

COMMONWEALTH OF PENNSYLVANIA



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December 19, 2022

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

Re: Grays Ferry Cogeneration Partnership and
Vicinity Energy Philadelphia, Inc.
v.
Philadelphia Gas Works
Docket No. C-2021-3029259

Dear Secretary Chiavetta,

On November 9, 2022, Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. (Vicinity) filed a Formal Complaint against Philadelphia Gas Works' (PGW or Company) Tariff Supplement No. 156, to PGW's Gas Services Tariff Pa. P.U.C. No. 2, filed November 1, 2022, with an effective date of January 1, 2022 (Supplement) at Docket No. R-2022-3036472. Currently, PGW serves Vicinity under a twenty-five year old, long-term contract set to expire on December 31, 2022. The future terms of service between PGW and Vicinity is the subject of pending litigation at Docket No. C-2021-3029259, in which the Office of Consumer Advocate is an active participant. Under PGW's Supplement No. 156, the Company proposes to continue serving Vicinity on and after January 1, 2023 under existing terms, subject to the possible recalculation of billed amounts.

On November 28, 2022, Vicinity filed a Petition for Interim Emergency Relief (Emergency Petition) seeking an interim order from the Commission extending the twenty-five year contract until the Commission can rule on the merits of Vicinity's underlying pending complaint. On December 13, 2022, Administrative Law Judge (ALJ) Marta Guhl issued an Order denying the Petition (Order), finding that Vicinity failed to demonstrate that the need for relief is immediate and that the injury would be irreparable if relief were not granted. Moreover, the Order certified the following material question to the Commission:

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Whether the presiding Administrative Law Judge correctly denied the expedited petition for interim emergency relief requesting that Philadelphia Gas Works be directed to continue to provide service to Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. under the terms of the 1996 contracts after their expiration on December 31, 2022.

Suggested answer: yes.

Also on December 13, 2022, Vicinity filed a Brief on Interlocutory Review From Denial of an Interim Emergency Order (Brief) requesting that the Commission expedite its review of this matter at its December 22, 2022 Public Meeting, or alternatively, via notational voting no later than December 31, 2022. On December 14, 2022, a Secretarial Letter indicating an expedited briefing schedule was issued, directing the parties to file briefs in response to Vicinity's briefs no later than December 19, 2022.

The OCA supports the ALJ's December 13, 2022 Order denying Vicinity's Petition. As previously noted in the OCA's December 8, 2022 Letter, the OCA supports PGW's Supplement No. 156 as filed on November 1, 2022 and opposes Vicinity's Emergency Petition. PGW's Supplement No. 156 provides a reasonable path forward while the Commission reaches a final determination in Docket No. C-2021-3029259. As noted in the Order, PGW provided a Verified Statement indicating that PGW will continue to serve Vicinity under the same terms and conditions that Vicinity currently receives and will not interrupt service. Additionally, PGW and Vicinity have agreed that any change to the rate would be applied retroactively to January 1, 2023. Given this viable alternative presented by PGW, the ALJ properly denied Vicinity's Emergency Petition and the Order's certified material question should be answered in the affirmative.

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

Respectfully submitted,

/s/ Harrison W. Breitman

Harrison W. Breitman

Assistant Consumer Advocate

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Enclosures:

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

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CERTIFICATE OF SERVICE

Grays Ferry Cogeneration Partnership :
and Vicinity Energy Philadelphia, Inc. : Docket No. C-2021-3029259
v. :
Philadelphia Gas Works :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Letter Re: Opposition to the Petition for Interlocutory Review and Answer to Material Question, 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 19th day of December 2022.

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