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May 8, 2023

Via Electronic Filing

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

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 Philadelphia Gas Works' Brief in Support of Interlocutory Review with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

/s/ Karen O. Moury

Karen O. Moury

Enclosure

cc: Hon. Marta Guhl w/enc.
pmcneal@pa.gov w/enc.
Certificate of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the PGW's Brief in Support of Interlocutory Review 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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Dated: May 8, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**BRIEF OF PHILADELPHIA GAS WORKS
IN SUPPORT OF INTERLOCUTORY REVIEW
AND ANSWER TO MATERIAL QUESTION**

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May 8, 2023

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I. INTRODUCTION AND SUMMARY OF ARGUMENT

Pursuant to 52 Pa. Code § 5.302, Philadelphia Gas Works (“PGW” or “Company”) files this Brief in Support of its Petition for Interlocutory Review and Answer to Material Question (“Interlocutory Review Petition”) relating to the Prehearing Conference Order issued by Administrative Law Judge (“ALJ”) Marta Guhl dated February 22, 2023 (“February 22, 2023 Interim Order”). The February 22, 2023 Interim Order improperly denied PGW’s Petition for Leave to Withdraw (“Withdrawal Petition”) as moot.

Absent interlocutory review, 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 February 22, 2023 Interim Order is two-fold, as follows: (1) valuable resources are being unnecessarily wasted by litigating Weather Normalization Adjustment (“WNA”) issues in a proceeding that PGW filed for the limited purpose of proposing a 25% cap to protect customers during the current heating season (ending May 31, 2023), which has been rendered obsolete, at the same time WNA issues are being addressed in PGW’s pending base rate case; and (2) the WNA proceeding does not provide a proper forum or afford the requisite due process to PGW for an adjudication of broader WNA issues, which are routinely addressed in base rate cases since they impact rates charged to customers and revenues collected by utilities.

The February 22, 2023 Interim Order issued by ALJ Guhl raises the following material questions for the Commission’s review:

1. 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?
2. Does the continued litigation of WNA issues in two separate proceedings involve an unnecessary waste of resources?

The suggested answers to these material questions is yes.

The filing that PGW seeks to withdraw was made on August 2, 2022 for the limited, but important, purpose of adding a 25% cap to its WNA formula, effective October 1, 2022 (“Cap Petition”). PGW swiftly proposed the cap as a way of protecting customers against unusually large increases, due to application of the WNA, during the current heating season. After the Office of Consumer Advocate (“OCA”) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) expressed opposition to this customer protection proposal, the Commission suspended the proposed Tariff revision on September 15, 2022 for investigation. The matter was referred to the Office of Administrative Law Judge and currently remains in active litigation (“WNA proceeding”), with ALJ Guhl presiding.

PGW wishes to withdraw the Cap Petition and accompanying proposed Tariff revision because the Company no longer desires to implement a 25% cap on WNA rate charges/credits. Since the proposal was rendered moot when it was not approved for the current heating season, PGW should not be required to continue the litigation of the WNA proceeding. Litigation requires significant resources. With PGW having no investors, its customers will absorb these costs. It is an unnecessary waste of valuable resources of the Company, the Commission, and the statutory advocates, to continue litigation of the WNA proceeding while the base rate case filed on February 27, 2023 at Docket No. R-2023-3037933 is being separately litigated on a similar time frame and includes a proposed WNA formula modification.

Not only does the WNA proceeding involve a debate about the proposed 25% cap, which PGW no longer wants to implement, the parties have also recommended other modifications, including the possible suspension or elimination of the WNA in its entirety. Due to the importance of the WNA to PGW’s financial stability, particularly as a cash flow utility, the limited WNA proceeding does not provide a proper forum or afford the requisite due process to

PGW for an adjudication of broader WNA issues. Therefore, these issues should be addressed in PGW's base rate case, which is the appropriate proceeding to consider WNA alternatives. Of note, the Commission's Bureau of Investigation and Enforcement ("I&E") supports PGW's proposal to move these issues to the base rate case, and this manner of addressing PGW's WNA is consistent with the approach taken by the Commission for other natural gas utilities.

In PGW's pending base rate case, in which a Commission order is due less than two months after the effective date of the proposed Tariff revision, the impact of the WNA and any proposed modifications on PGW's revenues and its customers' rates can be fully considered. In that proceeding, all information needed to examine PGW's overall financial situation is readily available, and a determination can be made based on record evidence as to whether or how the WNA should be modified.

