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May 4, 2023

**Via Electronic Filing**

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

Re: Pennsylvania Public Utility Commission, Office of Consumer Advocate and Office of  
Small Business Advocate v. Philadelphia Gas Works (1307(f)) Docket Nos.  
R-2023-3038069; C-2023-3038375; C-2023-3038286 C-2023-3038722

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Dear Secretary Chiavetta:

On behalf of Philadelphia Gas Works, enclosed for electronic filing please find its Main Brief with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Deanne M. O'Dell

DMO/lww

Enclosure

cc: Hon. Arlene Ashton w/enc. (via email)  
Cert. of Service w/enc.

**CERTIFICATE OF SERVICE**

I hereby certify that this day I served a copy of **PGW's Main Brief** upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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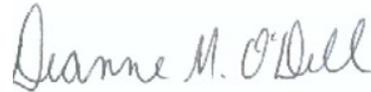
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Dated: May 4, 2023



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Deanne M. O'Dell, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket No.	R-2023-3038069
	:		
	:		
Office of Consumer Advocate	:	Docket No.	C-2023-3038375
Office of Small Business Advocate	:	Docket No.	C-2023-3038286
Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc.	:	Docket No.	C-2023-3038722
	:		
	:		
v.	:		
	:		
Philadelphia Gas Works			

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**MAIN BRIEF OF  
PHILADELPHIA GAS WORKS**

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## **I. INTRODUCTION**

Philadelphia Gas Works (“PGW” or “Company”) is a municipal utility that has no shareholders and does not earn a profit. PGW is a collection of real and personal assets owned by the City of Philadelphia (“City”) and responsible for the acquisition, storage, processing, distribution, and sale of natural gas within the City. PGW maintains a distribution system of approximately 3,000 miles of gas mains and 475,000 service lines, and provides gas service to approximately 500,000 residential, commercial and industrial customers in Philadelphia.

PGW hereby submits its Main Brief in support of its 2023–2024 Gas Cost Rate and in response to the complaint filed by Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc.

## **II. PROCEDURAL HISTORY**

On February 1, 2023, PGW filed its supporting information for the prefiling for its annual 2023-2024 Gas Cost Rate (“GCR”).

In its prefiling, PGW noted that, pursuant to the Commission’s approval in its 2022-2023 GCR, it intended to depart from certain requirements of 52 Pa. Code Sections 53.45(b), 53.64(c), 53.68(a) and 53.64(i)(5)(i) to address the timing of bill inserts, public notice and underlying data to be relied upon for the March 1, 2023 quarterly 1307(f) filing. Per the Commission approved settlement, PGW has followed the notice process for its 2023-2024 GCR proceeding and will continue to do so in subsequent GCR proceedings, unless and until the Commission enters an Order rescinding such authority.<sup>1</sup>

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<sup>1</sup> Pennsylvania Public Utility Commission, et. al v. Philadelphia Gas Works, Docket Nos. R-2022-3030686, C-2022-3030978, C-2022-3030971, Order entered July 14, 2022, Ordering Paragraph 6 at 2–3.

On February 13, 2023, the Bureau of Investigation and Enforcement (“I&E”) filed a Notice of Appearance.

The Office of Consumer Advocate (“OCA”) and the Office of Small Business Advocate (“OSBA”) subsequently filed complaints. The OCA complaint is docketed at C-2023-3038375, and the OSBA complaint is docketed at C-2023-3038286. Consistent with 52 Pa. Code § 5.61(d), PGW did not file answers to the Complaints.

On February 14, 2023, the Philadelphia Industrial and Commercial Gas Users Group (“PICGUG”) filed a Petition to Intervene.

On March 1, 2023, PGW filed its Section 1307(f) filing which included: proposed tariff revisions (Supplement No. 160 to PGW’s Gas Service Tariff – Pa P.U.C. No. 2 and Supplement No. 106 to PGW’s Gas Supplier Tariff – Pa P.U.C. No. 1); supporting information regarding the computation of annual purchased gas costs for twelve months ending August 31, 2023, and the direct testimony of Florian Teme (PGW St. 1) and Ryan E. Reeves (PGW St. 2)).

On March 3, 2023, Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. (collectively “GFCP/VEPI”) filed a complaint against the GCR filing.

The gas cost rate filing was assigned to the Office of Administrative Law Judge for resolution by hearings and for issuance of a Recommended Decision. The matter was assigned to Administrative Law Judge (“ALJ”) Arlene Ashton.

On March 2, 2023, ALJ Ashton issued a Prehearing Conference Order setting a telephonic Prehearing Conference for March 9, 2023.

On March 13, 2022, PGW submitted a Revised Schedule 53.64(c)7, Schedule 1.

Pursuant to the Prehearing Conference Order, the Parties filed Prehearing Memorandums on March 7, 2023, and a telephonic Prehearing Conference was held on March 9, 2023. Counsel

for PGW, I&E, OCA, OSBA, PICGUG and GFCP/VEPI participated. PICGUG's and GFCP/VEPI's Petitions to Intervene were granted, and a procedural schedule was established. These procedural matters were reflected in Prehearing Order #1, issued on March 16, 2023.

On March 21, 2023, PGW filed a Motion for Protective Order ("Motion") pursuant to 52 Pa. Code §§ 5.362(a) and 5.365 in the above captioned proceeding. On March 29, 2023, the Motion was granted by ALJ Ashton pursuant to Prehearing Order #2 dated March 29, 2023.

On April 13, 2023, GFCP/VEPI served the Direct Testimony of James L. Crist, P.E. ("GFCP/VEPI St. 1").

On April 13, 2023, PGW filed the Rebuttal Testimony of Ryan E. Reeves ("PGW St. 2-R") and OSBA filed the Rebuttal Testimony of Robert D. Knecht ("OSBA St. No. 1-R").

On April 20, 2023, GFCP/VEPI served the Surrebuttal Testimony of James L. Crist, P.E. ("GFCP/VEPI St. 1-SR").

April 24, 2023, PGW filed the Rejoinder Testimony of Ryan E. Reeves ("PGW St. 2-RJ").

On April 25, 2023, an evidentiary hearing was held at which the pre-filing and final gas cost rate filing of PGW, as well as previously served testimony of PGW, GFCP/VEPI and OSBA was admitted into the record.

### **III. LEGAL STANDARDS**

Section 1307(f)(5) of the Public Utility Code ("Code") requires that the Commission determine that PGW's historic period actual gas costs meet the least cost fuel procurement standards set forth in Section 1318 of the Code, 66 Pa. C.S. § 1318.<sup>2</sup> In addition, Section 1318

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<sup>2</sup> 66 Pa. C.S. § 1307(f)(5).

findings must be made with respect to the new Purchased Gas Cost (“PGC”) rates to be established in this proceeding.<sup>3</sup>

In determining whether PGW is pursuing a least cost fuel procurement policy as required by Section 1318, the Commission must make the following specific findings: (1) that the utility has fully and vigorously represented its ratepayers’ interests before the Federal Energy Regulatory Commission; (2) that the utility has taken all prudent steps necessary to negotiate favorable gas supply contracts and to relieve the utility from terms in existing contracts with its gas suppliers which are or may be adverse to ratepayer interests; (3) that the utility has taken all prudent steps necessary to obtain lower cost gas supplies on both short-term and long-term bases both within and outside the Commonwealth, including the use of gas transportation arrangements with pipelines and other distribution companies; and (4) that the utility has not withheld from the market or caused to be withheld from the market any gas supplies which should have been utilized as part of a least cost fuel procurement policy.<sup>4</sup>

**IV. STATEMENT OF ISSUES**

**A. IS THE PROPOSED GCR JUST AND REASONABLE AND CONSISTENT WITH STATUTORY AND COMMISSION REQUIREMENTS?**

Proposed Answer: Yes.

**B. SHOULD ANY PGW BE FORCED TO RELEASE CAPACITY NEEDED TO MAINTAIN FIRM SERVICE TO GCR CUSTOMERS THAT HELP MAINTAIN LOW GCR RATES BE RELEASED FOR THE SOLE BENEFIT OF GFCEP/VEPI?**

Proposed Answer: No

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.* § 1318(a).

**V. SUMMARY OF ARGUMENT**

**A. PROPOSED GCR RATE**

PGW's 2023–2024 GCR of \$5.0576 should be approved. As required by Section 1318, PGW's pre- and annual GCR filing demonstrates that PGW is pursuing the least cost fuel procurement policy because PGW has: (1) fully and vigorously represented its ratepayers' interests before the Federal Energy Regulatory Commission; (2) taken all prudent steps necessary to negotiate favorable gas supply contracts and to relieve the utility from terms in existing contracts with its gas suppliers which are or may be adverse to ratepayer interests; (3) taken all prudent steps necessary to obtain lower cost gas supplies on both short-term and long-term bases both within and outside the Commonwealth, including the use of gas transportation arrangements with pipelines and other distribution companies; and (4) not withheld from the market or caused to be withheld from the market any gas supplies which should have been utilized as part of a least cost fuel procurement policy. No party has opposed PGW's proposed GCR Rate. Accordingly, PGW's 2023–2024 GCR should be approved.

