

Karen O. Moury
717.237.6036
kmoury@eckertseamans.com

June 16, 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' Reply Brief 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 Reply Brief upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email only

Christy M. Appleby, Esq.
Aron J. Beatty, Esq.
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
cappleby@paoca.org
abeatty@paoca.org

Carrie B. Wright, Esq.
Bureau of Investigation & Enforcement
Pa. Public Utility Commission
400 North Street
Harrisburg, PA 17120
carwright@pa.gov

Sharon Webb, Esq.
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
swebb@pa.gov

Charis Mincavage, Esq.
Adeolu A. Bakare, Esq.
McNees Wallace & Nurick, LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com

John W. Sweet, Esq.
Elizabeth R. Marx, Esq.
Ria M. Pereira, Esq.
Lauren M. Berman, Esq.
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org

Robert W. Ballenger, Esq.
1424 Chestnut Street
Philadelphia, PA 19102
rballenger@clsphila.org

Robert D. Knecht
Industrial Economics Incorporated
5 Plymouth Road
Lexington, MA 02421
rdk@indecon.com

Ron Nelson
Strategen Consulting, LLC
2150 Allston Way, Suite 400
Berkley, CA 94704
rnelson@strategen.com

Karen O. Moury

Karen O. Moury, Esq.

Dated: June 16, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

REPLY BRIEF OF PHILADELPHIA GAS WORKS

Craig Berry (Attorney ID # 328527)
Philadelphia Gas Works
800 W. Montgomery Ave.
Philadelphia, PA 19122
Phone 215.684.6049
Fax 215.684.6798

Daniel Clearfield (Attorney ID # 26183)
Karen O. Moury (Attorney ID # 36879)
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
Phone 717.237.6036
Fax 717.237.6019

June 16, 2023

Attorneys for Philadelphia Gas Works

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I. INTRODUCTION AND SUMMARY OF ARGUMENT

Pursuant to 52 Pa. Code §§ 5.501 and 5.502, the Prehearing Conference Order of Administrative Law Judge (“ALJ”) Marta Guhl dated February 22, 2023, and the ALJ’s Briefing Order issued on June 5, 2023, Philadelphia Gas Works (“PGW” or “Company”) files this Reply Brief to respond to arguments raised by the Main Brief filed by the Office of Consumer Advocate (“OCA”) and the Joint Main Brief filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) and the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (“TURN”).¹ PGW initiated this proceeding by filing Supplement No. 152 to Gas Service Tariff – Pa. P.U.C. No. 2 and a Petition for Approval on Less than Statutory Notice of Supplement Revising Weather Normalization Adjustment (“Cap Petition”) on August 2, 2022. PGW filed a Main Brief (“M.B”) on June 7, 2023, which is incorporated herein by reference. This Reply Brief focuses on the key points raised by OCA and CAUSE-PA/TURN that are germane to the adjudication of this matter by the Public Utility Commission (“PUC” or “Commission”).

The advocacy of OCA and CAUSE-PA/TURN in this proceeding is alarming. With no regard for the financial health of the municipally owned public utility that is providing natural gas service to approximately 500,000 customers in the City of Philadelphia, and no evaluation of the financial impacts of their proposals, OCA and CAUSE-PA/TURN call for the elimination of PGW’s long-standing Weather Normalization Adjustment (“WNA”) clause from its Commission-approved Tariff. Their advocacy is based on a single anomaly with the WNA over the course of a 20+ year period that occurred in May 2022 – one which PGW proactively

¹ Main Briefs were not filed by the Bureau of Investigation and Enforcement, the Office of Small Business Advocate and the Philadelphia Industrial and Commercial Gas Users Group.

rectified for the benefit of customers by voluntarily requesting and obtaining unprecedented emergency authorization from the PUC to reverse the charges. In making this demand, OCA and CAUSE-PA/TURN willfully neglect the indisputable facts that PGW's WNA only: (i) allows the Company to bill revenues at the level authorized by the PUC in the last base rate case; and (ii) enables adjustments in distribution rates due to variations in weather over which PGW has no control.

The positions taken by OCA and CAUSE-PA/TURN irresponsibly ignore the critical need of ratepayers for a municipally owned natural gas utility that is financially able to provide safe, reliable and adequate service. In doing so, these parties blatantly refuse to recognize the reality of PGW's status as a cash flow, municipally owned utility that has no shareholders. If weather is warmer during the heating season than historic "normal" weather has been, and PGW does not have the cash that is necessary to sustain its operations, the Company has no investors to whom it can look to absorb the losses. Rather, PGW's utility service will suffer, its access to capital markets will be more costly, its debt service coverage ratio will decline and the losses could even force PGW to again seek extraordinary or emergency rate relief from the PUC in order to obtain the cash needed to sustain the Company – all at the expense of its customers.

