

COMMONWEALTH OF PENNSYLVANIA



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July 6, 2021

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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 Exceptions in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

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Enclosure:

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

*312585

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 Exceptions, 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 6th day of July 2021.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

REPLY EXCEPTIONS
OF THE
OFFICE OF CONSUMER ADVOCATE

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Table of Contents

I. INTRODUCTION..... 1

II. REPLY EXCEPTIONS..... 2

Reply to I&E Exception No. 1 and OSBA Exceptions Letter Unnumbered Paragraphs 1 and 2: The ALJ Correctly Determined that the RNG Pilot Proposal is Consistent with a Least Cost Gas Procurement Requirement. 2

Reply to I&E Exc. No. 2 and OSBA Exceptions Letter Unnumbered Paragraph 6: The ALJ Correctly Determined that the RNG Pilot Proposal will have a Limited Impact on Gas Cost Rates..... 4

III. CONCLUSION 6

TABLE OF AUTHORITIES

	Page(s)
Statutes	
66 Pa. C.S. § 1318.....	2
66 Pa. C.S. § 1318(3).....	3

I. INTRODUCTION

On June 24, 2021, the Office of Administrative Law Judge issued the Recommended Decision (R.D.) of Administrative Law Judge (ALJ) Darlene Heep. Exceptions were filed by the Bureau of Investigation and Enforcement (I&E) on July 2, 2021. The Office of Small Business Advocate (OSBA) also filed a “Letter in Lieu of Exceptions” on July 2, 2021. In her R.D., the ALJ approved the proposed Joint Petition for Partial Settlement in the proceeding. R.D. at 23. The ALJ also approved, with minor modifications, the one issue reserved for litigation, Philadelphia Gas Works’ (PGW) proposal for a Renewable Natural Gas (RNG) pilot program. R.D. at 32-36. The ALJ recommended the following minor modifications:

The Commission may find it prudent to limit the duration of any RNG contract to no later than one year after the period of the pilot project, as recommended in the ordering paragraphs. It is also recommended that PGW prioritize local or regional producers, also included in the ordering paragraphs.

R.D. at 35. The OCA submits that the ALJ correctly determined the RNG pilot proposal is consistent with a least fuel procurement standard. R.D. at 32-36.

The Office of Consumer Advocate (OCA) files these Reply Exceptions in response to portions of I&E’s Exceptions and OSBA’s Letter in Lieu of Exceptions related to the ALJ’s recommended approval of the RNG Pilot Proposal. No Exceptions were filed in response to the ALJ’s recommendation to approve the Joint Petition for Partial Settlement or the proposed modification to the terms of the OCA/PGW Joint Stipulation. The OCA has provided a more complete discussion of the issues in its Main Brief and Reply Brief. See, OCA M.B. at 6-11; OCA R.B. at 1-6.

The OCA submits that ALJ Heep correctly approved the proposed RNG pilot in this proceeding, and her Recommended Decision should be adopted by the Public Utility Commission (Commission).

II. REPLY EXCEPTIONS

Reply to I&E Exception No. 1 and OSBA Exceptions Letter Unnumbered Paragraphs 1 and 2: The ALJ Correctly Determined that the RNG Pilot Proposal is Consistent with a Least Cost Gas Procurement Requirement. (R.D. at 32-36; OCA M.B. at 6-11; OCA R.B. at 1-4; I&E Exc. at 11-22; OSBA Letter In Lieu Exc. at Unnumbered ¶¶ 3-6).

In its Exceptions, I&E argues that the ALJ correctly identifies PGW’s burden of proof, but incorrectly applies the law to the evidence presented in the proceeding. I&E Exc. at 11-22. In particular, I&E argues that the R.D. ignores that the RNG pilot proposal fails two of the four requirements under Section 1318(a) of the Public Utility Code; ignores lower priced gas supplies; and fails to provide support that the cost of RNG is necessary for the provision of safe, adequate and reliable service. I&E Exc. at 11-23. OSBA similarly stated in its letter that the proposal is inconsistent with a least procurement standard due to the cost of the proposed RNG supply. OSBA Letter in Lieu Exc. at Unnumbered ¶¶ 3-4. OSBA also argues that in order for PGW to be able to argue that RNG is needed to provide “safe, adequate, and reasonable” service that some portion of the Company’s current gas supply must be “unsafe, inadequate or unreliable.” OSBA Letter in Lieu Exc. at Unnumbered ¶¶ 5-6.

