

COMMONWEALTH OF PENNSYLVANIA



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April 27, 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  
Docket No. R-2023-3037933

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/ Mackenzie C. Battle  
Mackenzie C. Battle  
Assistant Consumer Advocate  
PA Attorney I.D. # 330879  
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Enclosures:

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

\*345148

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :  
v. : Docket No. R-2023-3037933  
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 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 April 2023.

**SERVICE BY E-MAIL ONLY**

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Dated: April 27, 2023  
\*345147

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	R-2023-3037933
Office of Consumer Advocate	:	
Office of Small Business Advocate	:	
Philadelphia Industrial and Commercial	:	
Gas User Group	:	
v.	:	
	:	
Philadelphia Gas Works	:	

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PREHEARING MEMORANDUM OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to the Prehearing Conference Order of Administrative Law Judges Eranda Vero and Arlene Ashton (the ALJs) issued on April 20, 2023, and in anticipation of the telephonic Prehearing Conference scheduled for April 28, 2023, the Office of Consumer Advocate (OCA) provides the following information:

**I. INTRODUCTION AND PROCEDURAL HISTORY**

Philadelphia Gas Works (PGW) is a municipally owned public utility company, managed and operated by the Philadelphia Facilities Management Corporation. PGW is engaged in the business of furnishing natural gas to approximately 518,000 residential, commercial, and industrial natural gas customers in Philadelphia, Pennsylvania. On July 1, 2000, the natural gas service furnished by PGW became subject to the regulation and control of the Pennsylvania Public Utility Commission (the Commission) pursuant to the Natural Gas Choice and Competition Act at 66 Pa. C.S. Section 2212.

On February 27, 2023, PGW filed Supplement No. 159 to PGW's Gas Service Tariff-Pa. P.U.C. No. 2 (Supplement No. 159). In Supplement No. 59, PGW is seeking an increase in annual distribution revenues of \$85.8 million to become effective April 28, 2023 for a fully projected future test year (FPFTY) starting on September 1, 2023. Specifically, PGW has proposed to increase the residential monthly customer charge from \$14.90 per month to \$19.50 per month, or by approximately 30%. Additionally, the delivery charge for residential customers would increase by 15% from \$7.2955/Mcf to \$8.3603/Mcf. According to PGW's filing, the bill for a typical PGW residential heating customer who uses 71 Mcf per year will increase from \$125.38 to \$113.73 per month, or by \$12.25 which is approximately 9.9%.

PGW also proposes the following Tariff revisions in its filing: (1) a clarification on its current practice regarding interest on deposits for temporary heat; (2) a modification to PGW's AC Rider clarifying changes to PGW's internal processes, and; (3) a modification to PGW's supplier and gas service tariffs to permit interconnection from renewable natural gas (RNG) suppliers into the PGW distribution system. Finally, PGW supplemented its filing with additional Direct Testimony about its Weather Normalization Adjustment (WNA) on April 3, 2023.

The Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance in this proceeding on February 28, 2023. Following PGW's filing, March 3, 2023, Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. (collectively "Vicinity") filed a Joint Complaint in this proceeding. On March 7, 2023 the OCA filed a Formal Complaint in this proceeding to protect the interests of PGW's residential customers and to ensure that PGW is permitted to implement only a level of rates that is fully justified and in accordance with sound ratemaking principles. On March 9, 2023, the Office of Small Business Advocate (OSBA) filed a Formal Complaint in this proceeding. On March 17, the Philadelphia Industrial and Commercial

Gas Users Group (PICGUG) filed a Formal Complaint in this proceeding. On April 12, 2023, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) intervened in this proceeding. On April 24, 2023, the Tenant Union Representative Network intervened in this proceeding.

On April 20, 2023, the Commission issued an order suspending the filing by operation of law until November 28, 2023, unless permitted by the Commission to become effective at an earlier date. This filing was assigned to Administrative Law Judge Vero and Administrative Law Judge Ashton (ALJs) for the scheduling of hearings and investigation into the lawfulness, justness, and reasonableness of the proposed rates and tariff changes.

## **II. DISCOVERY**

In order to effectively investigate and develop a record in this proceeding, the OCA requests certain modifications to the Commission's discovery rules, as set forth below:

1. Answers to written interrogatories and requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service.
2. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories; unresolved objections shall be served in writing to the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.
3. 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.
4. Answers to motions to dismiss objections and/or answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.
5. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

6. Answers to on-the-record data requests shall be served in-hand within five (5) calendar days of the requests.
7. Any discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of calculating the due date for any responsive filing.

### **III. ISSUES**

Based upon a preliminary analysis of PGW's base rate increase filing, the OCA has compiled a list of issues, which it anticipates will be included in its investigation of PGW's proposed rate changes. The OCA anticipates that other issues may arise and may be pursued as responses to interrogatories are received and analyzed.

With regard to all issues, the OCA takes the position that the proposed rate increases or tariff changes must be justified, reasonable, and in accordance with sound ratemaking principles in order to protect the interests of PGW's customers. Additionally, the OCA has identified several issues that may require further review as follows:

- A. Revenues and Expenses: The OCA will examine the Company's claimed revenues and any adjustments to the level of revenues. The OCA will seek to ascertain whether or not PGW's claimed expenses are supported, reasonable, and appropriate. Among others, the following issues will be addressed:
  - The sales forecast utilized by PGW in order to project future test year and fully forecasted test year sales and revenues;
  - PGW's proposed depreciation expense;
  - PGW's labor expense, information services expense, employee expenses, and risk management expense;