Importantly, OCA and CAUSE-PA/TURN urge the PUC to move in a completely opposite direction of recent trends at the Commission and in the General Assembly supporting and encouraging the implementation of WNAs by energy utilities. Only nine months ago, the Commission approved a settlement for the investor-owned natural gas utility, UGI Utilities, Inc. – Gas Division ("UGI"), which contained a provision for the implementation of a WNA. In approving UGI's WNA, Chairman Gladys Brown Dutrieuille ("Chairman") issued a Statement in which she noted 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."² Similarly, in 2018, the Commission authorized the continuation of a WNA mechanism by Columbia Gas of Pennsylvania, Inc. ("Columbia"), which had previously been approved as a pilot.³ The Chairman issued a Statement in conjunction with the Commission's approval of Columbia's WNA commending the parties for their "commitment to maintain this mechanism" and noting that a WNA "works bi-directionally to insulate customers from high bills during the extremely cold months while also limiting the decline in revenue for Columbia during unseasonably warm heating months."⁴ She further stated as follows:

This decoupling of uncontrollable weather from revenues stabilizes Columbia's cashflow, and in turn, allows Columbia to more acutely focus on operational items within its control; namely infrastructure upgrades and repairs. Further, since this decoupling mechanism is only applied to the distribution component of the bill, and not the natural gas commodity charge, *incentives for efficient consumption are maintained.*⁵

Of particular note for this proceeding, the Chairman pointed out that WNAs are "not a novel concept," specifically referring to PGW's long-standing WNA. In addition, given the passage of Act 58 of 2018 on alternative ratemaking,⁶ the Chairman found it timely to highlight support for

² *Pa. Public Utility Commission v. UGI Utilities, Inc. – Gas Division*, Docket No. R-2021-3030218 (Order entered September 15, 2022) ("*UGI Base Rate Case Order*"); Chairman's Statement).

³ *Pa. Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2018-2647577 (Order entered December 6, 2018) ("*Columbia Base Rate Case Order*").

⁴ *Columbia Base Rate Case Order*, Chairman's Statement.

⁵ *Id.* (emphasis supplied).

⁶ 66 Pa. C.S. § 1330 (authorizes the PUC to approve decoupling mechanisms for energy utilities).

such revenue decoupling mechanisms. To that end, the Chairman encouraged “other natural gas distribution companies in the Commonwealth to consider utilization of weather decoupling distribution charge mechanisms.”⁷

Further, just two months ago, OCA and CAUSE-PA signed a settlement that provides for the implementation of a WNA by National Fuel Gas Distribution Corporation (“NFG”),⁸ which the PUC approved yesterday – June 15, 2023, without modification.⁹ Crucially, OCA and CAUSE-PA/TURN have offered no explanation of any difference between the above gas utilities’ WNAs and PGW’s WNA. Further, they have not even suggested that there are any (material or otherwise) differences between PGW’s existing WNA and NFG’s recently approved WNA or the WNAs in operation by other Pennsylvania investor-owned utilities. Yet, if OCA and CAUSE-PA/TURN’s unsupported policy advocacy in this proceeding is rewarded, NFG will be implementing a WNA on October 1, 2023 about 10 days after the PUC’s elimination of PGW’s WNA on September 21, 2023.

Therefore, while other (investor-owned) natural gas utilities are gaining approval for their WNAs and being encouraged to implement these mechanisms, OCA and CAUSE-PA/TURN are suddenly advocating a contrary outcome for municipally owned PGW – the pioneer for WNAs in Pennsylvania over twenty years ago. In addition, their efforts to suspend or terminate PGW’s WNA overlook decades of proceedings in which the PUC and all parties (including OCA and

⁷ *Columbia Gas Base Rate Case Order*, Chairman’s Statement.

⁸ Although OCA and CAUSE-PA did not join in supporting the WNA, they also did not oppose the WNA provision of the NFG Settlement.

⁹ *Pa. Public Utility Commission v. National Fuel Gas Distribution Corporation*, Docket No. R-2022-3035730 (Order entered June 15, 2022, adopting the Recommended Decision issued May 9, 2023, at pp. 1, 8 (footnote 4)-9, 29-32, Ordering Paragraph No. 1). TURN was not a party in that proceeding.

CAUSE-PA/TURN) reviewed the mechanism and agreed to its implementation (basically in its current formulaic iteration). The WNA has allowed PGW to collect the revenues that the Commission has determined in its base rate case as necessary to sustain its safe and reliable operation as a municipally owned, cash flow, natural gas utility (and return dollars to customers when winters were colder than normal). With a new-found opposition to WNA clauses, OCA and CAUSE-PA/TURN appear to have singled out PGW's WNA to launch their battle against WNAs in Pennsylvania. In doing so, however, they have failed to carry their heavy burden of proof, which required them to present a preponderance of evidence demonstrating that the existing WNA, which enjoys a presumption of reasonableness, is unjust and unreasonable, as applied. Rather, they rely on rhetoric that reflects disdain for WNAs.

It is noteworthy that OCA and CAUSE-PA/TURN have elected to voice their general opposition to WNAs in a proceeding that was voluntarily initiated by PGW to protect consumers from abnormal increases in rates due to the application of the WNA. In opposing the 25% cap that was originally proposed by PGW in this proceeding, these parties rebuffed the Company's efforts to put a control in place that would prevent a potential recurrence of the unusually large charges that resulted from the application of the WNA to usage in May 2022. During the pendency of the proceeding, PGW has determined that it no longer desires to implement the 25% cap, having realized that the recent warmer weather trends in May in Philadelphia were the culprit of the anomaly that occurred in May 2022. As such, the removal of May from the formula would enable PGW's WNA to continue to function as intended to ensure that the Company has sufficient cash to pay its bills and provide natural gas service to its customers. PGW respectfully submits that OCA and CAUSE-PA/TURN have not met their burden of demonstrating that any other changes to the Company's existing WNA are just and reasonable.

