**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2023-3037933

Office of Consumer Advocate : C-2023-3038846

Office of Small Business Advocate : C-2023-3038885

Philadelphia Industrial and Commercial Gas : C-2023-3039059

User Group :

Grays Ferry Cogeneration Partnership and : C-2023-3038727

Vicinity Energy Philadelphia, Inc. :

James M. Williford : C-2023-3039130 :

v. :

:

Philadelphia Gas Works :

Grays Ferry Cogeneration Partnership and : C-2021-3029259

Vicinity Energy Philadelphia, Inc. : :

v. :

:

Philadelphia Gas Works :

**PREHEARING ORDER**

On February 27, 2023, Philadelphia Gas Works (PGW), filed with the Pennsylvania Public Utility Commission (PUC or Commission) proposed Supplement No. 105 to PGW Gas Supplier Tariff Pa. P.U.C. No. 1 and proposed Supplement No. 159 to PGW Gas Service Tariff Pa. P.U.C. No. 2 to become effective April 28, 2023. The filing contains proposed changes in rates, rules, and regulations calculated to produce $85.8 million (10.3%) in additional annualrevenues, an increase in residential customer’s bills using 71 Mcf/year to increase from $125.38 to $137.73/month (9.9%). Within the general rate increase filing, PGW filed a Petition for Waiver seeking waiver of the application of the statutory definition of the fully projected future test year (FPFTY) so as to permit PGW to use a FPFTY beginning on September 1, 2023, in this proceeding.

By Commission Order entered April 20, 2023, the proposed Tariffs were suspended by operation of law until November 28, 2023. The Commission ordered an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed Tariffs. The Commission also ordered an investigation into the reasonableness of PGW’s existing rates, rules, and regulations.

A Prehearing Notice was issued, and a Prehearing Conference Order was entered on April 20, 2023, scheduling a telephonic prehearing conference in this matter for Friday, April 28, 2023, at 1:30 P.M.

The prehearing conference was held as scheduled. This order memorializes certain procedural matters addressed at the prehearing conference.

THEREFORE,

IT IS ORDERED:

**Petitions and Motion**

1. That the Petition to Intervene filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) on March 12, 2023, is granted.
2. That the Petition to Intervene filed by the Philadelphia Industrial and Commercial Gas Users Group (PICGUG) on March 17, 2023, is granted.
3. That the Petition to Intervene filed by the Tenant Union Representative Network’s (TURN) on April 24, 2023, is granted.
4. That the Petition to Intervene filed by POWER Interfaith (POWER) on April 25, 2023, is granted.

5. That the Petition of PGW for Waiver of Statutory Definition of Fully Projected Future Test Year is granted.

6. That the Motion of Devin McDougall, Esq. for Admission *Pro Hac Vice* of Rebecca Barker, Esq. on behalf of POWER Interfaith is granted.

7. That Rebecca Barker, Esq. is admitted *pro hac vice* as co-counsel to POWER Interfaith in this matter.

8. That Devin McDougall, Esq., the moving attorney herein, shall continue to be responsible as counsel of record for the conduct of this matter on behalf of POWER Interfaith.

9. That the parties of record as of this date are PGW, Office of Consumer Advocate (OCA), Office of Small Business Advocate (OSBA), the Commission’s Bureau of Investigation and Enforcement (I&E), Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. (Grays Ferry/Vicinity), the Philadelphia Industrial and Commercial Gas Users Group (PICGUG), CAUSE-PA, TURN, POWER, and James M. Williford.

