**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 :

**POST HEARING ORDER ON PGW’S MOTION TO EXCLUDE GRAYS FERRY/VICINITY’S HEARING EXHIBIT 1 FROM THE RECORD**

On the second day of hearings in the above-captioned matters, counsel for Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. (Grays Ferry/Vicinity) offered to submit a picture of the two meters serving Grays Ferry /Vicinity as a late-filed exhibit in this matter. We allowed Grays Ferry/Vicinity to submit the late-filed exhibit --marked for identification as Grays Ferry/Vicinity Hearing Exhibit 1 -- by the end of business day on July 22, 2023, and provided the parties until July 17, 2023, to file any written objection to the admission of the exhibit into the record in this matter:

JUDGE VERO: … All right. So again, I'm turning it over to Vicinity to make a decision whether or not they want to submit a picture. I will allow it at this later date. I will open it to objections by the parties. And then make a ruling. Thank you. ATTORNEY STEWART: Your Honor, if it would - if it would ease the - the question over whether the meters are parallel or not, we would be happy to provide an exhibit that would be a photograph of the - of the meters, of the parallel meters. And we can circulate that document, and while this is going. I suppose simultaneously, but it's not going to be in, you know, in - in the proper form at this point. But we can prepare it and submit it as a late filed exhibit or however you would like to do it if - if that would address the question and help people understand the physical arrangement of the meters at Grays Ferry.

JUDGE VERO: Yes, I will allow it as a late filed exhibit. And it will be submitted to the parties for objection. I will even, I mean when can we get it by?

ATTORNEY STEWART: I will send it out as quickly as possible. Hopefully before the end of this hearing, but definitely before the end of the day today.

JUDGE VERO: Okay. … So let's make it the end of the day today. And being the 12th, I will give the parties until Monday the - Monday, July 17th to get to me with any written objections to the admission of Vicinity's late filed exhibit. Okay. Let's mark it as Hearing Exhibit 1 for Grays Ferry, for Vicinity.

Tr. 489-90. (Emphasis added).

On July 13, 2023, Grays Ferry/Vicinity submitted the late-filed Hearing Exhibit 1. On July 17, 2023, Philadelphia Gas Work (PGW) filed a Motion arguing that Hearing Exhibit 1 contains a photograph which has neither been verified nor authenticated. Motion at ¶ 19. According to PGW, the admission of Hearing Exhibit 1 into the record in this matter, without providing PGW or the other parties with an opportunity to review the photograph or to cross-examine the Grays Ferry/Vicinity’s witness on its content, would violate the Commission’s regulations and PGW’s due process rights. In its Motion, PGW requests that we:

(1) disallow Vicinity’s Hearing Exhibit 1 from being admitted to the record; or in the alternative, (2) grant PGW leave to file a verified statement in the nature of a response to GFCP/VEPI’s late-filed testimony and exhibits; and (3) grant any other relief to PGW deemed appropriate under the circumstances. PGW further requests expedited consideration of this Motion given the short timeframes in the litigation schedule for this matter.

PGW Motion at 6.

 On July 21, 2023, Grays Ferry/Vicinity filed its Response to PGW’s Motion. In its Response, Grays Ferry/Vicinity states that it “has not moved, and does not intend to move, for the entry of [Hearing Exhibit 1] into the record.” Response ¶ 9. (Emphasis added.)

It is admitted that on July 13, 2023, Vicinity submitted Hearing Exhibit 1, as requested by Administrative Law Judge Eranda Vero. The photograph had been identified for the record during the hearing on July 12, 2022. The photograph speaks for itself and was represented as depicting Vicinity’s meters. Vicinity denies that its submission sought to move the photograph into the record. It is admitted that no verification is attached to the photograph, although one can be provided if it is ultimately determined that Hearing Exhibit 1 should be entered into the record.

Response¶ 19. (Emphasis added.)

It appears that what we understood to be Grays Ferry/Vicinity’s request to file a late-filed exhibit to support its position with regard to the two meters that serve them, was understood by Grays Ferry/Vicinity’s counsel to be an on-the-record data request made by us. Because we made no such request, and Grays Ferry/Vicinity does not intend to move for the admission of the Hearing Exhibit 1 into the record in this matter, PGW’s Motion to exclude this exhibit is moot. Grays Ferry/Vicinity’s Hearing Exhibit 1 is not moved or admitted into the record in this matter.

THEREFORE,

IT IS ORDERED:

1. That the Motion filed by Philadelphia Gas Works on July 17, 2023, is moot.

2. That Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc.’s Hearing Exhibit 1 is not admitted into the record in this matter.

Date: July 24, 2023 \_ \_\_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_

 Eranda Vero

 Administrative Law Judge

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

 Arlene Ashton

 Administrative Law Judge

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*Revised: July 24, 2023*

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