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January 19, 2023

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Vicinity Energy Philadelphia, Inc. and Grays Ferry Cogeneration Partners v. Philadelphia Gas Works – Docket Nos. R-2022-3036472; C-2022-3036774 and C-2022-3036783

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Joint Petition for Settlement with regard to the above-referenced matter. Also attached to this filing is Philadelphia Gas Works' ("PGW") Statement in Support and the Bureau of Investigation and Enforcement's ("I&E") Statement in Support. Please note that Vicinity Energy Philadelphia, Inc. and Grays Verry Cogeneration Partners will file their Statement in Support tomorrow. While the Office of Consumer Advocate ("OCA"), and the Office of Small Business Advocate ("OSBA"), have authorized the settling parties to state that they do not oppose this Settlement. The Philadelphia Industrial and Commercial Gas Users Group ("PICGUG") is not taking any position on the Settlement.

Copies to be served in accordance with the attached Certificate of Service.

Sincerely

Norman J. Kennard
Norman J. Kennard, Esq.

NJK/lww

Enclosure

cc: Hon. Marta Guhl w/enc.
Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Joint Petition for Settlement and Statements in Support of PGW and I&E, upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

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Dated: January 19, 2023

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Norman J. Kennard, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:		
	:	Docket No.	R-2022-3036472
v.	:		C-2022-3036774
	:		C-2022-3036783
Philadelphia Gas Works	:		

JOINT PETITION FOR SETTLEMENT

TO THE HONORABLE MARTA GUHL, ADMINISTRATIVE LAW JUDGE:

Philadelphia Gas Works (“PGW” or the “Company”), Grays Ferry Cogeneration Partnership (“GFCP”) and Vicinity Energy Philadelphia Inc. (“VEPI”) (together GFCP and VEPI are referred to as “GFCP/VEPI” or “Vicinity”), and the Bureau of Investigation and Enforcement (“I&E”) (collectively, the “Joint Petitioners” or “Parties”), by their respective counsel, submit this Joint Petition For Settlement (“Settlement”) of all of the issues, between and among all of the Parties, in the above-captioned proceeding and request that Administrative Law Judge Marta Guhl (“ALJ”) and the Pennsylvania Public Utility Commission (“Commission” or “PUC”) approve the Settlement without modification.

The Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), and the Philadelphia Industrial and Commercial Gas Users Group (“PICGUG”), intervenors in these cases, take no position on the Settlement. No party opposes the Settlement.

In support of this Settlement, the Joint Petitioners state as follows:

I. BACKGROUND

1. In January 1996, the Philadelphia Authority for Industrial Development (“PAID”) entered into a total of four agreements: (a) two service contracts: one with GFCP (the Partnership Service Contract) and one with VEPI (then known as Trigen) (Trigen Service Contract) (collectively, “Service Contracts”); and (b) two service agreements with the City of Philadelphia: one regarding the Partnership Service Contract (Partnership Service Agreement) and one regarding the Trigen Service Contract (Trigen Service Agreement) (collectively, “Service Agreements”). Together the Service Contracts and the Services Agreements are referred to as the “1996 Contracts.”

2. The duration (term) of the 1996 Contracts was twenty-five years. The rates, terms, and conditions in the 1996 Contracts expired on December 31, 2022.

3. In 2003, PGW came under the jurisdiction of the Commission. The rates terms and conditions that had been previously agreed to in the 1996 Contracts continued to be available under Rate GTS-F in PGW’s Commission-authorized Tariff. PGW’s Rate GTS-F “is only available to those customers who utilized this service on or before September 1, 2003 pursuant to a currently valid agreement with the Company.” PGW Gas Tariff – Pa. P.U.C. No. 2 at 118.