The express purpose of the base rate case is for the Commission to review PGW's proposed rates, as well as its existing Tariff provisions, to determine whether they are just and reasonable. A key part of that proceeding will be a determination of what a "normal" level of revenues should be for the Fully Projected Future Test Year ("FPFTY"). It is this "normal" level of revenues that will then be reconciled through the WNA. In the base rate case, PGW proposed to continue to use a twenty-year average of degree days to determine "normal" revenues. If there is a change in that "normal level," as the OCA witness has suggested in his "alternative" recommendation in this WNA proceeding, it has to occur both in PGW's base rate proceeding and in the WNA calculation. The only proceeding in which both changes can be made is the base rate case. Therefore, a full review of the WNA provision in PGW's Tariff must take place in the base rate case, and its continuation or modifications unrelated to the 25% cap should not be entertained in the limited WNA proceeding.

II. BACKGROUND

An anomaly occurred in the May 2022 usage, which was reflected in PGW's June 2022 bills and resulted in unusually large increases to customers' rates due to an application of the long-standing and Commission-approved WNA. PGW filed a Petition for Emergency Order at Docket No. P-2022-3033477 on June 30, 2022 asking for Commission authorization to reverse the charges resulting from application of the WNA to May 2022 usage. In the Petition, PGW also noted that it had initiated an internal investigation. By Emergency Order issued on July 1, 2022 and ratified by Order adopted on July 14, 2022 ("Ratification Order"), the Commission approved PGW's request, which resulted in the refund of approximately \$12.6 million to customers. In addition, the Ratification Order directed PGW to submit the report regarding its internal investigation by August 15, 2022.

Even before submission of the report on August 12, 2022, and in an effort to protect consumers from unusually large increases due to application of the WNA during the current heating season, which began on October 1, 2022, PGW filed the Cap Petition on August 2, 2022. The Cap Petition was accompanied by Supplement No. 152, which proposed to revise PGW's Gas Service Tariff – Pa. P.U.C. No. 2, Page Nos. 149-150, effective October 1, 2022 so that any increases resulting from application of the WNA would be capped at 25%.

Despite PGW's efforts to protect consumers during the current heating season, OCA and CAUSE-PA opposed the Cap Petition. On September 15, 2022, the Commission suspended Supplement No. 152 for investigation, thereby extending the effective date to April 1, 2023. As a result, the 25% cap did not go into effect on October 1, 2022 as requested by PGW's Cap Petition. The matter was then assigned to ALJ Guhl to preside over the WNA proceeding.

A prehearing conference was held on September 28, 2022. At that time, the parties were still developing a procedural schedule. During those negotiations, PGW voluntarily extended the effective date of Supplement No. 152 from April 1, 2023 to October 1, 2023. PGW submitted the parties' proposed procedural schedule to ALJ Guhl by electronic mail ("e-mail") on October 3, 2022. That schedule called for the submission of direct testimony by PGW on November 30, 2022. No prehearing conference order was issued approving the procedural schedule.

On November 8, 2022, PGW filed the Withdrawal Petition, seeking leave to withdraw the Cap Petition. Rather than litigating the proposed cap, PGW asserted that the most effective long-term solution was for the Company to examine various aspects of the WNA to determine if additional or different controls should be included. PGW contended that the WNA proceeding did not lend itself to that approach because the sole issue raised by the Cap Petition was the 25% cap on the WNA. Through the Withdrawal Petition, PGW committed to the filing of a comprehensive WNA proposal by March 1, 2023, accompanied by direct testimony providing a rationale for the proposed components/controls. Also, on November 8, 2022, PGW filed a Motion to Hold Procedural Schedule in Abeyance ("Abeyance Motion").

On November 14, 2022, OCA and CAUSE-PA filed Answers to the Withdrawal Petition and to the Procedural Motion. Although both parties opposed the Withdrawal Petition, they did not oppose PGW's Abeyance Motion. On November 18, 2022, the Office of Small Business Advocate ("OSBA") filed a letter indicating that it was taking no position on either filing.