GFCP/VEPI intervened in this proceeding to contend that PGW's upstream pipeline capacity portfolio represents "over-capacity" and, therefore, assert that PGW should be forced to release 21,000 Dth/day on the Texas Eastern Transmission ("TETCO") Philadelphia Lateral to them. The Commission should reject GFCP/VEPI's unprecedented claim because: (1) GFCP/VEPI fail to establish a need for a permanent release of this winter capacity; (2) PGW does not hold excess capacity on TETCO; (3) GFCP/VEPI's ask would severely threaten PGW's ability to serve remaining customers in a host of possible situations; (4) GFCP/VEPI's proposal would cause GCR rates to increase; and (5) GFCP/VEPI's proposal violates Federal Energy Regulatory Commission ("FERC") capacity release rules.

**B. GRAYS FERRY/VICINITY ISSUES**

PGW submitted its GCR filing to the Commission on March 1, 2023, as it does every year, explaining its gas purchase policies and the facilities that it uses to meet its customers' winter service needs, including the interstate pipeline capacity that it relies upon to meet its service obligations as a public utility.

As in those prior years, this GCR case was participated in by the statutory advocates (BI&E, OCA, and OSBA), whose constituency consists of customers who pay the GCR rate. The quantity of interstate pipeline capacity rights held by PGW has been accepted by these parties and has not been challenged.

This year, however, GFCEP/VEPI, a transportation customer that does not use PGW's gas supplies or pay GCR rates, has intervened, claiming that PGW's upstream pipeline capacity portfolio, represents "over-capacity" in order to assert that PGW should be forced to release 21,000 Dth/day on the Texas Eastern Transmission ("TETCO") Philadelphia Lateral to them.<sup>5</sup>

The amount of 21,000 Dth/day is chosen because it matches the amount of capacity that GFCEP/VEPI *might* need, if the current arrangement – Alternative Receipt Service, one that has been in place for over twenty-five years – becomes overpriced or is offered with unacceptable terms, as a result of the Commission's decision in PGW's pending base rate case, not yet decided by the Commission. GFCEP/VEPI's sole objective is to reduce their own gas delivery costs.

However, such self-favoritism would come at the expense of PGW's sales and transportation customers (including Choice transportation customers), threaten the winter

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<sup>5</sup> GFCEP/VEPI St. No. 1-SR at 1, 8 (GFCEP/VEPI witness Crist testifies that "PGW should release 21,000 Dth/day of capacity to [GFCEP/VEPI] on a year-round basis at a fair-market rate.").

reliability of all of PGW's firm service customers and actually raise the GCR rate.<sup>6</sup> PGW presented the testimony of Mr. Ryan Reeves who refuted GFCP/VEPI's claims and explained the reliability dangers of GFCP/VEPI's self-interested position.<sup>7</sup>

GFCP/VEPI's claims should be rejected because:

- (1) There is no need. While GFCP/VEPI hold insufficient capacity to serve their own needs on TETCO, PGW will continue to provide (and has been providing for twenty-five years), a displacement service that provides capacity sufficient to serve GFCP/VEPI's winter peaking needs;
- (2) The premise is incorrect. There is no excess capacity held by PGW, including on the TETCO system, and Mr. Crist's claim to the contrary contained a calculation error that failed to reflect all of PGW's load and, therefore, resulted in an incorrect number as PGW's available capacity;
- (3) Service to the other customers is jeopardized. When PGW's available design day capacity is examined correctly, a reduction of 21,000 Dth/day of available capacity would severely threaten PGW's ability to serve remaining customers in a host of possible situations (such as the loss of a part of the distribution system).
- (4) GCR rates will increase. PGW's remaining customers would be financially disadvantaged were it to give up 21,000 Dth/day of capacity on the TETCO lateral. When PGW releases TETCO capacity, its customers receive greater proceeds than the cost of the capacity to GCR customers or the amount that GFCP/VEPI is "offering" for the capacity; and

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<sup>6</sup> See PGW St. 2R at 7.

<sup>7</sup> PGW St. 2R at 2.

- (5) The proposed action violates Federal Energy Regulatory Commission (“FERC”) capacity release rules. PGW cannot directly assign TETCO capacity rights at the rate suggested by GFCP/VEPI.

The GFCP/VEPI proposal is poor idea for everyone but themselves. PGW’s other customers will experience greater supply risk, higher GCR gas supply costs, and reduced credits for revenues received from capacity release. Their position should be rejected.

## **VI. ARGUMENT**

### **A. PROPOSED GCR RATE**

PGW’s projected gas purchases and projected gas purchasing policies comply with the standards of Section 1318 of the Code. The GCR is a mechanism used to flow through the costs of natural gas and other raw materials in a timely and equitable manner.<sup>8</sup> The pricing methodology utilized by PGW relies on actual prices for January 2023 and the NYMEX Futures close data (as of January 18, 2023) for the 19 forecast months of February 2023 through August 2024.<sup>9</sup> PGW’s forecasted GCR for 2023–2024 is \$5.0576/Mcf, which is smaller than the level PGW forecasted for the 2022–2023 GCR due to a decrease in natural gas costs.<sup>10</sup>

The details of PGW's actual gas purchases for the 12 months ending December 31, 2022 are presented in the schedules attached to Tab 3, Item 53.64(c)(1) of PGW’s March 1, 2023 Annual Filing. The details of PGW’s forecast for the period of January 1, 2022 through August 31, 2023 are also presented in PGW’s March 1, 2023 Annual Filing.

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<sup>8</sup> PGW St. 1 at 7.

<sup>9</sup> *Id.* at 9. This is consistent with the methodology used in the recent quarterly filings with the inclusion of the additional months in the 20-month forecast. *Id.*

<sup>10</sup> PGW St. 1 at 9.

Projected gas costs are based on design peak-day capacity requirements at a 0-degree design day temperature.<sup>11</sup> PGW uses a two-step process to arrive at the appropriate level of usage per customer to factor in weather variations.<sup>12</sup>

PGW's gas distribution system is located in Southeastern Pennsylvania in the County and City of Philadelphia.<sup>13</sup> Since this is not a gas producing area, PGW and its natural gas customers are dependent upon the interstate natural gas pipeline system to deliver natural gas into the PGW gas distribution system.<sup>14</sup> PGW relies on interstate pipelines for all natural gas supply, storage and transportation services, except for PGW's own on-system peak shaving facilities. PGW owns and operates two liquefied natural gas ("LNG") facilities that are used both to meet intraday, daily and seasonal supply needs as well as to meet peak day requirements.<sup>15</sup> PGW also uses off-system natural gas storage services to meet winter peak requirements.<sup>16</sup>

PGW's current interstate gas suppliers that deliver gas to PGW's city gates are Enbridge's Texas Eastern Transmission ("TETCO") and Williams' Transco Gas Pipeline ("Transco").<sup>17</sup> In FY 2022, 100% of baseload and swing supply purchases on the TETCO pipeline were from Market Zone M-2.<sup>18</sup> PGW is not affiliated with any pipeline or gas supply entity, nor does it have any contracts for local production.<sup>19</sup>

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<sup>11</sup> PGW St. 1 at 10PGW Ex. 1, Tab 12, Item 53.64(c)(13) of PGW's February 1, 2023 Pre-filing.

<sup>12</sup> PGW St. 1 at 11-12.

<sup>13</sup> PGW St. 2 at 2.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 10.

<sup>19</sup> *Id.* at 5.

Consistent with the requirements of 66 Pa. C.S. § 1318, PGW pursues a least cost procurement policy consistent with its obligation to provide safe, adequate and reliable service to its customers, using a portfolio approach in both contract structure and pricing.<sup>20</sup> The portfolio approach allows PGW to remove some of the volatility in purchasing natural gas supplies for its ratepayers.<sup>21</sup> PGW does this by utilizing a mix of: (1) daily index priced swing contracts, (2) physical forward purchase contracts, (3) storage, and (4) LNG, as appropriate given market conditions, and to the extent PGW is not constrained by its financial condition.<sup>22</sup>

PGW utilizes Planalytics, as well as other services, to provide price analysis and buying advisory service as part of its efforts to obtain gas at least cost.<sup>23</sup> Planalytics provides services such as: price feeds from Nymex and Globex; buying suggestions up to 18-months in the future; charting tool for technical analysis; short and medium range weather forecasts; weather alerts; and hurricane forecasts.<sup>24</sup> PGW also uses price information service from Intercontinental Exchange (“ICE”) to supplement the information from Planalytics and further ensure that PGW takes all prudent steps to obtain lower cost gas supplies.<sup>25</sup>

To ensure system reliability while seeking to procure gas at the least cost, PGW physically sources the gas in accordance with its firm pipeline paths and pays demand charges.<sup>26</sup> PGW

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<sup>20</sup> *See id.* at 2–3.

<sup>21</sup> *Id.* at 3–4.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 12.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 13.