II. ARGUMENT

A. The Evidentiary Record Supports the Continuation of PGW's WNA

1. Applicable Burden of Proof

As explained in PGW's Main Brief, OCA and CAUSE-PA/TURN bear the heavy burden of proving that the Company's existing WNA, which is in its Commission-approved Tariff, is unjust and unreasonable in its application and should therefore be terminated, suspended, or significantly modified such that the WNA is essentially eliminated or rendered ineffective in providing revenue neutrality.¹⁰ It is well-settled that existing Tariff provisions are *prima facie* reasonable. *See, e.g., Brockway Glass v. PUC*, 437 A.2d 1067 (Pa. Commw. Ct. 1981). Further, the courts have held that parties challenging existing Tariff provisions must prove that facts and circumstances have changed drastically since the PUC's approval of the Tariff so as to render application of the provision unreasonable. *Shenango Township Board of Supervisors v. Pa. PUC*, 686 A.2d 910, 914 (Pa. Cmwlth. 1996).

Despite this long-standing case law, OCA and CAUSE-PA/TURN seek in their Main Briefs to remove PGW's existing WNA without carrying this heavy burden.¹¹ Rather, they inappropriately attempt to shift the burden of proof to PGW to establish the reasonableness of its existing, Commission-approved WNA. In support of their argument, they refer to Section 315(a) of the Public Utility Code ("Code"). 66 Pa. C.S. § 315(a).

Section 315(a) of the Code provides that "[i]n any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed increases in rates, the burden of proof to show that the

¹⁰ PGW M.B. at 15-16.

¹¹ OCA M.B. at 7-10; CAUSE-PA/TURN at 8-10.

rate involved is just and reasonable shall be upon the public utility.” 66 Pa. C.S. § 315(a). Here, the PUC did not initiate the proceeding upon its own motion. Rather, PGW initiated the proceeding by filing the Cap Petition, which other parties opposed. Contrary to the claims of OCA and CAUSE-PA/TURN, the inclusion of standard language in the September 15, 2022 Suspension Order raising a question as to the reasonableness of PGW’s existing rules, rates and regulations did not somehow alter Section 315(a) of the Code. In short, the PUC did not shift the burden to PGW to establish that its existing WNA Tariff provision, which already enjoys an assumption of reasonableness, is just and reasonable in its application.

In *NRG Energy, Inc. v. Pa. Public Utility Commission*, 233 A.3d 936, 950 (2020), the Commonwealth Court made clear that in a rate case filed by a public utility, Section 315(a) of the Code places the burden of proof of the proposed rates on the utility. Contrary to the arguments of OCA and CAUSE-PA/TURN, that is the only burden – relating to proposed rates – that does not shift away from the utility. The rationale imposing the burden of proof on the utility only for proposed changes to existing Tariff provisions is that the utility cannot be called upon to account for every issue that a party may raise that was not included in the Tariff filing. *Allegheny Center Assocs. v. Pa. Public Utility Commission*, 131 Pa. Cmwlth. 352, 570 A.2d 149, 153 (1990). When a party makes a new proposal that differs from the utility’s proposed rate or methodology, it is incumbent upon that party as the proponent of a rule or order to bear the burden of proof under Section 332(a) of the Code. *NRG Energy* at 950.

Here, OCA and CAUSE-PA/TURN propose to eliminate, suspend or (in OCA’s arguments) significantly modify PGW’s WNA. The only proposal PGW set forth in its Tariff filing was a 25% cap on delivery charges as a result of application of the WNA. As OCA and CAUSE-PA/TURN have challenged the justness and reasonableness of the application of the

existing WNA, they are required to satisfy their burden of proof by a preponderance of the evidence to support their claims.

Even if the PUC determines, contrary to judicial precedent, to place the burden of proof on PGW in this proceeding to establish the justness and reasonableness of the continuation of its WNA, the Company has presented overwhelming evidence of the importance of this decoupling mechanism to both PGW and its ratepayers.¹² At the very minimum, it is without doubt that OCA and CAUSE-PA/TURN were obligated to come forward with evidence demonstrating the reasonableness of their proposals. *NRG Energy* at 951. They have failed to do so.

2. Scathing Indictments of WNAs in General Are Not Evidence

Rather than producing evidence to support their proposals regarding PGW's WNA, OCA and CAUSE-PA/TURN have relied on scathing indictments of WNAs in general, despite the support and encouragement from the PUC and the General Assembly for the implementation of such mechanisms by energy utilities. It is the legislature that establishes policy for the Commonwealth and the Commission that implements it – OCA and CAUSE-PA/TURN do neither. In any event, policy arguments against the use of WNAs do not substitute for evidence that a particular mechanism is somehow flawed. Further, policy arguments against WNAs do not alter the law.

a. No Evidence That PGW's WNA Differs From Other Approved Mechanisms

OCA contends that the WNA formula produces unlawful rates, without offering any explanation as to how, or if, PGW's WNA formula differs from any other such clauses that are in

¹² PGW M.B. at 18-22; PGW R.B. *infra* at 13-15.

place for other natural gas utilities or recently approved by the PUC for implementation.¹³ As no evidence is in the record to demonstrate that PGW’s WNA utilizes a factor that varies from other similar mechanisms in use across Pennsylvania, this contention is nothing more than policy advocacy against WNAs.

Further, OCA argues that “[i]n theory, PGW’s WNA is designed to stabilize its distribution revenues to adjust for weather-related usage fluctuations,” without detailing any departure by PGW in May 2022 from the approved design or purpose of its WNA.¹⁴ In fact, PGW’s WNA operated as designed and approved in May 2022 by producing a charge that reflected warmer than average weather to offset lost revenues at the rates determined by the PUC as necessary to run the distribution system.¹⁵ OCA has presented no evidence to suggest that the mechanism did not fulfill the established purpose of revenue neutrality. Rather, OCA seems to be opposed to WNAs that produce results consistent with the goal of stabilizing revenues due to variations in weather. This opposition does not demonstrate that PGW’s WNA is unjust or unreasonable.

