGW agreed to items that mitigate the concerns of I&E and OCA. The Settling Parties have acknowledged and affirmed the Commission's jurisdiction over the Passyunk P3 Project, not that such jurisdiction was ever disputed by PGW. [Settlement at ¶ 21]. Under the Settlement, PGW agrees to provide notice and information – beyond that required by the applicable regulations – so that the Commission can maintain and perform its oversight responsibilities. [See Settlement at ¶ 23, 24, 25, 26, 27]. In addition, PGW agreed to certain actions to mitigate I&E's concern over PGW's ability to sell LNG to transport vehicles. [See Settlement at ¶ 20, 22]. The Settling Parties further acknowledged that (a) PGW may elect to have PEC remove the facilities at PEC's sole cost, and restore the premises to the condition existing prior to the construction of the Passyunk Plant Project. Term Sheet at p. 6 and 19; PGW St. 1-R at 24-25; and, (b) approval of Rate LNG-N does not waive the right of any of the Settling Parties to challenge PGW's recovery of any existing or future costs associated with projects entered into pursuant to Rate LNG-N including, but not limited to, site restoration costs. [Settlement at ¶ 29].

The Settlement regarding the Passyunk P3 Project represents a compromise, is reasonable, is in the public interest, and should be approved as a framework that will provide I&E with the opportunity to meet and exchange information, allow adequate time for I&E's review of all aspects of the Passyunk P3 Project and future P3 projects.

IV. CONCLUSION

The Settlement is the result of a detailed examination of PGW's Rate LNG-N, informal discovery and discussion, rounds of formal discovery, written testimony and compromise by the Joint Petitioners.

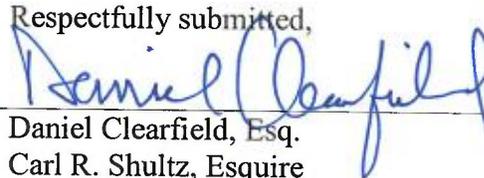
PGW believes that the fair and reasonable compromises have been achieved in this proceeding, and respectfully requests that ALJ Guhl and the Commission approve this Settlement without modification.

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Dated: August 15, 2019

Respectfully submitted,



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Statement B

**Statement in Support of
Joint Petition for Settlement of
the Bureau of Investigation and
Enforcement**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	Docket Nos. R-2019-3009016
v.	:	C-2019-3009266
	:	C-2019-3009471
Philadelphia Gas Works	:	

**BUREAU OF INVESTIGATION AND ENFORCEMENT
STATEMENT IN SUPPORT OF JOINT PETITION FOR SETTLEMENT OF
PHILADELPHIA GAS WORKS' LNG-N TARIFF FILING**

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Dated: August 15, 2019

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	Docket Nos. R-2019-3009016
v.	:	C-2019-3009266
	:	C-2019-3009471
Philadelphia Gas Works	:	

**BUREAU OF INVESTIGATION AND ENFORCEMENT
STATEMENT IN SUPPORT OF JOINT PETITION FOR SETTLEMENT OF
PHILADELPHIA GAS WORKS' LNG-N TARIFF FILING**

TO ADMINISTRATIVE LAW JUDGE MARTA GUHL:

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its Prosecutors, John M. Coogan and Gina L. Miller, hereby respectfully submit that the terms and conditions of the foregoing *Joint Petition for Settlement of Philadelphia Gas Works’ Negotiable Liquefied Natural Gas Tariff Filing* (“Joint Petition” or “Settlement”) are in the public interest and represent a fair, just, reasonable and equitable balance of the interests 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 represents the public interest in proceedings relating to rates, rate-related services and application proceedings affecting the public interest held before the Commission, as well as taking appropriate enforcement actions.¹ Consequently, in all

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

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 April 5, 2019, Philadelphia Gas Works ("PGW") filed Supplement No. 120 to its Gas Service Tariff – Pa P.U.C. No. 2 to become effective June 4, 2019. With its filing, PGW proposes to cancel its Rate LNG and establish a new rate for negotiated liquefied natural gas ("LNG") service, Rate LNG-N. Rate LNG-N would expand the type of LNG services PGW offers, allowing non-PGW parties to transport, liquefy, inject, store, vaporize, withdraw, and deliver their own natural gas using PGW facilities and personnel.

3. On April 17, 2019, I&E filed a Formal Complaint requesting that the Commission suspend approval of Supplement No. 120 pending further investigation necessary to ensure PGW's Rate LNG-N is lawful, just, and reasonable and to determine whether PGW's proposal implicated safety concerns.

4. On April 25, 2019, the Office of Small Business Advocate ("OSBA") filed a Notice of Appearance, Complaint and Public Statement. Subsequently, on May 9, 2019 and

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

May 16, 2019, respectively, the Office of Consumer Advocate (“OCA”) filed a Notice of Intervention and Public Statement and the Philadelphia Industrial and Commercial Gas Users Group (“PICGUG”) filed a Petition to Intervene.

5. On May 9, 2019, the Commission entered an Order suspending the filing until December 4, 2019 pursuant to 66 Pa. C.S. § 1308(b), unless permitted by Commission Order to become effective at an earlier date.

6. A Prehearing Conference Order was entered on May 24, 2019, and the Order scheduled a telephonic prehearing conference for June 5, 2019 with Administrative Law Judge (“ALJ”) Marta Guhl presiding.

7. Counsel for the following parties participated in the Prehearing Conference on June 5, 2019: I&E, PGW, OCA, OSBA and PICGUG (the “Parties”). During the Conference, PICGUG’s Petition to Intervene was granted and the Parties established a procedural schedule for this proceeding.

8. On June 6, 2019, Prehearing Order #1 was entered, and it memorialized the procedural schedule and other terms governing the conduct of this proceeding.

9. After the Prehearing Conference, the Parties continued to engage in the discovery process, both formally and informally.

10. In accordance with the procedural schedule, I&E served the following testimony and exhibits upon the Parties and ALJ Guhl on June 26, 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 Whiteash, and I&E Exhibit No. 2: the Exhibit accompanying Mr. Whiteash’s

direct testimony. Subsequently, on July 18, 2019, I&E served the following testimony upon the Parties and ALJ Guhl: I&E Statement No. 1-SR, the surrebuttal testimony of Ethan H. Cline and I&E Statement No. 2-SR, the surrebuttal testimony of Christopher Whiteash.

11. In accordance with the Commission’s policy favoring settlements over costly and time consuming litigation,³ 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.⁴

12. I&E submits that the proposed Settlement is in the public interest and should be approved without modification by the ALJ and the Commission.