<sup>26</sup> *Id.* at 5.

reviews these contracts on a regular basis and initiates renegotiations if appropriate to protect its customers' interests.<sup>27</sup>

PGW also uses capacity release and off-system sales when available. The prices for the off-system sales are negotiated and 75% of associated credits and margins are returned to customers through the GCR.<sup>28</sup> The ratepayers and the utility receive benefits from this policy because it creates an incentive to maximize efforts to make off-system sales and capacity release transactions, hereby reducing the overall cost of gas supply and the resulting gas cost rate.<sup>29</sup>

PGW submitted supporting schedules as required by Section 53.64(a) in support of its GCR; the Price to Compare and the rates for various surcharges, including the Restructuring and Consumer Education Surcharge, the Universal Service and Energy Conservation Surcharge ("USC"), the Other Post Employment Benefit Rider Surcharges.<sup>30</sup> PGW's USC provides for the recovery of PGW's Customer Responsibility Program ("CRP") discounts; Senior Citizen Discounts; the costs of the Enhanced Low Income Retrofit Program ("ELIRP"); CRP arrearage forgiveness; and the Conservation Incentive Credit.<sup>31</sup> PGW proposed a USC of \$1.4690/Mcf.<sup>32</sup>

In sum, the record supports Commission approval of PGW's proposed GCR of \$5.0576/Mcf effective September 1, 2023. PGW established that it is pursuing the least cost fuel procurement policy as required by Section 1318. Importantly, none of the parties in this proceeding opposed PGW's proposed GCR.

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<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 7–8.

<sup>29</sup> *Id.* at 8.

<sup>30</sup> PGW St. 1 at 5–6.

<sup>31</sup> PGW St. 1 at 7.

<sup>32</sup>

**B. GRAYS FERRY/VICINITY ISSUES**

**1. PGW Background**

PGW maintains a distribution system of approximately 3,000 miles of gas mains and 475,000 service lines, and provides gas service to approximately 500,000 residential, commercial and industrial customers in Philadelphia. PGW's gas distribution system is located in Southeastern Pennsylvania in the County and City of Philadelphia.<sup>33</sup> The majority of these customers are sales customers, meaning that they purchase gas procured by PGW. Also, there are transportation customers that secure their own supplies and arrange interstate pipeline transportation to PGW's "city gates" and then ask that PGW use its pipeline system for delivery on its last mile facilities.<sup>34</sup>

PGW's system is directly connected to only two interstate natural gas pipelines that deliver natural gas to PGW's service territory through nine gate stations -- TETCO and Transco.<sup>35</sup> On each pipeline, PGW has an allocation of capacity for which it has contracted, and which is paid for by PGW's GCR customers.<sup>36</sup> The gate stations are entry points where natural gas is regulated and depressurized before being pumped into the PGW's distribution system. These interstate pipelines transport gas subject to the jurisdiction of the FERC. PGW relies on the interstate pipelines for all natural gas supply, storage, and transportation services, except for its own on-system peak shaving, liquified natural gas ("LNG") facilities.<sup>37</sup>

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<sup>33</sup> *Id.*

<sup>34</sup> For suppliers participating in the Commission designed "Choice Program," PGW assigns the interstate capacity to them (to permit them to meet their customers' needs) as required under FERC and Commission rules.

<sup>35</sup> PGW St. 2 at 2, 4.

<sup>36</sup> PGW St. 2R at 8. The pipelines give PGW firm entitlements on their systems for the sourcing of gas for which PGW pays a demand charge.

<sup>37</sup> PGW St. 2 at 5.

PGW physically sources its gas supplies gas in accordance with these firm pipeline paths.<sup>38</sup> By obtaining supply in this way, PGW ensures its sole and exclusive entitlement to this space on the pipeline, which assures delivery except in the most extreme circumstances. Transporting gas from different locations mitigates the impact of potential regional disruptions because not all of the supply enters the pipe at the same location.<sup>39</sup> As a result, if there is a disruption at one location, not all of PGW's supply will be affected.<sup>40</sup>

PGW's Gas Planning Department also runs a supply status model during the winter operating season which recognizes normal and design winter conditions and the latest actual balance of gas in all storage facilities.<sup>41</sup> Gas Management utilizes the output of this model to make recommendations or changes in its supply operating strategy to ensure that peak day needs and design winter conditions can be met from that point forward.<sup>42</sup>

PGW manages its interstate pipeline capacity to minimize customer costs. One means of financially managing pipeline costs is through the release of capacity on a short term, "recallable" basis into the FERC regulated, open bidding, secondary market. For the twelve months ending December 31, 2022, PGW successfully released recallable capacity on TETCO and Transco generating \$25,986,256 in credits, 100% of which were returned to its customers in the form of reductions to GCR and base rate costs.<sup>43</sup>

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<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> PGW Exh. 1 at 53.64(C)(7), Schedule 3.

## 2. GFCP/VEPI Background

GFCP is an unregulated cogeneration facility which produces electricity for sale competitively into the PJM market. The “waste” steam outputs (i.e., steam left over after generation) are sold to VEPI, which then resells the steam to customers in Philadelphia as a Commission regulated steam utility. VEPI also operates some minor auxiliary steam production peaking boilers that are fueled by natural gas.<sup>44</sup> GFCP and VEPI are affiliated companies and jointly owned by Vicinity Energy, Inc. GFCP and VEPI are for-profit entities jointly owned by a foreign private equity firm.<sup>45</sup>

GFCP has previously<sup>46</sup> described its generating operations as follow:

The Grays Ferry cogeneration plant was constructed in 1997 and consists of a combined cycle plant with a gas combustion turbine-generator (“CT”) and a waste heat recovery boiler or heat recovery steam generator (“HRSG”), a 700klb/hr. auxiliary boiler and an extraction steam turbine (“ST”). The outputs of the ST and CT are 58 MW and 135 MW respectively. The CT and HRSG burn only natural gas . . . . The facility is available in excess of 99% of the time and in 2021 sold 958.3 GWH into the PJM. Such sales are structured as firm sales.<sup>47</sup>

GFCP/VEPI burn natural gas delivered from a single TETCO gate station which is then received by a PGW distribution line for ultimate delivery to GFCP/VEPI’s gas burning facilities. The TETCO delivery line used by GFCP/VEPI is known as the “Philadelphia Lateral” and the specific TETCO delivery point is “Gate Station 060.”<sup>48</sup> In this transaction, TETCO and PGW act

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<sup>44</sup> During times of peak, when Gray Ferry waste steam is unavailable, VEPI operates its own natural gas boilers to generate auxiliary steam. PGW St. 2R at 3.

<sup>45</sup> *Id.*

<sup>46</sup> *Formal Complaint of Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc.*, Docket No. C-2021-3029259 (“*GFCP/VEPI Complaint Proceeding*”).

<sup>47</sup> PGW St. 2RJ at 2 (quoting *GFCP/VEPI Complaint Proceeding*, GFCP/VEPI Statement JC-1 at 4).

<sup>48</sup> PGW St. 2R at 5.

as transportation carriers delivering GFCP/VEPI sourced gas volumes. It is the only connection that GFCP/VEPI have to an interstate pipeline and the only direct means that GFCP/VEPI have for the delivery of gas supplies.

**3. Grays Ferry/Vicinity's Need for Capacity**

***a. GFCP/VEPI's Capacity Shortfall***

GFCP/VEPI have never possessed sufficient capacity on TETCO to meet their total needs, since the conversion of the generating plant (and some Vicinity boilers) from oil to natural gas burning equipment in the mid-1990s.<sup>49</sup> In the parlance, GFCP/VEPI are “capacity short” and need some other means to obtain delivery of the volumes required to meet their operational needs. As OSBA witness Mr. Knecht noted in the Complaint Proceeding: “It is . . . unclear why GFCP [in 1995] would construct a large industrial facility without ensuring long-term access to firm gas transmission capacity.”<sup>50</sup>

Mr. Reeves explained:

GFCP/VEPI are net short of interstate transportation capacity during the winter period. GFCP/VEPI possess insufficient delivery rights (capacity) on TETCO's Philadelphia Lateral during the winter – owning only 35,000 Dth per day of delivery capacity compared to their winter peak requirement of 56,000 Dth per day. GFCP/VEPI's only capacity rights are on TETCO's Philadelphia Lateral to Gate Station 060.<sup>51</sup>

And there is no new, unsubscribed capacity left on TETCO. “Capacity rights on TETCO's Philadelphia Lateral are fully subscribed to by other TETCO customers, such that no new capacity

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<sup>49</sup> Tr. at 93 (Crist) (“Since the inception of their facility, Grays Ferry has needed capacity on the Philadelphia lateral to move the gas they need during peak times in the winter.”); *see also* OSBA St. 1-R at 4 n.7.

<sup>50</sup> PGW St. 2R at 5 (quoting *GFCP/VEPI Complaint Proceeding*, OSBA Statement No. 1-R at 4).

<sup>51</sup> PGW St. 2R at 5; *see also* OSBA St. 1-R at 2-3.

is available.”<sup>52</sup> Any capacity must be obtained by bid in the open bid, FERC-administered secondary market. This occurs only when and if released by the contract holder of TETCO capacity and only then on a temporary, recallable basis.