As of November 28, 2022, the ALJ had not yet ruled on PGW's Withdrawal Petition or the Abeyance Motion. With PGW's direct testimony due on November 30, 2022 under the procedural schedule submitted on October 3, 2022, PGW contacted the ALJ by e-mail on November 28, 2022, again requesting that the procedural schedule be held in abeyance. The

parties responded to the e-mail indicating that they had no opposition to PGW's request. By e-mail dated November 29, 2022, ALJ Guhl agreed to hold the procedural schedule in abeyance and directed PGW to give a status report by December 6, 2022. During further negotiations with the parties, PGW offered to extend the effective date from October 1, 2023 to October 5, 2023 to facilitate the development of a procedural schedule.¹ By e-mail dated December 6, 2022, PGW transmitted the agreed upon schedule to ALJ Guhl. Again, no interim order was issued at that time to approve this procedural schedule. To date, no Initial Decision has been issued on PGW's Withdrawal Petition.

On February 14, 2023, the date that was suggested for the submission of direct testimony in the procedural schedule transmitted via e-mail on December 6, 2022, PGW filed a letter at the docket, which was served on the ALJ and the parties, indicating that it did not intend to submit direct testimony. By that time, PGW's base rate case filing plans had been finalized and the letter indicated that PGW would address the WNA in detail in that proceeding.

In the February 22, 2023 Interim Order, ALJ Guhl approved the procedural schedule submitted by PGW via e-mail on December 6, 2022, denied the Withdrawal Petition as moot and lifted the abeyance. It appears that the ALJ assumed that PGW's actions to extend the effective date of the proposed Tariff revision had rendered the Withdrawal Petition moot. Importantly, however, PGW never conveyed to the ALJ, either explicitly or implicitly, that the extensions rendered its Withdrawal Petition moot. Rather, those extensions enabled the development of procedural schedules that afforded sufficient time for litigation of the WNA proceeding if the Withdrawal Petition was rejected.

¹ With an October 1, 2023 effective date, the ALJ had advised the parties that the matter would need to be submitted for the August 24, 2023 Public Meeting. Extending the effective date by a few days enabled submission of the matter for the September 21, 2023 Public Meeting.

In a separate Interim Order served on the parties on February 23, 2023, the ALJ directed PGW to serve direct testimony on February 23, 2023 – the same day. PGW submitted direct testimony on February 23, 2023 in accordance with this directive. Thereafter, public input hearings were held on March 9, 2023. OCA and CAUSE-PA served direct testimony on April 13, 2023, to which PGW responded through rebuttal testimony submitted on May 2, 2023. Surrebuttal testimony is due on May 12, 2023, and rejoinder testimony is due on May 19, 2023. Evidentiary hearings are scheduled for May 23-25, 2023, followed by the filing of Main and Reply Briefs and the issuance of a Recommended Decision and any Exceptions or Reply Exceptions. Action is expected at the Public Meeting scheduled for September 21, 2023.

III. APPLICABLE LEGAL STANDARDS

During the course of a proceeding and pursuant to the provisions of 52 Pa. Code § 5.302, a party may seek interlocutory review and answer to a material question which has arisen or is likely to arise. The standards for interlocutory review are well established. Section 5.302(a) requires that the petition “state...the compelling reasons why interlocutory review will prevent substantial prejudice or expedite the conduct of the proceeding.” 52 Pa. Code § 5.302(a). The pertinent consideration is whether interlocutory review is necessary to prevent substantial prejudice – that is, the error and any prejudice flowing therefrom could not be satisfactorily cured during the normal Commission review process. *Joint Application of Bell Atlantic Corp. and GTE Corp.*, Docket No. A-310200F0002, *et al.* (Order entered June 10, 1999); *Pa. PUC v. Frontier Communications of Pa. Inc.*, Docket No. R-00984411 (Order entered February 11, 1999); *In re: Knights Limousine Service, Inc.*, 59 Pa. P.U.C. 538 (1985).

In prior decisions involving the withdrawal of contested proceedings, when a withdrawal is opposed, Commission decisions have hinged on whether the contested activity continues after

withdrawal. If the controversy will remain, withdrawal is typically not viewed as being in the public interest. *Petition of DRIVE for Declaratory Order Regarding Expansion of Community Broadband Network*, Docket No. P-2021-3025296 (Order entered July 14, 2022, at 35-38).

IV. **ARGUMENT**

a. **Interlocutory Review is Warranted**

The Commission should grant PGW's request for interlocutory review, which is warranted to prevent substantial prejudice to PGW that cannot be satisfactorily cured during the normal Commission review process. If the February 22, 2023 Interim Order remains intact, the prejudice to PGW will be two-fold: (1) PGW will be required to unnecessarily expend valuable resources to litigate a proceeding that was initiated for a limited consumer protection purpose that has become obsolete; and (2) PGW will be deprived of fundamental due process because a thorough and comprehensive review of its WNA will not be possible in this limited proceeding.