4. On October 22, 2021, GFCP/VEPI filed a Formal Complaint against PGW at Docket C-2021-3029259 (“Complaint Proceeding”). In the Complaint Proceeding, GFCP/VEPI allege, *inter alia*, that PGW is demanding unjust and unreasonable rates from them for service to be provided on and after January 1, 2023. PGW denied the allegations by GFCP/VEPI in the Complaint Proceeding. On December 27, 2022, ALJ Guhl issued her Initial Decision in the Complaint Proceeding. The matter is currently pending before the Commission.

5. On December 5, 2022, GFCP/VEPI filed a Petition for Interim Emergency Relief requesting the Commission to extend the duration (term) of the 1996 Contracts until such time as

the Commission is able to resolve the Complaint Proceeding.

6. On December 28, 2022, the Commission denied GFCP/VEPI's Petition for Interim Emergency Relief, which had the effect of allowing the 1996 Contracts to expire on December 31, 2022.

7. On November 1, 2022, PGW filed Supplement No. 156 to Gas Service Tariff Pa. P.U.C. No. 2 ("Supplement No. 156") with the Commission to become effective on January 1, 2023. Supplement No. 156 proposed to modify the date by which PGW's Rate GTS-F will terminate by temporarily extending the termination date until a decision is issued by the Commission in the Complaint Proceeding, or until April 30, 2023, whichever first occurs.

8. On November 11, 2022, formal complaints to Supplement No. 156 were filed by GFCP and VEPI at Docket Numbers C-2022-3036783 and C-2022-3036774, respectively, opposing PGW's Supplement No. 156.¹ The Complaints requested that the 1996 Contracts be extended.

9. By Order dated December 27, 2022, the Commission temporarily approved Supplement No. 156, and required that said tariff be scheduled for hearing before ALJ Guhl on an expedited basis. Specifically, Supplement No. 156 was permitted to go into effect as filed and remain in effect until April 23, 2023, or until a Final Order is entered by the Commission in the Complaint Proceeding, subject to refund/rebilling, as appropriate.

10. GFCP/VEPI filed a Petition to Withdraw their Complaints regarding PGW's tariff supplement on January 9, 2023.

11. Pursuant to the Prehearing Conference Order, the Parties filed Prehearing

¹ The OCA filed a Notice of Intervention on December 29, 2022. I&E filed its Notice of Appearance on January 9, 2023. OSBA filed a Notice of Intervention on January 11, 2023. PICGUG filed a Petition To Intervene on January 12, 2023.

Memorandum on January 12, 2023, and a telephonic Prehearing Conference was held on January 13, 2023. Counsel for PGW, GFCP/VEPI, I&E, OCA, OSBA, PICGUG participated. PICGUG Petition to Intervene was granted, and a procedural schedule was established.

12. The Parties have engaged in discussions to achieve a settlement of the issues in this case. As a result of those negotiations, the Joint Petitioners were able to reach the Settlement set forth herein, which resolves all of the issues among all of the Parties regarding Supplement No. 156.

II. TERMS AND CONDITIONS OF SETTLEMENT

13. The Joint Petitioners hereby respectfully request that PGW's Supplement No. 156 be approved as filed and the proceeding at R-2022-3036472 be marked closed.²

14. The Joint Petitioners also respectfully request that the Petition to Withdraw the above-captioned Complaints filed by GFCP/VEPI and docketed at C-2022-3036774 and C-2022-3036783 be granted and the proceedings marked closed.

III. THE SETTLEMENT IS IN THE PUBLIC INTEREST

15. The Joint Petitioners will prepare and file Statements in Support of this Settlement by Friday, January 20, 2023. Once prepared and filed, these Statements in Support will be incorporated into to this Settlement and will set forth the bases on which the Joint Petitioners believe the Settlement is in the public interest.

16. The Joint Petitioners submit that the Settlement is in the public interest for the following additional reasons:

² GFCP/VEPI note that they do not oppose this result.

