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May 26, 2021

Via Electronic Filing

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

Re: Philadelphia Gas Works 2021-2022 1307(f) Gas Cost Rate Filing
Docket No. R-2021-3023970, C-2021-3024126 and C-2021-3024293

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' ("PGW") Main Brief in the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Kristine E. Marsilio

Kristine E. Marsilio

KEM/lww

Enclosure

cc: Hon. Darlene Heep w/o enc.
Cert. of Service w/o enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PGW’s Main Brief upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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Dated: May 26 2021

Kristine E. Marsilio

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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| Pennsylvania Public Utility Commission | : | |
| | : | Docket No. R-2021- 3023970 |
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| | : | |
| Office of Consumer Advocate | : | Docket No. C-2021-3024126 |
| Office of Small Business Advocate | : | Docket No. C-2021-3024293 |
| | : | |
| v. | : | |
| | : | |
| Philadelphia Gas Works | : | |

**MAIN BRIEF
OF PHILADELPHIA GAS WORKS**

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I. INTRODUCTION & STATEMENT OF THE CASE

The sole issue that has not been the subject of a full settlement in this proceeding is the proposal of Philadelphia Gas Works (“PGW” or the “Company”) for authorization to include in its Gas Cost Rate (“GCR”) expenditures associated with a limited pilot for the purchase of renewable natural gas (“RNG”). PGW respectfully request that the Pennsylvania Public Utility Commission (“Commission”): (1) conclude that PGW’s RNG pilot program proposal, as modified by the Joint Stipulation of PGW and the Office of Consumer Advocate (“OCA”) filed in the above-captioned proceeding on May 13, 2021, is consistent with the Company’s obligations under Sections 1317 and 1318 of the Public Utility Code, 66 Pa.C.S. §§ 1317 and 1318; and (2) approve PGW’s RNG pilot program proposal, as modified by the Joint Stipulation of PGW and the OCA.¹

Incorporating RNG into PGW’s gas supply portfolio will help PGW achieve its goals and legal mandate of providing safe, adequate, and reliable service to its customers. As demonstrated by the record in this proceeding, the RNG supply market could become an increasing source of gas supply in the years ahead. Acquiring the knowledge and information pertaining to RNG procurement can take time, and PGW has found that it is not an exercise that can be accomplished in the abstract or on an aspirational basis. PGW submits that it would be prudent and in the public interest to proactively gain knowledge of the RNG acquisition process now, rather than wait until it is in the throes of a supply emergency or when external requirements or pressures require the company to attempt to add this type of energy to its fuel supply portfolio. Additionally, including RNG in PGW’s gas mix is a prudent step that will diversify PGW’s supply portfolio both today and into the future. In order to address the legitimate concerns of some of the other Parties, PGW

¹ All other issues in the proceeding will be reflected in the Joint Petition for Settlement (“Settlement”), which the parties intend to file no later than June 4, 2021. PGW and the other Parties also intend to submit Statements in Support of the Settlement, setting forth why the Settlement is in the public interest and should be approved by the Administrative Law Judge and the Commission.

has agreed with OCA to reduce the amount of RNG it will attempt to purchase in the next two years to \$500,000 per year and to submit extensive information to the parties in order to better permit tracking and evaluation. For these reasons, PGW submits that its RNG pilot program proposal is consistent with its legal mandates under Sections 1317 and 1318 of the Public Utility Code, in the public interest, and should be approved.

II. PROCEDURAL HISTORY

On February 1, 2021, PGW filed its supporting information for the pre-filing for its annual 2021-2022 Gas Cost Rate (“GCR”). At that time, PGW also noted that – pursuant to the Commission’s approval in its 2020-2021 GCR – it intended to depart from certain requirements of 52 Pa. Code Sections 53.45(b), 53.64(c), 53.68(a) and 53.64(i)(5)(i) to address the timing of bill inserts, public notice and underlying data to be relied upon for the March 1, 2021 quarterly 1307(f) filing.²

On February 3, 2021, the Bureau of Investigation and Enforcement (“I&E”) filed a Notice of Appearance. The OCA and the Office of Small Business Advocate (“OSBA”) subsequently filed complaints on February 11, 2021 and February 26, 2021, respectively. The OCA complaint is docketed at C-2021-3024126, and the OSBA complaint is docketed at C-2021-3024293. Consistent with 52 Pa. Code § 5.61(d), PGW did not file answers to the Complaints. On February 17, 2021, the Philadelphia Industrial and Commercial Gas Users Group (“PICGUG”) filed a Petition to Intervene.

On March 1, 2021, PGW filed its Section 1307(f) filing which included: proposed tariff revisions (Supplement No. 140 to PGW’s Gas Service Tariff – Pa P.U.C. No. 2 and Supplement No. 95 to PGW’s Gas Supplier Tariff – Pa P.U.C. No. 1); supporting information regarding the

² *Pennsylvania Public Utility Commission, et. al. v. Philadelphia Gas Works 2020-2021 Gas Cost Rate Filing*, Docket No. R-2020-3017934, Final Order at Ordering Paragraph 19 (August 6, 2020).

computation of annual purchased gas costs for twelve months ending August 31, 2022; and the Direct Testimony of Florian Teme (“PGW St. 1”), Ryan E. Reeves (“PGW St. 2”), and Gregory Stunder (“PGW St. 3”). On the same date, PGW filed an Errata to update the schedules for Item 53.64(i)(1) of PGW’s February 1, 2021 pre-filing.

On March 3, 2021, Administrative Law Judge Darlene D. Heep (“ALJ Heep”) issued a Prehearing Conference Order setting a telephonic Prehearing Conference for March 9, 2021. Pursuant to the Prehearing Conference Order, the Parties filed Prehearing Memorandums on March 8, 2021, and a telephonic Prehearing Conference was held on March 9, 2021, at which time a procedural schedule was established.

On March 10, 2021, PGW filed an Errata to Item 53.64(c)(3) Schedule 1, which consisted of two pages that were inadvertently excluded from PGW’s pre-filing and an Errata to page 67A of PGW’s Supplement No. 140 to Gas Service Tariff – Pa P.U.C. No. 2, which corrected an error to the issued and effective dates.