II. I&E’s POSITION ON PGW’S RATE LNG-N PROPOSAL

By way of its proposed Rate LNG-N, PGW is proposing to replace and expand its existing Rate LNG. PGW’s current Rate LNG offers LNG to customers as a commodity only. Under Rate LNG-N, the services that would be available on either a firm or interruptible basis, include all of the following: 1) the provision of LNG as a commodity; 2) transportation of natural gas from PGW’s City Gate to PGW’s LNG facilities; 3) the liquefaction of natural gas by PGW’s LNG facilities; 4) the injection of a customer’s LNG into PGW’s LNG facilities; 5) the storage of LNG; 6) the vaporization of LNG; 7) the

³ 52 Pa. Code § 5.231.

⁴ 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).

withdrawal of LNG via transport vehicle; and 8) the delivery of commodity from PGW's LNG facilities via pipeline, exchange services, or other delivery mechanism.⁵

PGW has identified one potential LNG-N customer, Passyunk Energy Center, LLC ("PEC").⁶ PGW anticipates producing revenue by providing LNG sales services to PEC and other interested parties in accordance with agreements under proposed Rate LNG-N.⁷ As part of its contemplated transaction with PEC, PGW is pursuing a public-private partnership ("P3") with PEC for the construction of new LNG facilities at PGW's Passyunk Plant ("Passyunk P3 Project") that would be capable of producing 120,000 gallons of LNG per day.⁸ As part of the Passyunk P3 Project, PEC will fund and construct LNG liquefaction facilities at PGW's Passyunk Plant,⁹ which PGW will lease for \$10 per year after it has inspected and accepted the liquefier.¹⁰

PGW asserted several benefits with Rate LNG-N and the Passyunk P3 Project. Based on the lease arrangement, PGW claims that the Passyunk P3 Project presents no financial risk to ratepayers while generating between \$1.35 million to \$4 million in revenue annually, which could be used to mitigate of delay future base rate adjustments for ratepayers.¹¹ Additionally, PGW alleged that Rate LNG-N would not impact the cost and availability of natural gas supply for non-LNG-N customers.¹² Also, in support of its proposal for Rate LNG-N and the expansion of its LNG facilities, PGW cited the

⁵ PGW St. No. 1, p. 5

⁶ Id. at pp. 8-11.

⁷ Id. at p. 10.

⁸ Id. at pp. 8-9.

⁹ Id. at p. 9.

¹⁰ PGW St. No. 1-R, p. 3.

¹¹ PGW St. No. 1, pp. 9-10.

¹² I&E Ex. No. 1, Sch. 2.

Commission's recommendation in 2015 that PGW explore LNG expansion opportunities and analyze their potential value to regulated customers and to its infrastructure improvement plans.¹³

Initially, after PGW made its Rate LNG-N filing, I&E identified preliminary concerns regarding the following:

(1) the basis for the rates that PGW will charge under Rate LNG-N; (2) whether the amount charged will be appropriately tracked and reconciled; (3) whether other PGW ratepayer funding and resources will be diverted to subsidize the expanded service that PGW now seeks to provide; (4) whether PGW's proposal to enter into the necessary agreements without Commission review is appropriate; and (5) whether PGW's proposal implicates any safety concerns.¹⁴

I&E investigated PGW's proposal through discovery and by participating in multiple discussions with PGW's counsel and staff. Additionally, because of the novelty of PGW's proposal, and potential safety issues implicated by LNG-N related expansion of services and construction projects, I&E's Safety Division assisted in conducting an investigation into PGW's proposal, and in participating in discussions with PGW's staff.¹⁵ I&E submits that after thoroughly investigating PGW's filing, and subject to the implementation of the important safeguards encompassed within the terms of the Settlement, approval of Rate LNG-N is in the public interest.

¹³ PGW Supplement No. 120, Statement of Reasons, pp. 2-3, quoting the Pennsylvania Public Utility Commission Staff Report, Inquiry into Philadelphia Gas Works' Pipeline Replacement Program, p. 57 (April 21, 2015).

¹⁴ I&E Complaint, pp. 3-4.

¹⁵ By way of additional context, I&E's Safety Division is charged, in part, with enforcing gas safety standards and conducting gas safety inspections through 52 Pa. Code § 59.33.

III. TERMS OF THE SETTLEMENT

A. RATE IMPACTS ON NON-LNG-N CUSTOMERS

Under PGW's current LNG tariff, service is interruptible. Under PGW's proposed LNG-N tariff, in addition to expanding the scope of LNG-related services, service may be provided under a firm or interruptible basis. Because PGW's filing represents an expansion of LNG-related services, one of I&E's chief concerns in this case was that PGW's non-Rate LNG-N customers not be adversely impacted by Rate LNG-N, either in the form of increased rates or any compromised availability of the natural gas supply.¹⁶

Although PGW asserted that its Passyunk P3 Project would not have any impact on the cost and availability of natural gas supply,¹⁷ I&E witness Cline indicated that he nonetheless had concerns about the potential impact of Rate LNG-N. More specifically, witness Cline explained that PGW currently uses its LNG services used for peak shaving or providing customers with natural gas during times of increased use. Accordingly, he noted that if such LNG was no longer available for peak shaving, it would cause PGW to use more expensive capacity or storage contracts, thereby placing PGW out of compliance with the Commission's policy of least cost gas procurement.¹⁸

Additionally, while witness Cline recognized PGW's representation that its negotiated LNG-N rates would be in excess of PGW's incremental costs to provide service

¹⁶ I&E St. No. 1, pp. 5-6.

¹⁷ Id. at p. 6; I&E Ex. No. 1, Sch. 2.

¹⁸ I&E St. No. 1, p. 6.

to the customer, he also noted that the proposed LNG-N tariff is novel and should be closely monitored to ensure it did not adversely impact non-LNG-N ratepayers.¹⁹

As an example of why Commission oversight is necessary, witness Cline cited the term sheet associated with the Passyunk P3 Project as an example of the complexity of an LNG-N contract relaying on a number of parties with numerous contingencies.²⁰ After explaining his concerns, witness Cline recommended that the costs and revenue generated by Rate LNG-N should be identified separately in PGW's future Gas Cost Rate ("GCR") and base rate filings to ensure that PGW is accountable to ratepayers for its projection of revenue benefits as well as its representation that non-LNG-N ratepayers would not be adversely impacted. Finally, he also recommended that both PGW and the Commission recognize parties' ability to challenge the recovery and reflection of any costs and revenues in PGW's future base rate and GCR filings.²¹

Although PGW opined that Mr. Cline's concerns were unwarranted, it nonetheless agreed that its next base rate case and future GCR proceedings, after Rate LNG-N contracts are in place, are the appropriate venues to address any rate impact and capacity and design day impact associated with Rate LNG-N.²² Consistent with this agreement, the Joint Petitioners agreed to the following term:

The Settling Parties agree that once the Passyunk P3 Project is operational, PGW's base rate and GCR cases are the appropriate venues to (a) evaluate the treatment of the revenues generated by transactions under Rate LNG-N; and (b) evaluate the impact of Rate LNG-N transactions on system capacity and

¹⁹ Id. at p. 7.

