

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION	:	Docket No. R-2023-3037933
	:	
V.	:	
	:	
PHILADELPHIA GAS WORKS	:	

**PETITION OF PHILADELPHIA GAS WORKS
FOR WAIVER OF STATUTORY DEFINITION OF
FULLY PROJECTED FUTURE TEST YEAR**

Pursuant to Section 2212(c) of the Public Utility Code, 66 Pa.C.S. § 2212(c), and 52 Pa. Code § 5.41, Philadelphia Gas Works (“PGW” or “Company”) respectfully submits this Petition requesting the Public Utility Commission (“PUC” or “the Commission”) to waive the application of the statutory definition of the fully projected future test year (“FPFTY”) so as to permit PGW to use a FPFTY beginning on September 1, 2023, in this proceeding.

Simultaneously with the filing of this Petition, PGW has filed a general base case pursuant to 66 Pa. Code § 1308(d). Consistent with its mandatory budget process, the base rate case is using a historic test year (“HTY”) ending August 31, 2022, a future test year (“FTY”) comprised of the period from September 1, 2022 through August 31, 2023, and a FPFTY comprised of the period from September 1, 2023 through August 31, 2024. However, the statutory definition of FPFTY¹ would require that the FPFTY commence on November 1, 2023² and continue for 12 months.

¹ See Paragraph 4 of this Petition.

² The rate case was filed on February 27, 2023. The application of the full suspension period (60 days plus 7 months) will end on November 28, 2023. Since rates could be placed into effect before the end of November 2023, the first month that rates could be placed in effect is November 2023. See 66 Pa.C.S. § 315(e).

Use of the FPFTY commencing on September 1, 2023 (as opposed to November 1, 2023) is reasonable because it: (a) comports with PGW's fiscal year and budgetary requirements; (b) would result in ease of administration as it would eliminate the potential confusion of having projections and data that span more than one forecasted fiscal year of the Company; and (c) would keep the Company's administrative costs of compliance at a minimum.

I. Background

1. PGW is a city natural gas distribution operation as defined in the Public Utility Code, 66 Pa.C.S. § 102. PGW manages a distribution system of approximately 3,046 miles of gas mains and some 476,600 service lines supplying approximately 518,000 customers in the City and County of Philadelphia.

2. The names, addresses and telephone number of PGW's counsel are:

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3. On February 14, 2012, Act 11 was signed into law. That Act allows utilities to utilize a FPFTY as its baseline for setting new base rates.³ The provisions of Act 11 were codified in Chapter 13 of the Public Utility Code.⁴

4. Certain statutory definitions are included in Act 11. Specifically, it defines the FPFTY as “the 12-month period beginning with the first month that the new rates will be placed in effect after application of the full suspension period permitted under section 1308(d) (relating to voluntary changes in rates).”⁵ The Commission has stated that, under this approach, the new rates will be consistent with the test year used to establish those rates for at least the first year.⁶

5. Simultaneously with this Petition, PGW is filing a general rate case pursuant to 66 Pa.C.S. § 1308(d). The statutory suspension period for this filing will end on November 28, 2023.

6. PGW’s filing is based on a FPFTY that begins on September 1, 2023. This date is consistent with PGW’s fiscal year used for all financial filings both at the PUC and before municipal regulatory agencies.

7. Under Section 2212 of the Public Utility Code, the Commission “upon request of [PGW], may suspend or waive the application to [PGW] of any provision of [the Public Utility

³ 66 Pa.C.S. § 315(e).

⁴ 66 Pa.C.S. §§ 1350 - 1360. On August 2, 2012, the Commission issued its Final Implementation Order establishing procedures and guidelines to carry out the ratemaking provisions of Act 11. *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611, Final Implementation Order entered August 2, 2012 (“Final Implementation Order”). The Final Implementation Order is a policy statement setting forth how the Commission intends to interpret Act 11 in future adjudications and rulemakings. See *Petition of PPL Electric Utilities Corporation For Approval of a Distribution System Improvement Charge*, PUC Docket No. P-2012-2325034, Recommended Decision dated July 25, 2014 at 18-19, modified (on other grounds) in part by Opinion and Order entered April 9, 2015. With respect to the FPFTY, the Final Implementation Order provides that the Commission will initiate a separate rulemaking proceeding to promulgate regulations regarding the use of a FPFTY.

⁵ 66 Pa.C.S. § 315(e).

⁶ Final Implementation Order at p. 5.

Code], including any provision of [Chapter 22 (relating to Natural Gas Competition)] other than [Section 2212].”⁷

II. The Requested Waiver

8. For the reasons set forth herein, pursuant to Section 2212(c) of the Public Utility, PGW requests a waiver of the application of the statutory definition of FPFTY so as to permit PGW to use a FPFTY beginning on September 1, 2023, in this proceeding. Strict application of the requirements of Section 315(e) would require that the FPFTY begin in November 2023 rather than September 2023, as PGW is proposing.

9. PGW operates on a fiscal year (“FY”) basis with years running from September through August. For each fiscal year, the Philadelphia Gas Commission (“PGC”) and the City Council of Philadelphia review, recommend and/or approve budgets for PGW. For all budget approvals, PGW is required to use its fiscal year, which begins on September 1 and ends on August 31 of each year.

10. Use of the FPFTY comprised of the period from September 1, 2023, through August 31, 2024, is reasonable because: (a) it is consistent with PGW’s fiscal year and the data required for budgetary and other purposes for municipal regulatory purposes; (b) would result in ease of administration and facilitate review and comparison of the test year information with the data submitted in other forums; and (c) would avoid the potential confusion of having projections and data that span more than one forecasted fiscal year of the Company.