On March 15, 2021, ALJ Heep issued a Prehearing Order, wherein she, *inter alia*, granted the Petition to Intervene of PICGUG and adopted the procedural schedule established at the Prehearing Conference.

On March 23, 2021, ALJ Heep issued a Prehearing Order for Telephone Hearing, ordering that an initial telephonic hearing would be held on Wednesday May 12, 2021 and Thursday May 13, 2021.

On the same date, PGW filed a Motion for Protective Order and an Errata to pages 2, 7, and 82 of PGW’s Tariff Supplement No. 140 to Gas Service Tariff – Pa P.U.C. No. 2, which reflected a change to page 82 and PGW’s Other Post Employment Benefit Rider Surcharge; an Errata to page 78 of PGW’s Tariff Supplement No. 140 to Gas Service Tariff – Pa P.U.C. No. 2,

which removed an indication that there was a change to Paragraph 1; and Revised Schedules 13(a), 13(b), and 14.

On March 24, 2021, ALJ Heep issued a Protective Order.

On April 16, 2021, I&E filed the Direct Testimony of Ethan H. Cline (“I&E St. 1”), OCA filed the Direct Testimony of Jerry D. Mierzwa (“OCA St. 1”), and the OSBA filed the Direct Testimony of Robert D. Knecht (“OSBA St. 1”).

On May 4, 2021, PGW filed the Rebuttal Testimonies of Florian Teme (“PGW St. 1-R”), Ryan E. Reeves (“PGW St. 2-R”), and Gregory Stunder (“PGW St. 3-R”).

On May 11, 2021, ALJ Heep cancelled the first day of hearings at the request of the Parties.

Also on May 11, 2021, I&E filed the Surrebuttal Testimony of Ethan H. Cline (“I&E St. 1-SR”), OCA filed the Surrebuttal Testimony of Jerry D. Mierzwa (“OCA St. 1-SR”), OSBA filed the Surrebuttal Testimony of Robert D. Knecht, and PGW filed the Supplemental Rebuttal Testimony of Florian Teme (“PGW Supplemental St. 1-R”).

On May 12, 2021, the OSBA filed the Revised Surrebuttal Testimony of Robert D. Knecht (“OSBA St. 1-SR”), and PGW filed the Rejoinder Testimony of Gregory Stunder (“PGW St. 3-RJ”).

Also on May 12, 2021, counsel for PGW sent ALJ Heep an e-mail, reporting that all Parties had agreed to waive cross-examination on all witnesses and to stipulate the filed testimony into the record. Counsel for PGW also reported that the Parties had reached a settlement on all issues, except for PGW’s RNG pilot proposal.

Accordingly, ALJ Heep indicated that she would cancel the evidentiary hearing, directed the parties to file a Joint Stipulation for Admission of Testimony and Exhibits no later than Monday, May 17, 2021, and directed the parties to follow the previously-established litigation schedule and file Main Briefs on the RNG issue by May 26, 2021.

On May 13, 2021, PGW and the OCA filed a Joint Stipulation, stipulating to certain terms regarding PGW's RNG pilot program proposal.

On May 17, 2021, the parties filed a Joint Stipulation for Admission of Testimony and Exhibits.

PGW files this Main Brief, requesting that the Commission: (1) conclude that PGW's RNG pilot program proposal, as modified by the Joint Stipulation of PGW and the OCA, is consistent with the Company's obligations under Sections 1317 and 1318 of the Public Utility Code, 66 Pa.C.S. §§ 1317 and 1318; and (2) approve PGW's RNG pilot program proposal, as modified by the Joint Stipulation of PGW and the OCA.

III. BURDEN OF PROOF & APPLICABLE LEGAL STANDARDS

A public utility has the burden of proof to demonstrate by a preponderance of the evidence that a proposed rate is just and reasonable.³ The term "preponderance of the evidence" means that one party has presented evidence that is more convincing, by even the smallest amount, than the evidence presented by the other party.⁴

Section 1307(f) of the Public Utility Code (titled "Recovery of natural gas costs") allows natural gas distribution companies ("NGDCs") with gross intrastate annual operating revenues in excess of \$40,000,000 to file tariffs reflecting actual and projected increases or decreases in their natural gas costs, with the tariffs being effective six months from the date of filing.⁵

Section 1318 provides that no rates for an NGDC shall be deemed just and reasonable unless the Commission finds that the utility is pursuing a least cost fuel procurement policy,

³ 66 Pa.C.S. § 315(a); *Samuel J. Lansberry, Inc. v. Pa. P.U.C.*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 602 A.2d 863 (Pa. 1992).

⁴ *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854, 855 (Pa. 1950).

⁵ 66 Pa.C.S. § 1307(f)(1).

consistent with the utility's obligation to provide safe, adequate and reliable service to its customers.⁶ The Commission has held: “On its face, a gas utility's obligation to pursue a least cost fuel procurement strategy is just that -- an obligation to take steps to insure that the cost it -- the utility -- incurs for natural gas are as low as reasonably possible, consistent with its obligation to provide safe, reliable and adequate service.”⁷

Section 1317 of the Public Utility Code requires NGDCs to submit certain information to enable the Commission to make a least cost fuel procurement finding.⁸ Further, the Commission has promulgated regulations that include extensive filing requirements for NGDCs.⁹

Section 1318 also provides the Commission with the flexibility and discretion to evaluate an NGDC’s least cost fuel procurement policy under the conditions of the existing gas marketplace.¹⁰ Whether or not the utility has conformed to its statutory duties in a reasonable manner depends on the individual circumstances and facts of each particular Section 1307(f) filing.¹¹

IV. STATEMENT OF QUESTIONS PRESENTED

1. Whether PGW’s RNG proposal produces just and reasonable rates and is otherwise consistent with its obligations under Sections 1317 and 1318 of the Public Utility Code.

Suggested Answer: Yes.

⁶ 66 Pa.C.S. § 1318.

⁷ *Pennsylvania Public Utility Commission v. Philadelphia Gas Works*, Docket Nos. R-00061931, *et. al.*, Opinion and Order (Sept. 28, 2007).