In addition, OCA contends that PGW’s WNA had a discriminatory impact on customers due to being included in different billing cycles, without producing evidence to show that the use of multiple billing cycles by a public utility is in some way flawed.¹⁶ Notably, PGW’s WNA has operated on a billing cycle basis since its implementation 20+ years ago and OCA has never

¹³ OCA M.B. at 2. OCA blatantly misrepresents PGW’s Cap Petition by claiming that PGW acknowledged that its application of the WNA resulted in rate shock in May 2022. In fact, at no time in PGW’s Petition did the Company reference “rate shock.”

¹⁴ OCA M.B. at 10.

¹⁵ PGW St. No. 1 at 10-11.

¹⁶ OCA M.B. at 11.

before objected to such methodology. Further, billing cycle differences routinely occur.¹⁷ Again, OCA has not shown that other public utilities with WNAs in Pennsylvania follow a different approach in applying their WNAs. While OCA seems to object to the use of multiple billing cycles because of the potential for application of a charge impacting customers differently, it has not produced evidence to demonstrate that this approach is unlawful. Further, this argument is not PGW-specific but rather reflects a general opposition to the way that WNAs are structured.

The only aspect of PGW's WNA that OCA has asserted as contributing to the May 2022 anomaly is the monthly, rather than annual, reconciliation period. Again, however, OCA has presented no evidence to demonstrate that this feature differs from other WNA mechanisms that are in place in Pennsylvania or recently approved by the PUC.¹⁸ Although PGW addresses this issue in more detail at pages 19-21 of this Reply Brief to show why a shift from monthly to annual reconciliation is unacceptable, the Company raises it here as yet another example of OCA's general "shotgun" policy advocacy against WNAs that has nothing to do with the justness and reasonableness of PGW's WNA.

b. Impact on Low-Income Customers

CAUSE-PA/TURN's attacks on PGW's WNA due to its impact on low-income customers are also aimed at WNAs (and base rates) in general, as no evidence has been presented to demonstrate that a particular feature of PGW's mechanism is harmful to low-income customers.¹⁹ In fact, the low-income customers that the PUC has identified as needing

¹⁷ PGW M.B. at 28.

¹⁸ OCA M.B. at 15-19.

¹⁹ CAUSE-PA/TURN M.B. at 17-20.

energy assistance – those participating in PGW’s Customer Responsibility Program (“CRP”) – are not affected by the WNA because their rates are based on a percentage of household income that was established by the PUC as a reasonable energy burden for low-income customers.²⁰ In rejoinder testimony, through PGW Exhibit DA-5, PGW witness Denise Adamucci addressed the factor set forth in the PUC’s Distribution Rates Policy Statement regarding the impact of the WNA on low-income customers, which is cited by CAUSE-PA/TURN. 52 Pa. Code § 69.3302(a)(7).²¹ As noted therein, customers participating in the CRP who are abiding by its terms are unaffected by the WNA as their energy burden will not exceed the level approved by the PUC as reasonable. Further, in stabilizing the recovery by PGW of the costs of delivering safe and reliable gas to customers, the WNA reduces the variability of distribution rates that are paid by consumers.²²

Importantly, the WNA does not enable PGW to bill customers at a level that is higher than authorized by the PUC in the last rate case. Therefore, the CAUSE-PA/TURN arguments against the WNA on behalf of low-income customers have no basis; they are actually arguments against the level of revenue requirements that the Commission has already authorized for PGW. Of note, CAUSE-PA and TURN did not oppose the Joint Petition for Partial Settlement filed in PGW’s last base rate case, which was approved by the Commission without modification and

²⁰ PGW St. No. 1-R at 18.

²¹ The Commission’s Distribution Rates Policy Statement sets forth several factors that should be considered in examining alternative rate mechanisms, which the PUC invited to have submitted in a utility’s base rate proceeding.²¹ 52 Pa. Code §§ 69.3301-69.3302.

²² PGW St. No. 1-RJ at 14-16; PGW Exhibit DA-5.

which fully resolved the issue of revenue requirements.²³ As to the remaining arguments in the CAUSE-PA/TURN Main Brief regarding rates charged for utility service to low-income customers, these issues need to be addressed on a statewide basis, not in this proceeding.

c. Impact on Energy Efficiency Programming

Similarly, the issues raised by CAUSE-PA/TURN about the impact of PGW's WNA on energy efficiency programming are not focused specifically on any aspect of PGW's WNA but rather reflect a disdain for WNAs in general.²⁴ Through passage of Act 58 of 2018, the General Assembly has already declared that the policy of the Commonwealth is to support the implementation of decoupling mechanisms by energy utilities. 66 Pa. C.S. § 1330. Moreover, Chairman Brown Dutrieuille explicitly recognized in approving Columbia's WNA that "since this decoupling mechanism is only applied to the distribution component of the bill, and not the natural gas commodity charge, *incentives for efficient consumption are maintained.*"²⁵ CAUSE-PA/TURN's distaste for WNAs in general does not overrule these facts.

As CAUSE-PA/TURN note, among the relevant factors in the PUC's Distribution Rates Policy Statement are the effects of the proposed mechanism in limiting or eliminating disincentives for the promotion of efficiency programs and how it impacts customer incentives to employ efficiency measures.²⁶ 52 Pa. Code § 69.3302(a)(5)-(6). Through rejoinder testimony in

²³ *Pa. Public Utility Commission v. Philadelphia Gas Works*, Docket No. R-2020-3027206 (Order entered November 19, 2020 at Pages 64-71 ("PGW 2020 Base Rate Case Order"); Joint Petition for Partial Settlement at Page 1 and 16).

