


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

 @pa_oca

 /pennoca

FAX (717) 783-7152
consumer@paoca.org

June 4, 2021

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

Re: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works
1307(f) Proceeding
Docket No. R-2021-3023970

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Reply Brief in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Christy M. Appleby
Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAappleby@paoca.org

Enclosure:

cc: The Honorable Darlene D. Heep (**email only**)
Office of Special Assistants (**email only**: ra-OSA@pa.gov)
Certificate of Service

*310347

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :
v. : Docket No. R-2021-3023970
Philadelphia Gas Works :
1307(f) Proceeding :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Reply Brief, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 4th day of June 2021.

SERVICE BY E-MAIL ONLY

Gina L. Miller, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

Sharon E. Webb, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923

Charis Mincavage, Esquire
Adeolu A. Bakare, Esquire
Jo-Anne Thompson, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

Daniel Clearfield, Esquire
Kristine E. Marsilio, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street
8th Floor
Harrisburg, PA 17101

Craig Berry, Esquire
Philadelphia Gas Works
800 West Montgomery Avenue
Philadelphia, PA 19122

/s/ Christy M. Appleby
Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAppleby@paoca.org

Aron J. Beatty
Senior Assistant Consumer Advocate
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org

Counsel for:
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: June 4, 2021
*310346

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
v. : Docket No. R-2021-3023970
Philadelphia Gas Works :
1307(f) Proceeding :

REPLY BRIEF
OF THE
OFFICE OF CONSUMER ADVOCATE

Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CApplby@paoca.org

Aron J. Beatty
Senior Assistant Consumer Advocate
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org

Counsel for:
Christine Maloni Hoover
Interim Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: June 4, 2021

Table of Contents

I. INTRODUCTION.....	1
II. REPLY ARGUMENT.....	1
A. The RNG Pilot Proposal does not Violate the Least Cost Procurement Requirements of the Public Utility Code.....	1
B. I&E’s Reliance Upon the Commission’s Determination in PGW’s Base Rate Proceeding is Misplaced.	4
C. The Pilot will have a Limited Impact on Gas Cost Rates.....	5
III. CONCLUSION	7

TABLE OF AUTHORITIES

Page(s)

Administrative Decisions

Pa. P.U.C. v. PGW,
Docket No. R-2020-3017206 (Order entered Nov. 19, 2020)4, 5

Pa. P.U.C. v. PGW,
Docket No. R-2010-2157062 (Order entered July 29, 2010)2

Statutes

66 Pa. C.S. § 1317.....1, 5

66 Pa. C.S. § 1318.....1, 5

66 Pa. C.S. § 1318(3).....1, 2, 3

I. INTRODUCTION

The Office of Consumer Advocate (OCA) submits this Reply Brief supporting a Renewable Natural Gas (RNG) pilot program for the benefit of the Philadelphia Gas Works (PGW) purchased gas cost ratepayers. Main Briefs were filed by the Office of Small Business Advocate (OSBA) and the Commission's Bureau of Investigation and Enforcement (I&E) in opposition to the RNG pilot, primarily on the grounds that the pilot would result in gas procurement that is not least cost. The OCA's Main Brief contained a comprehensive discussion of the evidence and its position on Philadelphia Gas Works (PGW)'s Renewable Natural Gas (RNG) pilot proposal in response to this argument. The OCA will respond only to those matters raised by the other Parties that were not previously addressed or that require clarification. Nevertheless, nothing contained in the briefs filed in this proceeding change the OCA's position that the RNG pilot is in the best interest of consumers and should be approved. The OCA incorporates the arguments and analysis contained in its Main Brief herein by reference.

II. REPLY ARGUMENT

A. The RNG Pilot Proposal does not Violate the Least Cost Procurement Requirements of the Public Utility Code.

In their respective Main Briefs, I&E and OSBA argue that the proposed RNG pilot proposal is not consistent with PGW's least cost procurement requirements. I&E M.B. at 16-19; OSBA M.B. at 5-6. The OCA submits that I&E and OSBA view the least procurement requirements under Sections 1317 and 318 of the Public Utility Code too narrowly in this instance. See, 66 Pa. C.S. §§ 1317, 1318. Sections 1317 and 1318 state that the utility must pursue a "least cost fuel procurement policy, consistent with the utility's obligation to provide safe, adequate and reliable service to its customers." 66 Pa. C.S. §§ 1317, 1318. Section 1318(3) of the Public Utility Code states that the utility must take "all prudent steps necessary to obtain lower cost gas supplies on

both short-term and long-term bases both within and outside the Commonwealth...” 66 Pa. C.S. § 1318(3).

