McNees

McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

Charis Mincavage
Direct Dial: 717.237.5437
Direct Fax: 717.260.1725
cmincavage@mcneeslaw.com

September 15, 2023

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

**RE: Pennsylvania Public Utility Commission v. Philadelphia Gas Works;
Docket No. R-2023-3037933**

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission are the Exceptions of the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG"), in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this document. Thank you.

Sincerely,

Charis Mincavage

Charis Mincavage
MCNEES WALLACE & NURICK LLC

c: Administrative Law Judge Eranda Vero (via e-mail)
Administrative Law Judge Arlene Ashton (via e-mail)
Office of Special Assistants (ra-OSA@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

VIA E-MAIL

Lauren M. Burge, Esq.
Daniel Clearfield, Esq.
Sarah C. Stoner, Esq.
Norman Kennard, Esq.
Karen O. Moury, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
lburge@eckertseamans.com
dclearfield@eckertseamans.com
sstoner@eckertseamans.com
nkennard@eckertseamans.com
kmoury@eckertseamans.com

Allison C. Kaster, Esq.
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
P. O. Box 4365
Harrisburg, PA 17105-3265
akaster@pa.gov

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

Harrison Breitman, Esq.
David T. Evrard, Esq.
Lauren E. Guerra, Esq.
Darryl A. Lawrence, Esq.
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
ocapgw2023brc@paoca.org

Dennis A. Whitaker, Esq.
Kevin J. McKeon, Esq.
Todd S. Stewart, Esq.
Hawke McKeon & Sniscak LLP
100 N 10th Street
Harrisburg, PA 17101
dawhitaker@hmslegal.com
kjmckeon@hmslegal.com
tsstewart@hmslegal.com

Devin McDougall, Esq.
Clean Energy Program
Earthjustice
1617 John F. Kennedy Blvd., Suite 2020
Philadelphia, PA 19103
dmcdougall@earthjustice.org

Robert W. Ballenger, Esq.
Joline R. Price, Esq.
Daniela E. Rakhlina-Powsner, Esq.
COMMUNITY LEGAL SERVICES, INC.
1424 Chestnut Street
Philadelphia, PA 19102
rballenger@clsphila.org
jprice@clsphila.org
drakhlinapowsner@clsphila.org

Representative Rick Krajewski
Pennsylvania House
109B East Wing
P.O. Box 202188
Harrisburg, PA 17120
repkrajewski@pahouse.net

John Sweet, Esq.
Elizabeth R. Marx, Esq.
Ria Pereira, Esq.
Lauren Berman, Esq.
Pa Utility Law Project
118 Locust Street
Harrisburg PA 17101
jsweet@pautilitylawproject.org
emarx@pautilitylawproject.org
rpereira@pautilitylawproject.org
pulp@palegalaid.net

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

Charis Mincavage

Charis Mincavage

Counsel to the Philadelphia Industrial and
Commercial Gas Users Group

Dated this 15th day of September, 2023, at Harrisburg, Pennsylvania

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2023-3037933
	:	
Philadelphia Gas Works	:	

EXCEPTIONS OF THE PHILADELPHIA INDUSTRIAL AND COMMERCIAL GAS USERS GROUP

Einstein Healthcare Network
Newman and Co., Inc.
Philadelphia College of Osteopathic Medicine
Temple University
Thomas Jefferson University

Charis Mincavage (I.D. No. 82039)
Adeolu A. Bakare (I.D. No. 208541)
McNEES WALLACE & NURICK LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
717.232.8000 (p)
717.237.5300 (f)

Counsel to Philadelphia Industrial and Commercial Gas Users Group

Dated: September 15, 2023

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I. INTRODUCTION

On March 1, 2023, Philadelphia Gas Works ("PGW" or "Company") filed with the Pennsylvania Public Utility Commission ("Commission" or "PUC") Supplement No. 159 to Gas Service Tariff – Pa. P.U.C. No. 2 ("Supplement No. 159"), requesting a general rate increase of approximately $85.8 million to become effective on April 28, 2023. In addition, PGW proposed several Tariff modifications.[1]

On April 27, 2023, the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG") filed a Complaint against Supplement No. 159. While the Bureau of Investigation and Enforcement ("I&E") filed a Notice of Appearance, additional Complaints were filed by the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), and Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. ("GFCP/VEPI"). Petitions to Intervene were filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), the Tenant Union Representative Network ("TURN"), and POWER Interfaith ("POWER").

Pursuant to the Administrative Law Judges' ("ALJs") procedural schedule in this proceeding, PGW, PICGUG, OSBA, OCA, I&E, GFCP/VEPI, CAUSE-PA/TURN, and POWER filed Main Briefs on July 27, 2023. PGW, PICGUG, OCA, I&E, CAUSE-PA/TURN, OSBA, GFCP/VEPI, and POWER filed Reply Briefs on August 7, 2023.

On September 5, 2023, the presiding ALJs issued a Recommended Decision ("R.D.") in this proceeding. PICGUG now files these Exceptions ("Exc.") to certain provisions of the R.D. As discussed more fully herein, PICGUG excepts to the R.D.'s: (1) unjust and unreasonable application of value of service principals for purposes of evaluating PGW's COSS;

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[1] *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works,* Docket No. R-2023-3037933 (filed Feb. 27, 2023) ("Rate Case Filing").