Before requesting emergency relief on April 27, 2023, PGW consulted with the other parties in this proceeding regarding its two-fold consumer protection proposal to: (i) seek emergency relief for removal of May 2023 usage from the WNA; and (ii) move all issues related to the WNA to the base rate case. I&E supported PGW's proposal, as I&E is generally in favor of addressing the WNA as part of the base rate case. While OCA, CAUSE-PA, and the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia ("TURN") supported removal of May 2023 usage from the WNA, they expressed their opposition – for reasons that are unclear – to moving the WNA issues to the base rate case.

Notwithstanding that opposition, if PGW is permitted to withdraw its Cap Petition and related Tariff revision, the controversy created by that filing will not remain. PGW's proposal to implement a 25% cap on rate increases resulting from application of the WNA, which OCA and

CAUSE-PA have continuously opposed, will no longer be before the Commission. To the extent that the parties wish to pursue other issues in connection with PGW's WNA, including their views that it should be suspended or terminated in its entirety, they may do so in PGW's pending base rate case, which should be viewed as a reasonable and acceptable outcome.²

(i) Unnecessary Wasteful Use of Resources

Absent interlocutory review, PGW will be required to litigate a proceeding that was initiated for a limited purpose that has become obsolete – *protecting consumers* from unusually large increases *during the current heating season*. Notably, the Cap Petition would not even be before the Commission if PGW had not proactively sought to protect its customers via its August 2, 2022 filing. Given that PGW no longer has an interest in implementing the proposed 25% cap, continued litigation of the WNA proceeding would entail a wasteful use of valuable resources. Litigation is expensive and consumes resources that would be better used by PGW to safely and adequately deliver natural gas to 500,000 customers in Philadelphia. Particularly since PGW is a cash flow utility with no shareholders, its ratepayers are the ones who would be harmed by duplicative litigation. They should not be required to fund unnecessary litigation, and they deserve to have PGW's valuable resources devoted to the safe and adequate provision of public utility service. Indeed, continuing litigation of the WNA proceeding is also a waste of the Commission's and the parties' resources, including those of I&E, OCA and OSBA, whose budgets are funded by Commission assessments on utilities.

Although granting interlocutory review and approving PGW's Withdrawal Petition at the next scheduled Public Meeting of May 20, 2023 would not alleviate the need to complete the

² A pre-hearing conference has been held in that proceeding and a litigation schedule was agreed to by all parties, including those here opposed to PGW's Withdrawal Petition. An Order memorializing the litigation schedule has not been issued as of this filing.

submission of written testimony in the WNA proceeding (the last of which is due on May 19, 2023), that testimony along with the testimony offered by consumers at the public input hearings could be moved into the record of the base rate case. Importantly, ending the WNA proceeding on May 20, 2023 would save the extensive resources necessary to complete this proceeding, since still remaining are evidentiary hearings, briefs/reply briefs, exceptions/reply exceptions and any post-decision pleadings or appeals of the Commission order that may be warranted. In short, requiring PGW to litigate this proceeding is contrary to the public interest since it will unnecessarily waste significant Company resources, as well as the resources of the other parties and the Commission, that its ratepayers will ultimately absorb, which cannot be satisfactorily cured during the normal Commission review process.

(ii) Denial of Due Process Protections

If the February 22, 2023 Interim Order remains intact, issues relating to other modifications of the WNA, including its suspension or termination, will be litigated within the context of a proceeding initiated by PGW for the limited purpose of protecting customers from unusually large rate increases in the current heating season. Because PGW took the proactive measure of proposing to implement a cap that would *protect* its customers, it is now facing the proposal of other parties to review its entire WNA in a limited proceeding, without having had an opportunity to submit a full proposal addressing various key components of the clause. This outcome would deprive PGW of its fundamental rights of due process.