**Litigation Schedule**

10. That the following litigation schedule is adopted:

Prehearing Conference April 28, 2023

PGW Supplemental Direct Testimony May 5, 2023

*(Grays Ferry/Vicinity-related matters)*

Public Input Hearings May 23, 2023 (in-person)

May 24, 2023 (telephonic)

*(10:00 a.m. and 6:00 p.m. each day)*

Direct testimony of other parties May 31, 2023

*(Grays Ferry/Vicinity-related matters)[[1]](#footnote-1) (June 2, 2023)*

Rebuttal testimony June 26, 2023

Surrebuttal testimony July 7, 2023

Witness Cross-Examination Matrix July 7, 2023

Evidentiary hearings and Oral Rejoinder July 11-12, 2023 (telephonic)

Main Briefs July 27, 2023

Reply Briefs August 7, 2023

Commission Public Meeting November 9, 2023

End of Suspension Period November 28, 2023

**Public Input Hearings**

11. That public input hearings shall be held on **May 23 and 24, 2023, at 10:00 a.m. and 6:00 p.m. each day.**

* **Tuesday, May 23, 2023** – In-person hearings will be held at the following times and locations:

**10 a.m. – Betsy Ross Conference Center** (enter on 8th Street)  
 6th Floor Betsy Ross Conference Center

801 Market Street

Philadelphia, PA 19107

*(\*A state-issued ID is needed to access this building).*

**6 p.m. – George Washington High School**  
 High School Auditorium

10175 Bustleton Avenue

Philadelphia, PA 19116

* **Wednesday, March 24, 2023** – Telephonic hearings will begin at 10 a.m. and 6 p.m.

12. That PGW shall publish notice of the date, time and registration instructions for the public input hearings in at least one newspaper of general circulation in PGW’s service territory, weekly, for two consecutive weeks. PGW is further ordered to file proof of publication with the Commission’s Secretary’s Bureau. PGW is further ordered to publish notice of the public input hearings on its website, social media and through any other electronic means available.

13. That OCA shall provide the pre-registered witness lists for the telephonic public input hearings to the undersigned Administrative Law Judges (ALJs) by 4:30 p.m. on May 23, 2023.

**Discovery**

14. That the parties shall engage in informal discovery whenever and wherever possible in an attempt to resolve any discovery disputes amicably. 52 Pa.Code § 5.322. If this process fails, the parties have recourse to the Commission’s procedures for formal discovery, as herein modified:

1. Prior to the service of rebuttal testimony, parties shall exercise their best efforts to serve in-hand answers to written interrogatories within ten (10) calendar days but no more than twelve (12) calendar days. After service of the rebuttal testimony, parties shall exercise their best efforts to provide in-hand responses within five (5) calendar days but no more than seven (7) calendar days.

b. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories; unresolved objections shall be served in writing to the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.

c. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of written objections.

d. Answers to motions to dismiss objections and/or answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.

e. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

f. Answers to on-the-record data requests shall be served in-hand within five (5) calendar days of the requests.

g. Any discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of calculating the due date for any responsive filings.

15. That pursuant to 52 Pa. Code §5.341(b), the parties must not send the presiding ALJs discovery material or cover letters, unless attached to a motion to compel.

16. That all motions to compel must contain a certification of counsel of the informal discovery undertaken and their efforts to resolve their discovery disputes informally. If a motion to compel fails to contain such certification, the presiding ALJs will contact the parties and direct them to pursue informal discovery.

**Pre-filed Written Testimony**

17. That the parties comply with the Commission’s requirements for the preparation and service of written testimony. 52 Pa. Code § 5.412. These include, but are not limited to, the requirement that written testimony must be accompanied by all exhibits to which it relates. Written testimony shall be marked with numerical, sequential statement numbers. Oral direct, rebuttal or surrebuttal testimony or witnesses not identified in a party’s prehearing memorandum shall not be permitted, except by permission for good cause.

18. That technical terms and concepts are to be clearly defined and explained in the testimonies and briefs. **The parties are to agree on a list of common acronyms and use them consistently in all written testimony and briefs.**

19. That no written testimony will be admitted into evidence unless accompanied by a verification of affidavit of the witness.

20. That any motions with respect to, or objections to, written testimony must be presented in writing no later than three days prior to the day that the witness sponsoring that testimony is scheduled to testify. Answers to such motions or objections may be filed within three days or sooner if circumstances warrant. Oral motions, other than for good cause, shall not be accepted.