²⁰ Id. at p. 7.

²¹ Id. at p. 9

²² PGW St. No. 1-R, p. 5.

design day requirements. PGW agrees to provide in future base rate and GCR cases the information necessary to separately identify LNG-N costs and revenues. It is also agreed that this Settlement does not impact the right of any of the Settling Parties to challenge the recovery and reflection of any costs and revenues under Rate LNG-N in PGW's future base rate and GCR cases, as applicable.²³

The above term is consistent with I&E witness Cline's recommendation in this case. By implementing Rate LNG-N, all PGW's ratepayers may benefit if PGW's projections associated with Passyunk P3 Project of an additional \$1.35 million to \$4 million in net revenue annually materialize. PGW states this additional revenue could be used to mitigate of delay future base rate adjustments for ratepayers.²⁴ However, as Mr. Cline noted, PGW's agreement to evaluate the treatment of Rate LNG-N revenues and to evaluate the rate's impact on PGW's system capacity and design day requirements is necessary to confirm that ratepayers are guaranteed protections in future proceedings. This term provides parties with an understanding on how to gauge the impact of Rate LNG-N and to challenge PGW's future recovery and reflection of rate LNG-N costs and revenues. Therefore, if PGW's representations regarding the lack of a negative impact do not prove to be accurate in the future, a recourse can be expected. Accordingly, this term ensures PGW is accountable to ratepayers in its pursuit of additional revenue under Rate LNG-N, and therefore is in the public interest and should be approved without modification.

²³ Joint Petition, ¶ 19.

²⁴ PGW St. No. 1, pp. 9-10.

B. UNAUTHORIZED/DE FACTO LNG RECEIVING FACILITIES

As part of this Settlement, the Joint Petitioners agree that I&E's Safety Division may inspect PGW's LNG transport vehicle shipping records, at PGW's on-site premises, and that such records would include a physical address and a means to identify trucking associated with the proposed Rate LNG-N tariff.²⁵ I&E submits that this term is in the public interest, because it provides I&E's Safety Division with a mechanism to gauge whether LNG shippers, whether intentionally, or unintentionally, due to a lack of knowledge regarding the federal pipeline safety code, create de facto LNG receiving facilities. Specifically, I&E identified concerns regarding the potential creation of de facto LNG receiving facilities because PGW indicated that its partner in the Passyunk P3 Project, PEC, is able to receive LNG via trucked-trailer deliveries.²⁶

Upon review of the information PGW provided, I&E witness Whiteash noted that if PEC is not the ultimate consumer or end user of the LNG received at its facilities, then the PEC receiving facilities are subject to the federal safety standards of 49 CFR § 193.²⁷ After recognizing this possibility, I&E witness Whiteash recommended that PGW demonstrate the measures it would take to avoid intentionally facilitating unauthorized LNG receiving facilities and to provide the I&E Safety Division a list of all LNG tanker truck receiving facilities to include a physical delivery address and a means to identify trucking associated with the Rate LNG-N tariff.²⁸ Additionally, witness Whiteash recommended that PGW

²⁵ Joint Petition, ¶ 20.

²⁶ PGW St. No. 1, p. 10.

²⁷ I&E St. No. 2, p. 10 (referencing 49 CFR 193.2001(b)(1)).

²⁸ Id. at pp. 10-11.

should provide an update of the list to the I&E Safety Division every six months (April 1 and October 1).²⁹

In response, PGW witness Snyder opined that the role of third-party LNG facilities was an issue between the Commission and any such third party, not an issue for PGW. Mr. Snyder argued that any resulting trucking issue would not be directed at PGW but to a hypothetical third party, and he also noted that under PGW's existing rate LNG tariff, it was not required to track and report the delivery locations.³⁰ However, I&E witness Whiteash disputed Mr. Snyder's position by indicating that PGW did, in fact, have a responsibility to protect against the risks associated with the expansion of trucking services and public risks associated with the unauthorized storage of LNG since PGW's request for implementation of Rate LNG-N would expand LNG trucking services.³¹

After considering the other party's respective position, I&E and PGW were able to reach a compromise in the form of the above-referenced term, which is intended to provide I&E with an agreed-upon method to inspect PGW's LNG transport vehicle shipping records. Specifically, PGW has committed to permitting I&E's Safety Division with the ability to inspect the LNG transport vehicle shipping records, including a physical address and means to identify trucking associated with the proposed Rate LNG-N tariff, at PGW's on-site premises. I&E submits that this outcome is in the public interest because I&E's Safety Division may review trucking information that it deems necessary to monitor for

²⁹ Id. at p. 11.

³⁰ PGW St. No. 1-R, p. 13.

³¹ I&E St. No. 2-SR, p. 5.

safety purposes. Accordingly, this term represents a reasonable compromise that promotes safety and accountability; therefore, it should be adopted without modification.

C. JURISDICTION OVER THE PASSYUNK P3 PROJECT

Pursuant to the Settlement, the Joint Petitioners have agreed that the Passyunk P3 Project falls under the jurisdiction of the U.S. Department of Transportation’s (“DOT”) Pipeline & Hazardous Materials Safety Administration (“PHMSA”) and is governed by PHMSA’s Federal Regulations in Part 193 (“Part 193”) of the Code of Federal Regulations (“CFR” or “49 CFR”). This includes, but is not limited to, inspection of the Passyunk P3 Project by the Commission — as the agent of PHMSA.³²

Although jurisdiction was not disputed in this case, I&E submits that the above term was added for purposes of clarification. Specifically, PGW misinterpreted I&E’s position that I&E expressed concerns that the Passyunk P3 Project could trigger Federal Energy Regulatory Commission (“FERC”) siting jurisdiction.³³ However, I&E did not express concerns regarding FERC siting jurisdiction for the proposed Passyunk P3 Project, but it was simply explaining that, in the future, projects related to PGW’s proposed LNG-N tariff could potentially change the siting jurisdiction and the federal safety jurisdiction of PGW’s LNG facilities, depending on how they are structured.³⁴ Importantly, despite the misunderstanding, the Joint Petitioners all agree that the Passyunk P3 Project is properly within the jurisdiction of PHMSA and it is governed by Part 193 of the CFR. Additionally, the Joint Petitioners all agree that, in the context of its

³² Joint Petition, ¶ 21.

