



PHILADELPHIA GAS WORKS

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July 20, 2021

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

Re: Notice of Proposed Rulemaking for Diversity Reporting for Major Jurisdictional Utilities at Docket Number L-2020-3017284

Dear Secretary Chiavetta:

On behalf of Philadelphia Gas Works ("PGW"), enclosed for filing is PGW's comments responding to matters raised in the Notice of Proposed Rulemaking ("NOPR") for Diversity Reporting for Major Jurisdictional Utilities published in the *Pennsylvania Bulletin* on June 5, 2021. Please contact me if you have any questions.

Respectfully,

/s/ Craig W. Berry

Craig W. Berry, Esquire

Enclosure

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Proposed Rulemaking for Diversity	:	
Reporting of Major Jurisdictional	:	Docket No. L-2020-3017284
Utilities	:	
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	:	
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**COMMENTS OF
PHILADELPHIA GAS WORKS IN RESPONSE TO
NOTICE OF PROPOSED RULEMAKING FOR
DIVERSITY REPORTING OF MAJOR JURISDICTIONAL UTILITIES**

Philadelphia Gas Works (“PGW” or “Company”) hereby files these comments in response to the Notice of Proposed Rulemaking (“NOPR”) for Diversity Reporting for Major Jurisdictional Utilities adopted by the Pennsylvania Public Utility Commission (“PUC” or “Commission”) on December 17, 2020 and published in the *Pennsylvania Bulletin* on June 5, 2021.¹

PGW shares the Commission’s goal of ensuring a diverse utility workforce and procurement practices. In assessing the steps necessary to implement the new reporting requirements, PGW requests that the Commission: (1) clarify the reporting requirement by modifying § 51.15(a)(3) to include the data gathered by a utility with respect to LGBTQ employees, and (2) delay implementation and enforcement of the reporting information in the NOPR until the March 2023 report (for 2022 data) to allow additional time for utilities to implement the necessary confidential data collection and storage processes to provide the Commission with the requested information.

¹ Proposed Rulemaking for Diversity Reporting of Major Jurisdictional Utilities, 51 Pa.B. 3134 (June 4, 2021); Notice of Proposed Rule Making in Docket No. L-2020-3017284, adopted December 17, 2020.

I. BACKGROUND

On December 17, 2020, the Commission adopted a NOPR making the Diversity Reporting for Major Jurisdictional Utilities a regulatory obligation. The NOPR was published in the *Pennsylvania Bulletin* on June 5, 2021 requesting comments on the NOPR.

The NOPR builds on the Commission’s amended Policy Statement, which was adopted by the Commission on December 3, 2020 and became effective upon publication in the *Pennsylvania Bulletin* on January 23, 2021. The NOPR includes the definitions from the Policy Statement applicable to: (1) employee and vendor diversity, (2) reporting employee statistics; and (3) reporting vendor statistics.² Further, the NOPR establishes the requirements for what information a utility needs to include in its diversity reporting to the Commission.³

II. PGW’S COMMENTS

PGW shares the Commission’s goal of ensuring diverse utility workforce and procurement practices. PGW is a “city natural gas distribution operation” under the Public Utility Code,⁴ and is owned by the City of Philadelphia. While PGW, as a government owned entity, is not required to prepare and file an EEO-1 with the U.S. Equal Opportunity Employment Commission, PGW’s Board (the Philadelphia Facilities Management Corporation) requires PGW to regularly tabulate and report workforce demographic information to the Board.

Additionally, for certain PGW procurement operations, PGW follows guidance from the City of Philadelphia consistent with a series of Mayoral Executive Orders that also established the

² NORP at 5-6.

³ NOPR at 7.

⁴ 66 Pa.C.S. § 102 (definitions).

Philadelphia Office of Economic Opportunity (“OEO”).⁵ PGW reports on disadvantaged business enterprise (“DBE”) procurement regularly to the Philadelphia Gas Commission and to the OEO.⁶ PGW nevertheless recognizes the importance of uniform statewide data collection to the Commission and will endeavor to provide the necessary information.

A. Utility Employee Statistics Reporting

Under the NOPR, it appears the Commission requires additional information on a utility’s workforce that has not previously been collected by PGW, namely an employee’s status as a veteran, as disabled, or LGBTQ. In response, PGW will provide employees with the opportunity to self-identify, while ensuring the employee’s privacy in order to gather the information requested.⁷

With respect to LGBTQ reporting, PGW requests that the Commission modify the regulatory language of § 51.15 (a)(3), as the LGBTQ classification is not listed, but all other classifications are listed.⁸ However, the reporting form entitled “Demographics of Utility Workforce” includes a column to indicate the numbers of employees who report as LGBTQ.⁹

⁵ 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.

⁶ The PUC utility vendor statistics that will be reported to the Commission will differ from what PGW reports elsewhere and these reports will not be directly comparable. As indicated in PGW’s most recent Annual Report on Diversity for fiscal year 2020, PGW began tracking LGBTQ vendor information in its fiscal year 2021 and will be able to provide this information in its next annual report.

⁷ PGW notes that employees who self-identify as disabled may not actually satisfy the definition provided by the Americans with Disabilities Act (“ADA”) and adopted by the NOPR. PGW plans to make clear that an employee’s self-identification as disabled does not constitute a legal determination or admission by PGW as to any individual’s status as disabled under the ADA, and is for reporting purposes only.

⁸ NOPR at 7. Section 51.15 (a)(3) reads, “The demographic composition of the major jurisdictional utility’s workforce, reporting the number of employees by gender, race and ethnicity, persons with disabilities and veterans, on a form, Demographics of Utility Workforce, to be provided by the Commission.”

⁹ NOPR at 4. (Appendix A Demographic Composition of Workforce).

PGW requests that the Commission clarify the reporting requirement by modifying § 51.15(a)(3) to include the data gathered by a utility with respect to LGBTQ employees.

B. Implementation and Enforcement

PGW supports the Energy Association of Pennsylvania's ("EAP") request to delay implementation and enforcement of the mandatory reporting information in the NOPR until the March 2023 report (for 2022 data). This will allow additional time for utilities, including PGW, to implement the necessary confidential data collection and storage processes to provide the Commission with the requested information.

III. CONCLUSION

PGW appreciates the Commission's work to modernize and codify its diversity reporting requirements. PGW requests that the Commission clarify the reporting requirement by modifying § 51.15(a)(3) to include the data gathered by a utility with respect to LGBTQ employees, and delay implementation and enforcement of the reporting information in the NOPR until the March 2023 report (for 2022 data), as suggested by EAP. These actions will better enable PGW and other utilities to implement appropriate data collection and storage processes to provide the Commission with the requested information.

Respectfully submitted,

/s/ Craig W. Berry

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