Recallable capacity has been consistently released on the Philadelphia Lateral into the open bidding FERC secondary market. Indeed, GFCP/VEPI Exhibit JC-8, included with Mr. Crist’s Direct Testimony, shows thirty releases by PGW alone on the Philadelphia Lateral during a recent five year period ranging in size from 15,708 to 18,000 Dth per day for periods of one to five winter months. One of these was last winter (which was mild) and for the five winter months.<sup>53</sup>

But GFCP/VEPI have not bid on it: “bidding is not something GFCP/VEPI ha[ve] historically attempted to address their capacity shortfall.”<sup>54</sup> The reason is obvious – GFCP/VEPI have made no bids for capacity on TETCO over the last ten (10) years,<sup>55</sup> because ARS service has been dramatically underpriced in comparison to the capacity market price.

Before demanding a forced, involuntary release be mandated by the Commission, GFCP/VEPI should be required to obtain capacity rights using the approved FERC procedures; not by what essentially amounts to an illegal, commandeering of capacity of a municipally owned utility used to serve its residential and essential needs customers, among others.

***b. ARS Has Successfully Solved The Shortfall For Twenty-Five Years And Will Continue To Be Available***

Instead of obtaining their own pipeline capacity, GFCP/VEPI have consistently relied upon PGW and its distribution network to make up the shortfall. For the last twenty-five years, since

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<sup>52</sup> PGW St. 2R at 5.

<sup>53</sup> These are PGW only releases and do not reflect those of other shippers on TETCO’s Philadelphia Lateral.

<sup>54</sup> PGW St. 2R at 15–16 (citing 18 C.F.R. § 284.8(a); and TETCO Gas Tariff, Part 6, General Terms and Conditions, Section 3.14 (Capacity Release).

<sup>55</sup> PGW St. 2R at 15–16; PGW Exh. RER-2R (GFCP/VEPI Response to PGW Interrogatory Set I No. 4).

GFCP/VEPI converted their boilers to natural gas in 1996, up to the present (and continuing) GFCP/VEPI have trusted PGW's Alternative Receipt Service ("ARS") to make up the shortfall. ARS is a displacement service where GFCP/VEPI arrange to have gas delivered to a different, non-constrained part of PGW's system to replace gas that PGW would normally have delivered via TETCO's Philadelphia Lateral at Gate 060. PGW then uses its distribution system to essentially move gas from this alternative delivery point to customer meters that would normally be served by gas coming off the TETCO lateral. This frees up capacity on the TETCO lateral that PGW can then use to meet GFCP/VEPI's needs.

The ARS displacement has operated successfully over the last twenty-five years without complaint and GFCP/VEPI have obtained the deliveries that they require on a firm basis without interruption. In the last ten years, GFCP/VEPI have not bid on or otherwise attempted to obtain additional TETCO capacity in the own name, because of the availability and cheapness of ARS.

The current prices for PGW's service, including ARS, were established in a 1996 Contract, prior to PGW becoming a utility regulated by the PUC. The price for ARS is \$4500/year and has not changed since that time. The underlying 1996 contract expired on December 31, 2022, but this ARS displacement service will continue to be available to GFCP/VEPI.

PGW has agreed to continue this displacement service post-contract expiration,<sup>56</sup> and the parties, including the statutory advocates, participated in a complaint proceeding, and now a base rate case, to establish a cost based rate for ARS and the other services (transportation and sales) service provided to GFCP/VEPI by PGW.

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<sup>56</sup> See PGW St. 2R at 6.

**c. The Commission Has Stated That New ARS Rates Will Be Established In PGW's Pending Base Rate Case**

The Commission Order of April 20, 2023 in the *GFCP/VEPI Complaint Proceeding* states that the issue of new, post-contract rates for ARS (and the other services) for GFCP/VEPI will be resolved in PGW's pending base rate case:

[W]e conclude that the question of the proper COS-based gas transportation rate applicable to PGW's service to Vicinity is properly considered at PGW's currently pending base rate proceeding. . . .

Accordingly, we shall direct that the Section 1301 question of the "just and reasonable" rate and rate class applicable to PGW's service to Vicinity be expressly examined under COS principles in the currently pending *PGW 2023 Base Rate Case*.<sup>57</sup>

The end of the suspension period in the base rate case (Docket No. R-2023-3037933, filed February 27, 2023 ) is November 28, 2023<sup>58</sup> and the parties to that case, *including GFCP/VEPI*, have established a schedule under which *all GFCP/VEPI-related service and rate issues, including the provisioning and pricing for ARS*, can be addressed.

Again, there is no question that GFCP/VEPI will continue to have ARS displacement service available to them. The only open question is one of the proper rate to replace the one established in 1996.

**d. GFCP/VEPI's Proposed Capacity Release**

Instead of waiting for a Commission decision on the successor pricing of ARS, GFCP/VEPI have proposed that the Commission mandate that PGW release 21,000/Dth per day

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<sup>57</sup> *GFCP/VEPI Complaint Proceeding*, Order entered April 20, 2023 at 38 ("*April 2023 Order*").

<sup>58</sup> *See* Docket No. R-2023-3037933, Order entered April 20, 2023 suspending rate increase for investigation.

of TETCO capacity, on a recallable basis for a one-year period, directly to GFCP/VEPI at a price not to exceed TETCO's (maximum) tariff rate, currently set by the FERC \$0.61/Dth.

There are several legal and operational reasons why this forced disgorgement of capacity is neither appropriate nor properly raised at this time and cannot be required. As will be developed later in this brief, it also jeopardizes the continuation of firm service to other customers and deprives them of the financial benefit of that valuable capacity.

**i. The Issue Of Capacity Release Is Prematurely Raised**

GFCP/VEPI are seeking a Commission GCR decision in anticipation of an adverse base rate case decision. If they are successful in convincing the Commission to force PGW to release their capacity shortfall, they will no longer need ARS service. The issue of capacity release has been raised here by GFCP/VEPI only in the event that the yet-be-decided rate case order determines ARS rate and terms that are less favorable than the cost of TETCO capacity.

Mr. Crist conceded, on cross examination, that Grays Ferry does not presently need TETCO release capacity and GFCP/VEPI is engaging the parties and the Commissions in a speculative exercise that may well be pointless:

Q. Has PGW placed any bids on TETCO capacity on the Philadelphia [L]ateral in the last ten years? . . .

A. I'm not aware of any bids that they placed in the past ten years...The capacity needed has been provided by PGW using the ARS Agreement, so there's been absolutely no need for Grays Ferry to place bids.<sup>59</sup>

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Q. . . . [W]hy does Grays Ferry now suddenly need the 21,000 dekatherms of capacity?

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<sup>59</sup> Tr. at 95.

A. I'm uncertain as to what the price might be or what the term of that might be. . . .

Q. So Grays Perry is concerned about the price for ARS service, the prices. Correct?

A. The future price and - and the - and - and the future term that it would be offered.<sup>60</sup>

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Q. ARS service rates, terms and conditions is pending before the Commission. Correct?

A. Correct. . . .<sup>61</sup>

This speculation about what the Commission may or may not decide on the question of the “future rates and terms” is premature. The circumstances under which GFCP/VEPI would actually execute on a capacity release may not occur. In the complaint case, GFCP/VEPI argued that their rates should not be changed, in which case they will not have a financial need either. Alternatively, if the Commission sets ARS rates and/or imposes conditions that GFCP/VEPI find unacceptable, there is no prejudice to raising capacity release issues in *the next GCR*.

Addressing this issue now is a waste of the parties’ and Commission resources because GFCP/VEPI may well decide, after reading the Commission’s base rate case order in November of this year, that ARS is cheaper than capacity release.

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<sup>60</sup> Tr. at 100.

<sup>61</sup> Tr. at 101.

**ii. Release Capacity Is Interruptible and GFCP/VEPI Cannot Dictate the FERC Established Terms Of Recall**

Nor does capacity release solve GFCP/VEPI's capacity shortfall, because capacity released on a recallable basis would not be firm; it is interruptible (recallable). ARS service, on the other hand, has historically been treated as firm.<sup>62</sup>

When PGW offered interruptible transportation to GFCP/VEPI in the *GFCP/VEPI Complaint Proceeding*, as one alternative, even though it was backed up with standby service to make it "firm," this suggestion was rejected out of hand by GFCP/VEPI. Mr. Crist asserted that:

Residential and essential human needs customers such as hospitals and nursing homes absolutely require firm service as the health and welfare of individuals depends on firm service especially in periods of cold weather.

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For the past twenty-five years Grays Ferry's service has been firm, and the electricity that Grays Ferry sells into the PJM is offered on a firm basis. The steam that VEPI receives from Grays Ferry which then is sold to residential and commercial customers including hospitals and nursing homes, is also provided on a firm basis. . . . Obviously, an interruptible quality of service is not practical for Grays Ferry.<sup>63</sup>

GFCP/VEPI are now suggesting, as Mr. Reeves observed, that they "would accept interruptible capacity that, when interrupted, would force the shut-down of a substantial portion of [their] electric generation and steam supply . . . in the coldest months of the year, exactly those circumstances under which PGW would be recalling it."<sup>64</sup> The offer to now accept interruptible interstate capacity is a radical change of this position and unexplained on the record of this case.