³³ PGW St. No. 1-R, p. 11.

³⁴ I&E St. No. 2-SR, pp. 1-2.

status as a PHMSA agent, the Commission's authority includes the authority to inspect the Passyunk P3 Project. I&E submits that memorializing the Joint Petitioners' agreement regarding jurisdiction and the Commission's authority in this Settlement is important for purposes of order and regulatory certainty because it recognizes the regulatory parameters in place for the Passyunk P3 Project. Accordingly, this term is in the public interest and it should be approved without modification.

Similarly, in order to preserve PHMSA jurisdiction, PGW has agreed to include language in its Rate LNG-N contracts to indicate that gas delivered to customers under Rate LNG-N may be redelivered by that customer as long as the means and conditions of any such redelivery does not subject PGW's LNG plants to FERC jurisdiction.³⁵ An exception to the redelivery provision could be made only with PGW's express agreement, meaning that PGW would have to be made aware of any instances in which FERC jurisdiction would be triggered. I&E submits that this term protects the public interest by ensuring that if any gas delivered under Rate LNG-N is redelivered in a manner that subject PGW's LNG plant to FERC jurisdiction, PGW would be aware of this fact in advance, and either assent to the arrangement and plan accordingly, or decline negotiating the contract, at its discretion. I&E submits that ensuring PGW is kept apprised of redelivery options that may trigger FERC jurisdiction so that it can take the appropriate action to accommodate the requirements of such jurisdiction is in the public interest; accordingly, this term should be approved without modification.

³⁵ Joint Petition, ¶ 22.

D. DESIGN AND CONSTRUCTION OF PASSYUNK P3 PROJECT; NOTIFICATION REQUIREMENTS

The Joint Petition includes several terms that address I&E's concerns regarding the potential for Rate LNG-N projects to impact the safety of PGW's LNG facilities, exemplified by the proposed design and construction of the Passyunk P3 Project.

During the discovery phase of this case, I&E asked PGW to provide the following information to better understand how PGW planned to address certain safety issues regarding the Passyunk P3 Project:

(1) a schematic showing any proposed equipment installation for increased storage and for processing capacity related to the PEC P3 project; (2) a detailed report on all proposed upgrades to the current Passyunk facility including all infrastructure, material specifications, and manufacturer information necessary to implement the PEC P3 project; (3) a schematic of the entire transporting process from liquefaction to end-user for all plant processes; (4) detailed construction specifications for plant piping related to the Passyunk Plant project; and (5) a discussion of any security upgrades necessary to implement the PEC P3 project.

However, in response to each of those inquiries, PGW indicated that the information was either not yet available or that the materials requested had not been developed.³⁶

Aside from identifying the need for additional information regarding the design and construction of the Passyunk P3 Project, I&E witness Whiteash noted that PGW's minimum applicable notification requirements under 49 CFR § 191.22,³⁷ which would trigger PGW's filing obligations to begin with notifying the I&E Safety Division of commencement of certain major construction activity within 60 and 30 days prior to

³⁶ I&E St. No. 2, p. 11; I&E Ex. No. 2, Sch. 2.

³⁷ See I&E St. No. 2, p. 12, footnote 7.

commencement, was inadequate to enable the Safety Division and PGW to exchange information necessary to ensure an efficient construction process.³⁸ Instead, Mr. Whiteash opined that an extended notification period, from 30 and 60 days to 120 days prior to commencement of construction for Rate LNG-N projects, would be necessary because the review of these types of projects are not common and the addition of a public-private partnership could add additional hurdles to the review process.³⁹ Additionally, Mr. Whiteash stressed the need for PGW to meet with the I&E Safety Division early and often in order to exchange information, allow enough time for a thorough review of project information, and to prevent scheduling delays that could result from potential code discrepancies.⁴⁰ Despite Mr. Whiteash's explanation of the need for an extended notification period to 120 days, PGW dismissed that explanation and opined that no justification existed to compel PGW to depart from the existing notification requirements.⁴¹

Although PGW was not receptive to an extension of its existing notice requirements, as settlement discussions continued, and by way of the following term, I&E and PGW reached an agreement that would address I&E's concerns regarding the need for additional design and construction information regarding LNG-N projects similar to the Passyunk P3 Project, i.e., LNG construction projects involving public-

³⁸ Id. at pp. 12-13.

³⁹ Id. at p. 13.

⁴⁰ Id. at pp. 13-14.

⁴¹ PGW St. No. 1-R, p. 18.

private partnerships, and I&E Safety Division's timely access to information regarding construction project:

PGW will work cooperatively with I&E's Safety Division with regard to design and construction of the Passyunk P3 Project by facilitating I&E Safety Division's inspections. The existing LNG facilities at the Passyunk Plant and all of the Passyunk P3 Project at the Passyunk Plant used to provide services under Rate LNG-N at the Passyunk Plant will be designed, operated, and maintained in accordance with 49 CFR Part 193.

(a) PGW agrees to schedule in-person informational meetings with I&E Safety Division every two weeks between the time of PGW's notification of the Effective Date of an LNG-N project agreement utilizing a P3 structure and the time when that project is fully in service. Any meeting or meetings can be cancelled upon mutual agreement.

(b) The I&E Safety Division can request at any time additional updates/reviews/inspections, pursuant to applicable regulations, of the existing LNG facilities at the Passyunk Plant, all of the Passyunk P3 Project at the Passyunk Plant, or any future LNG construction projects utilizing a P3 structure. PGW will make efforts to accommodate all reasonable requests.⁴²

I&E submits that the above term represents a compromise that protects the public interest in two key ways. First, PGW's agreement to work cooperatively with the I&E Safety Division regarding the design and construction of the Passyunk P3 Project and similar LNG-N projects involving a public-private partnership creates clear guidelines for the Safety Division to access information when it becomes available. For example, through the biweekly meeting process, I&E's Safety Division will benefit from PGW's

⁴² Joint Petition, ¶ 23.

provision of updated information and be continually apprised of project developments. I&E submits that ensuring that the Safety Division has sufficient and timely information regarding the design and construction of the Passyunk P3 Project and similar LNG-N projects is paramount to ensuring that the design is safely designed, operated and maintained and that PGW adheres to 49 CFR Part 193.