- (a) **Substantial Litigation And Associated Costs Will Be Avoided.** The Settlement amicably and expeditiously resolves a number of important and potentially contentious issues. The administrative burden and costs to litigate these matters to conclusion would be significant.
- (b) **The Settlement Is Consistent With Commission Policies Promoting Negotiated Settlements.** The Joint Petitioners arrived at the Settlement terms engaging in in-depth discussions. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (see 52 Pa. Code §§ 5.231, 69.391, 69.401), and is supported by a substantial record.
- (c) **The Settlement Is A Reasonable Resolution.** The Settlement represents a reasonable resolution of the need for authorization to continue the provision current rates and services by PGW to GFCEP/VEPI until April 23, 2023, or until a Final Order is entered by the Commission in the Complaint Proceeding.

IV. ADDITIONAL TERMS AND CONDITIONS

17. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by any party in this or any other proceeding, if it were fully litigated.

18. This Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable. The Settlement is the

product of compromise. This Settlement is presented without prejudice to any position which any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.

19. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission should disapprove the Settlement or modify any terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all parties within five (5) business days following entry of the Commission's Order by any of the Joint Petitioners and, in such event, shall be of no force and effect. In the event that the Commission disapproves the Settlement or the Company or any other Joint Petitioner elects to withdraw from the Settlement as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case, including, but not limited to, presentation of witnesses, cross-examination and legal argument through submission of Briefs, Exceptions and Replies to Exceptions.

20. If the ALJ, in her Recommended Decision, recommends that the Commission adopt the Settlement as herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions with respect to any issues addressed by the Settlement. However, the Joint Petitioners do not waive their rights to file Exceptions with respect to any modifications to the terms and conditions of this Settlement, or any additional matters proposed by the ALJ in his Recommended Decision. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed.

21. This Settlement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original; and such counterparts shall constitute but one and the

same instrument.

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request as follows:

1. That Administrative Law Judge Guhl and the Commission approve the Settlement as set forth herein, including all terms and conditions thereof, in its entirety and without modification.
2. That – consistent with the Commission’s Order of December 27, 2022 - the rates, rules, and regulations contained in Supplement No. 56 continue in effect until April 23, 2023, or until a Final Order is entered by the Commission in the Complaint Proceeding, subject to rebilling, as appropriate.
3. That the Petition to Withdraw the complaints at Docket Numbers C-2022-3036783 and C-2022-3036774 be granted;
4. That the Commission proceeding at Docket Nos. R-2022-3036472, C-2022-3036774 and C-2022-3036783 be marked closed following a Commission decision; and
5. That the Commission enter an Order, following a Commission decision evidencing its approval of the Settlement, its approval of the withdrawal of the complaints at Docket Numbers C-2022-3036783 and C-2022-3036774, and the terminating the proceeding.

Respectfully submitted,

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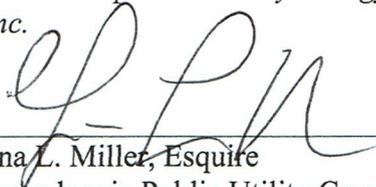
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Dated: January 19, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:		
	:	Docket No.	R-2022-3036472
v.	:		C-2022-3036774
	:		C-2022-3036783
Philadelphia Gas Works	:		

**PHILADELPHIA GAS WORKS’
STATEMENT IN SUPPORT
OF THE
JOINT PETITION FOR SETTLEMENT**

Philadelphia Gas Works (“PGW” or the “Company”) hereby submits this Statement in Support of the Joint Petition for Settlement (“Settlement” or “Joint Petition”) filed in the above-captioned proceeding.

PGW’s key goal in filing Supplement No. 156 has to temporarily preserve the status quo. As recited in the Joint Petition, the underlying agreement for rates and service to Grays Ferry Cogeneration Partnership (“GFCP”) and Vicinity Energy Philadelphia Inc. (“VEPI”) (jointly referred to as “GFCP/VEPI” or “Vicinity”) expired on December 31, 2022, as did the tariff provision under which they receive service -- Rate GTS-F. GFCP/VEPI filed a Formal Complaint against PGW at Docket C-2021-3029259 (“Complaint Proceeding”) seeking, *inter alia*, to establish rates for service to be provided on and after January 1, 2023.