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<sup>62</sup> PGW St. 2RJ at 3.

<sup>63</sup> PGW St. 2RJ at 2 (quoting *GFCP/VEPI Complaint Proceeding*, GFCP/VEPI Statement JC-1 at 12).

<sup>64</sup> PGW St. 2RJ at 2.

Capacity can be recalled if, for any reason, PGW desires to use it.<sup>65</sup> PGW most recently recalled capacity in January 2018.<sup>66</sup>

In an attempt to limit PGW's ability to recall, Mr. Crist's testimony contains reference to limiting the right to recall "under similar terms" to its existing ARS arrangement with PGW – not the FERC's rules.<sup>67</sup> Exactly what those new terms might be is not explained. However, it is of no merit and deserves no consideration.

GFCP/VEPI cannot dictate the terms of capacity release on TETCO. Nor can PGW. The capacity would be released to TETCO and then to GFCP/VEPI, as Mr. Reeves explained: "There are no restrictions on the recall of released interstate pipeline capacity, which may occur at any time under any circumstances. TETCO, the counter party to the capacity contracts on its system, will not negotiate these terms as they are determined by FERC and tariff rules."<sup>68</sup>

### **iii. The Commission Does Not Have The Power To Force A Sale**

As described in the ensuing two sections of this brief, PGW's TETCO capacity holdings are valuable assets from a reliability perspective, as well as a financial one. When used to provide cold weather service it is invaluable. When not needed it is a rich source of revenue in the capacity release market, the proceeds of which are 100% credited to PGW's customers to offset both gas and base rate costs. The Commission should not order PGW to involuntarily release capacity to GFCP/VEPI that is essential to maintaining service reliability for PGW's customers.

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<sup>65</sup> Tr. at 65.

<sup>66</sup> Tr. at 75.

<sup>67</sup> PGW St. 2R at 15 (citing 18 C.F.R. § 284.8(a); TETCO Gas Tariff, Part 6: General Terms and Conditions, Section 3.14 (Capacity Release)).

<sup>68</sup> PGW St. 2RJ at 3. The FERC's rules specifically state that Shippers releasing capacity must do so, but without "without restriction on the terms or conditions of the release." 18 C.F.R. § 284.8(b)(1).

Nor does the Commission have the legal authority to force an involuntary sale of these invaluable contracts and assets. GFCP/VEPI cite to none.

#### **4. Availability of Capacity For Mandated Release**

The biggest drawback, however, is that PGW, as a utility with an obligation to provide Section 1501 service, needs the 21,000 Dth of TETCO capacity to provide firm service to other customers. GFCP/VEPI is the only party to this case presenting the narrative that PGW holds more capacity than it needs to provide service in the City.

The statutory advocates, representing the interests of the customers who actually rely on this capacity and pay the GCR rates that recover the costs, do not support this false notion. Nor should any credence be given to GFCP/VEPI whose sole objective is to obtain the capacity rights for themselves in order to (potentially, we do not know yet) reduce their own energy costs. They have no interest and are indifferent to the service reliability and gas rates of PGW's remaining firm customers.

As a natural gas distribution company and supplier of last resort for "safe, adequate and continuous" service under all anticipated conditions, PGW prudently plans for the worst foreseeable conditions and uses the calculation of Design Day usage for its planning. Projected customer requirements for Design Day and Design Winter conditions form the basis for capacity commitments for pipeline supply, storage, and transportation contracting.<sup>69</sup>

PGW has the contractual rights to daily firm capacity of a maximum of 134,822 Dth on the TETCO pipeline and a maximum daily capacity of 167,179 Dth on the Transco pipeline.<sup>70</sup> This

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<sup>69</sup> PGW St. 2, PGW Exh. RR-1.

<sup>70</sup> PGW St. 2R at 8; PGW St. 2R at 9 ("Approximately 40% of PGW's Design Day supplies comes from firm pipeline deliveries to the city gate stations.").

combined total of daily capacity of 302,001 Dth is less than PGW's Design Day requirement<sup>71</sup> of 708,423 Dth.<sup>72</sup> This means that, on the Company's Design Day, as well as many days during the winter, PGW's firm customer demand is greater than PGW's existing firm capacity rights.<sup>73</sup>

PGW forecasts that, on the system peak day, it will use all of its pipeline contract quantity of 302,001 Dth. "PGW needs every therm of pipeline capacity that it holds."<sup>74</sup>

In fact, on many days during the winter, PGW does not have sufficient pipeline capacity to meet customer demand and has to use other assets, such as its contracted off-site storage rights and LNG assets, to do so. PGW has been able to avoid interrupting or curtailing GFCP/VEPI historically by using its other supply assets to meet customer demands.<sup>75</sup>

But these assets are not always sufficient. Most recently, in January 2018, issued an operational flow indicating an intent to interrupt.<sup>76</sup> As Mr. Reeves explained: "While PGW has previously been forced to seriously consider interrupting service because of severe weather or operating conditions or both, so far it has managed to avoid having to do so."<sup>77</sup>

The difference between system Design Day demand and available capacity should not be equal. It cannot be assumed that all assets, the pipeline supply and storage, as well as LNG facilities, will be available and operating on that cold day. It is prudent to preserve a margin of

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<sup>71</sup> As Mr. Reeves explained, "a natural gas distribution company's required capacity must be evaluated based on its supply requirements on a "design" basis. Accordingly, to properly evaluate its supply needs, PGW projects customer gas requirements for a Design (coldest) Hour, Design Day and Design Winter. These gas requirements form the basis for capacity commitments for pipeline supply, storage, and transportation contracting. Under this model, PGW includes all firm sales and transportation load." PGW St. 2R at 8-9.

<sup>72</sup> PGW St. 2R at 8.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at 10.

<sup>75</sup> *Id.* at 11.

<sup>76</sup> *Id.* at 12.

<sup>77</sup> *Id.* at 12 n.16.

total capacity over Design Day demand, because equipment freezes, goes offline or is otherwise unavailable when needed most.

PGW submitted the results of an analysis that showed, *if PGW were to permanently release 21,000 Dth/day*, PGW's distribution system would experience *failures in 11 of the 18 scenarios* that were examined. This would require PGW to curtail firm customer load (as well as interrupting all IT customers).<sup>78</sup> Mr. Reeves summarized the results as follows:

If PGW permanently released Philadelphia Lateral capacity to GFCP/VEPI, such a release would likely threaten PGW's ability to meet the demands of its remaining customers, including essential needs customers.<sup>79</sup>

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Mr. Crist's recommendations would seriously threaten PGW's ability to provide reliable service to its remaining Firm customers. Any unanticipated event on an extreme winter day would mean that PGW would have to curtail firm residential and commercial customers.<sup>80</sup>

The risks inherent in these scenarios are not improbable,<sup>81</sup> as Mr. Reeves explained:

We have seen gate stations and LNG facilities fail before so these are not improbable events. These are not improbable events. The interstate pipelines serving PGW are older and can fail. In order to protect our firm customers, we need to plan for such an eventuality. All of these events are possible. In my view, PGW should not be required to risk curtailments to firm and essential needs customers

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<sup>78</sup> PGW St. 2R at 11; PGW Exh. RER-1R. Exhibit RER-1R is a summary of a design day failure analysis. This document was also introduced into the record of the *GFCP/VEPI Complaint Proceeding* as part of PGW St. No. 2SR as Exhibit RER-1SR. "The study was ignored by Mr. Crist both there and here." PGW St. 2R at 11 (footnote 15).

<sup>79</sup> PGW St. 2R at 11.

<sup>80</sup> PGW St. 2R at 12–13.

<sup>81</sup> GFCP/VEPI and Mr. Crist are well aware of this analysis when filing testimony in this case but have not sought to review it, complaining rather that its designation as "Confidential Security Information" requires in-person inspection under the Commission's rules, which they did not want to undertake. PGW St. 2RJ at 7.

in any circumstance, particularly when it is in the self-interest of only one customer to do so.<sup>82</sup>

In contrast, GFCP/VEPI's claim of "excess capacity" is derived from generalizations, misrepresentations and miscalculations.

Mr. Crist's repeats the mantra of false logic that, because PGW releases capacity on a recall basis, it must consequently have excess capacity to give to GFCP/VEPI. Mr. Reeves dispelled that notion in his rebuttal:

[Mr. Crist] fails to acknowledge that PGW only releases capacity when its analysis shows that, in the coming days or weeks, it is unlikely to require all of the available contracted for capacity to meet customer demand. . . . The right to recall the capacity releases means that PGW has the sole right to recall any capacity it has released from the party to whom PGW released the capacity. Contrary to Mr. Crist's testimony, PGW's capacity releases do not show that PGW has excess capacity in the heating season. It shows that PGW tries to manage its assets to the best of its ability to lower the costs to its GCR customers.<sup>83</sup>

In surrebuttal Mr. Christ doubled down arguing that that "for the past 25 years all of the gas that was supplied to Grays Ferry flowed down the Philadelphia Lateral and through the dedicated four-mile high pressure line to Grays Ferry."<sup>84</sup> This is mere rhetoric. Mr. Reeves countered with the obvious point that GFCP/VEPI were not interrupted because ARS provides firm, not interruptible, service. "The fact that PGW never interrupted GFCP/VEPI's service is not proof that there is excess capacity. It only shows that we have adequate capacity to serve our firm customers."<sup>85</sup>

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<sup>82</sup> PGW St. 2RJ at 6.