Under the two-year RNG pilot proposal, PGW would be permitted to purchase RNG at an annual capped amount of \$500,000, which is approximately 0.4 percent of PGW’s annual projected cost of gas collected through GCR rates. Joint Stipulation at 1; OCA St. 1 at 10. The cost of RNG will be determined through competitive procurement. PGW St. 3 at 2-4. While it is true that the cost of RNG is expected to be above non-RNG gas procured from PGW’s current sources, customers will be gaining access to, and furthering the development of, new gas markets. Id. This distinction is critical, as Section 1318(3) of the Public Utility Code requires short-term and **long-term** considerations when evaluating the Company’s fuel procurement policy. Id. Section 1318 does not require the purchase of the lowest cost resource available at any given time, but instead requires that the portfolio be the least cost consistent with the obligation to provide safe, adequate and reliable service over the foreseeable time horizon.¹

As detailed in the OCA’s Main Brief (at 10-11), OCA witness Mierzwa noted the potential benefits of the program due to the potentially changing environmental concerns related to greenhouse gas (GHG) emissions. As Mr. Mierzwa testified:

[S]tates are adopting laws and policies that address carbon emissions associated with the energy delivered to customers. For example, Massachusetts has adopted legislation requiring net-zero GHG emissions by 2050. Should similar federal, state, or local legislation be adopted affecting PGW, the RNG pilot program may provide PGW and other Pennsylvania NGDCs with the experience and knowledge to minimize the costs associated with implementing GHG reduction strategies.

OCA St. 1 at 11 (footnotes omitted).

¹ The OCA notes that the Commission approved hedging programs to address price stability concerns in prior PGW 1307(f) proceedings. See, Pa. PUC v. PGW, Docket No. R-2010-2157062 (Order entered July 29, 2010). Such pricing programs were not designed to achieve short-term price reductions, but rather long-term pricing benefits.

I&E argues that the OCA's testimony overlooks that legislation has not been passed in Pennsylvania requiring carbon reduction through the use of RNG. I&E M.B. at 22. Mr. Mierzwa's key contention, however, is that there are rapidly changing environmental concerns related to the emissions of GHG, and the pilot program offers potential benefits to preemptively evaluate the impact of possible changes to environmental concerns while diversifying supply. See, OCA St. 1 at 11. The OCA submits that the purpose of the pilot is to explore how to ensure reasonable and adequate gas supplies under potentially changing regulatory requirements, as well as to gain valuable information on receiving supplies from new and diverse locations less susceptible to pipeline and weather-related disruptions.

As a part of its RNG pilot proposal, PGW proposes to prioritize purchases of RNG from Pennsylvania suppliers. PGW St. 3 at 3. PGW witness Stunder testified that "this focus on geographic proximity is intended to ensure that the environmental benefits of RNG stay as close to PGW's service territory as possible, and to help further the development of RNG production in PGW's immediate vicinity." PGW St. 3 at 3. Mr. Stunder also stated that "local or regional sourcing could also provide supply adequacy benefits." Id. The OCA submits that PGW should consider the proximity of its natural gas supply as a part of the overall portfolio mix as a least procurement strategy and should be an element in considering the success of the pilot program. For that reason, OCA witness Mierzwa recommended inclusion of the location of the facility producing the RNG and the type of facility as one of the reporting requirements, and the Joint Stipulation incorporates this recommendation. Joint Stipulation at 1.

In its Main Brief, I&E specifically addresses one of OCA witness Mierzwa's recommendations that was not included in the Joint Stipulation of PGW and OCA. I&E M.B. at 18-19. The Joint Stipulation provides that the Company will "identify the BTU content of its RNG

purchases, to the extent such data is available.”² As I&E correctly notes in its Main Brief, OCA witness Mierzwa recommended in his Direct Testimony that PGW be required to identify the BTU content of its RNG purchases and identify any impact of a change in BTU content from that of other purchases on usage. OCA St. 1 at 12. While the OCA agrees that the impact of a change in BTU content from that of other purchases on usage would be helpful information to have to evaluate the program, it is the OCA’s understanding from Mr. Stunder’s testimony that PGW is unable to collect this information. See, PGW St. 3-R at 8. The OCA submits that the pilot program’s reporting requirements will still provide important information to evaluate the effectiveness of the pilot and the cost of the renewable natural gas supply purchased under the pilot. See, Joint Stipulation at 1-2.