²⁴ CAUSE-PA/TURN M.B. at 20-21.

²⁵ *Columbia Base Rate Case Order*, Chairman's Statement (emphasis supplied).

²⁶ CAUSE-PA/TURN M.B. at 20-22.

this proceeding, Ms. Adamucci thoroughly addressed these factors.²⁷ She described PGW's commitment to the successful implementation of its Universal Service and Energy Conservation Plan, as well as its Low-Income Smart Thermostat Program as part of its Demand Side Management Program in 2022. As Ms. Adamucci's analysis indicated, the WNA only addresses variations due to weather and does not negatively impact a ratepayer's ability to reduce usage, and thus save money, via energy efficiency programs. Further, she explained that customers remain incentivized to employ efficiency measures that reduce their overall bill.²⁸

d. Cost Causation Principles

CAUSE-PA/TURN contend that PGW's WNA violates cost causation principles because it is designed to allow the Company to collect its approved level of revenue regardless of weather variations.²⁹ It is not just PGW's WNA that is designed in this manner; it is the entire purpose of a WNA.³⁰ Indeed, Chairman Brown Dutrieuille's Statement in the recent *UGI Base Rate Case* recognized that the decoupling of uncontrollable weather from revenues should stabilize the utility's cashflow.³¹ Further, PGW explained in Exhibit DA-5 that its WNA is designed to enable the recovery of revenues through volumetric distribution rates that reflect the cost-of-service requirements determined in a base rate proceeding. Noting that a significant portion of these revenues is caused by fixed costs, which do not vary in the short-term with changes in the weather, the WNA mechanism better aligns distribution revenues with cost causation principles

²⁷ PGW St. No. 1-RJ at 14-16; PGW Exhibit DA-5.

²⁸ *Id.*

²⁹ CAUSE-PA/TURN M.B. at 22-23.

³⁰ PGW St. No. 1 at 4.

³¹ *UGI Base Rate Case Order*, Chairman's Statement.

by allowing PGW to recover fixed costs through volumetric distribution rates by appropriately accounting for variation in usage due to weather.

3. PGW's WNA Is Critical to Sustained Utility Operations

Through the unrefuted testimony of Ms. Adamucci, PGW has demonstrated the importance of the WNA to PGW's financial health and stability, which in turn benefits ratepayers. Particularly given PGW's responsibility to provide safe, adequate and reliable natural gas service to approximately 500,000 customers, the Company needs the financial certainty of collecting Commission-authorized revenues even when Philadelphia experiences abnormally warmer weather. The WNA has been instrumental in helping PGW to become a financially stable and strong Company, while assuring that weather related charges to customers were fair and reasonable.³²

In the provision of natural gas service, PGW performs a critical statutory function that requires a supporting level of revenues as determined by the Commission. Once the Commission determines the revenues that are needed and authorizes their collection through rates imposed on customers (in a base rate case), it is imperative that PGW be given the opportunity to collect this level of revenues so that it can fulfill the obligations of ensuring that customers in Philadelphia continue to receive safe and adequate natural gas service.

When the weather significantly varies from the normal levels that the Commission has used to calculate PGW's anticipated revenues and authorize a specific amount of rate relief, the WNA properly adjusts the charges imposed by PGW to produce the revenue levels determined by the Commission. If PGW were not able to adjust billings through the WNA to reflect warmer weather during the heating season, its ability to fund its natural gas operations would be

³² PGW M.B. at 18-22.

jeopardized, directly harming customers. Also, PGW would be required to more frequently seek rate relief from the Commission, potentially through extraordinary rate relief, as it did in 2002 before the WNA was implemented,³³ which again would need to be paid by the Company's customers.³⁴ The Commission itself has previously recognized that as a cash flow utility, "PGW must have adequate debt service coverage, sufficient days of cash on hand, and enough days cash on hand to be able to cover day-to-day operations."³⁵

In summary, the WNA: (i) stabilizes cash flow from year-to-year; (ii) reduces the need for short-term borrowing from year-to-year; (iii) positively affects PGW's credit rating; and (iv) reduces the need for costly base rate proceedings (which could even include extraordinary rate requests if actual revenues diverged dramatically and quickly from normal levels). A WNA-type clause is particularly appropriate for a municipally owned utility because under the cash flow method of ratemaking, ratepayers provide revenues to cover the entire costs of service – but only the cost of service.³⁶ None of this was refuted by the WNA opponents, other than with rhetoric.

4. A Single Anomaly Does Not Support the Relief Sought

The parties seek to have PGW's WNA declared as unjust and unreasonable, as applied, due to a single anomaly that occurred in May 2022 as a direct result of extremely warmer weather being experienced in PGW's Philadelphia service territory. On this basis, OCA and CAUSE-PA/TURN call for the elimination of PGW's existing PUC-approved WNA.³⁷

³³ *Re Philadelphia Gas Works*, 2002 WL 1378610 (Pa.P.U.C.)

³⁴ PGW M.B. at 21-22.

³⁵ *PGW 2020 Base Rate Case Order* at 66.

³⁶ PGW M.B. at 20.

³⁷ OCA M.B. at 10-11; CAUSE-PA/TURN M.B. at 11-12.