<sup>83</sup> PGW St. 2R at 13.

<sup>84</sup> GFCP/VEPI St. 1SR at 1.

<sup>85</sup> PGW St. 2RJ at 3.

The specifics of Mr. Crist’s analysis are equally misleading. Mr. Crist creates the false impression that there is excess capacity *by understating the amount of capacity needed* to meet system winter requirements when he stated that an interrogatory answer “reflects an excess of 15,540 Dth/day of capacity on TETCO.”<sup>86</sup> Not only is the data set he uses incorrect, but he also ignores a substantial portion of PGW’s firm customer commitments.

First, Mr. Crist relied on information *from a Peak Day* analysis for 2024, *not the Design Day*.<sup>87</sup> Mr. Reeves replied stating that Mr. Crist, thusly, understates the capacity needed by PGW’s customers: “PGW prudently plans for the worst foreseeable conditions and uses the calculation of *Design Day* usage for its planning. PGW’s Peak Day demand is 678,445 Dth, whereas the Design Day demand is 708,423 Dth.”<sup>88</sup> This an error of almost 5% of the total.

Then, using this incorrect Peak Day information, Mr. Crist claims that there was an excess of 15,540 Dth/day of capacity rights held by PGW on TETCO.<sup>89</sup> This is also in error. Mr. Crist *excluded from his analysis usage in the category of “Firm Transportation.”* These are transportation volumes supplied to PGW customers by gas suppliers participating in the Natural Gas Choice and Competition Act, under which PGW releases some of its firm capacity rights to firm Choice suppliers participating in that program.<sup>90</sup>

Mr. Reeves corrected this error, and the result demonstrated a *shortfall* of 1,157 Dth – not an excess of 15,540 Dth/day, as claimed by Mr. Crist. “When the capacity released for the Choice Program is included, Mr. Crist’s calculation of excess capacity disappears, and it is clear that PGW

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<sup>86</sup> GFCP/VEPI St. 1 at 8–9; Exhibit JC-5 (PGW’s response to OCA I-4).

<sup>87</sup> *Id.*

<sup>88</sup> PGW St. 2R at 9–10.

<sup>89</sup> GFCP/VEPI St. 1 at 9.

<sup>90</sup> PGW St. 2R at 10.

needs every therm of capacity for which it holds contracts even on its projected peak – not its higher design day.”<sup>91</sup>

Finally, Mr. Crist’s calculation of an 81% excess on January 29, 2022, only looks at one day’s usage over an entire winter season. “He neglects the overall cost and season long operational impact that reducing PGW’s firm interstate pipeline rights would have on its LNG facilities and off-site storages, which would be forced to make up the difference.”<sup>92</sup>

In summary, there is no excess pipeline capacity held by PGW and GFCP/VEPI’s attempts to argue otherwise are just plain wrong and merely the assertion of a self-serving and unsupported proposition. The evidence presented by PGW shows unequivocally that any permanent release of capacity of the magnitude demanded by GFCP/VEPI would significantly increase the risk that PGW would not be able to reliably serve the needs of its remaining firm customers, including residential, small commercial and essential needs such as schools and hospitals. To put these customers at risk merely so that one private enterprise can get away from paying its fair share for gas transportation would be grossly unfair and unreasonable.

## **5. Effect On Other Customers**

The service implications of the forced commandeering of 21,000 Dth of TETCO capacity for a private, not public, benefit to Grays Ferry has been addressed in the prior section. It makes no sense for the Commission to potentially jeopardize winter service reliability based on the specious, self-serving claims presented by GFCP/VEPI.

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<sup>91</sup> *Id.* at 10–11.

<sup>92</sup> *Id.* at 11.

Moreover, there are adverse gas supply consequences as well. The preservation of options allows PGW to maintain supply flexibility and keep the cost of the gas itself low.<sup>93</sup> PGW's strategy for gas purchasing strategy conforms to the requirements of PGW's Optimization Standard for Purchasing and Utilizing Gas Supplies. As Mr. Reeves explained:

Within the above parameters [of capacity and supply agreements], priority is given to utilizing the most economical sources of supply first within the context of preserving the capability of meeting seasonal and annual demands rather than the momentary daily requirements. All facilities and sources of supply – flowing, storage and LNG – are available to achieve the intended end, namely, minimizing gas costs subject to reliability constraints.<sup>94</sup>

It is the combination of PGW's pipeline, storage and LNG capacity assets that give it this supply flexibility to maintain the lowest GCR rates.

Thirdly, PGW is constantly looking for opportunities to release the capacity that it has secured to assure system reliability when its analysis shows that experienced and projected temperatures and customer demand would permit the capacity to be released. TETCO capacity, when released into the bidding market, makes money for PGW's customers that is 100% credited to customers through the GCR and base rates,<sup>95</sup> as Mr. Reeves described:

Typically, PGW will perform a capacity release with the right to recall during the winter season and generate more revenue than PGW pays for the capacity. Over the last two winter seasons, PGW received approximately between 200% and 350% of the cost of the capacity. This allows PGW to help offset cost for GCR customers

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<sup>93</sup> PGW St. 2, PGW Exh. RR-1.

<sup>94</sup> *Id.*

<sup>95</sup> *Id.* at 15 (“Mr. Crist seems to believe that all capacity release revenues are not fully restored to our customers, claiming that only 75% is credited to our customers [GFCP/VEPI St. No. 1 at 11]. This is also not true. As I explained in my direct testimony, the revenues are split 75/25%; with the 75% being credited to the GCR rates and the remaining 25% credited to base rates to offset other costs of PGW's operation. So, in fact, the PGW's customers see 100% revenues returned to them. No portion of these proceeds is retained by the Company.”)

while ensuring their needs will be met during the highest of demand days.<sup>96</sup>

For example, this past winter, PGW released 18,708 Dth per day on TETCO at a price of \$3.25 per Dth – far in excess of the rate offered by Grays Ferry.<sup>97</sup> Totaled, these transactions generated approximately \$9.2 million dollars in revenues for the benefit of PGW customers.<sup>98</sup>

Thus, GFCP/VEPI are offering less revenue per dekatherm to PGW’s customers in exchange for the release of 21,000 Dth/day than PGW currently makes in the open bid capacity release market. Mr. Crist asserted in direct testimony that the maximum tariffed TETCO rate being offered by GFCP/VEPI is \$0.80/Dth and total revenues received as compensation would equal \$6.132 million annually.<sup>99</sup>

Once again, however, Mr. Crist factual assertions need to be corrected as he employed a rate *proposed* in a FERC rate case filed by TETCO in September 2022 (even though it was presented in his direct testimony in April of 2023). However, TETCO settled its FERC rate case in December 2022 and the proper, corrected final rate is \$0.61/Dth (rounded) and the revenues that

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<sup>96</sup> *Id.* at 13–14.

<sup>97</sup> As noted previously, short terms recallable capacity release is beneficial to PGW’s customers because, “under FERC regulations for interstate capacity release, the maximum rate for release durations of less than one year is permitted to exceed the interstate pipeline’s tariff rate. However, releases for a year or greater, as requested here by GFCP/VEPI here, is the lower interstate tariffed rate. PGW St. 2R at 14; *See* 18 C.F.R. § 284.8(b)(2) (“The rate charged the replacement shipper for a release of capacity may not exceed the applicable maximum rate, except that no rate limitation applies to the release of capacity for a period of one year or less if the release is to take effect on or before one year from the date on which the pipeline is notified of the release. Payments or other consideration exchanged between the releasing and replacement shippers in a release to an asset manager as defined in paragraph (h)(3) of this section are not subject to the maximum rate.”).

<sup>98</sup> PGW St. 2R at 14. The actual revenues of \$9.2 million were for the release of 18,708 Dth/day. “Were PGW to release the 21,000 Dth/day requested by GFCP/VEPI, which PGW cannot do without threatening reliability, the forgone revenues would be even greater.”

<sup>99</sup> GFCP/VEPI St. 1 at 12

PGW and its customers could expect under GFCP/VEPI's proposal would be only \$4.6 million (\$9.2 million minus \$4.6 million).<sup>100</sup>

In other words, the corrected figure shows that *PGW's GCR customer would pay \$4.6 million more in GCR costs* were capacity release revenues decreased due to a forced release to GFCP/VEPI.