Anticipating that a Final Order in the Complaint proceeding would not be entered before January 1, 2023, PGW filed Supplement No. 156 which would grant tariff authority for PGW to continue to provide service to GFCP/VEPI under current rates, terms and conditions until the end of winter season (April 30, 2023) or until a Final Order is entered by the Commission in the

Complaint Proceeding. This continuation of service is subject to rebilling as of January 1, 2023 at the new rates determined by the Commission.

While GFCP/VEPI initially opposed Supplement 156 and filed a complaint against it, they have since withdrawn that complaint. Accordingly, there is no reason for a continued investigation and the Supplement should be approved on a permanent basis. The Settlement memorializes that result and is in the public interest.

I. BACKGROUND

As more fully set forth in the Joint Petition, prior to December 31, 2022, the rates, terms and conditions for service to GFCP/VEPI were set forth in the “1996 Contracts.” The duration (term) of the 1996 Contracts was twenty-five years. The rates terms and conditions that had been previously agreed to in the 1996 Contracts continued to be available under Rate GTS-F in PGW’s Commission-authorized Tariff. PGW’s Rate GTS-F “is only available to those customers who utilized this service on or before September 1, 2003 pursuant to a currently valid agreement with the Company.” PGW Gas Tariff – Pa. P.U.C. No. 2 at 118.

On November 1, 2022, PGW filed Supplement No. 156 with the Commission to become effective on January 1, 2023. Supplement No. 156 proposed to modify the date by which PGW’s Rate GTS-F would terminate by temporarily extending the termination date until a decision is issued by the Commission in the Complaint Proceeding, or until April 30, 2023, whichever first occurs.

On November 11, 2022, formal complaints to Supplement No. 156 were filed by GFCP and VEPI at Docket Numbers C-2022-3036783 and C-2022-3036774, respectively, opposing PGW’s Supplement No. 156. The GFCP/VEPI complaints requested that the 1996 Contracts be extended. Extension of the duration (term) of the 1996 Contracts until such time as the

Commission was able to resolve the Complaint Proceeding was also sought by GFCEP/VEPI in a Petition for Interim Emergency Relief (in the Complaint Proceeding). The Commission denied the Petition for Interim Emergency Relief, which had the effect of allowing the 1996 Contracts to expire by their terms on December 31, 2022.

By Order dated December 27, 2022, the Commission temporarily approved Supplement No. 156, and required that said tariff be scheduled for investigation and hearing before ALJ Guhl on an expedited basis. Specifically, Supplement No. 156 was permitted to go into effect as filed and remain in effect until April 23, 2023, or until a Final Order is entered by the Commission in the Complaint Proceeding, subject to refund, as appropriate.

GFCEP/VEPI filed a Petition to Withdraw their Complaints regarding PGW's tariff supplement on January 9, 2023.

The Parties have engaged in discussions to achieve a settlement of the issues in this case. As a result of those negotiations, the Joint Petitioners were able to reach the Settlement, which resolves all of the issues among all of the Parties regarding Supplement No. 156.

PGW, GFCEP/VEPI and I&E actively support the Settlement as Joint Petitioners and will be filing Statements in Support. No party opposes the Settlement.¹ The Settlement resolves all issues as to all parties.

II. THE SETTLEMENT IS IN THE PUBLIC INTEREST AND SHOULD BE APPROVED EXPEDITIOUSLY AND WITHOUT MODIFICATION

A. Standard of Review of Settlements

¹ The Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), and the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG"), intervenors in these cases, take no position on the Settlement.