As designed and approved in the Tariff (and in place for 20+ years), the WNA charges imposed with respect to May 2022 usage enabled PGW to bill customers at a level that was consistent with the amount of revenues authorized by the PUC in the last base rate case. However, due to significant charges caused by the extreme departure from normal weather during a portion of May 2022, PGW was concerned about the impact of these bills on customers. Therefore, PGW sought and obtained Commission approval to reverse the WNA charges and refund the collected amounts to customers.³⁸

Now, OCA and CAUSE-PA/TURN attempt to rely on PGW's proactive and voluntary refunds of WNA charges in the summer of 2022 as "evidence" that the entire mechanism is flawed. Using PGW's customer protection proposal in response to a one-time event over the course of two decades is not evidence to support a suspension, complete overhaul, or termination of the existing WNA. Indeed, if the PUC views PGW's refunds as "evidence" supporting the proposals advanced by OCA and CAUSE-PA/TURN, such action would have a chilling effect on the willingness of public utilities to proactively propose outcomes designed to protect their customers when PUC-approved Tariff provisions have an impact on rates that was not intended due to factors beyond the utility's control.

PGW's WNA has been in place for over twenty years. OCA agreed to the WNA that the PUC approved in the 2002 base rate proceeding. The only change that has been made to the formula since then was in 2017 when PGW proposed in its base rate case to reduce from a 30-year average weather period to a 10-year average weather period. As a result of a settlement of that case, with the signatory parties including OCA and CAUSE-PA/TURN, the PUC approved a

³⁸ PGW St. No. 1 at 10-11.

reduction to a 20-year average weather period.³⁹ Therefore, the same WNA formula that has been in place for over twenty years – one that OCA and CAUSE-PA/TURN could have challenged on many different occasions – did not suddenly become unjust and unreasonable due to a single anomaly that occurred in May 2022. At most, the warming weather trends experienced in Philadelphia during the month of May in recent years have raised a question as to whether May could be excluded from the formula.

5. The Concept of Risk-Shifting Has No Applicability

In opposing the continuation of PGW’s WNA, OCA and CAUSE-PA/TURN claim that as structured, the mechanism “shifts risk” from PGW to its customers.⁴⁰ This claim is fundamentally flawed; PGW is a municipally owned utility that does not have investors or shareholders. The shifting of risk concept is potentially applicable only in a situation where an investor-owned utility implements a financial stability mechanism that requires customers – rather than the utility’s shareholders – to shoulder the risk of various factors. Notably, OCA and CAUSE-PA/TURN appear to accept “risk-shifting” when it comes to non-municipal utilities.

Throughout this proceeding, OCA and CAUSE-PA/TURN have blatantly refused to recognize the reality that PGW does not have investors. This refusal is particularly borne out in the Main Brief of CAUSE-PA/TURN where they refer to case law that sets forth the PUC’s duty to set just and reasonable rates, emphasizing the need to reflect a “balance of consumer and investor interests.”⁴¹ PGW has repeatedly made the point that as a municipally owned utility, it

³⁹ PGW M.B. at 7.

⁴⁰ OCA M.B. at 12-15; CAUSE-PA/TURN M.B. at 17-18.

⁴¹ CAUSE-PA/TURN M.B. at 10.

does not have investors who can absorb risks caused by weather variation.⁴² Since the Company's customers are essentially its shareholders, balancing consumer and utility interests is a principle that has no applicability here. PGW relies solely on revenues received from consumers to sustain its natural gas operations, meaning that there is nowhere else to go for the funds. Ms. Adamucci testified that "[w]eather-related risks are either managed on the front end through a WNA or on the back end through rate increases, including emergency rate relief."⁴³

In addition, the evidence shows that WNAs are not risk-shifting mechanisms. Rather, as has been recognized by the PUC, WNAs are clauses that provide revenue neutrality, not increased revenues, to public utilities. As such, the WNA is not enabling PGW to recover more revenues than were authorized in the last base rate case by the Commission. Since the WNA does nothing more than reconcile actual weather experience with projected weather experience, and to either credit or charge the ratepayer for the difference, there is no risk shifting.⁴⁴

The data relied upon by OCA and CAUSE-PA/TURN in an effort to support their claims that the PGW's WNA works more for the Company's benefit, than for ratepayers, should be disregarded.⁴⁵ Their mere dislike of WNAs in general does not nullify what a WNA does. The fact that the WNA makes the charge to customers higher in a particular month than it would be without the WNA is also not a basis for claiming that the clause is "unreasonable." As PGW has explained, the financial health of the Company directly benefits its customers who count on natural gas utility service to be available when it is needed. The fact that the WNA has resulted

⁴² PGW M.B. at 26-28.

⁴³ PGW St. No. 1-R at 8.

⁴⁴ PGW M.B. at 23, 34.

⁴⁵ OCA M.B. at 13-14; CAUSE-PA/TURN M.B. at 19.

in recent years in more charges than credits being assessed only demonstrates that the weather has more frequently been warmer than historic or “normal” weather, not that the mechanism provides a greater benefit to PGW than to ratepayers.

6. Use of Multiple Billing Cycles Does Not Result in Rate Discrimination

OCA and CAUSE-PA/TURN argue that the WNA is discriminatory because it had a different effect on customers in May 2022, depending upon which billing cycle the customers were in.⁴⁶ What their arguments overlook, however, is that discrimination in rates is unlawful only when it is unreasonable. Section 1304 of the Code prohibits utilities from granting “any *unreasonable* preference or advantage to any person, corporation, or municipal corporation,” or subjecting and “person, corporation, or municipal corporation to any *unreasonable* prejudice or disadvantage.” 66 Pa. C.S. § 1304 (emphasis supplied).

