


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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September 27, 2022

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

Re: Pennsylvania Public Utility Commission  
v.  
Supplement No. 152 to Gas Service Tariff –  
Pa. P.U.C. of Philadelphia Gas Works  
Docket No. R-2022-3034299

Petition of Philadelphia Gas Works for  
Approval on Less than Statutory Notice  
of Tariff Supplement Revising Weather  
Normalization Adjustment  
Docket No. P-2022-3034264

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceedings.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Aron J. Beatty

Aron J. Beatty  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 86625  
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Enclosures:

cc: The Honorable Marta Guhl (**email only**)  
Athena Delvillar, ALJ's Legal Assistant (**email only**: [sdelvillar@pa.gov](mailto:sdelvillar@pa.gov))  
Certificate of Service

\*335906

## CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :  
v. : Docket No. R-2022-3034299  
Supplement No. 152 to Gas Service Tariff – :  
Pa. P.U.C. of Philadelphia Gas Works :

Petition of Philadelphia Gas Works for :  
Approval on Less than Statutory Notice : Docket No. P-2022-3034264  
of Tariff Supplement Revising Weather :  
Normalization Adjustment :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, 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 27<sup>th</sup> day of September 2022.

### **SERVICE BY E-MAIL ONLY**

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/s/ Aron J. Beatty

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Dated: September 27, 2022  
\*335684

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:		
	:		
v.	:	Docket No.	R-2022-3034229
	:		P-2022-3034264
Philadelphia Gas Works	:		

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and the Prehearing Conference Order issued by Administrative Law Judge Marta Guhl on September 19, 2022, the Office of Consumer Advocate provides the following information:

**I. INTRODUCTION**

On August 2, 2022, Philadelphia Gas Works (PGW or Company) filed a Petition seeking approval of Supplement No. 152 to Gas Service Tariff -Pa. P.U.C. No. 2, to become effective on October 1, 2022. The Company’s Petition requested that the Commission approve tariff modifications on less than the statutorily established sixty days’ notice, which it asserted are designed to limit the harm that is possible due to operation of its Weather Normalization Adjustment (WNA). Specifically, PGW seeks to revise PGW’s Gas Service Tariff by adding a control cap to its WNA so that customers would not be billed a WNA charge or credit that is greater than 25% of total delivery charges, excluding the WNA, on any given bill.

The introduction of Supplement No. 152 is the result of a large spike in the WNA in May 2022. On June 30, 2022, the Company filed a Petition for Emergency Order (Emergency Petition),

Docket No. P-2022-3033477, with the Pennsylvania Public Utility Commission (Commission). The Company's Emergency Petition requested that the Commission approve tariff modifications designed to suspend operation of PGW's WNA for May 2022 because its application of the WNA during that month resulted in unintended rate shock for customers of more than \$11.3 Million. The OCA filed an Answer to PGW's Emergency Petition on July 1, 2022, supporting the suspension of the WNA as applied to May 2022 bills and urging the Commission to open an investigation and suspend the WNA until it can be thoroughly evaluated. The Company's 25% cap petition acknowledges that its application of the WNA resulted in unintended rate shock in May 2022 for customers in the amount of \$11.3 Million. Petition at ¶24. The Company does not propose any modifications to the WNA formula itself other than adding this circuit breaker that would cap charges (and credits) to no more than 25% of a customer's distribution bill. Petition at ¶22.

On September 15, 2022, the Commission ordered an investigation into the lawfulness, justness and reasonableness of Supplement No. 152. The Commission further ordered that the investigation include consideration of the lawfulness, justness, and reasonableness of the Philadelphia Gas Works' existing rates, rules, and regulations.<sup>1</sup>

## **II. ISSUES AND SUB-ISSUES**

Based upon a preliminary analysis of PGW's filing, the OCA has compiled a list of issues and sub-issues that it anticipates will be included in its investigation of the Company's proposal. It is anticipated that the OCA may identify additional issues upon further review of PGW's filing, and that other issues may arise and may be pursued as its investigation proceeds.

The following sets forth the core issues that the OCA will investigate:

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<sup>1</sup> Pa. PUC v. Philadelphia Gas Works, Docket Nos. R-2022-3034229, P-2022-3034264 (Order entered September 15, 2022).

(1) Whether rates produced by the WNA can be deemed just and reasonable, as required under Pennsylvania law, given the events of May 2022 surrounding the WNA tariff;

(2) Whether the rates produced by the existing WNA are, or may, unreasonably discriminatory. The WNA formula produced unreasonably discriminatory results among residential customers in May 2022, as customers on certain billing cycles were unaffected by its operation while others experienced significant harm;

(3) Whether the proposed 25% cap on WNA charges is a reasonable addition to the formula, and whether additional changes are needed to ensure that the WNA does not produce unjust, unreasonable, or discriminatory rates; and,

(4) The impact of the WNA on customers across income strata, and its impact on the incurrence of late payment and disconnections charges, as well as termination of service.

The OCA will examine each of these issues and all changes proposed in the Company's filing to ascertain if they comply with the Public Utility Code and sound ratemaking principles. The OCA will recommend any appropriate changes to ensure that customers pay only reasonable, non-discriminatory charges.

### **III. WITNESSES**

The OCA intends to present the direct, rebuttal and surrebuttal testimony, as may be necessary, of Ron Nelson. Mr. Nelson will present testimony in written form and will also attach various exhibits, documents and explanatory information that will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be delivered directly to its expert witness at the following address, as well as mailing a copy to counsel for the OCA:

Ron Nelson  
Strategen Consulting, LLC  
2150 Allston Way, Suite 400  
Berkeley, CA 94704  
E-Mail: [rnelson@strategen.com](mailto:rnelson@strategen.com)

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined if an additional witness or witnesses will be necessary for any portion of its case, all parties of record will be notified.

#### **IV. SERVICE ON THE OCA**

The OCA will be represented in this case by Assistant Consumer Advocate Christy M. Appleby and Senior Assistant Consumer Advocate Aron J. Beatty. The OCA only requires e-service at the following e-mail addresses:

Christy M. Appleby  
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[abeatty@paoca.org](mailto:abeatty@paoca.org)

The OCA may request hard copies once normal operations resume. Additionally, Aron Beatty will be the speaking attorney at the Prehearing Conference.

#### **V. PROPOSED REVISED PROCEDURAL RULES**

In order to effectively investigate and adequately develop a record on these issues pursuant to the April 1, 2023 end of suspension date ordered by the Commission, the OCA requests the following discovery modifications be approved:

A. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service of the interrogatories or requests for production.

B. Objections to interrogatories and/or requests for production shall be communicated orally within three (3) calendar days of service; unresolved objections shall be served in writing within five (5) calendar days of service of the interrogatories and/or requests for production.

C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of written objections.

D. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.

E. Requests for admission be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service.

F. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

G. On the Record Data requests will be provided within five (5) calendar days.

## **VI. PUBLIC INPUT HEARINGS**

The OCA is unaware of any specific consumer requests for public input hearings in this matter to date. If the OCA becomes aware of substantial consumer interest, however, the OCA will promptly the Administrative Law Judge and the parties to request a public input hearing.



## **VII. PROCEDURAL SCHEDULE**

In her Prehearing Conference Order, the ALJ proposed a procedural schedule for this matter for hearing and briefing dates. The OCA is working with the parties to develop a mutually agreeable schedule for the serving of testimony in this proceeding and will address those additional dates during the scheduled Prehearing Conference.

## **VIII. SETTLEMENT**

The OCA is willing to participate in settlement discussions with the parties.

Respectfully Submitted,

/s/ Aron J. Beatty

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