

April 27, 2023

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Via Electronic Filing

Rosemary Chiavetta, Secretary
Pa. Public Utility Commission
400 North Street
Harrisburg, PA 17120

RE: Supplement No. 152 to the Gas Service Tariff – Pa. P.U.C. of Philadelphia Gas Works,
Docket No. R-2022-3034229

Petition of Philadelphia Gas Works for Approval on Less than Statutory Notice of Tariff
Supplement Revising Weather Normalization Adjustment
Docket No. P-2022-3034264

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Petition for Interlocutory Order on behalf of Philadelphia Gas Works in the above-referenced matters.

Copies are being served in accordance with the Certificate of Service.

Sincerely,

/s/ Karen O. Moury

Karen O. Moury

Enclosure

cc: Hon. Marta Guhl (with Enclosure)
Certificate of Service (with Enclosure)

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the PGW's Petition for Interlocutory Review 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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Karen O. Moury

Karen O. Moury, Esq.

Dated: April 27, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	R-2022-3034229
	:	P-2022-3034264
Philadelphia Gas Works	:	

**PETITION OF PHILADELPHIA GAS WORKS
FOR INTERLOCUTORY REVIEW
AND ANSWER TO MATERIAL QUESTION**

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April 27, 2023

Attorneys for Philadelphia Gas Works

Pursuant to 52 Pa. Code § 5.302, Philadelphia Gas Works (“PGW” or “Company”) hereby files this Petition for Interlocutory Review and Answer to Material Question (“Interlocutory Review Petition”) relating to the Interim Order issued by Administrative Law Judge Marta Guhl (“ALJ Guhl”) on February 23, 2023 (“Interim Order”), which denied PGW’s Petition for Leave to Withdraw (“Withdrawal Petition”) as moot. Because the Interim Order results in the litigation of weather normalization adjustment (“WNA”) issues in two separate proceedings, PGW will be substantially prejudiced in ways that cannot be satisfactorily cured through the normal Commission review process.

The prejudice to PGW resulting from the Interim Order is two-fold, as follows: (1) it is a waste of valuable resources to require the litigation of WNA issues in a proceeding that PGW filed for a limited-time consumer protection purpose, which has been rendered obsolete, at the same time WNA issues are being addressed in the pending Base Rate Case (“BRC”) at Docket No. R-2023-3037933; and (2) the above-captioned proceeding does not provide a proper forum or afford the requisite due process to PGW for the adjudication of broader WNA issues. In support hereof, PGW further avers as follows.

1. On August 2, 2022, PGW filed a Petition for Approval on Less than Statutory Notice of Tariff Supplement Revising Weather Normalization Adjustment and Supplement No. 152 to Gas Service Tariff – Pa. P.U.C. No. 2, effective October 1, 2022 (“Cap Petition”). The express purpose of the Cap Petition was to impose a 25% cap on any rate increases due to the application of the WNA formula as a way of protecting consumers during the current heating season from unusually large rate increases.

2. Despite PGW’s efforts to protect consumers during the current heating season, the Office of Consumer Advocate (“OCA”) and the Coalition for Affordable Utility Services and

Energy Efficiency in Pennsylvania (“CAUSE-PA”) opposed the Cap Petition. At the Public Meeting on September 15, 2022, the Commission adopted an Order suspending the Cap Petition for investigation and extending the effective date to April 1, 2023.¹ As a result, the 25% cap did not go into effect for the current heating season. The matter was then assigned to ALJ Guhl to conduct a proceeding on the Cap Petition (“WNA Proceeding”).

3. On November 8, 2022, PGW filed the Withdrawal Petition, which the ALJ denied by Interim Order dated February 23, 2023 as moot. Although the Interim Order contains no explanation for the ALJ’s view that the Withdrawal Petition was moot, it appears that the reason is related to PGW’s voluntary extensions of the effective date of the proposed Tariff revision. However, those extensions merely enabled the development of procedural schedules that afforded sufficient time for litigation and did not render the Withdrawal Petition moot.

4. While PGW has sought to continue litigating the Cap Petition in the WNA Proceeding following issuance of the Interim Order, it has become increasingly clear that in view of the BRC filed by PGW on February 27, 2023 at Docket No. R-2023-3037933, it is an unnecessary waste of valuable resources to litigate WNA issues in separate proceedings. In addition, a review of the Direct Testimony submitted by other parties in the instant proceeding makes it clear that a possible termination of the WNA (in its entirety) has been raised, which needs to be reviewed in the context of PGW’s overall revenue requirements. A decision on the continuation of the WNA necessitates reliance on an evidentiary record consisting of PGW’s finances and the importance of the WNA to the Company’s overall operations, which are available in the BRC. Termination of the WNA Proceeding and consideration of the WNA

¹ To enable sufficient time for litigation, PGW voluntarily extended the effective date on two occasions, to October 1, 2023 and October 5, 2023.

issues in the BRC is necessary to afford sufficient due process to PGW and to efficiently utilize the litigation resources of PGW, as well as the Commission and other parties.

5. For these reasons, PGW is proposing to terminate the WNA Proceeding and have all WNA issues addressed in the BRC. In this context, it is appropriate for the evidence that has been submitted in the WNA Proceeding, including the Public Input Hearing testimony offered by consumers on March 9, 2023, to be admitted into the record of the BRC.

6. The February 23, 2023 Interim Order issued by ALJ Guhl raises the following material questions for the Commission's review:

- (a) Does PGW's fundamental right to due process regarding the continuation of the WNA clause support withdrawal of the Cap Petition and movement of WNA issues to the Base Rate Case?
- (b) Does the continued litigation of WNA issues in two separate proceedings involve an unnecessary waste of valuable resources?

The suggested answers to these material questions is yes.

7. PGW has consulted with the other parties in this proceeding regarding its proposal to move all issues related to the WNA to the BRC. The Bureau of Investigation and Enforcement has indicated that PGW's proposal is acceptable. OCA, CAUSE-PA and Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia have expressed their opposition to moving the WNA issues to the BRC.

WHEREFORE, the Commission should grant PGW's Interlocutory Review Petition, which is warranted in order to prevent substantial prejudice to PGW. If PGW's Withdrawal Petition is not granted, PGW will be deprived of its fundamental rights of due process and will be required to use resources for the litigation of issues on two separate tracks, which cannot be satisfactorily cured during the normal Commission review process.

Respectfully submitted,

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Date: April 27, 2023

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