⁸ 66 Pa.C.S. § 1317.

⁹ *See* 52 Pa. Code §§ 53.64 and 53.65.

¹⁰ *Popowsky v. Pennsylvania PUC*, 676 A.2d 731, 735 (Pa. Cmwlth. 1996).

¹¹ *Equitable Gas Co. v. Pennsylvania Public Utility Com.*, 536 A.2d 846, 851 (Pa. Cmwlth. 1988).

2. Whether PGW’S RNG proposal contains a reasonable level of detail sufficient for the Commission to conclude that PGW has met its burden.

Suggested Answer: Yes.

V. ARGUMENT

In this proceeding, as part of its presentation of its projected natural gas costs for Fiscal Year 2022 (September 2021 – August 2022), PGW proposed to initiate a pilot program in which it would procure a limited amount of RNG as part of the gas supply used to meet the needs of PGW’s firm sales customers, and to include the costs of these limited purchases in its GCR.¹² The evidence of record in this proceeding supports the conclusion that PGW’s RNG pilot program proposal, as modified by the Joint Stipulation of PGW and the OCA, is consistent with the Company’s obligations under Sections 1317 and 1318 of the Public Utility Code.

A. PGW’s RNG Proposal

PGW is proposing a pilot program to purchase RNG during Fiscal Years (“FYs”) 2022 and 2023.¹³ During FYs 2022 and 2023, PGW proposes to purchase up to \$500,000 of RNG which is approximately 0.4% of its total “C” Factor commodity cost, provided that PGW reserves the right to propose an increase in its RNG purchases for FY 2023 in its next annual GCR proceeding.¹⁴ Under PGW’s proposal, this RNG would be included in PGW’s gas supply portfolio and the costs included in the GCR.¹⁵

In its next GCR proceeding, PGW will:

- (1) Report the daily quantities of RNG purchased;

¹² PGW St. 3 at 1.

¹³ PGW St. 3 at 2. FY 2022 begins on September 1, 2021 and ends August 31, 2022. FY 2023 begins on September 1, 2022 and ends on August 31, 2023. *Id.*

¹⁴ PGW St. 3 at 2; Joint Stipulation of PGW and OCA at ¶ (a).

¹⁵ PGW St. 3 at 2.

- (2) Report prices it paid for RNG;
- (3) Identify how those prices compare to other purchases;
- (4) Identify the GCR rate impact of its RNG purchases;
- (5) Identify the BTU content of its RNG purchases, to the extent such data is available; and
- (6) Identify the location of the facility producing the RNG and the type of facility (i.e. landfill, wastewater treatment plant, municipal solid waste, agricultural product, etc.).¹⁶

PGW will also identify whether its purchase of RNG will result in the monetization of any of the environmental benefits of the RNG project and how those benefits will be reflected in the price of the RNG it purchases.¹⁷

Under PGW's proposal, the RNG pilot program would span two GCR periods in order to provide meaningful information and data. PGW would then consider whether to propose the continuation of RNG purchases. If PGW decides to propose the continuation of RNG, PGW would submit testimony and data in its March 1, 2023 annual GCR filing which would include information about PGW's RNG purchasing (to date) and the specifics of the Company's going forward proposal for the continuation of an RNG purchasing program.¹⁸

Under PGW's proposal, PGW has not determined a set amount of RNG to purchase; rather, PGW would purchase RNG volumes that do not exceed the expenditure limits. As explained by PGW witness Mr. Stunder, structuring the program in this manner allows PGW to limit costs and begin the process of incorporating RNG into its system.¹⁹

¹⁶ Joint Stipulation of PGW and OCA at ¶ (b).

¹⁷ Joint Stipulation of PGW and OCA at ¶ (b).

¹⁸ PGW St. 3 at 4-5.

¹⁹ PGW St. 3 at 3.

PGW has proposed to prioritize sourcing RNG from Pennsylvania suppliers to ensure that the environmental benefits of RNG stay as close to PGW’s service territory as possible and to further the development of RNG production in PGW’s immediate vicinity. Further, as Mr. Stunder explained, local or regional sourcing could also provide supply adequacy benefits.²⁰

The record demonstrates that PGW is committed to providing safe, adequate, and reliable service to its customers, and PGW believes that incorporating RNG into its gas supply portfolio would help to further these goals.²¹ By purchasing limited amounts of RNG on a pilot basis over the course of two years, PGW would gain necessary experience in the RNG supply market which could become an increasing source of gas supply in the years ahead.²²

B. Other Parties’ Testimony

OCA witness Jerry Mierwa testified that the damage caused by global warming is a significant world-wide concern and seemed to acknowledge that PGW’s purchasing of RNG could help to address those concerns.²³

I&E witness Ethan Cline claimed that PGW’s goals and purchasing plan related to its RNG proposal are “vague” and do not conform to a least cost of gas procurement policy.²⁴ Mr. Cline also expressed concern that the cost of RNG is too high to support at this time, especially in light of the COVID-19 pandemic.²⁵ As such, Mr. Cline recommended that the Commission deny PGW’s RNG pilot program proposal.

²⁰ PGW St. 3 at 3.

²¹ PGW St. 3 at 3.

²² PGW St. 3 at 3-4.

²³ OCA St. No. 1 at 10-12.

²⁴ I&E St. 1 at 2-3 and 4-7.

²⁵ I&E St. No. 1 at 3, 7-11.

OSBA witness Robert Knecht also claimed that the Company's RNG proposal is not consistent with its requirement to pursue a least cost fuel procurement policy. Additionally, Mr. Knecht alleged that PGW cannot guarantee that there are environmental benefits associated with its RNG pilot proposal and asserted that the proposal has little or no value related to supply diversity and security of supply. Finally, Mr. Knecht asserted that there is little reason for PGW to become an "expert" in the purchase and use of RNG.²⁶

C. **PGW's RNG proposal is consistent with its obligations under Section 1317 and 1318 of the Public Utility Code**

Contrary to the concerns raised by I&E and OSBA, PGW's RNG proposal is consistent with its obligations under Section 1317 and 1318 of the Public Utility Code. PGW does not dispute that RNG is more expensive compared to conventional natural gas.²⁷ As discussed, PGW is not obligated (nor is it permitted) to purchase the least expensive gas *without any further consideration*; rather, PGW must take steps to ensure that the cost is "as low as reasonably possible, consistent with its obligation to provide safe, reliable and adequate service."²⁸ In other words, a purchasing strategy may be reasonable even if it produces higher than the "least cost" if that strategy improves or maintains the safety, adequacy and reasonableness of the utility's gas supply.²⁹ The Commission must also consider PGW's RNG proposal under the conditions of the existing gas marketplace.³⁰ The record evidence in this

²⁶ OSBA St. No. 1 at 5-6.