- PGW’s proposed collection of \$32.5 million in COVID deferred expenses to be amortized over three years, totaling \$10.8 million yearly.
- B. Claimed Cash Requirements: The OCA will examine PGW’s claimed cash requirements to determine whether the Company’s claims are reasonable and properly supported.
- C. Rate Structure/Rate Design: The OCA will examine PGW’s cost of service study, its proposed allocation of any rate increase to the customer classes, and its proposed design of the rates. The OCA will also evaluate PGW’s proposed increase to its customer charge. The OCA will examine other tariff issues raised by the filing.
- D. Weather Normalization Adjustment (WNA): The OCA submits that the continued application of PGW’s WNA will result in unjust, unreasonable, and discriminatory rates for consumers.<sup>1</sup> The OCA further submits that the Company’s late-filed testimony regarding the WNA should be addressed as part of the already ongoing PGW WNA proceeding docketed at R-2022-3034229 instead of the rate case.
- E. Universal Services: The OCA will examine PGW’s proposed universal service program costs and cost recovery mechanisms.
- F. Related Proceedings: In the recently concluded proceeding docketed at C-2021-3029259, the Commission ordered that the just and reasonable rates for PGW customer Vicinity should be determined in this base rate proceeding. The Commission ordered that PGW shall either 1) file a supplement to its initial direct filing setting forth a proposed new rate applicable to Vicinity, or 2) refile its general base rate case to address the inclusion of Vicinity as a customer into its overall cost of service and justification for its proposed rate increase. The OCA will address the issues that arise in this rate

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<sup>1</sup> The OCA included this issue regarding the WNA in its Formal Complaint filed on March 7, 2023.



case as a result of this Commission Order, including whether more time is necessary to review any new materials filed by PGW.

G. Other Issues: The OCA will examine the reasonableness and appropriateness of PGW's proposed tariff changes and will investigate those proposals to ensure that PGW is complying with all prior orders.

The OCA reserves the right to raise additional issues.

#### IV. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimonies, as may be necessary, of the below witnesses. Each witness will present testimony in written form and will attach various exhibits, documents, and explanatory information, as may be necessary. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be emailed directly to the expert witness(es) responsible for the particular area of the case, as well as to counsel for the OCA, at the OCA's group email address: [ocapgw2023brc@paoca.org](mailto:ocapgw2023brc@paoca.org).

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PCMG and Associates  
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Toms River, NJ 08753

Cost of Service:

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Mechanicsville, VA 23116

Weather Normalization Adjustment:

Ron Nelson  
Strategen Consulting  
David Brower Center  
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Cash Flow/Bond Ratings:

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Toms River, NJ 08753

Universal Service:

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Fisher, Sheehan, & Colton  
34 Warwick Road  
Belmont, MA 02478

Customer Service:

Barbara Alexander  
Barbara Alexander Consulting LLC  
44 Beech Street  
Hallowell, ME 04347

The OCA specifically reserves the right to call additional witnesses, as necessary. If the OCA determines that additional witnesses will be necessary for any portion of its case, it will notify all parties of record immediately.

#### **V. PROPOSED SCHEDULE AND AMOUNT OF TIME NEEDED FOR HEARINGS**

The OCA requests that the dates included in any litigation schedule in this matter be considered “in-hand” dates and that electronic service or fax service on the due date will satisfy the “in-hand” requirement. The OCA will work with the ALJs and the other parties to attempt to arrive at a procedural schedule for this matter, although there are numerous issues. As discussed above, PGW’s late-filed WNA testimony unreasonably limits the ability of all Intervenors to respond by what would normally be a due date for those parties’ direct testimony. In the OCA’s view, there is a separate proceeding dealing strictly with the WNA and that is where this issue should be finally decided.

Further, as discussed above the Commission recently concluded the separate Grey’s Ferry/Vicinity case and gave PGW options to either refile its rate case or make an additional filing in the rate case to propose new rates for that entity. It is obvious that any new rate filings at this

stage of the rate case will be disruptive and will, again, require additional time for Intervenors to meaningfully respond.

Given these complications, PGW should seriously consider withdrawing its current rate case, and refiling its WNA testimony in the separate docket that is specifically dealing with that issue. Alternatively, PGW could voluntarily agree to extend the suspension period for this rate case in order to give all parties the necessary time to deal with the Grey's Ferry/Vicinity rate issue. To be clear, however, the OCA still submits that the WNA issue should be dealt with in the separate docket that has been ongoing since August of 2022.

One further matter as to scheduling involves the requested public input hearings. If the requested public input hearings do not occur prior to the time that the OCA's direct testimony is due (and considering the lag waiting for transcripts), the OCA specifically requests the ability to submit additional direct testimony as to any issues raised during those hearings.

## **VI. PUBLIC INPUT HEARINGS**

Given the size of the requested rate increase and the customer impact it may cause, the OCA respectfully requests that public input hearings be held for the Company's customers. The OCA requests that at least four public input hearings be held in-person, in Philadelphia. The OCA will be prepared to discuss public input hearings at the prehearing conference.

Furthermore, the OCA requests that the Company be directed to advertise these public input hearings in a local newspaper and on the Company's website. In addition to the newspaper and company website other methods of informing the customers of the public input hearings, such as social media, should be utilized as well.

## **VII. SERVICE ON THE OCA**

The OCA will be represented in this case by Senior Assistant Consumer Advocate Darryl A. Lawrence and Assistant Consumer Advocates David T. Evrard, Lauren G. Guerra, and Mackenzie C. Battle. Mackenzie C. Battle will act as the lead attorney for purposes of participating in the Prehearing Conference, with the other OCA attorneys on the line. Copies of all documents should be served on the OCA as follows:

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## VIII. SETTLEMENT

The OCA will participate in settlement discussions in this matter at the appropriate time.

Respectfully submitted,

/s/ Mackenzie C. Battle

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