



**PHILADELPHIA GAS WORKS**

800 West Montgomery Avenue • Philadelphia, PA 19122

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Craig Berry, Senior Attorney  
Legal Department  
Direct Dial: 215-684-6049  
FAX: 215-684-6798  
E-mail: [craig.berry@pgworks.com](mailto:craig.berry@pgworks.com)

September 1, 2020

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

**Re: Amended Policy Statement on Diversity at Major Jurisdictional Utilities at  
Docket Number M-2020-3018089**

Dear Secretary Chiavetta:

On behalf of Philadelphia Gas Works ("PGW"), enclosed for filing is PGW's comments responding to matters raised in the Proposed Policy Statement and Order Adopted at the May 21, 2020 Public Meeting. Please contact me if you have any questions.

Respectfully,

/s/ Craig W. Berry

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Craig W. Berry, Esquire

Enclosure

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Amended Policy Statement  
on Diversity at Major Jurisdictional  
Utilities

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: Docket No. M-2020-3018089  
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**COMMENTS OF  
PHILADELPHIA GAS WORKS IN RESPONSE TO  
PROPOSED POLICY STATEMENT AND ORDER  
ADOPTED AT THE MAY 21, 2020 PUBLIC MEETING**

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Philadelphia Gas Works (“PGW” or “Company”) hereby files these comments in response to the Proposed Policy Statement and Order on diversity at major jurisdictional utilities issued by the Pennsylvania Public Utility Commission (“PUC” or “Commission”) on May 21, 2020 and published in the *Pennsylvania Bulletin* on July 18, 2020 (“Proposed Policy Statement”).<sup>1</sup>

PGW recognizes the need to review the current Policy Statement on Diversity at Major Jurisdictional Utilities Companies at 52 Pa. Code §§ 69.801-69.809 (“Policy Statement”), which has been in effect since March 25, 1995. First, PGW observes that the new and updated definitions included in the Proposed Policy Statement may be out of alignment with the City of Philadelphia’s guidance on disadvantaged business enterprises that PGW follows. Additionally, PGW expresses reservations about tracking employees’ veteran or disabled status for the purpose of this report.

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<sup>1</sup> Proposed Policy Statement and Order. Re Amended Policy Statement on Diversity at Major Jurisdictional Utilities, Docket No: M-2020-3018089, dated May 21, 2020 (“Proposed Policy Statement”).

## **I. BACKGROUND**

The PUC’s existing Policy Statement, as presented in 52 Pa. Code §§ 69.801-9.809, provides numerous diversity related definitions, guidance on diversifying utility procurement activities and establishes voluntary annual reporting requirements concerning diversity.<sup>2</sup>

First, the Proposed Policy Statement makes several changes to the definition section: (1) adding definitions for “disabled person,” “lesbian, gay, bisexual, transgender, queer or questioning their sexuality (‘LGBTQ’),” and “veteran,” (2) updating the definition of “diversity,” and “minority-owned business enterprise;” and (3) removing unused acronyms for Women-Owned Business Enterprise (WBE) and Minority-Owned Business Enterprise (MBE).<sup>3</sup> The Proposed Policy Statement inserts the terms LGBTQ and veterans to the list of “business owned by minorities, women and persons with disabilities,” which is the focus of the sections related to procurement.<sup>4</sup>

Second, the Proposed Policy Statement makes major revisions to the texts of Section 69.809 to bring consistency to how utilities voluntarily report information to the PUC.<sup>5</sup>

Specifically, the Proposed Policy Statement requests:

- (1) A copy of any corporate policy committed to improving diversity in the workplace and in the procurement process;
- (2) a description of any training implemented on diversity initiatives in employment and in the contract of goods and services;
- (3) a standardized format to account for diverse employee numbers;
- (4) a description of any diversity recruiting strategies;

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<sup>2</sup> 52 Pa. Code §§ 69.801-9.809

<sup>3</sup> Proposed Policy Statement at 1-2.

<sup>4</sup> Proposed Policy Statement at 4.

<sup>5</sup> See Proposed Policy Statement at 2.

- (5) a description of any diversity promotion efforts;
- (6) a description of any diversity retention efforts;
- (7) a brief description of any involvement with organizations promoting diversity.<sup>6</sup>

The Proposed Policy Statement implements “a standardized format to account for diverse employee numbers” (number (3)) by including a proposed form in Attachment A that would be used by utilities to report workforce diversity demographics.<sup>7</sup>

## **II. PGW’S COMMENTS**

In regards to the proposed definitions, PGW observes that it may not be practical for PGW to utilize the definitions that may be adopted by the PUC in the Proposed Policy Statement. PGW is a “city natural gas distribution operation” as that term is defined in the Public Utility Code,<sup>8</sup> and is owned by the City of Philadelphia. Accordingly, for certain PGW operations such as procurement and employment, PGW follows guidance from the City of Philadelphia consistent with a series of Mayoral Executive Orders that also established the Philadelphia Office of Economic Opportunity.<sup>9</sup> At present the City’s efforts identify Women, Minority and Disabled Owned Business Enterprises.<sup>10</sup> PGW will need to assess how newly adopted definitions and their associated procurement and reporting changes would align with those established by the City of Philadelphia’s diversity procurement guidelines. In its diversity reports to the PUC, PGW will make clear any variations that are identified.

