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May 10, 2023

VIA ELECTRONIC FILING

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

RE: Pennsylvania Public Utility Commission, et al. v. Philadelphia Gas Works 1307(f);
Docket Nos. R-2023-3038069 and C-2023-3038722; **REPLY BRIEF**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is the Reply Brief of Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. ("Vicinity") in the above-captioned dockets. Copies of the Brief have been served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions related to this filing, please do not hesitate to contact me.

Very truly yours,

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TSS/jld

Enclosure

cc: Administrative Law Judge Arlene Ashton (via electronic mail – aashton@pa.gov)
Pamela McNeal, Legal Assistant (via electronic mail – pmcneal@pa.gov)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Grays Ferry Cogeneration Partnership and	:	
Vicinity Energy Philadelphia, Inc.	:	
Complainants,	:	Docket Nos. R-2023-3038069
	:	C-2023-3038722
v.	:	
	:	
Philadelphia Gas Works	:	
Respondent.	:	

**REPLY BRIEF
OF GRAYS FERRY COGENERATION PARTNERSHIP
AND VICINITY ENERGY PHILADELPHIA, INC.**

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DATED: May 10, 2023

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I. INTRODUCTION

Grays Ferry Cogeneration Partnership (“Grays Ferry”) and Vicinity Energy Philadelphia, Inc. (“VEPI”) (collectively “Vicinity”) filed a complaint in this matter to ensure that they would be able to continue their vital roles as the operator of the downtown energy loop that provides steam to many hospitals, schools and other commercial locations in Center City Philadelphia, and as a generator of 193 MW of electricity that is sold into the PJM market.¹ Both of these enterprises require natural gas as a major input and the path for the vast majority of the natural gas they burn is a four-mile single purpose pipeline that connects Vicinity to the Texas Eastern Transportation Company’s (“TETCO”) Philadelphia Lateral.² Vicinity continues to be served under the terms of a contract that was executed in 1996, via Tariff Rate GTS-F, even though the contract has expired.

The Commission’s Order in *Vicinity, et al v. Philadelphia Gas Works*; Docket C-2021-3029259 (Opinion and Order entered April 20, 2023) (“Complaint Case”) made it clear that the tariff rate continues. That service includes Alternative Receipt Service (“ARS”), which is a gas swap that allows PGW to deliver gas to Vicinity through the Philadelphia Lateral while Vicinity delivers the same volume for PGW’s use at Skippack. In the Complaint Case, PGW argued that by delivering gas to Skippack, Vicinity was “using” the PGW low pressure distribution system, even though Mr. Reeves admits that not one molecule of the gas delivered to Skippack is consumed by Vicinity.³ PGW has adopted the same approach in the ongoing rate case and seek to allocate significant system costs to Vicinity for the low-pressure distribution system – a system to which Vicinity is connected but from which it only receives sales gas (a miniscule portion of Vicinity’s

¹ Despite PGW’s continued effort to subject Vicinity to prejudice by referring to its ownership as a “foreign” private equity firm, Vicinity performs a vital public service in Philadelphia and the surrounding region, in an environmentally friendly manner.

² Vicinity St. No. 1, 3:18-4:19.

³ Tr. 67:8-14.

annual consumption, zero percent in 2022) as a backup, and Vicinity creates no significant cost.⁴ PGW proclaims in this case that it plans to continue to provide ARS but fails to explain that PGW is certain to allocate substantial "costs" to Vicinity in the Base Rate Case, based upon its dissonant theory that ARS imposes costs on the low-pressure distribution system, which it surely does not. An unaffordable price for ARS is effectively a discontinuance of the service. While Vicinity is willing to continue to consume ARS at a reasonable price, terms and conditions that are based on recognized cost of service principles, and would prefer to do so, it cannot accept a result that perverts the cost structure in an effort for PGW to reach its income objective from Vicinity.⁵ PGW's consistent protestations that so long as it provides ARS the capacity issue is premature, is simply wrong.

II. ARGUMENT

1. Vicinity's Need for Additional Capacity is Clear.

PGW argues in the same breath that Vicinity needs capacity but does not need capacity. The basis of this dilemma is ARS. Between summer months release capacity and wintertime ARS, PGW has used a 21,000 Dth/day swath of capacity that includes the Philadelphia lateral exclusively to meet Vicinity's capacity needs for over 25 years. Without ARS, that capacity is of no use to PGW, except in theory on a design day that has never occurred. PGW has never used the 21,000 Dth/Day of Philadelphia Lateral capacity to meet the needs of its customers, apart from Vicinity. Without PGW providing ARS, Vicinity needs up to 21,000 Dth/Day of capacity in addition to capacity that Vicinity owns independently. PGW's argument that Vicinity does not need PGW's capacity presupposes the continued existence of ARS, which is by no means a settled issue. ARS at a price that reflects the actual cost of providing the service is the appropriate option.

⁴ Tr. 67:13.

⁵ Tr. 100:20-22.

Vicinity's continued ability to provide its service rests on its ability to do so at a reasonable cost. The record is clear that Vicinity needs the capacity and PGW does not.