As discussed in its Reply Brief, the OCA respectfully submits that I&E and OSBA have applied too narrow an application Section 1318. OCA R.B. at 1-4. As ALJ Heep explained:

The Code provides 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. § 1318 (emphasis added). As OCA witness Mierzwa stated, 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. PGW is preparing for the future at a relatively small cost in a limited pilot program. The associated expense is reasonable and prudent given the anticipated future requirements and markets and can save ratepayers costs in the long run. That is in the public interest. Therefore, it is recommended that the Commission approve the PGW RNG Pilot Program proposal, as modified by the PGW/OCA Joint Stipulation.

R.D. at 35-36 (footnotes omitted)(emphasis in original).

The OCA submits that 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). The pilot program helps ensure that the Company will be able to meet the needs of ratepayers on a long-term bases. The ALJ correctly identified that “GCR proceedings involve a consideration of market and purchase factors in PGW acquiring product to serve its customers...Planning for expertise in future acquisitions under obvious trends is a means by which a company can ensure reliability and supply.” R.D. at 34.

The pilot program is designed to ensure that the Company’s expansion into new RNG markets does not harm customers. As the ALJ correctly identifies, 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. R.D. at 33-34; 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.

In its Exceptions, 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 Exc. at 16-17. I&E argues that the ALJ erroneously “dismissed the hidden, and potentially unidentifiable BTU impact of the RNG costs by concluding that PGW will have an affirmative duty to report it “when available.” I&E Exc. at 16, citing R.D. at 34. As I&E correctly notes in its Exceptions, 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. I&E Exc. at 16-18; see, 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.

The ALJ correctly determined that the proposed RNG pilot proposal is consistent with the least cost gas procurement requirement. For the reasons set forth above, the Commission should approve the ALJ's Recommended Decision.

Reply to I&E Exc. No. 2 and OSBA Exceptions Letter Unnumbered Paragraph 6: The ALJ Correctly Determined that the RNG Pilot Proposal will have a Limited Impact on Gas Cost Rates. (R.D. at 33-34; OCA M.B. at 10-11; OCA R.B. at 5-6; I&E Exc. at 23-25; OSBA Letter In Lieu Exc. at Unnumbered ¶ 6).

In I&E's Exceptions and OSBA's Letter in Lieu of Exceptions, I&E and OSBA argue that the ALJ's R.D. ignores the impact of COVID-19 on rates. I&E Exc. at 23-25; OSBA Letter in Lieu of Exc. at Unnumbered ¶ 6. I&E argues that the ALJ misconstrued I&E's position. I&E clarified that its position was not that COVID-19 was a basis to deny a rate increase, but instead I&E is concerned that the R.D. "bypassed the requisite COVID-19 impact analysis." I&E Exc. at 23-24. The OCA submits that the ALJ did address the impact of COVID-19 in her analysis. R.D. at 35.

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. The OCA submits, however, that the minimal price impact of the pilot program is outweighed by the development of a new, sustainable and geographically diverse long-term gas market. 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. The ALJ correctly determined that the proposed RNG pilot proposal is consistent with the least cost gas procurement requirement. For the reasons set forth above, the Commission should deny I&E's Exception No. 2 and OSBA's Letter in Lieu of Exceptions and approve the ALJ's Recommended Decision.

III. CONCLUSION

For the reasons set forth above and in its Main Brief and Reply Brief, the Office of Consumer Advocate respectfully requests that the Public Utility Commission approve ALJ Heep's Recommended Decision.

Respectfully Submitted,

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