²⁷ See PGW St. 3 at 3.

²⁸ *Pennsylvania Public Utility Commission v. Philadelphia Gas Works*, Docket Nos. R-00061931, et. al., Opinion and Order (Sept. 28, 2007) (emphasis added).

²⁹ Of note, OCA witness Mierzwa appears to accept that PGW's proposal is consistent with this standard. OCA St. 1 at 11-12. Further, OSBA witness Knecht also appears to acknowledge this element of the standard when he claimed that PGW's RNG pilot cannot be considered consistent with the least cost fuel procurement standard because it has not been shown that the proposed pilot is related to supply diversity or security of supply.

³⁰ *Popowsky v. Pennsylvania PUC*, 676 A.2d 731, 735 (Pa. Cmwlth. 1996).

proceeding shows that PGW’s RNG pilot is a reasonable part of PGW’s overall least cost procurement strategy because it is consistent with PGW’s concomitant obligation to provide “safe, adequate and reliable service” to its customers.

PGW witness Mr. Stunder³¹ explained what RNG is and testified to the potential future benefits of RNG in PGW’s provision of safe, adequate and reliable service. Specifically, Mr. Stunder explained that RNG is a biogas produced from a biochemical process and that RNG has a methane content comparable to conventional natural gas and can be a suitable energy source in applications that require pipeline-quality gas.³² RNG can be sourced through a variety of processes and can be produced by landfills, wastewater treatment facilities, livestock operations and food waste.³³ Mr. Stunder testified that RNG reduces greenhouse gas emissions because it is a carbon-neutral fuel that comes from organic sources that once absorbed carbon dioxide from the atmosphere during photosynthesis.³⁴ RNG has even greater benefits when it is produced from organic waste that would otherwise decay and emit methane into the atmosphere, as RNG production captures this methane release.³⁵

As Mr. Stunder testified, national, state, and local elected officials support the reduction of emissions, and RNG reduces emissions.³⁶ If the Commission approves PGW’s RNG

³¹ Mr. Stunder has been employed with PGW since 2001 and has served as PGW’s Vice President, Regulatory and Legislative Affairs since 2015. In that role, Mr. Stunder’s areas of responsibility include Legislative and Regulatory Affairs, Environmental Sustainability, Environmental Services, Technical Compliance and Business Continuity Planning. Prior to that, Mr. Stunder was a Senior Attorney from 2003 to 2015 and a Staff Attorney from 2001 to 2003. Mr. Stunder received his Juris Doctor (J.D.) from Temple University - James E. Beasley School of Law in 1995, and his Bachelor's Degree, Accounting, from La Salle University in 1985. Mr. Stunder has experience testifying before the Commission in PGW’s two most recent base rate proceedings at Docket Nos. R-2017-2586783 and R-2020-3017206. PGW St. 3 at 1.

³² PGW St. 3 at 1-2.

³³ PGW St. 3 at 2.

³⁴ PGW St. 3 at 2.

³⁵ PGW St. 3 at 2.

³⁶ PGW St. 3 at 3.

proposal, PGW will be in a better position to respond to any future change in federal or state law that addresses carbon emissions associated with the energy delivered to customers, and, importantly, PGW will be better situated to continue to provide adequate supply to its customers. As Mr. Stunder explained: “Becoming familiar with RNG and developing sources of RNG supply is a prudent step to take now so that PGW will be better prepared to respond in the future.”³⁷

In his Rebuttal Testimony, Mr. Stunder elaborated on the importance of PGW gaining this experience **now**. As explained, the process of procuring resources to provide the energy that PGW’s customers need is not simple. PGW is heavily regulated and there are a host of regulations, laws and requirements that could be relevant when introducing RNG onto PGW’s system. Identifying reputable RNG suppliers also requires effort, and PGW has found that it is not an exercise that can be done in the abstract or on an aspirational basis.³⁸ Finally, Mr. Stunder explained that understanding the contractual terms and conditions that are unique to RNG suppliers requires the negotiation of an actual contract. It will take time for PGW to acquire this knowledge and information, and PGW is attempting to be proactive in these efforts.³⁹

In addition, including RNG in PGW’s gas mix is a prudent step that will diversify PGW’s supply portfolio.⁴⁰ Mr. Stunder testified: “This could have benefits if there are supply shortages or disruptions that reduce the ability of PGW’s traditional gas supply sources to deliver adequate supply.”⁴¹ Further, the evidence demonstrates that sourcing the RNG from local or regional

³⁷ PGW St. 3 at 4.

³⁸ PGW St. 3-R at 8-9.

³⁹ PGW St. 3-R at 9.

⁴⁰ PGW St. 3 at 4.

⁴¹ PGW St. 3 at 4.

producers (as PGW has proposed) provides a diversity of geographic supply, and diversity of supply supports reliability.⁴²

PGW acknowledges that the amount of RNG that PGW is proposing to purchase right now is too small to have any meaningful impact on supply and diversity during the pilot years. PGW, however, is focused on the longer term benefit of adding RNG into its supply portfolio. As Mr. Stunder explained, it is not hard to envision circumstances in the future in which having the ability to purchase RNG as opposed to gas sourced from the Gulf region of the U.S. or the Marcellus Shale regions could be important for PGW to maintain security and adequacy of supply. To be in a position to utilize this supply alternative in the future, PGW needs to gain experience with RNG procurement today. This experience will permit PGW to identify and start to address any contracting, delivery or approval issues.⁴³

Certainly, in procuring RNG, PGW must take steps to ensure that the RNG cost is as low as reasonably possible, and the Commission must find in PGW's next GCR proceeding that PGW has met the standards established in 66 Pa.C.S. § 1318(a)(1)-(4).⁴⁴ For the reasons

⁴² PGW St. 3 at 4.