Having multiple billing cycles is inherent in utility operations.⁴⁷ The fact that billing cycles may result in customers being impacted by a rate in different ways does not mean that PGW’s application of the WNA granted any customer an unreasonable advantage or subjected any customer to an unreasonable disadvantage. To the contrary, PGW applied the WNA formula to each customer in exactly the same manner and in accordance with a PUC-approved calculation method that has been in place for over twenty years. Accordingly, the application of PGW’s WNA did not result in unlawful discrimination.

Moreover, the only proposal to address the varying impact based on billing cycles (other than to eliminate the WNA entirely, which would be a gross overreaction to the single anomaly

⁴⁶ OCA M.B. at 15-19; CAUSE-PA/TURN M.B. at 12-17.

⁴⁷ PGW M.B. at 28.

in May 2022) was offered by OCA’s witness who suggested a move from monthly to annual reconciliation of the WNA. The shortcomings of this proposed approach are set forth below.

B. Significant Modifications to PGW’s WNA Should Be Rejected

1. Annual Reconciliation

OCA contends that if PGW’s WNA is allowed to remain in place, it should be reconciled on an annual, rather than a monthly, basis. According to OCA, truing up the WNA on an annual basis would reduce volatility.⁴⁸ However, in offering this proposal, OCA witness Ron Nelson completely failed to seriously consider any impact on PGW’s cash flow. In comparison, PGW witness Adamucci testified that such an adjustment to the WNA would cause liquidity issues for PGW. As she explained, operating on a cash flow basis requires PGW to continually have sufficient cash on hand throughout the year to support the safe and adequate provision of natural gas service, not to receive dollars in a subsequent year, months after needing them. Ms. Adamucci further noted that a method that annually reconciles PGW’s revenues to reflect variations in weather from the normal patterns would fail to recognize the ongoing need for cash to maintain its operations.⁴⁹

In addition, Mr. Nelson has not analyzed or developed OCA’s proposal, conceding that he had not “worked out the specifics of it” or even made a specific recommendation on the reconciliation method, which could be done “annually or through seasonal or through the heating season.”⁵⁰ Further, PGW witness Adamucci explained that a move to annual reconciliation would potentially cause the Company’s accounts receivables balance to grow, and that this

⁴⁸ OCA M.B. at 22-23.

⁴⁹ PGW M.B. at 31-33.

⁵⁰ Tr. 218.

working capital increase would require PGW to have additional funding available.⁵¹ Through her analysis, Ms. Adamucci concluded that “PGW customers are the ones who would pay for such results.”⁵²

Another possible consequence of moving to annual reconciliation, which again OCA’s witness appears not to have even considered is that WNA charges would be collected across a multi-year span. This outcome could have adverse impacts on customers – whom Mr. Nelson allegedly wants to protect – paying a charge that is not linked to their billing cycle usage during a current season. What Mr. Nelson overlooked or failed to acknowledge about his proposal is that customers could end up facing higher rates in a subsequent year due to a large amount of reconciliation being necessary due to warmer than normal weather, coupled with colder than normal weather which would potentially increase usage and result in higher bills that would not be reconciled until a future period.⁵³

2. Five Percent Cap

OCA argues that as an alternative, “the WNA could be reconciled annually with a 5% cap.”⁵⁴ The position advanced by OCA in its Main Brief appears to be at odds with the testimony of its witness regarding a 5% cap. PGW had previously interpreted Mr. Nelson’s recommendation as being an alternative to the Company’s proposed 25% cap, or perhaps in lieu of moving to annual reconciliation. Regardless of the position that OCA is advancing, it is clear that its witness did not analyze the financial impact of his proposed 5% cap on PGW and its

⁵¹ PGW M.B. at 31-33.

⁵² PGW St. No. 1-RJ at 9.

⁵³ PGW M.B. at 31-33.

⁵⁴ OCA M.B. at 22.

ratepayers whatsoever. In suggesting that the impact of his proposal would be “minimal” and “unlikely” to financially challenge PGW,⁵⁵ Mr. Nelson’s testimony was merely speculative and demonstrated an overall nonchalance about PGW’s financial health, ignoring history and the importance of a healthy PGW for its ratepayers and the City. As explained by Ms. Adamucci, a 5% cap would fully nullify the financial stability the WNA affords to PGW and its ratepayers, and would effectively eliminate the mechanism to the significant detriment of both PGW and its customers.⁵⁶

Mr. Nelson also displayed indifference to PGW’s financial health when he discussed the Company’s net income as minimizing the importance of the WNA to PGW’s overall operations. Specifically, his reference to PGW’s net income at an arbitrary point in time was misleading as to any indication of financial health given that the number he selected merely represented net revenues from PGW’s operations, which were used to fund its operations and support other cash requirements as a natural gas utility.⁵⁷ Contrary to the assumptions of the OCA witness, the amount of revenues produced by the WNA significantly affects the number of days of cash on hand and the debt service ratio. For example, Ms. Adamucci testified that from January 2021 to May 2023, PGW billed approximately \$60 million in WNA charges since the last rate case. Without this revenue, PGW’s number of cash days on hand would be down from 16.9 days at the end of the fully projected future test year to *negative* 14.8 days, which would be a totally unacceptable financial result.⁵⁸ It is also worth noting that the amount of PGW’s net income is

⁵⁵ OCA St. 1 at 22.