For the reasons set forth above and those contained in its Main Brief, the OCA submits that the proposal is consistent with a least cost fuel procurement obligation and should be approved.

B. I&E’s Reliance Upon the Commission’s Determination in PGW’s Base Rate Proceeding is Misplaced.

In its Main Brief, I&E argues that the Commission’s decision regarding an environmental proposal in the Company’s 2020 base rate proceeding is binding on the RNG proposal in this case. I&E M.B. at 23-26.³ In the base rate proceeding, the Commission denied claims by the “Environmental Stakeholders” to address three issues: (1) whether PGW’s rate increase should be denied because its infrastructure modernization program does not account for future mandates related to climate change; (2) whether PGW should submit a Climate Business Plan to reduce Greenhouse Gas emissions prior to being granted a rate increase; and (3) whether any increase in the customer charge should be granted.⁴ The Commission identified in the PGW Order that the

² Joint Stipulation of PGW and OCA at 1.

³ Pa. PUC v. PGW, Docket No. R-2020-3017206, (Order entered Nov. 19, 2020) (PGW Order).

⁴ PGW Order at 71.

purpose of the Environmental Stakeholders' claims in the proceeding was to "end natural gas usage in Philadelphia."⁵

The OCA submits that the issues in this proceeding and those raised in the base rate proceeding are not related. While the base rate proceeding and the RNG pilot proposal both involve environmental concerns related to GHG, that is where the similarity in the two cases ends. The primary issue raised by the Environmental Stakeholders related to whether the Commission had jurisdiction to address long-range climate change plans within the scope of the test year analysis of a base rate proceeding and whether the proposal to abandon pipe replacement impacted the provision of safe, adequate and reliable service. The instant case is about whether the pilot proposal to explore the diversification of natural gas supply to include RNG should be approved. The Commission clearly has jurisdiction under Sections 1317 and 1318 to address a pilot proposing to purchase a particular type of natural gas supply and whether there are long-term benefits to the proposal. 66 Pa. C.S. §§ 1317, 1318.

C. The Pilot will have a Limited Impact on Gas Cost Rates.

In its Main Brief, I&E argues that the timing of the pilot is inappropriate due to the impact of the COVID-19 pandemic on PGW's ratepayers. I&E M.B. at 27-33. I&E argues that the resultant rates would be unjust and unreasonable. I&E M.B. at 30. The OCA agrees that the impact of COVID-19 has been significant for ratepayers and is always an important consideration with respect to the just and reasonableness of rates paid by PGW's ratepayers; however, I&E's arguments on this issue ignore the evidence of the potential impact of the proposal on ratepayers. I&E's Brief focuses on the price per Mcf of RNG supply, but does not acknowledge the limited impact of the pilot proposal on GCR rates given the price cap contained in the Joint Stipulation.

⁵ PGW Order at 91.

I&E also does not acknowledge the potential benefits to ratepayers over the long-term. The two-year pilot proposal provides for a two-year annual capped amount of \$500,000, which is only 0.4 percent of PGW's annual projected cost of gas collected through GCR rates. Joint Stipulation at 1; OCA St. 1 at 10. For context, Schedule 1 of PGW's 1307(f) filing indicates sales of 41,773,841 Mcf. While the cost of any "premium" paid for RNG in future markets cannot be predicted, it is clear that the pilot program price cap will ensure that there is at most an approximately one cent per Mcf impact of rates. The OCA submits that the limited impact on ratepayers would not result in rates that are unjust and unreasonable in this case. The OCA submits that the RNG pilot program should be approved because it will afford PGW an important opportunity to explore Pennsylvania's renewable natural gas markets with limited risk to ratepayers.

III. CONCLUSION

For the reasons set forth in the Office of Consumer Advocate's Main Brief and in this Reply Brief, the OCA respectfully requests that the proposed RNG pilot program be approved as set forth in the Stipulation of Philadelphia Gas Works and the OCA.

Respectfully Submitted,

/s/ Christy M. Appleby
Christy M. Appleby
Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAAppleby@paoca.org

Aron J. Beatty
Senior Assistant Consumer Advocate
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org

Counsel for:
Christine Maloni Hoover
Interim Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
DATE: June 4, 2021