⁴³ PGW St. 3 at 3-R at 3-4.

⁴⁴ Section 1318 of the Public Utility Code also provides that, in determining whether PGW is pursuing a least cost fuel procurement policy, the Commission must find that:

- (1) The utility has fully and vigorously represented its ratepayers' interests before the Federal Energy Regulatory Commission.
- (2) The utility has taken all prudent steps necessary to negotiate favorable gas supply contracts and to relieve the utility from terms in existing contracts with its gas suppliers which are or may be adverse to the interests of the utility's ratepayers.
- (3) The utility has taken all prudent steps necessary to obtain lower cost gas supplies on both short-term and long-term bases both within and outside the Commonwealth, including the use of gas transportation arrangements with pipelines and other distribution companies.
- (4) The utility has not withheld from the market or caused to be withheld from the market any gas supplies which should have been utilized as part of a least cost fuel procurement policy.

explained above, however, PGW has met its burden of proving that the limited purchase of potentially higher-priced RNG (as compared to conventional natural gas) is consistent with PGW's obligations under Section 1317 and 1318 of the Public Utility Code to pursue a least cost fuel procurement policy, consistent with its obligation provide "safe, adequate and reliable service" to its customers.

D. PGW's proposed cost of RNG spending is reasonable

As Mr. Stunder described, PGW is proposing to purchase "very limited" amounts of RNG in both years of its pilot program.⁴⁵ PGW's proposed purchasing cap of \$500,000 of RNG is approximately 0.4% of its total "C" Factor commodity cost. Under the Joint Stipulation entered into by PGW and OCA, this cap will apply for FY 2022 and 2023, provided that PGW reserves the right to propose an increase in its RNG purchases for FY 2023 in its next annual GCR proceeding.⁴⁶

Certainly, PGW is mindful of the state of the economy and the impacts of COVID-19 on customers.⁴⁷ However, PGW's requested reasons for the pilot program exist regardless of the state of the economy or the Pandemic. As Mr. Stunder explained: "Furthering national, state, and local climate goals, securing diversity of supply, and gaining experience with a potentially important source of gas supply in PGW's future are all considerations that PGW must evaluate regardless of whether the economy is in a good state at this very moment, or the pandemic response is at a certain level."⁴⁸ Mr. Stunder further testified that these issues and concerns will

66 Pa.C.S. § 1318(a)(1)-(4). The parties have stipulated that PGW has met these standards in this proceeding (excluding the RNG Pilot proposal).

⁴⁵ PGW St. 3-R at 4.

⁴⁶ PGW St. 3 at 2; Joint Stipulation of PGW and OCA at ¶ (a).

⁴⁷ PGW St. 3-RJ at 2.

⁴⁸ PGW St. 3-R at 5.

likely impact PGW beyond any individual recession, so the present state of the economy should not be a significant factor in the Commission’s determination.⁴⁹

Even if the Commission considers the state of the economy, the record demonstrates that the City of Philadelphia is moving in a positive direction economically. Specifically, as of February of 2021 (the latest period available at the time Mr. Stunder provided his Rebuttal Testimony), the federal Bureau of Labor Statistics reported that the Philadelphia metropolitan area’s unemployment rate was estimated at 7.8 percent,⁵⁰ down from a pandemic-high of 15.0 percent in April of 2020. Additionally, the record evidence demonstrates that, as of April 27, 2021, the City of Philadelphia had fully vaccinated 349,129 city residents, with another 186,987 residents partially vaccinated. Further, the Commonwealth of Pennsylvania had fully vaccinated 59,672 Philadelphia residents and partially vaccinated another 33,866. Presently, every Pennsylvania adult is eligible for the COVID-19 vaccine. Mr. Stunder explained that this data is “particularly encouraging for the economy” and that some of the sectors hardest-hit by the pandemic, such as dining and hospitality, will improve, as evidenced by the City of Philadelphia Health Commissioner’s April 26, 2021 announcement that indoor dining capacity will increase and indoor catered events will be permitted beginning May 7, 2021. Further, Mr. Stunder noted that the Health Commissioner also plans to ease restrictions as COVID-19 cases decline.⁵¹

Additionally, the evidence in this proceeding establishes that the federal COVID relief packages provide funds that will be directly available to PGW ratepayers. For example, the American Rescue Plan Act provides an additional \$4.5 billion in Low Income Home Energy

⁴⁹ PGW St. 3-R at 5.

⁵⁰ At the time of Mr. Stunder’s Rebuttal Testimony, the preliminary March 2021 unemployment rate was 7.3%.

⁵¹ PGW St. 3-R at 5-6.

Assistance Program (“LIHEAP”) funding for FY 21, which shall remain available until September of 2022 and is in addition to the \$3.75 billion of LIHEAP funding provided in the FY 21 budget. As such, the potential LIHEAP funding available for FY 21 is \$8.5 billion. Mr. Stunder explained that, while there are many factors that influence the amount of dollars that actually flow to PGW from the LIHEAP program in any given year, as a reference, in FY 20, PGW received \$24.4 million (between its cash and crisis programs) out of the total \$4.6 billion in LIHEAP. Further, the American Rescue Plan Act provides an additional \$21.6 billion for rental assistance that covers both rent and utility bills. This funding is in addition to the initial \$25 billion in rental assistance that came from the 2020 federal COVID relief package. Mr. Stunder testified that this rental assistance program will directly benefit PGW customers and that PGW is currently working with a community development organization on how the funds will be distributed. Additionally, the American Rescue Plan Act includes \$10 billion for homeowner assistance that provides both mortgage and utility relief.⁵² Mr. Stunder testified that federal assistance funds are well-spent on enabling PGW to gain the necessary knowledge and experience of procuring RNG.⁵³

Finally, given the extremely modest level of purchases proposed (\$500,000 in each of two years) the effect on the GCR rate will be less than \$1 per year for the typical residential heating customer. For the reasons discussed above, PGW’s proposed cost of RNG spending is reasonable.