21. That the parties shall comply with the provisions of 52 Pa. Code § 5.243(e) which prohibit the introduction of evidence during rebuttal which should have been included in the party’s case-in-chief or which substantially varies from the party’s case-in-chief, unless the party is introducing evidence in support of a proposed settlement.

22. That the parties shall stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all parties and conserve precious administrative hearing resources. 52 Pa. Code §§ 5.232 and 5.234. All stipulations entered into by the parties shall be reduced to writing, signed by the parties to be bound thereby, and moved into the record during the hearings in this case. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.

23. That the evidentiary hearings in this matter constitute formal legal proceedings and will be conducted in accordance with the Commission’s Rules of Administrative Practice and Procedure, as well as the rules of evidence as applied to administrative hearings.

24. Friendly cross-examination or cumulative cross-examination during hearings will not be permitted. 52 Pa.Code §§ 5.76; 5.243.

25. That parties serving pre-served testimony in proceedings pending before the Commission pursuant to 52 Pa. Code § 5.412(f) shall be required, within thirty (30) days after the final hearing in an adjudicatory proceeding to either eFile with or provide to the Secretary’s Bureau a Compact Disc (CD) containing all testimony furnished to the court reporter during the proceeding.

**Briefs and Reply Briefs**

26. That the parties must comply with 52 Pa. Code §§5.501, et seq., regarding the preparation and filing of briefs. Service can be made electronically by no later than 4:30 p.m. on the dates listed. Parties are directed to e-mail me a copy of their as-filed briefs in ADOBE or other compatible PDF format in addition to a WORD-formatted document. The format of the briefs served electronically on the parties may be as requested by the parties.

27. That all briefs shall comply with the requirements of 52 Pa. Code §§ 5.50l and 5.502, and in addition to the mandatory contents set forth in 52 Pa. Code § 5.501(a), all main briefs, regardless of length, must contain:

A. A table of contents;

B. A history of the proceeding;

C. A discussion;

D. Proposed findings of facts (with record citations to transcript pages or exhibits where supporting evidence appears);

E. Proposed conclusions of law (with citations to supporting statutes, regulations or relevant case law); and

F. Proposed ordering paragraphs specifically identifying the relief sought.

52 Pa. Code § 5.501(e) requires that “Briefs shall be as concise as possible.” Page limitations on briefs will be discussed on or before the last day of hearing.

28. That if a party does not file a reply brief, it will be assumed that the party does not dispute the assertions, contentions or arguments made by the other parties in their main briefs. While it is not necessary in a reply brief to repeat a particular argument or discussion contained in the main brief, the reply brief should note where the responsive argument is located in the main brief and how it responds to the other parties’ assertions, contentions or arguments.

29. That any brief not filed and served on or before the date fixed therefore will not be accepted for filing, except by permission for good cause.

**Settlement and Stipulations**

30. That the parties are to confer among themselves in an attempt to resolve all or some of the issues associated with these Complaints. The parties are reminded it is the Commission’s policy to encourage settlements. 52 Pa. Code § 5.231(a). The parties are strongly urged to seriously explore this possibility. A joint settlement petition executed by representatives of all parties to be bound thereby, together with statements in support of settlement by all signatory parties, must be filed with the Secretary for the Commission and served on us.

**Modification**

31. That any provision of this prehearing order may be modified upon motion and good cause shown by any party in interest in accordance with 52 Pa. Code § 5.223(a).

Dated: May 10, 2023

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Eranda Vero

Administrative Law Judge

\_\_\_\_\_\_\_\_\_\_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Arlene Ashton

Administrative Law Judge

**R-2023-3037933 – PENNSYLVANIA PUBLIC UTILITY COMMISSION v.** **PHILADELPHIA GAS WORKS**

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1. The June 2, 2023 direct testimony of non-Company parties shall address: (1) Grays Ferry/Vicinity Issues; (2) Class Cost of Service; and (3) Allocation of proposed increase among the Classes. However, a non-Company party may file all its direct testimony on May 31, 2023, if it wishes to do so. [↑](#footnote-ref-1)