Second, the above term also protects the public interest by creating clear guidelines for the Safety Division to request any additional or updated information, and inspection opportunities at the Passyunk Plant and any future LNG-N related construction that relies upon a public-private partnership, that it deems necessary to ensure compliance with safety guidelines. As witness Whiteash recognized, timely access to information is imperative in the context of such projects because they can be complex and may involve a layered communication process.⁴³ For example, although construction will be subject to PGW plant rules and regulations, ultimately it will be managed by a private, non-PGW entity, PEC.⁴⁴

PGW also agreed that it would provide notice 90 days prior to commencement of the Passyunk P3 Project and other similar LNG-N projects using a P3 structure.⁴⁵ Additionally, within 30 days of finalizing any project agreements related to Rate LNG-N that involve a public-private partnership, it will provide I&E's Safety Division with certain information about the project.⁴⁶ Specifically, PGW agreed to provide the

⁴³ I&E St. No. 1.

⁴⁴ I&E Ex. No. 2, Sch. 4.

⁴⁵ Joint Petition, ¶ 25.

⁴⁶ Joint Petition, ¶ 24.

following information: (1) effective date of an LNG-N project agreement; (2) description and location of project; (3) type of facility; (4) provide preliminary design basis; (5) estimated on-site construction start date; (6) new operations and maintenance (“O&M”) procedures development schedule; (7) training plan development schedule; (8) estimated date to start performance testing; and (9) the name and address of PGW and PEC (or any other prime public-private partnership partner) contacts for the project.

In I&E’s view, PGW’s agreement to provide I&E’s Safety Division with the information enumerated above will serve to expedite the Safety Division’s ability to gauge PGW’s compliance with 49 CFR Part 193 because the information will provide a preliminary overview of the scope of the project, the project schedule, and the timeline for milestone construction and procedural development dates. Because PGW’s commitment to provide crucial project information as outlined above will allow the I&E Safety Division to receive timely access to crucial project information, promoting critical oversight necessary to ensure safety and compliance, these terms are in the public interest and they should be approved without modification.

E. FUTURE OPERATIONS AND MAINTENANCE; QUALIFICATIONS AND TRAINING

Pursuant to the Joint Petition, PGW has agreed to terms regarding operations and maintenance procedures and record review process for its Passyunk P3 Project, and any future LNG-N project relying upon a public-private partnership, in order address specific concerns that I&E identified in its investigation in this case. More specifically, during the discovery process, I&E asked PGW to identify any revisions that it planned to make to its

O&M procedures that would be necessary to address the Passyunk P3 Project, but PGW indicated that O&M procedure revisions were not yet available.⁴⁷ Instead, PGW indicated that any O&M revisions would “be addressed as necessary when designs are complete prior to start-up.”⁴⁸ I&E witness Whiteash expressed concern regarding PGW’s lack of development of O&M procedure revisions, and he opined that PGW’s plan was too tentative and uncertain, lacking both any measurable timeframe for completion and guarantee that I&E’s Safety Division would have an adequate opportunity to review proposed procedures and related records prior to start-up.⁴⁹ Additionally, Mr. Whiteash explained that aside from facilitating the need for additional review by the I&E Safety Division, any O&M revisions could also facilitate the need for PGW to train its employees on new requirements. With that in mind, I&E recommended that PGW be required to initiate a review of its O&M procedure and record review process no later than 180 days prior to the Passyunk P3 Project, and any other construction related to Rate LNG-N, going into service.⁵⁰

In recognition of I&E’s concerns, and by way of compromise achieved through the Joint Petition, PGW has agreed to provide I&E’s Safety Division with an opportunity to review PGW’s O&M procedures and record review process, in addition to any modifications or amendments of the O&M procedures resulting from any proposed project related to Rate LNG-N using a P3 structure, beginning with meetings every two weeks upon

⁴⁷ I&E St. No. 2, p. 14.

⁴⁸ I&E Ex. No. 2, Sch. 5.

⁴⁹ I&E St. No. 2, p. 14.

⁵⁰ Id. at 15.

notification of the effective date of an LNG-N project agreement. Additionally, PGW will provide preliminary procedures 30 days prior to the anticipated in-service date of the Passyunk P3 Project and any future LNG-N project relying upon a public-private partnership structure.⁵¹

Although the 30 days lead time is less than that recommended by I&E, the shorter timeframe is mitigated by PGW's commitment to schedule in-person informational meetings with the I&E Safety Division on a bi-weekly basis between the time of PGW's notification of the effective date of an LNG-N project agreement using a public-private partnership structure and the time when the project will be fully in-service. Because the meetings will provide the Safety Division with a regular forum to obtain updates and to be apprised of project developments, they can also serve to enable the Safety Division to gain timely information about proposed O&M procedures revisions.

Additionally, through the Settlement, PGW has also acknowledged that any O&M procedural concerns that trigger revisions may also facilitate the need for additional I&E review and additional training for PGW employees. In recognition of these potential outcomes, PGW has agreed that upon notice of I&E's determination that proposed revisions do facilitate the need for additional I&E review and/or additional training for PGW employees, PGW would evaluate I&E's position upon receipt of the notification. Within 60 days of I&E's notification, PGW has committed to provide I&E with a response to the identified concerns, and, if it determined the concerns were justified, then

⁵¹ Joint Petition, ¶ 26.

PGW would commit to addressing the concerns and/or training PGW's employees on new requirements as appropriate. I&E submits that these terms represent a reasonable compromise of PGW and I&E's position while simultaneously protecting the public interest because they provide I&E's Safety Division with timely information and a forum to discuss important developments and safety concerns while also providing PGW with the time it needs to assess whether and how O&M procedure revisions should be proposed. Accordingly, this term is in the public interest and it should be approved without modification.

F. CONTINUED OPERATIONS; REGULATORY IMPACT ANALYSIS

Under the terms of the Settlement, after the design of the Passyunk P3 Project is complete, PGW has agreed to meet with I&E and (1) review the Passyunk P3 Project for compliance with the applicable portions of Part 193 of the Code of Federal Regulations and the Pa. Code; and (2) confirm that existing customers' service will not be materially affected by the Passyunk P3 Project. After the meeting, PGW will provide a meeting summary to I&E.⁵²

At the outset of this case, I&E witness Whiteash identified the need to confirm PGW's representation that the operation of PGW's Passyunk Plant would not be curtailed or amended during construction of the Passyunk P3 Project.⁵³ Mr. Whiteash asserted that in order for the I&E Safety Division to confirm PGW's representation, a regulatory impact

⁵² Joint Petition, ¶ 27.