⁵² PGW St. 3-R at 6-7.

⁵³ PGW St. 3-R at 6-7.

E. **PGW'S RNG proposal contains a reasonable level of detail sufficient for the Commission to conclude that PGW has met its burden**

As can be seen from an examination of PGW's proposal, set out in Section A, and as Mr. Stunder explained, the reporting data (supported by the OCA)⁵⁴ and the two-year timeframe of the pilot program will be important in determining and evaluating the success and viability of the RNG pilot program.⁵⁵

As demonstrated by the record, to have more detail regarding the procedure for obtaining RNG at this point would have required PGW to have negotiated and finalized an agreement or agreements with an RNG provider. This scenario would have caused PGW to contractually commit to purchases, incur legal expenses, and use its resources prior to the Commission authorizing the project. As Mr. Stunder explained, while PGW did not enter into any contractual commitments prior to the Commission approving this proposal, PGW's ratepayers will be protected by PGW's proposed expenditure cap on RNG.⁵⁶

For these reasons, PGW's proposal contains a reasonable level of detail sufficient for the Commission to determine that PGW has met its burden.

⁵⁴ PGW St. 3-RJ at 2.

⁵⁵ PGW St. 3-R at 7.

⁵⁶ PGW St. 3-R at 2.

VI. CONCLUSION

WHEREFORE, Philadelphia Gas Works respectfully request that the Commission: (1) conclude that PGW's Renewable Natural Gas pilot program proposal, as modified by the Joint Stipulation of PGW and the OCA, is consistent with the Company's obligations under Sections 1317 and 1318 of the Public Utility Code; and (2) approve PGW's RNG pilot program proposal, as modified by the Joint Stipulation of PGW and the OCA.

Respectfully submitted,

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Date: May 26, 2021

Appendix A

Proposed Findings of Fact

1. PGW is proposing a pilot program to purchase Renewable Natural Gas (“RNG”) during Fiscal Years (“FYs”) 2022 and 2023.⁵⁷
2. During FYs 2022 and 2023, PGW proposes to purchase up to \$500,000 of RNG which is approximately 0.4% of its total “C” Factor commodity cost, provided that PGW reserves the right to propose an increase in its RNG purchases for FY 2023 in its next annual GCR proceeding.⁵⁸
3. Under PGW’s proposal, this RNG would be included in PGW’s gas supply portfolio and the costs included in the GCR.⁵⁹
4. In its next GCR proceeding, PGW proposes that it will:
 - (1) Report the daily quantities of RNG purchased;
 - (2) Report prices it paid for RNG;
 - (3) Identify how those prices compare to other purchases;
 - (4) Identify the GCR rate impact of its RNG purchases;
 - (5) Identify the BTU content of its RNG purchases, to the extent such data is available; and
 - (6) Identify the location of the facility producing the RNG and the type of facility (i.e. landfill, wastewater treatment plant, municipal solid waste, agricultural product, etc.).⁶⁰
5. PGW will also identify whether its purchase of RNG will result in the monetization of any of the environmental benefits of the RNG project and how those benefits will be reflected in the price of the RNG it purchases.⁶¹
6. Under PGW’s proposal, the RNG pilot program would span two GCR periods in order to provide meaningful information and data.⁶²

⁵⁷ PGW St. 3 at 2. FY 2022 begins on September 1, 2021 and ends August 31, 2022. FY 2023 begins on September 1, 2022 and ends on August 31, 2023. *Id.*

⁵⁸ PGW St. 3 at 2; Joint Stipulation of PGW and OCA at ¶ (a).

⁵⁹ PGW St. 3 at 2.

⁶⁰ Joint Stipulation of PGW and OCA at ¶ (b).

⁶¹ Joint Stipulation of PGW and OCA at ¶ (b).

⁶² PGW St. 3 at 4-5.

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7. Following the two-year pilot, PGW would then consider whether to propose the continuation of RNG purchases.⁶³
8. If PGW decides to propose the continuation of RNG, PGW would submit testimony and data in its March 1, 2023 annual GCR filing which would include information about PGW's RNG purchasing (to date) and the specifics of the Company's going forward proposal for the continuation of an RNG purchasing program.⁶⁴
9. Under PGW's proposal, PGW has not determined a set amount of RNG to purchase; rather, PGW would purchase RNG volumes that do not exceed the expenditure limits.⁶⁵
10. Structuring the program in this manner allows PGW to limit costs and begin the process of incorporating RNG into its system.⁶⁶
11. PGW has proposed to prioritize sourcing RNG from Pennsylvania suppliers to ensure that the environmental benefits of RNG stay as close to PGW's service territory as possible and to further the development of RNG production in PGW's immediate vicinity.⁶⁷
12. Local or regional sourcing could provide supply adequacy benefits.⁶⁸
13. PGW is committed to providing safe, adequate, and reliable service to its customers, and PGW believes that incorporating RNG into its gas supply portfolio would help to further these goals.⁶⁹
14. By purchasing limited amounts of RNG on a pilot basis over the course of two years, PGW would gain necessary experience in the RNG supply market which could become an increasing source of gas supply in the years ahead.⁷⁰
15. RNG is a biogas produced from a biochemical process and RNG has a methane content comparable to conventional natural gas and can be a suitable energy source in applications that require pipeline-quality gas.⁷¹

⁶³ PGW St. 3 at 4-5.

⁶⁴ PGW St. 3 at 4-5.

⁶⁵ PGW St. 3 at 3.

⁶⁶ PGW St. 3 at 3.

⁶⁷ PGW St. 3 at 3.

⁶⁸ PGW St. 3 at 3.

⁶⁹ PGW St. 3 at 3.

⁷⁰ PGW St. 3 at 3-4.

⁷¹ PGW St. 3 at 1-2.

