

COMMONWEALTH OF PENNSYLVANIA



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March 7, 2023

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

Re: Pennsylvania Public Utility Commission  
v.  
Philadelphia Gas Works  
1307(f) Proceeding  
Docket No. R-2023-3038069

Dear Secretary Chiavetta:

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

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

Respectfully submitted,

/s/ Christopher M. Andreoli  
Christopher M. Andreoli  
Assistant Consumer Advocate  
PA Attorney I.D. # 85676  
E-Mail: CAndreoli@paoca.org

Enclosure:

cc: The Honorable Arlene Ashton (**email only**)  
Certificate of Service

\*342423

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :  
 :  
 v. : Docket No. R-2023-3038069  
 :  
 Philadelphia Gas Works 1307(f) Proceeding :

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 7<sup>th</sup> day of March 2023.

**SERVICE BY E-MAIL ONLY**

Gina L. Miller, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
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400 North Street, 2<sup>nd</sup> Floor  
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[ginmiller@pa.gov](mailto:ginmiller@pa.gov)  
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555 Walnut Street  
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Harrisburg, PA 17101-1923  
[swebb@pa.gov](mailto:swebb@pa.gov)  
*Counsel for OSBA*

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*Counsel for PGW*

Deanne M. O'Dell, Esquire  
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213 Market St., 8<sup>th</sup> Floor  
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[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)  
*Counsel for PGW*

/s/ Christopher M. Andreoli  
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Assistant Consumer Advocate  
PA Attorney I.D. # 85676  
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Dated: March 7, 2023  
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Aron J. Beatty  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 86625  
E-Mail: [ABeatty@paoca.org](mailto:ABeatty@paoca.org)

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2023-3038069
	:	
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 Arlene Ashton on March 2, 2023, the Office of Consumer Advocate (OCA) provides the following information:

**I. INTRODUCTION**

On February 1, 2023, Philadelphia Gas Works (PGW or Company) filed its prefiling information required for its 2023-2024 Gas Cost Rate (GCR) Filing. PGW submitted its annual GCR filing on March 1, 2023.

On February 13, 2023, Gina L. Miller, Esq. entered a Notice of Appearance on behalf of the Commission's Bureau of Investigation and Enforcement (I&E).

On February 14, 2023, the Philadelphia Industrial and Commercial Users Group (PICGUG) filed a Petition to Intervene in this proceeding.

On February 14, 2023, the OSBA filed a Complaint, Public Statement, and Verification with the Commission. The Complaint was docketed at C-2022-3038286. Additionally, on February 14, 2023, Sharon E. Webb, Esq. entered a Notice of Appearance on behalf of the Office of Small Business Advocate (OSBA).

On February 21, 2023, the OCA filed a Formal Complaint, Public Statement and Verification with the Commission. The Complaint was docketed at C-2023-3038375. Additionally, on February 21, 2023, Christopher M. Andreoli, Esq. and Aron J. Beatty, Esq. entered a Notice of Appearance on behalf of the Office of Consumer Advocate (OCA).

On February 21, 2023, Deanne M. O'Dell, Esq. entered a Notice of Appearance on behalf of PGW.

On March 2, 2023, Administrative Law Judge Arlene Ashton issued a Prehearing Conference Order.

On March 3, 2023, the Joint Complaint of Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. (Vicinity) was filed. Vicinity operates a cogeneration steam plant which burns natural gas to produce electricity and captures waste steam which VEPI, a steam heat utility, provides to customers in Philadelphia. According to the Complaint, Vicinity is the largest customer of PGW for natural gas transportation service.

The Public Utility Code provides that no rates of a natural gas distribution utility shall be deemed just and reasonable unless the Commission finds that the utility is pursuing a least cost fuel procurement policy, consistent with the utility's obligation to provide safe, adequate, and reliable service to customers. 66 Pa. C.S. § 1318. The Commission must find, among other things, that the utility has (1) fully and vigorously represented ratepayer interests before the Federal Energy Regulatory Commission, (2) taken all prudent steps to negotiate favorable gas supply

contracts and to relieve its obligations under contracts that may be adverse to ratepayer interests, (3) taken all reasonable steps to obtain lower cost gas supplies, and (4) not withheld or caused to be withheld gas supplies that should have been utilized as part of a least cost fuel procurement policy.

## **II. ISSUES**

Based upon a preliminary analysis of PGW's February 1, 2023, pre-filing and its March 1, 2023, PGC filing, the OCA has compiled a list of issues that it anticipates will be included in its investigation of the Company's proposed rate changes. It is anticipated that the OCA will identify other issues upon further review of PGW's filing, and that other issues may arise and may be pursued after the answers to all of the OCA's interrogatories have been received and analyzed.

As soon as the OCA has completed its review of the Company's filing, including issuing discovery and review of the Company's responses. After the discovery process has been completed, the OCA will file its Direct Testimony, which will set forth the specific issues to be addressed in this proceeding. At that time, the OCA will also be able to make and to quantify its specific recommendations.