The Commission encourages parties in contested on-the-record proceedings to settle cases.² Settlements eliminate the time, effort and expense the parties must expend litigating a case and at the same time conserves administrative resources. Such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily entails. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding.³

The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a “burden of proof” standard, as is utilized for contested matters.⁴ Instead, the benchmark for determining the acceptability of a settlement or partial settlement is whether the proposed terms and conditions are in the public interest.⁵

By definition, a “settlement” reflects a compromise of the positions that the parties of interest have held, which arguably fosters and promotes the public interest. When active parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest.⁶ In their supporting statements, the Joint Petitioners conclude, after extensive discovery and discussion, that this Settlement resolves all

² See 52 Pa. Code § 5.231.

³ 52 Pa. Code § 69.401.

⁴ See, e.g., *PUC v. Borough of Schuylkill Haven Water Department*, Docket No. R-2015-2470184, et al., Opinion and Order entered Oct. 22, 2015 adopting the Recommended Decision dated Sept. 1, 2015 at 9-10, 2015 Pa. PUC LEXIS 422; *PUC v. City of Lancaster – Bureau of Water*, Docket Nos. R-2010-2179103, et al., Opinion and Order entered July 14, 2011, at 11; *Warner v. GTE North, Inc.*, Docket No. C-00902815, Opinion and Order entered April 1, 1996, 1996 Pa. PUC LEXIS 78.

⁵ *Id.*; see also *PUC v. Allied Utility Services, Inc.*, Docket No. R-2015-2479955, et al., Opinion and Order entered April 7, 2016 adopting the Recommended Decision dated Feb. 26, 2016 at 8, 2016 Pa. PUC LEXIS 73.

⁶ See, e.g., *PUC v. York Water Co.*, Docket No. R-00049165, Opinion and Order entered Oct. 4, 2004 adopting the Recommended Decision dated Aug. 30, 2004.

issues in this case, fairly balances the interests of the Company and its ratepayers, is in the public interest, and is consistent with the requirements of the Public Utility Code.

B. Settlement Terms

The terms of the settlement are as follows:

1. The Joint Petitioners hereby respectfully request that PGW’s Supplement No. 56 be approved as filed and the proceeding at R-2022-3036472 be marked closed.⁷

2. The Joint Petitioners also respectfully request that the Petition to Withdraw the above-captioned Complaints filed by GFCEP/VEPI and docketed at C-2022-3036774 and C-2022-3036783 be granted and the proceedings marked closed.

C. Approval of Supplement No. 156 and Discontinuance of the Investigation Is In the Public Interest

Extension of Rate GTS-F under tariff Supplement No. 156 until a decision is issued by the Commission in the Complaint Proceeding, or until April 30, 2023, whichever first occurs, is in the public interest and no further ligation is necessary. Supplement No. 156 maintains the status quo pending Commission disposition of the First Complaint and is a commonsensical way to bridge the gap between tariff termination and the design of a new rate by the Commission. It is simply a holding action and raises no issues regarding “just and reasonable rates” under the Public Utility Code.

Moreover, in view of Your Honor’s and the Commission’s action denying the companion Petition For Interim Emergency Relief, the issues raised in the GFCEP/VEPI complaints have been overcome by these subsequent events and are now moot.

The Settlement is in the public interest because:

⁷ GFCEP/VEPI note that they do not oppose this result.

- GFCP and VEPI require PGW’s natural gas delivery service to generate electricity and provide district steam service. Winter season service is particularly critical. Without an extension, Rate GTS-F would have expired under its own terms.
- Utilities may only provide service via an approved tariff⁸ and, with Rate GTS-F expired, PGW would have had no express authority to continue service. The extension of Rate GTS-F provides that legal authority.
- Maintenance of the status quo pending Commission disposition of the First Complaint by the filing of Supplement No. 156 is a reasonable and commonsensical way to bridge the gap between tariff termination and the design of a new rate by the Commission. It is simply a neutral holding action.
- The tariff supplement does not prejudice any position taken by GFCP/VEPI or any other party below. Supplement No. 156 is an effective, self-contained means to accomplish this simple objective without addressing any of the merits of the underlying dispute and preserving them for Commission resolution.
- The issues raised by GFCP/VEPI in opposition to Supplement No. 156, namely whether the 1996 Contracts should be extended beyond December 31, 2022, have been addressed by the Commission and resolved in the negative.⁹ The 1996