11. Recalculation of the FPFTY to commence on November 1, 2023 (as opposed to September 1, 2023) would increase PGW’s administrative costs by requiring the Company to draw data from more than one forecasted FY of the Company. The expense of reconfiguring data

⁷ 66 Pa.C.S. § 2212.

that spans more than one forecasted FY, and casting new projections, is clearly excessive and unnecessary.

12. Permitting PGW to utilize a FPFTY that begins in September 2023 rather than in November 2023 will not prejudice any party. The intent of requiring that the FPFTY begin in the month that the general rate increase suspension ends was to reduce regulatory lag. A difference of two months in the beginning of the FPFTY will not have a material impact on PGW's financial projections, or make them materially less current. Moreover, any "regulatory lag," if any, would inure to the detriment of PGW.

13. As the Commission is aware, the Public Utility Code gives it the authority to "suspend or waive the application to [PGW] of any provision of [Title 66]"⁸ As explained above, it is reasonable to waive the application of the statutory definition of FPFTY so as to permit PGW to use a FPFTY beginning on September 1, 2023, in this proceeding. The Commission has previously employed the discretion the Legislature has afforded it in regulating PGW in order to waive other sections of the Public Utility Code that plainly did not fit for PGW's operations as a city natural gas distribution operation.⁹ PGW respectfully submits that the circumstances are similar here.

14. PGW filed a Petition for Waiver seeking waiver of the application of the statutory definition of the FPFTY simultaneous with the filing of its two most recent rate cases. The

⁸ 66 Pa. C.S. § 2212(c).

⁹ See, e.g., *Petition of Philadelphia Gas Works for Waiver of Provisions of Act 11 to increase the Distribution System improvement Charge CAP and to Permit Levelization of DSIC Charges*, Docket No. P-2015-2501500, Opinion and Order entered January 28, 2016; *PUC v. PGW*, PUC Docket No. R-2008-2073938, Reconsideration Opinion and Order entered March 26, 2009 (relating to the grant of several waivers, including waiver of portions of 66 Pa.C.S. § 1308(e), to the extent necessary to give full effect to the rate relief, conditions and directives set forth in the Commission's prior order).

Commission granted PGW's Petition for Waiver filed in each rate case.¹⁰ The Commission should grant the instant Petition as it is substantially similar to the Petitions for Waiver that were granted in PGW's most recent rate cases.

III. Expedited Approval

15. PGW is proposing that the Commission grant the requested waiver in an expedited manner. This relief is integral to the rate case, which PGW anticipates will be subject to extensive informal and/or formal discovery and if a suspension and investigation order is issued must be fully decided before November 28, 2023.¹¹

16. Alternatively, if the Commission for some reason does not choose to grant this waiver, PGW respectfully requests that it be permitted the opportunity to revise its test year financial presentation to create a FPFTY that begins on November 1, 2023. The data to do this will already be in the record (since PGW submits information not only for the three test years required by PUC rules but also for a four-year forecast period). Such a revision, while requiring the expenditure of extensive time and resources, is not anticipated to make a material change to PGW's financial statistics nor materially change its revenue requirement.

17. PGW has served copies of this Petition on the following: the Pennsylvania Office of Consumer Advocate, the Pennsylvania Office of Small Business Advocate, the Commission's Bureau of Investigation and Enforcement, the Commission's Office of Special Assistants, the Commission's Bureau of Technical Utility Services, and each active party in PGW's last base

¹⁰ *PaPUC et al. v. Philadelphia Gas Works*, Docket No. R-2020-3017206, Corrected Prehearing Order issued May 15, 2020; *PaPUC et al. v. Philadelphia Gas Works*, Docket No. R-2017-2586783, Prehearing Order #1 issued March 30, 2017.

¹¹ See footnote 2, *supra*.

rate case. If the Commission concludes that additional notice is necessary, PGW will provide such additional notices as the Commission may direct.

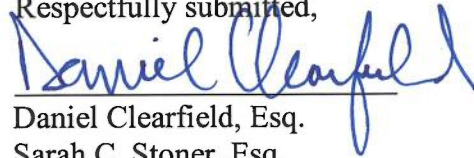
IV. Conclusion

WHEREFORE, PGW respectfully requests that the Commission (1) waive the application of the statutory definition of FPFTY so as to permit PGW to use a FPFTY beginning on September 1, 2023, in this proceeding; and (2) take any other action deemed to be in the public interest.

Of Counsel:
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Dated: February 27, 2023

Respectfully submitted,



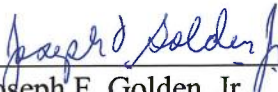
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Counsel for
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VERIFICATION

I, Joseph F. Golden, Jr., hereby state that: (1) I am Executive Vice President and Acting Chief Financial Officer for Philadelphia Gas Works; (2) the facts above set forth in the foregoing document are true and correct (or are true and correct to the best of my knowledge, information and belief); and (3) that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Dated: February 27, 2023



Joseph F. Golden, Jr.
Executive Vice President and Acting Chief
Financial Officer
Philadelphia Gas Works

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PGW's Petition for Waiver of Statutory Definition of Fully Projected Future Test Year, upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via First-Class Mail and Email

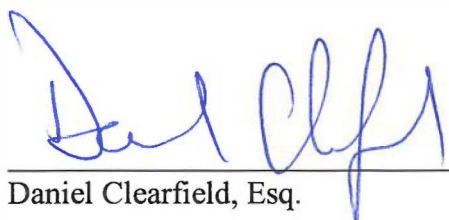
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Dated: February 27, 2023



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