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<sup>6</sup> Proposed Policy Statement at 2.

<sup>7</sup> Proposed Policy Statement at 3 and Attachment A.

<sup>8</sup> 66 Pa.C.S. § 102 (definitions).

<sup>9</sup> Mayor’s Executive Order 02-05, at 7, dated September 4, 2006. See also, Mayor’s Executive Order 14-08, dated October 1, 2008, Mayor’s Executive Order 05-10, dated September 14, 2010, Mayor’s Executive Order 3-12, dated January 4, 2016.

<sup>10</sup> See Mayor’s Executive Order 3-12, dated January 4, 2016.

PGW has reviewed the information that will be required as part of the filing as presented in § 69.809. The requested information is generally consistent with what PGW has included in its past diversity reports submitted to the PUC.<sup>11</sup> Providing PGW policies that relate to “any corporate policy committed to improving diversity in the workplace and in the procurement process,” as proposed in Section 69.809(1), is not an issue as the report is filed confidentially. Notwithstanding, once a utility files its initial Diversity Report under the Proposed Policy Statement, the PUC should explicitly permit a utility to reference that Diversity Report in lieu of submitting the same policies annually to the PUC (provided that a company policy remains in effect unmodified). This will alleviate repeated presentation of the same information and allow utilities to focus attention on changes in a utility’s policies.

The biggest identifiable change proposed by the PUC’s statement compared to the information currently included in PGW’s Diversity Reports, is the proposed inclusion of Attachment A, a table presenting a breakdown of a utility’s workforce across job categories by gender, race and ethnicity, as well as employees who are veterans or disabled.<sup>12</sup> PGW appreciates the Commission’s need for uniform data from the utilities. However, as to collecting employees’ status as disabled, PGW sees such data collection as problematic and contrary to employer best practices due to issues surrounding the Americans with Disabilities Act and similar legislation protecting employees with actual or perceived disabilities from discrimination. To the extent the PUC insists on soliciting data about utility employees who are disabled, PGW agrees with Energy Association of Pennsylvania’s (“EAP”) recommendation that the PUC make

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<sup>11</sup> See e.g., Philadelphia Gas Works Report on Diversity to the Pennsylvania Public Utility Commission, filed March 2, 2020 (Confidential), and Philadelphia Gas Works Report on Diversity – FY2018, Docket No. M-00940557, filed March 1, 2019 (Confidential).

<sup>12</sup> PGW in its recent Diversity Reports presented the Company’s employee demographic information on the EEO-1 form. However, as a government owned entity, PGW notes that it is not required to prepare and file an EEO-1 with the Equal Opportunity Employment Commission.

clear that any reporting on disabled employees be based on the employee's self-identification as disabled.<sup>13</sup> Additionally, PGW at present does not collect employee's status as a veteran. Beyond completing this voluntary report for the PUC, it is not clear what purpose collecting that information would serve. Therefore, PGW requests that the Commission make clear that information concerning disabled or veteran employment be eliminated or on an optional or as available basis.

Given the uncertainties about how utilities will interpret and implement any revisions to the PUC's diversity reporting per the Proposed Policy Statement, PGW sees merit in EAP's proposal to delay moving straight to a rulemaking on the Proposed Policy Statement.<sup>14</sup> By finalizing the amendments to the current Policy Statement and allowing a period of updated reporting and review, the PUC would be able to gauge how utilities will interpret the amendments and navigate any reporting challenges before the PUC moves forward with a rulemaking. PGW agrees with EAP's assessment that such an approach will aid the PUC, utilities, and other stakeholders in any subsequent rulemaking proceeding.<sup>15</sup>

Based on the above, PGW submits that the additional clarity in what the PUC is looking for from utility's diversity reports is helpful, however the level of detail being requested by the Commission through new definitions, which impact procurement, and reporting categories may not be feasible. As a voluntary report, PGW will endeavor to provide as much information as is reasonable in light of the Company's operations and in alignment with the City of Philadelphia's diversity guidelines.

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<sup>13</sup> See The Energy Association of Pennsylvania Comments at 10, filed September 1, 2020.

<sup>14</sup> The Energy Association of Pennsylvania Comments at 3, filed September 1, 2020.

<sup>15</sup> The Energy Association of Pennsylvania Comments at 3, filed September 1, 2020.

### **III. CONCLUSION**

PGW appreciates and champions the Commission's willingness to revisit and update existing reporting requirements. PGW observes, however, that the new and updated definitions included in the Proposed Policy Statement may be out of alignment with the City of Philadelphia's guidance on disadvantaged business enterprises, which PGW follows. Additionally, with respect to workforce reporting, PGW expresses reservations about tracking employee's veteran or disabled status for the purpose of this report. Given the voluntary nature of the PUC's diversity report, PGW urges the Commission to continue to provide flexibility to utilities, within any final rules, to report what information the utilities actually collect, while identifying any utility specific variations in the information included in the report.

Respectfully submitted,

/s/ Craig W. Berry

Craig W. Berry, Esq.  
Senior Attorney, Legal Department  
Philadelphia Gas Works  
800 W. Montgomery Ave.  
Philadelphia, PA 19122  
Tel (215) 684-6049  
Fax (215) 684-6798  
[Craig.Berry@pgworks.com](mailto:Craig.Berry@pgworks.com)

Dated: September 1, 2020