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16. RNG can be sourced through a variety of processes and can be produced by landfills, wastewater treatment facilities, livestock operations and food waste.⁷²
17. RNG reduces greenhouse gas emissions because it is a carbon-neutral fuel that comes from organic sources that once absorbed carbon dioxide from the atmosphere during photosynthesis.⁷³
18. RNG has even greater benefits when it is produced from organic waste that would otherwise decay and emit methane into the atmosphere, as RNG production captures this methane release.⁷⁴
19. National, state, and local elected officials support the reduction of emissions, and RNG reduces emissions.⁷⁵
20. Under PGW's RNG proposal, PGW will be in a better position to respond to any future change in federal or state law that addresses carbon emissions associated with the energy delivered to customers, and PGW will be better situated to continue to provide adequate supply to its customers.⁷⁶
22. PGW is heavily regulated and there are a host of regulations, laws and requirements that could be relevant when introducing RNG onto PGW's system.⁷⁷
23. PGW has found that identifying reputable RNG suppliers requires effort and it is not an exercise that can be done in the abstract or on an aspirational basis.⁷⁸
24. For PGW to understand the contractual terms and conditions that are unique to RNG suppliers requires the negotiation of an actual contract.⁷⁹
25. It will take time for PGW to acquire the knowledge and information pertaining to the contractual terms and conditions that are unique to RNG suppliers, and PGW is attempting to be proactive in these efforts.⁸⁰

⁷² PGW St. 3 at 2.

⁷³ PGW St. 3 at 2.

⁷⁴ PGW St. 3 at 2.

⁷⁵ PGW St. 3 at 3.

⁷⁶ PGW St. 3 at 4.

⁷⁷ PGW St. 3-R at 8-9.

⁷⁸ PGW St. 3-R at 8-9.

⁷⁹ PGW St. 3-R at 9.

⁸⁰ PGW St. 3-R at 9.

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26. Including RNG in PGW’s gas mix will diversify PGW’s supply portfolio.⁸¹
27. Including RNG in PGW’s gas mix could have benefits if there are supply shortages or disruptions that reduce the ability of PGW’s traditional gas supply sources to deliver adequate supply.”⁸²
28. Sourcing the RNG from local or regional producers provides a diversity of geographic supply, and diversity of supply supports reliability.⁸³
29. PGW’s RNG proposal will permit PGW to identify and start to address any contracting, delivery or approval issues.⁸⁴
30. PGW’s requested reasons for the pilot program exist regardless of the state of the economy or the Pandemic.⁸⁵
31. Furthering national, state, and local climate goals, securing diversity of supply, and gaining experience with a potentially important source of gas supply in PGW’s future are all considerations that PGW must evaluate regardless of whether the economy is in a good state at this very moment, or the pandemic response is at a certain level.”⁸⁶
32. These issues and concerns will likely impact PGW beyond any individual recession.⁸⁷
33. Currently, the City of Philadelphia is moving in a positive direction economically.⁸⁸
34. As of February of 2021, the federal Bureau of Labor Statistics reported that the Philadelphia metropolitan area’s unemployment rate was estimated at 7.8 percent, down from a pandemic-high of 15.0 percent in April of 2020.⁸⁹
35. As of April 27, 2021, the City of Philadelphia had fully vaccinated 349,129 city residents, with another 186,987 residents partially vaccinated.⁹⁰

⁸¹ PGW St. 3 at 4.

⁸² PGW St. 3 at 4.

⁸³ PGW St. 3 at 4.

⁸⁴ PGW St. 3 at 3-R at 3-4.

⁸⁵ PGW St. 3-R at 5.

⁸⁶ PGW St. 3-R at 5.

⁸⁷ PGW St. 3-R at 5.

⁸⁸ PGW St. 3-R at 5-6.

⁸⁹ PGW St. 3-R at 5-6.

⁹⁰ PGW St. 3-R at 5-6.

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36. As of April 27, 2021, the Commonwealth of Pennsylvania had fully vaccinated 59,672 Philadelphia residents and partially vaccinated another 33,866.⁹¹
37. Presently, every Pennsylvania adult is eligible for the COVID-19 vaccine.⁹²
38. Some of the sectors hardest-hit by the pandemic, such as dining and hospitality, are expected to improve, as evidenced by the City of Philadelphia Health Commissioner’s April 26, 2021 announcement that indoor dining capacity will increase and indoor catered events will be permitted beginning May 7, 2021.⁹³
39. The Health Commissioner plans to ease restrictions as COVID-19 cases decline.⁹⁴
40. The federal COVID relief packages provide funds that will be directly available to PGW ratepayers.⁹⁵
41. The American Rescue Plan Act provides an additional \$4.5 billion in Low Income Home Energy Assistance Program (“LIHEAP”) funding for FY 21, which shall remain available until September of 2022 and is in addition to the \$3.75 billion of LIHEAP funding provided in the FY 21 budget.⁹⁶
42. The potential LIHEAP funding available for FY 21 is \$8.5 billion.⁹⁷
43. There are many factors that influence the amount of dollars that actually flow to PGW from the LIHEAP program in any given year.⁹⁸
44. In FY 20, PGW received \$24.4 million (between its cash and crisis programs) out of the total \$4.6 billion in LIHEAP.⁹⁹
45. The American Rescue Plan Act provides an additional \$21.6 billion for rental assistance that covers both rent and utility bills.¹⁰⁰

⁹¹ PGW St. 3-R at 5-6.

⁹² PGW St. 3-R at 5-6.

⁹³ PGW St. 3-R at 5-6.

⁹⁴ PGW St. 3-R at 5-6.

⁹⁵ PGW St. 3-R at 6-7.

⁹⁶ PGW St. 3-R at 6-7.

⁹⁷ PGW St. 3-R at 6-7.

⁹⁸ PGW St. 3-R at 6-7.

⁹⁹ PGW St. 3-R at 6-7.

¹⁰⁰ PGW St. 3-R at 6-7.