Of particular note, PGW was afforded less than 8 hours to submit direct testimony in the WNA proceeding,³ which raises significant due process concerns, especially in view of the other

³ The second Interim Order establishing February 23, 2023 at 4:30 p.m. as the deadline for the submission of PGW's direct testimony was dated February 22, 2023 and served on PGW's counsel on February 23, 2023 at 10:01 a.m.

parties' proposals in this proceeding that suggest suspension or elimination of the WNA in its entirety. Given that: (i) the ALJ did not rule on the parties' procedural schedule electronically transmitted on December 6, 2022 until February 22, 2023; (ii) the ALJ held the WNA proceeding in abeyance from November 29, 2022 until February 22, 2023; and (iii) the ALJ dismissed PGW's Withdrawal Petition as moot, without explanation, PGW was deprived of fundamental principles of due process by the directive to submit direct testimony on February 23, 2023 - the same day as the second Interim Order was served. This denial of due process, in a proceeding initiated by PGW for the limited purpose of protecting its customers during the current hearing season, is particularly problematic given the recommended modifications to the WNA, including its suspension or termination, proposed by of OCA and CAUSE-PA on April 13, 2023. These departures from due process cannot be satisfactorily cured during the Commission's normal review process. The only possibility for curing them would be an extension of the procedural schedule to give PGW an adequate opportunity to address the importance of the WNA to its financial stability and overall natural gas operations. That cure is unnecessary, however, given the pendency of PGW's base rate case.

(iii) Controversy Will Not Remain

The controversy concerning PGW's 25% cap proposal *will not remain* if the Withdrawal Petition is granted. This proposal was intended as a quick solution to go into effect on October 1, 2022 to protect customers, by avoiding a potential recurrence of the anomaly that occurred in May 2022, during the current winter heating season.⁴ Given that the 25% cap proposed by PGW

⁴ The current heating season began on October 1, 2022 and ends on May 31, 2023. Any concerns about a potential recurrence of the anomaly that occurred with May 2022 usage have been proactively addressed by PGW by seeking emergency relief and by the Commission through granting the requested emergency relief to remove May 2023 usage from the WNA formula.

in the Cap Petition did not go into effect for this heating season (and that PGW subsequently proposed a May 2023 specific modification that was approved), it is now obsolete. PGW has no interest in pursuing implementation of the 25% cap. Indeed, in the base rate case, PGW has not recommended the use of a 25% cap in its WNA. Therefore, the positions taken by OCA and CAUSE-PA in this proceeding expressing their opposition to the 25% cap do not need to be litigated. To the extent the parties wish to pursue the litigation of other modifications to the WNA, including whether it should be continued, they are free to do so in the base rate case.

b. Granting PGW's Withdrawal Petition is Warranted

The Commission should grant PGW's Withdrawal Petition on the following grounds: (i) PGW no longer desires to implement the 25% cap, which is the only measure proposed by the August 2, 2022 filing; and (ii) PGW has now filed a base rate case in which a wide array of financial and rate-related issues have been raised (including a WNA formula modification), which presents an opportunity for the consideration of a wide range of WNA issues. Despite the opposition of OCA and CAUSE-PA to PGW's Withdrawal Petition, no party is prejudiced by a withdrawal of PGW's August 2, 2022 filing since WNA issues are being litigated in the base rate proceeding on a similar timeframe.

(i) No Desire to Implement 25% Cap Proposal

PGW has no desire to implement the 25% cap proposed by the August 2, 2022 filing. That proactive proposal was intended to be a quick solution to protect PGW's customers from any recurrence of the May 2022 anomaly during the current heating season. Because the filing was suspended for investigation, it has not gone into effect and is now obsolete. This heating season ends on May 31, 2023 and through emergency relief granted by the Commission on April 28, 2023, May 2023 usage has been removed from the WNA formula. Customers are no longer

in need of the protection proposed by PGW. Accordingly, PGW wishes to withdraw the Cap Petition and its accompanying proposed Tariff revision.

In the base rate proceeding, PGW has made recommendations regarding its WNA based upon a comprehensive report prepared by its consultant. None of the alternatives suggested by the consultant, whose report is attached to PGW's testimony, would implement a 25% cap on the WNA, and PGW has not made that recommendation in the base rate case. However, an alternative recommended by the consultant, which PGW has endorsed, is the permanent removal of May from the WNA formula due to its tendency to produce substantially less degree days compared to the average over the past ten years. Indeed, this recommendation formed the basis for the request for emergency relief that PGW recently sought regarding this May 2023 and the Commission granted. With no protections in place for consumers during this heating season that ends on May 31, 2023, and due to concerns about a possible recurrence of the anomaly that occurred in May 2022 when Philadelphia experienced extremely warm weather, PGW proactively filed a Petition for Emergency Order Docket No. P-2023-3040233 on April 27, 2023 to remove May 2023 from the WNA formula. Vice Chairman Stephen M. DeFrank signed an Emergency Order to that effect on April 28, 2023.