The disparity and disadvantage to GCR customers will get worse going forward as prices for capacity release have been increasing. In 2020–2021, PGW averaged \$0.98/Dth in TETCO releases. It was higher in 2021–2022 at \$1.70/Dth and, as previously explained, was \$3.25 last heating season.<sup>101</sup> Mr. Reeves' prospective view of the market is that:

Firm pipeline capacity is becoming an increasingly scarce resource and of increasing value. The interstate pipeline system has been experiencing more and more restrictions and bottlenecks. Part of this is due to an increasing flow into aging systems. Moreover, new pipeline construction is limited. More broadly, in terms of trends, natural gas is becoming of greater use for electric power generation, replacing coal, and as demand on the electric grid expands to accommodate new loads, electric vehicles being prominent example. The pipeline system is becoming more strained, and this will increase. Therefore, it is my opinion, that [open bid] pipeline capacity release prices and revenues will only become greater in the future.<sup>102</sup>

In sum, the Commission should reject GFCP/VEPI's proposal that PGW release 21,000 Dth/day to GFCP/VEPI during the winter months because, if approved, PGW's other customers will experience greater supply risk, higher GCR gas supply costs, and reduced credits for revenues received from capacity release.

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<sup>100</sup> PGW St. 2RJ at 6; Tr. at 59–60.

<sup>101</sup> *Id.* at 6.

<sup>102</sup> *Id.* at 5.

## **VII. CONCLUSION**

For the reasons stated herein, Philadelphia Gas Works respectfully requests that the Commission:

- (a) approve the proposed 2023–2024 GCR;
- (b) find that PGW’s proposed 2023–2024 GCR, claimed realized natural gas expense, GCR Expense, and prior years’ over-/under-collections are just, reasonable, and in pursuit of a least cost fuel procurement and other standards set forth in 66 Pa. C.S. §§ 1307(f), 1317 and 1318;
- (c) find that PGW’s proposed Tariff Supplement No. 160 to PGW’s Gas Service Tariff – Pa P.U.C. No. 2, adjusting the GCR, and making corresponding adjustments to the Price-to-Compare, Efficiency Cost Recovery Surcharge, and Universal Service and Energy Conservation Surcharge, and to the proposed Tariff Supplement No. 106 to PGW’s Gas Supplier Tariff – Pa P.U.C. No. 1 to adjust the load balancing charge, are just, reasonable and otherwise consistent with law; and
- (d) deny GFCP/VEPI’s proposal and dismiss GFCP/VEPI’s complaint; and (e) take any other action determined to be in the public interest.

Respectfully submitted,



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Date: May 4, 2023

Attorneys for Philadelphia Gas Works

## **APPENDIX A – PROPOSED FINDINGS OF FACT**

### **GCR-Related Findings**

1. The GCR is a mechanism used to flow through the costs of natural gas and other raw materials in a timely and equitable manner. PGW St. 1 at 7.
2. The pricing methodology utilized by PGW relies on actual prices for January 202e and the NYMEX Futures close data (as of January 18, 2023) for the 19 forecast months of February 2023 through August 2024. PGW St. 1 at 9.
3. PGW submitted supporting schedules as required by Section 53.64(a) in support of its GCR; the Price to Compare; and the rates for various surcharges including the Restructuring and Consumer Education Surcharge, the Universal Service and Energy Conservation Surcharge (“USC”), the Other Post Employment Benefit Rider Surcharges. PGW St. 1 at 3–6.
4. None of the parties submitted testimony challenging PGW’s proposed calculation for the GCR or other charges included in its initial proposals.
5. The projected GCR per Mcf is \$5.0576 for effective date of September 1, 2023. Following the Commission’s final order in this matter, PGW will file tariff supplements to implement the new rates.

### **GFCP/VEPI Related Findings**

6. PGW maintains a distribution system of approximately 3,000 miles of gas mains and 475,000 service lines, and provides gas service to approximately 500,000 residential, commercial and industrial customers in Philadelphia. PGW St. 2R at 2.
7. PGW’s system is directly connected to the only two interstate natural gas pipelines that deliver natural gas to PGW’s service territory through nine gate stations – TETCO and Transco. PGW St. 2 at 2, 4.
8. On each pipeline, PGW has an allocation of capacity for which it has contracted, and which is paid for by PGW’s GCR customers. PGW St. 2R at 8.
9. PGW physically sources its gas supplies gas in accordance with these firm pipeline paths. By obtaining supply in this way, PGW ensures its sole and exclusive entitlement to this space on the pipeline, which assures delivery except in the most extreme circumstances. PGW St. 2 at 7–8.
10. Transporting gas from different locations mitigates the impact of potential regional disruptions because not all of the supply enters the pipe at the same location. As a result, if there is a disruption at one location, not all of PGW’s supply will be affected. PGW St. 2 at 7–8.

11. PGW manages its interstate pipeline capacity to minimize customer costs. One means of financially managing pipeline costs is through the release of capacity on a short term, “recallable” basis into the FERC regulated, open bidding, secondary market. For the twelve months ending December 31, 2022, PGW successfully released recallable capacity on TETCO and Transco generating \$25,986,256 in credits, 100% of which were returned to its customers in the form of reductions to GCR and base rate costs. PGW Exh. 1 at 53.64(C)(7), Schedule 3.
12. GFPC is an unregulated cogeneration facility which produces electricity for sale competitively into the PJM market. The “waste” steam outputs (i.e., steam left over after generation) are sold to its affiliate, VEPI, which then resells the steam to customers in Philadelphia as a Commission regulated steam utility. PGW St. 2R at 3 and PGW St. 2RJ at 2.
13. GFPC/VEPI burn natural gas delivered from a single TETCO gate station which is then received by a PGW distribution line for ultimate delivery to GFPC/VEPI’s gas burning facilities. The TETCO delivery line used by GFPC/VEPI is known as the “Philadelphia Lateral” and the specific TETCO delivery point is “Gate Station 060.” PGW St. 2R at 5.
14. GFPC/VEPI have never possessed sufficient capacity on TETCO to meet their total needs, since the conversion of the generating plant (and some Vicinity boilers) from oil to natural gas burning equipment in the mid-1990s. PGW St. 2R at 5; Tr. at 93 (Crist)
15. GFPC/VEPI are net short of interstate transportation capacity during the winter period. GFPC/VEPI possess insufficient delivery rights (capacity) on TETCO’s Philadelphia Lateral during the winter – owning only 35,000 Dth per day of delivery capacity compared to their winter peak requirement of 56,000 Dth per day. GFPC/VEPI’s only capacity rights are on TETCO’s Philadelphia Lateral to Gate Station 060. PGW St. 2R at 5; See also OSBA St. 1-R at 2–3
16. And there is no new, unsubscribed capacity left on TETCO. Any capacity must be obtained by bid in the FERC-administered secondary market. PGW St. 2R at 5.
17. GFPC/VEPI have not bid on released capacity. Bidding is not something GFPC/VEPI have historically attempted to address their capacity shortfall.” PGW St. 2R at 15–16; PGW Exh. RER-2R (GFPC/VEPI Response to PGW Interrogatory Set I No. 4).
18. Instead of obtaining their own pipeline capacity, GFPC/VEPI have consistently relied upon PGW and its distribution network to make up the shortfall. For the last twenty-five years, since GFPC/VEPI converted their boilers to natural gas in 1996, up to the present (and continuing) GFPC/VEPI have trusted PGW’s Alternative Receipt Service (“ARS”) to make up the shortfall. PGW St. 2R at 5–6.
19. ARS is a displacement service where GFPC/VEPI arrange to have gas delivered to a different, non-constrained part of PGW’s system to replace gas that PGW would normally have delivered via TETCO’s Philadelphia Lateral at Gate 060. PGW then uses its distribution system to essentially move gas from this alternative delivery point to customer

meters that would normally be served by gas coming off the TETCO lateral. PGW St. 2R at 5–6.

20. PGW has agreed to continue this displacement service and the parties, including the statutory advocates, have participated in a complaint proceeding, and now a base rate case, to establish a cost based rate for ARS and the other services (transportation and sales) provided to GFCEP/VEPI by PGW. PGW St. 2R at 6.
21. The Commission Order of April 20, 2023 in the GFCEP/VEPI Complaint Proceeding states that the issue of new, post-contract rates for ARS (and the other services) for GFCEP/VEPI will be resolved in PGW’s pending base rate case. GFCEP/VEPI Complaint Proceeding, Order entered April 20, 2023 at 38.
22. GFCEP/VEPI are seeking a Commission decision in this GCR case in anticipation of an adverse base rate case decision. The issue of capacity release has been raised here by GFCEP/VEPI only in the event that the yet-be-decided rate case order determines ARS rate and terms that are less favorable than the cost of TETCO capacity. GFCEP/VEPI may well decide, after reading the Commission’s base rate case order in November of this year, that ARS is cheaper than capacity release. Tr. at 95–101. The issue is prematurely raised.
23. Nor does capacity release solve GFCEP/VEPI’s capacity shortfall, because capacity released on a recallable basis would not be firm; it is interruptible (recallable). ARS service, on the other hand, has historically been treated as firm. PGW St. 2RJ at 3.
24. When PGW offered interruptible transportation to GFCEP/VEPI in the GFCEP/VEPI Complaint Proceeding, as one alternative, even though it was backed up with standby service to make it “firm,” this suggestion was rejected out of hand by GFCEP/VEPI. PGW St. 2RJ at 2 (quoting GFCEP/VEPI Complaint Proceeding, GFCEP/VEPI Statement JC-1 at 12).
25. Mr. Crist’s testimony contains reference to limiting the right to recall “under similar terms” to its existing ARS arrangement with PGW – not the FERC’s rules. GFCEP/VEPI St. 1-SR at 4. However, TETCO, the counter party to the capacity contracts on its system, will not negotiate these terms as they are determined by FERC and tariff rules. PGW St. 2RJ at 3; PGW St. 2R at 15.
26. GFCEP/VEPI miscalculated the cost they would pay for capacity release. GFCEP/VEPI St. No. 1 at 12; PGW St. 2RJ at 6; Tr. at 59. The TETCO maximum tariff rate is not the applicable rate. The actual rate would be determined in the secondary market, based upon an open auction of competing bids. These prices are well in excess of the maximum tariff rate. PGW St. 2R at 15.
27. GFCEP/VEPI is the only party to this case presenting the narrative that PGW holds more capacity than it needs to provide service in the City. The statutory advocates, representing the interests of the customers who rely on this capacity and pay the GCR rates that recover the costs have not contested PGW’s capacity holding.