⁸ 66 Pa.C.S. § 1301 *et seq.*

⁹ Your Honor and, subsequently, the Commission denied GFCP/VEPI emergency request to use authority under Section 508 of the Code to extend the term of the 1996 Contracts in the Complaint Proceeding at C-2021-3029259. Order Denying Petition For Issuance Of An Interim Emergency Order dated December 12, 2022 and Opinion And Order Entered December 28, 2022 (“Yes. The presiding Administrative Law Judge correctly denied the expedited petition for 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.”).

Contracts are now expired of their own terms and are no longer effective. Thus, the relief requested by GFCP/VEPI in their complaints here is no longer available.

- The expiration of the 1996 Contracts is without prejudice to GFCP/VEPI’s ability to argue that the going forward rates, terms and conditions of service should be maintained in their present configuration. “[A]ll of the rates, terms and conditions of service that GFCP/VEPI currently enjoy are teed up for resolution at the complaint docket.”¹⁰

III. CONCLUSION

For the reasons set forth above and in the Joint Petition, PGW submits that the Settlement is in the public interest and should be approved without modification.

Therefore, PGW respectfully requests that the ALJ Guhl and the Commission: (a) expeditiously review and approve the Settlement without modification; and (b) take any other action deemed to be in the public interest.

Respectfully submitted,

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Dated: January 19, 2023

Counsel for Philadelphia Gas Works

¹⁰ C-2021-3029259, PGW Answer to Emergency Petition, Verified Statement of John C. Zuk at 6–7.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission

v.

Philadelphia Gas Works

Docket Nos.

R-2022-3036472

C-2022-3036774

C-2022-3036783

**BUREAU OF INVESTIGATION AND ENFORCEMENT
STATEMENT IN SUPPORT OF
JOINT PETITION FOR FULL SETTLEMENT**

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Dated: January 19, 2023

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission

v.

Philadelphia Gas Works

Docket Nos.

R-2022-3036472

C-2022-3036774

C-2022-3036783

**BUREAU OF INVESTIGATION AND ENFORCEMENT
STATEMENT IN SUPPORT OF
JOINT PETITION FOR SETTLEMENT**

TO ADMINISTRATIVE LAW JUDGE MARTA GUHL:

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by its Prosecutor Gina L. Miller, respectfully submits that the terms and conditions of the foregoing *Joint Petition for Settlement* (“Joint Petition” or “Settlement”) are in the public interest and should be approved by the Administrative Law Judge (“the ALJ”) and the Public Utility Commission (“Commission”) without modification for the reasons set forth below.

I. INTRODUCTION AND PROCEDURAL BACKGROUND

Introduction

I&E is responsible for representing the public interest in Commission proceedings and enforcing compliance with the Pennsylvania Public Utility Code (“Code”).¹ Representing the public interest requires balancing the interests of ratepayers, the regulated utility, and the regulated community as a whole.² The Joint Petition identifies the issues resolved and this Statement in Support of the Joint Petition provides I&E’s rationale for supporting such resolution. For the reasons more thoroughly explained below, I&E supports the Joint Petition for Settlement filed in this case on January 19, 2023, which requests approval of Philadelphia Gas Works’ Supplement No. 156, and which withdraws the Complaints filed by Grays Ferry Cogeneration Partnership (“GFCP”) at docket number C-2022-3036783 and Vicinity Energy Philadelphia Inc. (“VEPI”) at docket number C-2022-3036774.³

Procedural Background

The history of this proceeding is set forth in the *Background* section of the Joint Petition, which I&E herein adopts and incorporates. By way of supplementary information, during the Prehearing Conference held before Administrative Law Judge Marta Guhl (“ALJ Guhl”) on January 9, 2023, I&E’s counsel informed the ALJ that I&E had no objection to Vicinity’s pending Petition to Withdraw its complaints, and that I&E

¹ See Docket No. M-2008-2071852, Final Procedural Order entered on August 11, 2011, p. 10; 66 Pa. C.S. § 308.2(a).