(ii) Base Rate Case Is Appropriate Forum For Broader WNA Issues

While PGW has attempted to continue litigating the Cap Petition in the WNA proceeding following issuance of the February 22, 2023 Interim Order, it has become increasingly clear that this proceeding should be terminated since PGW's base rate case is the appropriate forum for litigating the broader WNA issues that the parties have raised in direct testimony submitted on April 13, 2023. In addition to proposing modifications to the WNA, such as the use of a 10-year instead of 20-year period for determining "normal" weather, OCA and CAUSE-PA have recommended that the WNA be suspended, pending modifications, or terminated in its entirety.

Notably, it is customary for the Commission to address WNA issues within the base rate cases, where all of the utility's financial information is available.⁵

If the Company is not afforded an adequate opportunity to litigate the importance of the WNA in ensuring its continued financial stability and certainty, PGW may be at risk of losing this vital mechanism altogether, because of an anomaly that occurred once in ~20 years. The WNA is necessary to protect PGW's finances and, in turn, benefits ratepayers since PGW has better access to the capital that is critical to supporting its daily operation as a natural gas public utility. Given PGW's responsibility to safely and adequately deliver natural gas to 500,000 customers in Philadelphia, it is crucial for the Company to be able to bill customers at a level that allows PGW to collect the revenues authorized by the Commission.

Importantly, the Commission has recognized the value of this tool to natural gas utilities. *See, e.g., Pa. P.U.C. v. UGI Utilities, Inc. – Gas Division*, Docket No. R-2021-3030218 (Order entered September 15, 2022). Of particular note, Chairman Gladys Brown Dutrieuille issued a Statement in connection with the Commission's approval of UGI's WNA noting that the “decoupling of uncontrollable weather from revenues should stabilize UGI's cashflow, and in turn, allow UGI to focus on operational items within its control, namely infrastructure upgrades and repairs.” This observation demonstrates the important benefits to ratepayers, and especially to a cashflow utility such as PGW, of a properly designed WNA.

A decision on the continuation of the WNA necessitates an evidentiary record consisting of PGW's finances and the vital role of the WNA in the Company's overall operations, which

⁵ *See, e.g., Pa. P.U.C. v. UGI Utilities, Inc. – Gas Division*, Docket No. R-2021-3030218 (Order entered September 15, 2022); *Pa. Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2012-2321748 (Order entered May 23, 2013); *Pa. P.U.C. v. National Fuel Gas Distribution Corp.*, Docket No. R-2020-3035730 (Joint Petition for Settlement filed on April 13, 2023).

are available in the base rate case. In PGW's pending base rate case, the impact of the WNA and any proposed modifications on PGW's revenues and its customers' rates will already be fully considered. Consideration of alternative modifications in this proceeding, separate from the full rate case review, will create confusion.

The express purpose of the base rate case is to review PGW's proposed rate increase to determine whether it is just and reasonable, and therefore warranted to enable PGW to continue providing safe and adequate natural gas utility service. A key part of that proceeding will be a determination of what a "normal" level of revenues should be for the FPFTY. It is this "normal" level of revenues that will then be reconciled through the WNA. In the base rate case, PGW proposed to continue using a twenty-year average of degree days to determine "normal" revenues. If there is a change in that "normal level," as the OCA witness has suggested in his "alternative" recommendation in the WNA proceeding, that change has to occur both in PGW's base rate proceeding and in the WNA calculation. The only proceeding in which both changes can be made is the base rate case. Therefore, a full review of the WNA provision in PGW's Tariff must (and will) take place in the base rate case, and its continuation or modifications unrelated to the 25% cap should not be entertained in the limited WNA proceeding.

Any concerns about a short delay in the resolution of WNA issues that results from moving the issues to the base rate case are misplaced. The base rate case has to be decided within a statutory timeframe. Moreover, some modifications to the WNA will likely require additional time for PGW to implement beyond the effective date of such changes, depending on the complexity and the extent of resources that need to be devoted to implementation.

WHEREFORE, Philadelphia Gas Works respectfully requests that the Commission grant its Petition for Interlocutory Review and grant its Petition Leave to Withdraw.

Respectfully submitted,

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Date: May 8, 2023

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