⁵³ I&E St. No. 2, p. 20; I&E Ex. No. 2, Sch. 7.

assessment would need to be completed. Mr. Whiteash explained that, from a safety perspective, it is imperative for PGW to assess any potential regulatory integration impact that might affect existing Passyunk Plant operations, and to evaluate the proposed siting, design, construction, and equipment requirements of the Passyunk P3 Project.⁵⁴ Therefore, he recommended that I&E's Safety Division be permitted to perform a regulatory impact assessment to confirm the applicability of 49 CFR § 193 regulations, as it relates to the proposed changes to the Passyunk P3 Project or any other proposed project related to LNG-N, as early as possible, so that any impacts found by the I&E Safety Division are conveyed to PGW as early as possible.⁵⁵ In order to ensure that any regulatory impacts resulting from the Passyunk P3 Project were timely and appropriately assessed, Mr. Whiteash recommended that PGW begin immediately coordinating efforts with impacted staff and the I&E Safety Division to schedule a regulatory impact assessment as soon as possible.⁵⁶

In response, PGW claimed that it did not believe that its tariff filing is the appropriate forum to discuss safety regulations, and it claimed that I&E's recommendations were beyond the scope of applicable safety laws and regulations.⁵⁷ Additionally, while PGW witness Snyder continued to assert his position that the Passyunk P3 Project would not impact its current operations, he also alleged that a regulatory impact assessment would not be authorized or warranted.⁵⁸ Despite this

⁵⁴ I&E St. No. 2, p. 20.

⁵⁵ Id. at p. 21.

⁵⁶ Id.

⁵⁷ PGW St. No. 1-R, p. 10.

⁵⁸ Id. at pp. 20-21.

position, Mr. Snyder indicated that PGW was willing to meet with I&E at any time in order to review and explain the Passyunk P3 Project and explain the associated operational and regulatory impacts.⁵⁹

After reviewing Mr. Snyder's response, witness Whiteash clarified that the term "regulatory impact assessment" meant a review of LNG-N projects under Federal Regulation 49 CFR 193 for siting, design, construction, equipment, components, and construction history, as typically performed via PHMSA Form 18 inspection modules during construction.⁶⁰ Accordingly, the recommendation for a regulatory impact assessment by I&E's Safety Division, which is the Commission's agent for enforcing LNG federal safety requirements arising under 49 CFR 193, is squarely within the authority of the Safety Division, and therefore completely warranted.⁶¹ Mr. Whiteash also explained that the timing of the regulatory impact assessment was important in order to ensure that any potential siting and design issues are identified before the onsite construction process begins because at that point, siting and design issues could be more easily modified without impact to construction schedules.⁶²

As a result of compromise, PGW and I&E have agreed that PGW will meet with I&E and discuss the design of the Passyunk P3 Project following design completion. I&E submits that the timing of the meeting is reasonable because it will allow PGW the time it needs to complete its design so that the applicable information will be available at the time

⁵⁹ Id. at 21.

⁶⁰ I&E St. No. 2-SR, pp. 11-12.

⁶¹ I&E St. No. 2, p. 5.

⁶² I&E St. No. 2-SR, p. 12.

of the meeting, making the meeting more productive. At the same time, the agreement to conduct the meeting once the design of the Passyunk P3 Project is complete will still honor I&E's recommendation that the regulatory impact assessment take place before the construction process begins in order to ensure that any siting and design issues are identified before the construction process begins, thereby avoiding the potentially costly and time-consuming process of address such issues after construction has begun.

Additionally, PGW and I&E have mutually agreed that the scope of review for the regulatory impact assessment meeting will be (1) to review the Passyunk P3 Project for compliance with the applicable portions of Part 193 of the Code of Federal Regulations and the Pa. Code; and (2) to confirm that existing customers' service will not be materially affected by the Passyunk P3 Project. By confining the meeting to the Passyunk P3 Project's compliance with Part 193, which is within the purview of the I&E Safety Division, it appears that PGW's concerns regarding the assessment being unwarranted have been satisfied in a manner that does not compromise safety requirements. Furthermore, as the meeting will also enable I&E's Safety Division to ensure that PGW's customers will not be materially impacted by the Passyunk P3 Project, an additional layer of protection is provided for ratepayers. Because this term promotes compliance with federal regulations, promotes safety, and protects ratepayers, it is in the public interest; accordingly, it should be approved without modification.

G. NOTICE TO CUSTOMERS UNDER CURRENT RATE LNG

Pursuant to the Joint Petition, PGW agrees to notify current Rate LNG customers of the terms and conditions of Rate LNG-N. Additionally, the Joint Petitioners have agreed

that under Rate LNG-N, PGW would provide the same contractual arrangements, but that it would continue to retain discretion over whether to make such contracts available.⁶³

Although I&E did not take a position on this issue, it acknowledges OCA's concerns that PGW had neither notified current Rate LNG customers that Rate LNG was being eliminated nor informed those customers about the terms and conditions of Rate LNG-N.⁶⁴ PGW indicated that there are currently two entities with contracts under Rate LNG and that it would agree to provide notification to both entities.⁶⁵ I&E submits that the public interest requires that utility customers be adequately informed about the types of service available and the terms and conditions of service, particularly when their existing rate class is being replaced with another. Because the Settlement commits PGW to notify current LNG customers of the terms and conditions that may be available under Rate LNG-N, which would permit the same contractual arrangements, I&E asserts that this term is in the public interest and it should be approved without modification.

H. ENVIRONMENTAL REMEDIATION

As part of the Settlement, the Joint Petitioners have agreed to the following term:

Mr. Mierzwa, on behalf of the OCA, expressed concern that PGW protect itself and its ratepayers from the potential for liabilities related to environmental remediation costs, if it has not already done so. In response, PGW indicated that protections are in place. Specifically, at the end of the Term, PGW may elect to have PEC remove the facilities at PEC's sole cost, and restore the premises to the condition existing prior to the construction of the Passyunk Plant Project. Term Sheet at p. 6 and 19; PGW St. 1-R at 24-25. Approval of Rate LNG-N does not waive the right of any of the Settling

⁶³ Joint Petition, ¶ 28.

⁶⁴ OCA St. No. 1, p. 7.

⁶⁵ PGW St. No. 1-R, p. 8.