² *Pa. P.U.C. v. Bell Atlantic-Pennsylvania, Inc.*, Docket Nos. R-00953409, *et al.*, 1995 Pa. PUC LEXIS 193 (Order entered September 29, 1995).

³ I&E will collectively refer to GFCP and VEPI as “Vicinity.”

had not identified any independent issues for litigation at this docket. Similarly, the other parties at the hearing, including PGW, Vicinity, the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), and the Philadelphia Industrial and Commercial Gas Users Group (“PICGUG”), did not object to Vicinity’s Petition to Withdraw and did not raise any independent issues for litigation at this docket.

Promptly after the Prehearing Conference, and in accordance with the Commission policy favoring settlements,⁴ I&E engaged in settlement discussions with interested parties. The Joint Petitioners, including PGW, Vicinity, and I&E successfully reached a global resolution of this matter shortly after the Prehearing Conference.⁵

II. TERMS AND CONDITIONS OF SETTLEMENT (Joint Petition ¶¶13-14)

Pursuant to the Settlement, the Joint Petitioners request that PGW’s Supplement No. 156 be approved as filed and that the proceeding at R-2022-3036472 be marked closed. As the Settlement indicates, on January 9, 2023, Vicinity voluntarily petitioned to withdraw the complaints it filed at this docket on November 11, 2022. To be sure, on December 27, 2022, the Commission permitted Supplement No. 156 to go into effect as filed and to remain in effect until April 23, 2023, or until a Final Order is entered by the Commission in the Complaint Proceeding, subject to refund, as appropriate. For purposes of clarity, the Complaint Proceeding referenced by the Commission is pending at Docket No. C-2021-3029259, and it is awaiting the Commission’s determination. The

⁴ 52 Pa. Code § 5.231.

⁵ I&E notes that the other parties (OCA, OSBA, and PICGUG) have indicated that they do not oppose the Settlement.

Commission has previously recognized that the instant docket and the Complaint Proceeding represent unique dockets with similar issues.⁶

Accordingly, I&E submits that it is in the public interest to avoid requiring parties and the Commission to incur unnecessary litigation costs and the waste of resources that would result here where Vicinity has petitioned to withdraw its complaints and no party has identified any independent issues for investigation at this docket. I&E acknowledges that PGW is a cashflow company and that there are no shareholder funds available to pay litigation costs; accordingly, the money PGW may be required to spend here will be recouped from ratepayers. Requiring PGW's ratepayers to fund unnecessary litigation is antithetical to the public interest; however, approval of the Settlement would prevent that outcome from materializing. To be sure, the Joint Petitioners have reached a settlement which resolves all issues among all of the Parties.⁷ Therefore, I&E avers that it is also in the public interest to grant Vicinity's Petition to Withdraw because Vicinity has moved for the withdraw,⁸ and no party has contested that relief. As continuing litigation without an identified need is not in the public interest, I&E submits that granting Vicinity's Petition to Withdraw is also an outcome that protects the public interest.

⁶ *Pa. P.U.C. v. Philadelphia Gas Works*, R-2022-3036472 et al, Order, p. 2 (Entered on December 27, 2022).

⁷ Joint Petition, ¶12.

⁸ Vicinity's Prehearing Conference Memo, R-2022-3036472, p. 3, ¶10 (filed on January 9, 2023).

III. CONCLUSION

WHEREFORE, the Commission's Bureau of Investigation and Enforcement represents that it supports the *Joint Petition for Settlement* as being in the public interest. Accordingly, I&E respectfully requests that Administrative Law Judge Marta Guhl, and the Commission, approve the terms and conditions contained in the foregoing *Joint Petition for Settlement* without modification.

Respectfully submitted,



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