⁵⁶ PGW M.B. at

⁵⁷ PGW St. No. 1-R at 17.

⁵⁸ PGW St. No. 1-R at 17.

not even a factor that is identified in the PUC’s Cash Flow Ratemaking Policy Statement for use in determining rates. 52 Pa. Code § 69.2703.

3. Ten Year Average

OCA further recommends that the WNA use a 10-year weather average to better reflect climate trends that the WNA is designed to address, rather than the 20-year average currently used by the formula.⁵⁹ PGW requests that this proposal be rejected for lack of any supporting statistical data whatsoever and due to the fact that such a change would also need to occur in the base rate proceeding.⁶⁰ Further, this change was not shown to address what occurred with May 2022 usage. It is wholly unconnected with this issue.

C. **The Only Change to PGW’s WNA That Is Warranted Is the Removal of May From the Formula**

1. Twenty Five Percent Cap

As part of this proceeding, PGW has offered two proposed modifications to its WNA. PGW submitted the first proposal with the Cap Petition and Supplement No. 152 filed on August 2, 2022, which would have prevented customers from being billed a WNA charge or credit greater than 25% of total delivery charges on any given bill. This proposal was designed as a simple solution that could be quickly implemented to protect consumers in the potential event that the WNA, due to unusually abnormal weather, produced an unusually large increase during the heating season that just ended on May 31, 2023. During the proceeding, PGW noted that it no longer desires to implement the proposed 25% cap since it had been rendered moot.⁶¹

⁵⁹ OCA M.B. at 23.

⁶⁰ PGW M.B. at 34.

⁶¹ PGW M.B. at 22-23.

2. Removal of May

The second modification proposed by PGW in this case is the removal of May from the WNA formula to prevent any potential recurrence in the future. Ms. Adamucci testified that the exclusion of May would address any issue in the existing formula caused by the warming weather trends in Philadelphia over recent years.⁶² She explained that the inclusion of May in PGW's WNA calculation is problematic due to the warmer weather trends that have occurred in Philadelphia over the past ten years. Ms. Adamucci concluded that the evidence is clear – “to the extent that the WNA is producing concerning results, those results are focused on May.”⁶³ In fact, PGW so strongly supports such a change that it successfully petitioned to have May 2023 usage removed from the WNA to protect its customers.⁶⁴

CAUSE-PA/TURN argue that PGW's testimony regarding the removal of May should not be considered in support of the removal of May since the consultant's report on which it is based has not been admitted into this proceeding.⁶⁵ This argument no merit. As Senior Vice President for Customer & Regulatory Affairs at PGW, Ms. Adamucci was presented by PGW as an expert witness in this WNA proceeding, and her qualifications as such were not challenged. Further, the consultant's report was prepared at and under Ms. Adamucci's direction. Based upon her knowledge, including a review of the data examined by the consultant, Ms. Adamucci testified repeatedly that in her view, as an expert witness, the month of May is the problem in the

⁶² PGW St. No. 1-R at 3-4; PGW St. No. 1-RJ at 5; Tr. 159, 161-162, 182, 184.

⁶³ PGW St. No. 1-RJ at 5.

⁶⁴ PGW St. No. 1-RJ at 5.

⁶⁵ CAUSE-PA/TURN M.B. at 26.

existing WNA.⁶⁶ It is noteworthy that CAUSE-PA/TURN raise arguments in this context that are contrary to each other: on one hand, they contend that this proceeding should consider the WNA in total and recommend its removal; on the other hand, they argue that PGW is limited to the 25% cap that was initially proposed. They cannot have it both ways.

If any changes are made to the WNA in the context of this proceeding, the removal of May from the formula makes sense and will address potential customer impacts since May usage has resulted in the issuance of emergency orders by the Commission (at the request of PGW) in the last two years.⁶⁷ Indeed, removing May from the formula renders unnecessary the modifications to the WNA proposed by OCA.⁶⁸ When the month that produced the only anomaly in application of PGW's WNA during a 20-year history is removed from the equation, no need exists to examine other features of the WNA that have worked as designed and certainly, no reason to make changes or modifications beyond that proposed by PGW.

III. CONCLUSION

Based upon the foregoing, Philadelphia Gas Works respectfully requests that the Commission leave intact the Weather Normalization Adjustment clause that is in PGW's current Commission-approved Tariff, or in the alternative, approve a change that results in the removal of the month of May from the WNA formula.

⁶⁶ PGW St. No. 1-R at 3-4; PGW St. No. 1-RJ at 5; Tr. 159, 161-162, 182, 184.

⁶⁷ *Petition of Philadelphia Gas Works for Emergency Order*, Docket No. P-2022-3033047 (Emergency Order entered July 1, 2022; Ratification Order entered July 14, 2022); *Petition of Philadelphia Gas Works for Emergency Order*, Docket No. P-2023-3040233 (Emergency Order entered April 28, 2023; Ratification Order entered May 18, 2023).

⁶⁸ Tr. 159-161.

Respectfully submitted,

Craig Berry (Attorney ID # 328527)
Philadelphia Gas Works
800 W. Montgomery Ave.
Philadelphia, PA 19122
Phone 215.684.6049
Fax 215.684.6798
Craig.berry@pgworks.com

Date: June 16, 2023

/s/ Karen O. Moury
Daniel Clearfield (Attorney ID # 26183)
Karen O. Moury (Attorney ID # 36879)
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
Phone 717.237.6036
Fax 717.237.6019
dclearfield@eckertseamans.com
kmoury@eckertseamans.com

Attorneys for Philadelphia Gas Works