2. The Capacity use by PGW to Provide ARS will be Available if ARS is no Longer Provided to Vicinity.

For more than 25 years PGW has used the 21,000 Dth/Day to serve Vicinity through ARS during the heating season and capacity release during the non-heating season. PGW has presented no evidence of increasing demand, no evidence of additional large customers, and no evidence of increasingly colder winters. Yet, PGW argues that it cannot spare the capacity it uses for ARS, because it is necessary to maintain the deliverability of gas to its low-pressure delivery system customers. It is true, as PGW argues, that Vicinity has accepted ARS for the past 25 years because the economics were favorable, but that was the last 25 years. There is no guarantee that ARS economics will be anything other than punitive, and that Vicinity will need to find another source of capacity that does not rely on the ARS gas swap arrangement. Contrary to PGW's assertion in its main brief at page 17, the cost of ARS is \$4500 per month or \$54,000/year, not \$4500 per year, and while that rate may not presently reimburse PGW fully for the cost of ARS, Vicinity has made it clear on this record that it is willing to pay the market price for the capacity it needs, and that will ensure that PGW's GCR customers are fairly compensated.⁶ PGW's accusation regarding the present cost recovery mechanism avoids the plain fact that it was a rate established by a contract in 1996. That does not mean, however, that PGW can ignore established cost recovery principles and expect Vicinity to pay it.

⁶ Tr. 101-102.

3. There is no Guarantee of What Rates will be Established in the Pending Rate Case.

While it is very clear from the Commission's April 20, 2023, Opinion and Order in the Complaint case that the transportation rate for Vicinity will be addressed in the ongoing rate case, there is nothing in the Order that explicitly mandates that a new rate for ARS be established. While Vicinity agrees that fundamental cost causation principles should apply, and that the actual costs of providing ARS be considered as part of that process, there is clearly no reason to expect that PGW will propose such rates. In fact, PGW proposed increasing the rate for ARS by more than 730% per year.

4. Vicinity is Engaging in Prudent Behavior.

Vicinity's appearance in this case predates the Commission's April 20, 2023, Opinion and Order, and its Main Brief makes clear that Vicinity's goals, while slightly changed, remain the same – ensure that VEPI and Grays Ferry have sufficient, fairly priced capacity to deliver sufficient gas so that they can provide the steam and electricity production that is so vital for Philadelphia. In the absence of ARS, Vicinity will require additional capacity. It has sought the reasonable result in this case that PGW release capacity to it at market rates, on a recallable basis, and PGW has refused. PGW claims ARS is sufficient without addressing the critical cost element.⁷ The issue of capacity release is not premature if one considers the possibility that PGW will seek to impose extremely high, if not punitive ARS rates on Vicinity. Vicinity has been prudent in seeking a more reasonable alternative that avoids the baggage that PGW has attached to ARS since the Complaint Case. Vicinity's approach here is neither premature nor unreasonable. If PGW does not propose

⁷ Tr.101-102.

to continue to provide ARS at reasonable rates, terms and conditions, Vicinity will need capacity and the capacity that has been used to serve it will be available.

5. PGW Will Have Excess Capacity Without ARS.

PGW has, as discussed above and in Vicinity's Main Brief, 21,000 Dth/Day of capacity that is used exclusively to serve Vicinity, through release capacity or ARS. In 25 years, PGW has never refused to provide ARS, even though it is contractually permitted to do so if the temperature is forecast to be below 25° F, nor has PGW ever recalled the release capacity. What this means is that "need" for the 21,000 Dth/day is generated by Vicinity alone. There is no other need for other customers, at least not presently or in the future based on PGW's filing. The unrefuted data put on the record by Mr. Crist, in his Exhibit JC-9, shows that at an average of \$0.35 Dth/day, capacity that is deliverable to the Philadelphia lateral is far less expensive when released than other capacity transactions highlighted by Mr. Reeves. Upon cross-examination Mr. Reeves admits that PGW's most recent release of Philadelphia lateral capacity produced only \$0.10 Dth/Day.⁸ PGW has sufficient capacity to serve its customers without the 21,000 Dth/day it uses to provide ARS and release capacity. If ARS is terminated, PGW will have 21,000 Dth/Day of excess capacity which it can release to Vicinity on a recallable basis and such a release would produce greater revenue to lower PGW's GCR costs.

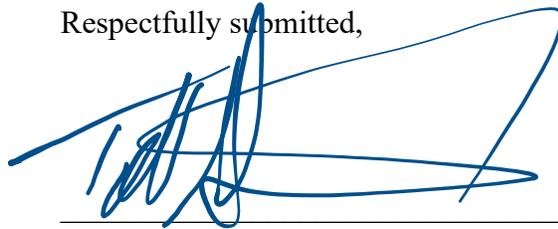
III. CONCLUSION

The take-away from this matter is that PGW presently provides capacity to Vicinity through a gas swap known as ARS. PGW has proposed to continue to provide ARS but requested the rate be increased dramatically to a level that is cost prohibitive. PGW has also included new terms and conditions that make it untenable for Vicinity to continue taking the service. In that case, PGW

⁸ Tr. 73:14-17.

has no use for the capacity that it has been using to provide ARS, and it would be in the best interests of its customers to release that capacity. Vicinity is simply proposing a means of releasing that capacity on a non-permanent, recallable basis, and to pay a fair price for the capacity it needs, up to 21,000 Dth/day. A longer-term release, as opposed to monthly or seasonal releases, would be less risky for customers and would allow PGW to hold onto that capacity should circumstances ever change it would eventually need the capacity.

Respectfully submitted,



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DATED: May 10, 2023

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party)

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