Parties to challenge PGW's recovery of any existing or future costs associated with projects entered into pursuant to Rate LNG-N including, but not limited to, site restoration costs.⁶⁶

The inclusion of this term was necessary to address the concern of OCA witness Mierzwa, who opined that PGW needed to protect itself and its ratepayers from any potential environmental remediation that may be required at the Passyunk P3 Project site.⁶⁷ To address this concern, Mr. Mierzwa recommended that PGW ensure that it protect itself and its ratepayers from potential liability for environmental remediation costs by including necessary protections in its arrangement with PEC.⁶⁸

In response to Mr. Mierzwa, PGW witness Snyder claimed that protections against such liability were already in place. Specifically, Mr. Snyder explained that PGW had already assessed the Passyunk P3 Project for environmental impacts and determined that no such impact would be anticipated. Additionally, Mr. Snyder asserted the lease governing the Passyunk P3 Project also provided protection by requiring PEC, at the end of the lease term, to remove the expanded LNG facilities and restore the premises to its prior condition unless PGW exercised its option to take ownership of those facilities.⁶⁹

Although Mr. Mierzwa acknowledged PGW's response to his concerns, he nonetheless recommended that if the Commission approves Rate LNG-N, the Commission should specify that its approval does not waive the right of any party in this

⁶⁶ Joint Petition, ¶ 29.

⁶⁷ PGW St. No. 1-R, p. 7.

⁶⁸ Id.

⁶⁹ PGW St. No. 1-R, p. 24.

case to challenge PGW's recovery of any existing or future costs regarding projects associated with Rate LNG-N, including site restoration.⁷⁰

By way of the Settlement term above, PGW has agreed that approval of Rate LNG-N would not deprive Joint Petitioners of their ability to challenge any existing or future costs associated with projects entered into under Rate LNG-N, including any restoration costs. Although I&E did not take an explicit position on potential environmental remediation costs, I&E nonetheless avers that recognizing PGW's efforts to protect itself from liability while at the same time memorializing the ability to challenge future costs associated with Rate LNG-N projects is consistent with the public interest because it protects both PGW and its ratepayers.

First, this term recognizes that PGW made efforts to protect itself against financial liability for environmental remediation or other potential liabilities that may arise under through Rate LNG-N. I&E submits that as a regulated public utility, PGW's efforts to protect its financial position are in the public interest. Additionally, the public interest requires that ratepayers be protected from the risk of imprudent and unreasonable costs that may arise under Rate LNG-N, especially since non LNG-N ratepayers could be impacted by consequences that result from the Passyunk P3 Project of any future Rate LNG-N project. The above term provides the necessary protection to ratepayers in the event that such environmental remediation costs materialize. Accordingly, because the

⁷⁰ OCA St. No. 1-SR, p. 3.

above term protects both PGW and its ratepayers, it is in the public interest and it should be approved without modification.

III. CONCLUSION

13. Although I&E did serve direct and surrebuttal 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.

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 further submits that the acceptance of this Settlement will negate the need for evidentiary hearings, which would create extensive devotion of time and expense for the preparation, presentation, and cross-examination of multiple witnesses, the preparation of briefs, and the potential of filed exceptions and/or appeals, all yielding substantial savings for the Commission and all parties, and ultimately all customers, as well as certainty on the disposition of issues.

16. If ALJ Guhl recommends that the Commission adopt the Settlement as proposed, I&E agrees to waive the filing of Exceptions. However, I&E does not waive its right to file Exceptions with respect to any modifications to the terms and conditions

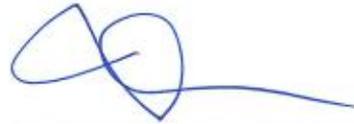
of the Settlement or any additional matters that may be proposed by the ALJ in her Recommended Decision. I&E also does not waive the right to file Replies in the event any party files Exceptions.

17. The Settlement is conditioned upon the Commission's approval of all terms without modification. Should the Commission fail to grant such approval or otherwise modify the terms and conditions of the Settlement in any way, it may be withdrawn by any Joint Petitioner. Additionally, I&E's agreement to settle this case is made without any admission or prejudice to any position that I&E might adopt during subsequent litigation in the event that the Settlement is rejected by the Commission or otherwise properly withdrawn by any other parties to the Settlement.

18. I&E is satisfied that no further action is necessary and considers its investigation of this tariff filing complete.

WHEREFORE, the Commission's Bureau of Investigation and Enforcement represents that the *Joint Petition for Settlement of Philadelphia Gas Works' Negotiable Liquefied Natural Gas Tariff Filing* is in the public interest and respectfully requests that Administrative Law Judge Marta Guhl recommend, and the Commission subsequently approve, the foregoing Settlement without modification, including all terms and conditions contained therein.

Respectfully Submitted,



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Dated August 15, 2019

Statement C

**Statement in Support of
Joint Petition for Settlement of
the Office of Consumer Advocate**

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2019-3009016
	:	
Philadelphia Gas Works	:	

STATEMENT OF THE
OFFICE OF CONSUMER ADVOCATE
IN SUPPORT OF THE
JOINT PETITION FOR SETTLEMENT

The Office of Consumer Advocate (OCA), a signatory party to the Joint Petition for Settlement (Settlement), finds that the proposed terms and conditions of the Settlement are in the public interest. The OCA respectfully requests that the Pennsylvania Public Utility Commission approve the Settlement without modification for the reasons set forth below:

I. INTRODUCTION

Philadelphia Gas Works (PGW or Company) is engaged in the business of furnishing natural gas to approximately 500,000 residential, commercial and industrial customers in Philadelphia, Pennsylvania. On April 5, 2019, PGW filed Tariff Supplement No. 120 to PA PUC No. 2. The purpose of PGW's filing is to cancel all provisions for Liquefied Natural Gas Service – Rate LNG and establish the availability, rates, and terms of service for a new negotiable rate for eligible customers under proposed Negotiated Liquefied Natural Gas Service – Rate LNG-N (Rate LNG-N).

On April 18, 2019, the Bureau of Investigation and Enforcement (I&E) filed a Formal Complaint. On April 25, 2019, the Office of Small Business Advocate filed a Formal Complaint. On May 9, 2019, the OCA filed a Notice of Intervention and Public Statement.

On May 9, 2019 the Commission entered an Order suspending the filing until December 4, 2019 for investigation of the justness and reasonableness of PGW's proposed tariff changes. Subsequently, this matter was assigned to Administrative Law Judge Marta Guhl (ALJ Guhl). On May 16, 2019, the Philadelphia Industrial and Commercial Gas Users Group (PICGUG) filed a Petition to Intervene. A Prehearing Conference was held on June 5, 2019 and ALJ Guhl issued a Prehearing Order setting forth a procedural schedule.