The following list sets forth a more specific identification of the issues that OCA anticipates it will investigate and may raise, in addition those discussed above:

1. Reasonableness and prudence of historic purchased gas costs, and assessment of compliance with Commission Orders in prior 1307(f) cases;
2. Reasonableness and accuracy of estimating gas costs during the interim and prospective periods;

3. Reasonableness and prudence of the Company's gas supply mix, including purchases of local gas suppliers, the use of LNG, and price volatility risk management programs and policies;
4. Reasonableness and prudence of the Company's mix of demand entitlements, storage and local production, to include an assessment of the reasonableness of the Company's estimate of design day requirements;
5. Reasonableness and prudence of contracts with pipelines and suppliers, and in particular, long-term contracts that provide for special reservation charges, minimum take commitments, or other fixed contract requirements, especially in light of any other subsidies or unreasonable discrimination between customer classes;
6. Reasonableness and prudence of the Company's use of capacity release, off-system sales and interruptible sales, and the crediting of such revenues to PGC ratepayers and PGW;
7. Assessment of the value of the purchased gas cost incentive mechanisms as components of a least cost fuel procurement policy. These may include incentive mechanisms for off-systems sales and capacity release;
8. Reasonableness of sales volumes projections;
9. Technical issues pertaining to the gas cost recovery mechanism, including computation of quarterly adjustments to purchased gas costs, treatment of supplier refunds, provision of carrying costs associated with gas in storage, interest on gas overcollections, and proper computation of the E-factor and migration riders; and
10. Reasonableness of hedging transactions and strategies entered into under the terms of previous PGC settlements.

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 and cost allocation principles. The OCA will recommend any appropriate changes to ensure that customers pay only reasonable purchased gas costs and to address customers' reliability needs.

### **III. WITNESSES**

The OCA intends to present the direct, rebuttal and surrebuttal testimony, as may be necessary, of Jerome D. Mierzwa in this proceeding. Mr. Mierzwa 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 mailed directly to its expert witness at the following address, as well as mailing a copy to counsel for the OCA:

Jerome D. Mierzwa  
Exeter Associates, Inc.  
10480 Little Patuxent Parkway  
Columbia, MD 21044  
Telephone: 410-992-7500  
E-mail: [jmierzwa@exeterassociates.com](mailto:jmierzwa@exeterassociates.com)

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined whether 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 Senior Assistant Consumer Advocate Aron J. Beatty and Assistant Consumer Advocate Christopher M. Andreoli. All documents should be served on the OCA as follows:

Aron J. Beatty  
Christopher M. Andreoli  
555 Walnut Street, 5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: 717-783-5048

The OCA will accept email service without provision of a hard copy. To the extent that materials are available electronically, it is requested that copies be served upon all of the following:

Aron J. Beatty – [ABeatty@paoca.org](mailto:ABeatty@paoca.org)  
Christopher M. Andreoli – [CAAndreoli@paoca.org](mailto:CAAndreoli@paoca.org)  
Lauren R. Myers – [LMyers@paoca.org](mailto:LMyers@paoca.org)

## **V. PROPOSED REVISED RULES / DISCOVERY**

Because time for preparation of complainant testimony is limited, the OCA submits that a shortened discovery response time in this proceeding is necessary to enable complainant parties to have adequate time to investigate the Company's claims and present testimony. The OCA, therefore, requests the following modifications to the timeframes specified by the Commission's regulations for discovery matters on a going-forward basis.

1. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service of the interrogatories;
2. Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served on the parties, with a certificate of service filed with the Secretary's Bureau, within five (5) days of service of the interrogatories;
3. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections;
4. Answers to motions to dismiss objections or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions;

5. Rulings over motions shall be issued, if possible, within seven (7) calendar days of the filing of the motion;
6. Responses to requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days;
7. Requests for admission shall be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service of the requests; and
8. Answers to on-the-record data requests shall be served in-hand within seven (7) calendar days of the requests.
9. The OCA proposes that any discovery served after 12 noon on a Friday will be deemed to have been served on the following business day for purposes of tracking due dates.
10. The OCA proposes that the due dates be “in-hand” and that electronic or fax service on the due date will satisfy the “in-hand” requirement, where such service is immediately followed by a hard copy sent by first-class mail.

The OCA notes that all time periods established in the foregoing proposed changes to the rules should be calculated using 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 notify the Administrative Law Judge and parties to request a public input hearing.

## **VII. PROPOSED SCHEDULE**

The OCA will cooperate with the ALJ and the parties to develop a mutually agreeable litigation schedule for this case.

## VIII. SETTLEMENT DISCUSSIONS

At present, settlement discussions have not been scheduled. The OCA will fully participate in any proposed settlement discussions throughout the course of this proceeding.

Respectfully Submitted,

/s/ Christopher M. Andreoli  
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Dated: March 7, 2023