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46. This funding is in addition to the initial \$25 billion in rental assistance that came from the 2020 federal COVID relief package.¹⁰¹
47. This rental assistance program will directly benefit PGW customers.¹⁰²
48. PGW is currently working with a community development organization on how the rental assistance program funds will be distributed.¹⁰³
49. The American Rescue Plan Act includes \$10 billion for homeowner assistance that provides both mortgage and utility relief.¹⁰⁴
50. The effect of PGW's RNG proposal on the GCR rate will be less than \$1 per year for the typical residential heating customer.
51. PGW believes that the reporting data and the two-year timeframe of the pilot program will be important in determining and evaluating the success and viability of the RNG pilot program.¹⁰⁵
52. To have more detail regarding the procedure for obtaining RNG at this point would have required PGW to have negotiated and finalized an agreement or agreements with an RNG provider.¹⁰⁶
53. This scenario would have caused PGW to contractually commit to purchases, incur legal expenses, and use its resources prior to the Commission authorizing the project.¹⁰⁷
53. PGW's ratepayers will be protected by PGW's proposed expenditure cap on RNG.¹⁰⁸

¹⁰¹ PGW St. 3-R at 6-7.

¹⁰² PGW St. 3-R at 6-7.

¹⁰³ PGW St. 3-R at 6-7.

¹⁰⁴ PGW St. 3-R at 6-7.

¹⁰⁵ PGW St. 3-R at 7.

¹⁰⁶ PGW St. 3-R at 2.

¹⁰⁷ PGW St. 3-R at 2.

¹⁰⁸ PGW St. 3-R at 2.

Appendix B

Proposed Conclusions of Law

1. A public utility has the burden of proof to demonstrate by a preponderance of the evidence that a proposed rate is just and reasonable.¹⁰⁹
2. The term "preponderance of the evidence" means that one party has presented evidence that is more convincing, by even the smallest amount, than the evidence presented by the other party.¹¹⁰
3. Section 1307(f) of the Public Utility Code (titled "Recovery of natural gas costs") allows natural gas distribution companies ("NGDCs") with gross intrastate annual operating revenues in excess of \$40,000,000 to file tariffs reflecting actual and projected increases or decreases in their natural gas costs, with the tariffs being effective six months from the date of filing.¹¹¹
4. Section 1318 of the Public Utility Code provides that no rates for an NGDC shall be deemed just and reasonable unless the Commission finds that the utility is pursuing a least cost fuel procurement policy, consistent with the utility's obligation to provide safe, adequate and reliable service to its customers.¹¹²
5. "On its face, a gas utility's obligation to pursue a least cost fuel procurement strategy is just that -- an obligation to take steps to insure that the cost it -- the utility -- incurs for natural gas are as low as reasonably possible, consistent with its obligation to provide safe, reliable and adequate service."¹¹³
6. A purchasing strategy may be reasonable even if it produces higher than the "least cost" if that strategy improves or maintains the safety, adequacy and reasonableness of the utility's gas supply.¹¹⁴
7. Section 1317 of the Public Utility Code requires NGDCs to submit certain information to enable the Commission to make a least cost fuel procurement finding.¹¹⁵

¹⁰⁹ 66 Pa.C.S. § 315(a); *Samuel J. Lansberry, Inc. v. Pa. P.U.C.*, 578 A.2d 600 (Pa. Cmwlth. 1990), *alloc. denied*, 602 A.2d 863 (Pa. 1992).

¹¹⁰ *Se-Ling Hosiery, Inc. v. Margulies*, 70 A.2d 854, 855 (Pa. 1950).

¹¹¹ 66 Pa.C.S. § 1307(f)(1).

¹¹² 66 Pa.C.S. § 1318.

¹¹³ *Pennsylvania Public Utility Commission v. Philadelphia Gas Works*, Docket Nos. R-00061931, *et. al.*, Opinion and Order (Sept. 28, 2007).

¹¹⁴ *See* 66 Pa.C.S. § 1318.

¹¹⁵ 66 Pa.C.S. § 1317.

Appendix B

8. The Commission has promulgated regulations that include extensive filing requirements for NGDCs.¹¹⁶
9. Section 1318 of the Public Utility Code provides the Commission with the flexibility and discretion to evaluate an NGDC's least cost fuel procurement policy under the conditions of the existing gas marketplace.¹¹⁷
10. Whether or not the utility has conformed to its statutory duties in a reasonable manner depends on the individual circumstances and facts of each particular Section 1307(f) filing.¹¹⁸
11. PGW has met its burden of proving that the limited purchase of potentially higher-priced RNG (as compared to conventional natural gas) is consistent with PGW's obligations under Section 1317 and 1318 of the Public Utility Code to pursue a least cost fuel procurement policy, consistent with its obligation provide "safe, adequate and reliable service" to its customers.
12. PGW's proposed cost of RNG spending is reasonable.
13. PGW's proposal contains a reasonable level of detail sufficient for the Commission to determine that PGW has met its burden.

¹¹⁶ See 52 Pa. Code §§ 53.64 and 53.65.

¹¹⁷ *Popowsky v. Pennsylvania PUC*, 676 A.2d 731, 735 (Pa. Cmwlth. 1996).

¹¹⁸ *Equitable Gas Co. v. Pennsylvania Public Utility Com.*, 536 A.2d 846, 851 (Pa. Cmwlth. 1988).

Appendix C

PROPOSED ORDER

THEREFORE,

IT IS ORDERED:

1. That the Joint Petition for Partial Settlement filed on June 4, 2021 by Philadelphia Gas Works, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Philadelphia Industrial and Commercial Gas Users Group is approved without modification.
2. That Philadelphia Gas Works be authorized to file a tariff supplement to reflect rates and terms consistent with this order to be effective for services rendered on or after September 1, 2021, subject to quarterly adjustments permitted by Commission regulations at 52 Pa. Code § 53.64(i)(5), including a quarterly adjustment to be effective on September 1, 2021, to reflect actual experience and changes in forecasted natural gas prices.
3. That Philadelphia Gas Works' Renewal Natural Gas pilot program proposal, as modified by the Joint Stipulation of PGW and the Office of Consumer Advocate filed in the above-captioned proceeding on May 13, 2021, is approved without modification.
4. That the Formal Complaint of the Office of Consumer Advocate, filed at Docket No. C-2021-3024126, is dismissed and marked closed.
5. That the Formal Complaint of the Office of Small Business Advocate, filed at Docket No. C-2021-3024293, is dismissed and marked closed.
6. That the Secretary mark this docket closed.

Date: _____

Darlene Heep
Administrative Law Judge