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January 19, 2021

Via Electronic Filing

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

Re: Dwayne Ackie, Miguel J. Chavarria, Jr., Maurice A. Goodwin and Wayne Rauceo
v. Philadelphia Gas Works, Docket No. C-2019-3013933

Dear Secretary Chiavetta:

The purpose of this letter is to provide a general reply, on behalf of Philadelphia Gas Works (“PGW”), to Complainants’ Response in Opposition to PGW’s Motion in Limine dated January 12, 2021 (“Response”). PGW recognizes that a formal response is not explicitly authorized in the Pennsylvania Public Utility Commission’s regulations, and, therefore, PGW will not address the specific allegations and arguments in the Complainants’ Response.

PGW, however, finds it necessary to emphasize that the issue in PGW’s Motion in Limine (“Motion”) is whether certain Contested Portions of the Supplemental Direct Testimony of Wayne Rauceo (“EE St. No. 4 – SUP”) should be admitted into the record or otherwise considered in this proceeding. Complainants’ Response is, inappropriately, focused on whether PGW provided full and complete information in response to Complainants’ discovery request, Set III, question 4 (“Set III-4”). Much of Complainants’ Response is based on an unsupported opinion that PGW misinterpreted the scope of information that it was required to provide in response to Set III-4. Contrary to the Complainants’ attempts, it is not appropriate to pursue this issue through testimony or through a response to PGW’s Motion in Limine, which pertains to the admissibility of testimony. The Complainants could have raised this issue by following the appropriate procedures outlined in Chapter 5 of the Commission’s regulations (pertaining to discovery), but they did not.

PGW continues to believe that it was fully compliant and responsive to the Complainants’ discovery requests, including Set III-4. Complainants’ assertion that PGW has “unclean hands” is entirely unfounded, and had the Complainants pursued their concerns through the appropriate Chapter 5 mechanisms, PGW would have had an opportunity to respond in full to this

completely unwarranted and preposterous allegation. Also, Administrative Law Judge Darlene Heep (“ALJ Heep”) would have had a full description of the parties’ positions, with references to the record and citations to legal authority. Simply stated, testimony is not the appropriate vehicle for airing discovery disputes.

PGW maintains that the Contested Portions of EE St. No. 4 – SUP should not be admitted into the record or otherwise considered in this proceeding. Even if ALJ Heep agrees with the unsupported conclusions in the Complainants’ Response pertaining to discovery, such conclusions do not demonstrate that the Contested Portions of EE St. No. 4 – SUP should be admitted into the record or otherwise considered in this proceeding.

For the reasons explained above and in PGW’s Motion in Limine, PGW respectfully requests that ALJ Heep issue an order determining that the Contested Portions of EE St. No. 4 – SUP should not be admitted into the evidentiary record or considered in this proceeding.

Sincerely,

Kristine E. Marsilio

Kristine E. Marsilio

cc: Cert. of Service
Hon. Darlene Heep w/enc. (via email only)

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PGW's Letter, upon the person(s) listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

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Dated: January 19, 2021

Kristine E. Marsilio
Kristine E. Marsilio, Esq.