The OCA conducted discovery and submitted testimony in accordance with the procedural schedule. On June 26, 2019, the OCA submitted the Direct Testimony of Jerome D. Mierzwa, OCA Statement No. 1. I&E also filed Direct Testimony. On July 18, 2019, the OCA submitted the Surrebuttal Testimony of Jerome D. Mierzwa, OCA Statement No. 1-S. I&E also filed Surrebuttal Testimony. The Company filed Rejoinder Testimony on July 23, 2019. The parties agreed to stipulate to the admission of the OCA's testimony and all OCA testimony was admitted into the record on August 15, 2019.

Pursuant to the Commission's policy of encouraging settlements, the parties participated in settlement discussions as part of this proceeding. These settlement discussions resulted in a settlement in principle on all issues.

II. SETTLEMENT TERMS AND CONDITIONS

The OCA submits that the terms of the Settlement satisfactorily address the issues raised by the OCA's analysis of the Company's filing. In this Statement in Support, the OCA addresses only Settlement terms pertaining to issues it raised throughout the proceeding and looks to other

parties to discuss Settlement terms addressing their respective issues. The OCA submits that the Settlement, taken as a whole, is a reasonable compromise that reflects the range of likely outcomes in the event of full litigation before the Commission. The OCA further submits that, for the reasons set forth below, the Settlement is in the public interest.

A. Rate Impact on Other Customers (Settlement ¶ 19)

In its filing, the Company stated that all of the additional net revenues received from the Company through Rate LNG-N would flow back to the ratepayers. After reviewing the Company's filing, the OCA expressed concern due to the lack of detail regarding the various services that PGW may provide under Rate LNG-N. See OCA St. 1 at 6-7. Of particular concern was the rate impact of Rate LNG-N on PGW's other ratepayers. In Direct Testimony, OCA witness Mierzwa noted that services provided under Rate LNG-N may include the use of the Company's interstate pipeline capacity that is currently paid for by Gas Cost Rate (GCR) customers. Id. at 6-7. Therefore, the OCA recommended that PGW document in detail the Rate LNG-N transactions that use interstate pipeline resources, and report that information in its annual GCR proceeding. Id. This information will allow for a determination to be made as to whether incremental revenues were derived from the use of the interstate pipeline capacity paid for by GCR customers and the appropriate GCR credit. Id.

The Settlement provides as follows:

The Settling Parties agree that once the Passyunk P3 Project is operational, PGW's base rate and GCR cases are the appropriate venues to (a) evaluate the treatment of the revenues generated by transactions under Rate LNG-N; and (b) evaluate the impact of Rate LNG-N transactions on system capacity and design day requirements. PGW agrees to provide in future base rate and GCR cases the information necessary to separately identify LNG-N costs and revenues. It is also agreed that this Settlement does not impact the right of any of the Settling Parties to challenge the recovery and reflection of any costs and revenues under Rate LNG-N in PGW's future base rate and GCR cases, as applicable.

Settlement ¶ 19. The Settlement adopts the OCA's recommendation and ensures that the parties will have the necessary information to evaluate, and potentially challenge, any potential rate impact on PGW's other customers. As such, the OCA submits that the above Settlement provision is in the interest of the Company's ratepayers, and should be approved by the Commission.

B. Notice to Customers Under Current Rate LNG (Settlement ¶ 28)

After reviewing the Company's filing, the OCA noted that no notice was given to current Rate LNG customers that the Rate LNG schedule was being eliminated and replaced with Rate LNG-N. See OCA St. 1 at 7. In Direct Testimony, OCA witness Mierzwa recommended that current Rate LNG customers receive adequate notice informing them of the elimination of Rate LNG and the terms and conditions of Rate LNG-N. Id. The Settlement adopts the OCA's recommendation and requires PGW to provide notification to the entities with contracts under the current Rate LNG of the terms and conditions of Rate LNG-N. Settlement ¶ 28. The agreed upon settlement provision ensures that the customers currently enrolled in Rate LNG are properly notified of Rate LNG-N. The OCA submits that the notice requirement agreed to in the Settlement is reasonable and is in the public interest.

C. Site Restoration (Settlement ¶ 29)

In his Direct Testimony, OCA witness Mierzwa noted that, at the conclusion of the 25-year contract term between PGW and Passyunk Energy Center, LLC (PEC), environmental remediation may be required at the Passyunk Plant Project site. OCA St. 1 at 7. OCA witness Mierzwa observed that it was not apparent that PGW has protected itself and ratepayers from the potential for liabilities related to environmental remediation costs, which could be significant. Id. As such, OCA witness Mierzwa initially recommended that PGW ensure that such protection is included in its arrangement with PEC if it has not already done so. Id.

After reviewing PGW's Rebuttal Testimony contending that the protections are already in place, OCA witness Mierzwa recommended that, if the Commission approves Rate LNG-N, the Commission should specify that its approval does not waive the right of any party to this proceeding to challenge PGW's recovery of any existing or future costs regarding projects associated with Rate LNG-N, including environmental remediation. OCA St. 1-S at 2-3.

The Settlement provides as follows:

Mr. Mierzwa, on behalf of the OCA, expressed concern that PGW protect itself and its ratepayers from the potential for liabilities related to environmental remediation costs, if it has not already done so. In response, PGW indicated that protections are in place. Specifically, at the end of the Term, PGW may elect to have PEC remove the facilities at PEC's sole cost, and restore the premises to the condition existing prior to the construction of the Passyunk Plant Project. Term Sheet at p. 6 and 19; PGW St. 1-R at 24-25. Approval of Rate LNG-N does not waive the right of any of the Settling Parties to challenge PGW's recovery of any existing or future costs associated with projects entered into pursuant to Rate LNG-N including, but not limited to, site restoration costs.

Settlement ¶ 29. This Settlement term adopts OCA witness Mierzwa's recommendation. The Settlement provisions will ensure that approval of Rate LNG-N does not waive the right of the parties to challenge PGW's recovery of any existing or future costs associated with projects associated with Rate LNG-N. The OCA submits that the environmental remediation provision is in the public interest and should be approved.

III. CONCLUSION

For the reasons set forth above, the OCA submits that the terms and conditions of the proposed Settlement are reasonable and in the public interest. Therefore, the OCA respectfully requests that the Commission approve the terms of the Settlement without modification.

Respectfully Submitted,



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Dated: August 15, 2019