28. PGW prudently plans for the worst foreseeable conditions and uses the calculation of Design Day usage for its planning. Projected customer requirements for Design Day and Design Winter conditions form the basis for capacity commitments for pipeline supply, storage, and transportation contracting. PGW St. 2, PGW Exh. RR-1.
29. PGW has the contractual rights to daily firm capacity of a maximum of 134,822 Dth on the TETCO pipeline and a maximum daily capacity of 167,179 Dth on the Transco pipeline. This combined total of daily capacity of 302,001 Dth is less than PGW's Design Day requirement of 708,423 Dth. This means that, on the Company's Design Day, as well as many days during the winter, PGW's firm customer demand is greater than PGW's existing firm capacity rights. PGW St. 2R at 8–9.
30. PGW forecasts that, on the system peak day, it will use all of its pipeline contract quantity of 302,001 Dth. "PGW needs every therm of pipeline capacity that it holds." PGW St. 2R at 10. Most recently, in January 2018, PGW issued an operational flow indicating an intent to interrupt. PGW St. 2R at 12.
31. PGW submitted the results of an analysis that showed, if PGW were to permanently release 21,000 Dth/day, PGW's distribution system would experience failures in 11 of the 18 scenarios that were examined. PGW St. 2R at 11–12; Exhibit RER-1R. This would require PGW to curtail firm customer load as well as interrupting all IT customers. *Id.*
32. The risks inherent in these scenarios are not improbable. PGW has seen gate stations and LNG facilities fail before. The interstate pipelines serving PGW are older and can fail. PGW St. 2RJ at 6. It is prudent to preserve a margin of total capacity over Design Day demand, because equipment freezes, goes offline or is otherwise unavailable when needed most.
33. Contrary to Mr. Crist's testimony, PGW's capacity releases do not show that PGW has excess capacity in the heating season. It shows that PGW tries to manage its assets to the best of its ability to lower the costs to its GCR customers. PGW St. 2R at 13.
34. The fact that PGW never interrupted GFCP/VEPI's service is not proof that there is excess capacity. It only shows that PGW has adequate capacity to serve firm customers. PGW St. 2RJ at 3.
35. Mr. Crist incorrectly calculated the Company's capacity needs by relying on information from a Peak Day analysis, not the Design Day, which has the effect of understating the capacity needed by PGW's customers. PGW's Peak Day demand is 678,445 Dth, whereas the Design Day demand is 708,423 Dth." PGW St. 2R at 9–10.
36. Mr. Crist incorrectly calculated PGW customers' Peak Day needs by excluding from his analysis usage in the category of "Firm Transportation" which should have been included. These are transportation volumes supplied to PGW customers by gas suppliers participating in the Natural Gas Choice and Competition Act, under which PGW releases some of its firm capacity rights to firm Choice suppliers participating in that program. Corrected for this error, there is a capacity shortfall, not an excess. PGW St. 2R at 10.

37. Mr. Crist's calculation of an 81% excess on January 29, 2022, neglects the overall cost and season long operational impact that reducing PGW's firm interstate pipeline rights would have on its LNG facilities and off-site storages, which would be forced to make up the difference. PGW St. 2R at 10.
38. The evidence presented by PGW shows that any permanent release of capacity of the magnitude demanded by GFCP/VEPI would significantly increase the risk that PGW would not be able to reliably serve the needs of its remaining firm customers, including residential, small commercial and essential needs such as schools and hospitals.
39. There are also adverse gas supply consequences to GCR customers of releasing capacity to GFCP/VEPI. The preservation of options allows PGW to maintain supply flexibility and keep the cost of the gas itself low. PGW St. 2, PGW Exh. RR-1. It is the combination of PGW's pipeline, storage and LNG capacity assets that give it this supply flexibility to maintain the lowest GCR rates. PGW St. 1, PGW Exh. RR-1.
40. Mr. Crist miscalculated the revenues that would be received from GFCP/VEPI were the capacity released. Mr. Crist asserted in direct testimony that the maximum tariffed TETCO rate being offered by GFCP/VEPI is \$0.80/Dth and total revenues received as compensation would equal \$6.132 million annually. GFCP/VEPI St. 1 at 12. However, TETCO settled its FERC rate case in December 2022 and the proper, corrected final rate is \$0.61/Dth (rounded). Tr. at 59–60. Mr. Crist conceded the error. Tr. at 91.
41. Corrected for the error, PGW and its customers could expect revenues under GFCP/VEPI's proposal of only \$4.6 million. Thus, PGW's GCR customers would pay \$4.6 million more in GCR costs under GFCP/VEPI's proposal. PGW St. 2RJ at 6; Tr. at 59–60.
42. GFCP/VEPI are offering less revenue per dekatherm (\$0.61/Dth) to PGW's customers in exchange for the release of 21,000 Dth/day than PGW currently makes in the open bid capacity release market. During the 2022–2023 winter, PGW released 18,708 Dth per day on TETCO at an open market bid price of \$3.25 per Dth. PGW St. 2R at 14; 2RJ at 4.
43. This disparity between the price offered by GFCP/VEPI (TETCO's maximum tariff rate of \$0.61/Dth) and the price for that capacity in the open bid, secondary market (most recent heating season of \$3.25/Dth) will likely increase and the disadvantage to GCR customers under GFCP/VEPI's proposal will become more pronounced going forward as firm pipeline capacity is becoming an increasingly scarce resource and of increasing value. PGW 2RJ at 5.

## **VIII. APPENDIX B – PROPOSED CONCLUSIONS OF LAW**

1. With respect to PGW’s gas purchases and gas purchasing practices during the twelve-month historical reconciliation period ended December 31, 2022, PGW has met the standards of Section 1318 of the Public Utility Code, 66 Pa.C.S. § 1318, as required by Section 1307(f)(5) of the Public Utility Code, 66 Pa.C.S. § 1307(f)(5), as to all actual purchased gas costs in the historical period.
2. During twelve months ended December 31, 2022, PGW met the requirements of Section 1318(a) of the Public Utility Code, 66 Pa.C.S. § 1318(a), by pursuing a least-cost fuel procurement policy, consistent with its obligation to provide safe, adequate, and reliable service to its customers.
3. With respect to the eight-month interim period beginning on January 1, 2023, and the projected twelve-month period beginning September 1, 2023, the rates to be adopted by the Commission result from PGW’s compliance with all of the provisions of Section 1318 of the Public Utility Code, 66 Pa.C.S. § 1318.
4. With respect to complainant GFCP/VEPI’s proposal that PGW be forced to release 21,000 Dth of TETCO capacity (“GFCP/VEPI Relief”), as the proponent of such order, GFCP/VEPI bear the burden of proof. 66 Pa.C.S. § 332(a).
5. Since the subject of the GFCP/VEPI complaint does not address the proposed GCR rate change and GFCP/VEPI are seeking separate affirmative relief apart from the GCR rate change, the burden of proof is not upon PGW under 66 Pa.C.S. § 315(a).
6. Granting the GFCP/VEPI Relief would cause PGW to be in violation of its statutory duty under 66 Pa.C.S. § 1501.
7. Granting the GFCP/VEPI Relief would cause PGW to be in violation of its statutory duty under 66 Pa.C.S. § 1301 to offer just and reasonable rates.
8. Granting the GFCP/VEPI Relief would cause PGW to fail to pursue a least cost gas purchasing strategy in violation of 66 Pa.C.S. § 1317.
9. The Commission does not have the authority to force the City of Philadelphia to release assets to a private enterprise.
10. The release of TETCO capacity under the terms proposed by GFCP/VEPI would violate FERC secondary market rules. 18 C.F.R. § 284.8.
11. There are other alternatives being investigated in the pending PGW base rate case that would address service to GFCP/VEPI, including the continued offering of ARS, that would not cause violations of statute.
12. It is administratively efficient for the parties to continue to address ARS in the base rate case rather than grant the GFCP/VEPI Relief here.

13. GFCP/VEPI have failed to present a preponderance of evidence to support the GFCP/VEPI Relief and their complaint should be dismissed.

**IX. APPENDIX C – PROPOSED ORDERING PARAGRAPHS**

1. PGW’s proposed 2023–2024 GCR is approved.
2. The complaint of GFCP/VEPI and the relief sought are denied with prejudice.