(2) inappropriate discrimination of Rate IT by requiring these customers to continue to maintain their interruptibility compliance obligations to the benefit of PGW and its firm customers while treating Rate IT as firm service for purposes of PGW's Cost of Service ("COSS"); (3) failure to recognize the need for a portion of mains costs to be classified as customer-related in PGW's COSS for cost causation purposes; (4) omission of addressing PGW's inappropriate use of Peak Day Demand rather than Peak Design Day Demand; (5) improper utilization of PGW's proposed rate allocation due to this allocation being based upon an unjust, unreasonable, and inappropriately discriminatory COSS; and (6) erroneous adoption of I&E's proposed scaleback, which is also based upon an unjust, unreasonable, and inappropriately discriminately COSS.[2]

As discussed more fully herein, because of the R.D.'s application of unjust, unreasonable, and inappropriately discriminatory principles in approving PGW's COSS, the PUC must reject several of the ALJs' recommendations. For example, the PUC must remove PGW's allocation of excess demand costs to Rate IT as part of PGW's COSS so that Rate IT is treated as interruptible under **both** the Company's COSS and its Tariff. Moreover, once the COSS is corrected to recognize that Rate IT customers continue to stand at the ready to interrupt (upon PGW's discretion for the protection of the Company's firm customers), a similar correction in revenue allocation to Rate IT also must occur due to Rate IT being above its cost to serve. As such, the PUC must reject the R.D.'s recommend revenue allocation for Rate IT and order that Rate IT not receive any rate increase in this proceeding or, if the Commission approves a rate increase lower than PGW's as-filed request, order that Rate IT receive PICGUG's proposed first dollar relief scaleback.

[2] R.D., pp. 64-69.

II. EXCEPTIONS

A. Exception No. 1. The Recommended Decision Erred by Rejecting Cost Causation Principles for Rate IT in PGW's COSS.[3]

The R.D. recommended that, because PGW has not interrupted Rate IT for several years, Rate IT must be treated as a firm service solely for purposes of PGW's COSS.[4] Specifically, the R.D. concluded that the COSS must recognize the value Rate IT has received from PGW choosing, in its own discretion, not to interrupt Rate IT, even though PGW benefits from Rate IT standing at the ready to interrupt for the protection of the Company's firm service customers.[5] In rendering this conclusion, the R.D. rejected cost of service principles by choosing to utilize a value of service methodology for Rate IT.[6]

Because the R.D. offers no basis for rejecting such precedent and instead applying a value of service methodology solely for Rate IT, the PUC must dismiss this recommendation. In addition, the Commission must adjust PGW's proposed COSS to remove the allocation of peak-related costs to Rate IT. As discussed more fully herein, as well as in PICGUG's Main and Reply Briefs, PGW does not have to supply gas to Rate IT customers during peak events, as PGW maintains the right to interrupt Rate IT at the Company's sole discretion for the protection of firm service customers.[7] Simply because PGW has voluntarily chosen over the course of several years not to interrupt Rate IT customers does not mean that PGW has incurred additional costs to serve these customers.

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[3] *Id*.

[4] *Id*. at 69.

[5] *Id*.

[6] *Id*.

[7] *See* Main Brief of the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG M.B."), pp. 9-12; Reply Brief of the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG R.B."), pp. 8-9.

As detailed in PICGUG's Main Brief, the Commonwealth Court of Pennsylvania previously determined that cost of service is the "polestar" of utility ratemaking.[8] While revenue allocation is not an exact science, the primary objective of a COSS is to allocate costs in the manner they are incurred, consistent with cost causation principles.[9] PGW correctly utilizes the Average and Excess ("A&E") methodology for purposes of its COSS, however, PGW inappropriately allocates excess demand to Rate IT under the COSS.[10]

Interestingly, PGW correctly notes that if a customer's flow is truly interruptible, the customer would not be allocated excess demand capacity under the COSS because the Company would not supply gas to these customers during a peak event (as the utility would interrupt these customers).[11] In this instance, Rate IT customers are truly interruptible because these customers must meet certain requirements in order to receive service under PGW's Rate IT and grant PGW the *right* to interrupt for reliability purposes.[12] Specifically, PGW's Tariff provides that Rate IT customers are subject to curtailment or interruption at any time, at the Company's sole discretion, in the event PGW determines that its available capacity is projected to be insufficient to meet the requirements of all PGW customers.[13] Moreover, Rate IT customers must maintain the ability to interrupt upon eight hours' notice through the use of installed and operable alternative fuel equipment, which allows these customers to modify their businesses to run without the use of

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[8] *Lloyd v. Pa. Publ. Util. Comm'n*, 904 A.2d 1010, 1020 (Pa. Commw. Ct. 2006) ("*Lloyd*").

[9] PICGUG M.B., pp. 9-11.

[10] *Id*.

[11] *Id*. at 11.

[12] *Id*. at 8-9.

[13] *Id*. at 8.

natural gas during the period of interruption.[14] Rate IT customers are interruptible *because they are subject to interruption*, regardless of whether or not they are actually interrupted.

Pursuant to the requirements of PGW's Tariff, Rate IT customers are truly interruptible because they have met and must continue to meet the Company's requirements regarding interruptible service. Simply because PGW has chosen, at its own discretion, not to interrupt Rate IT customers does not render Rate IT anything less than truly interruptible. Moreover, PGW has not proposed any modifications to its Tariff that would change the interruptibility requirements for Rate IT in the future.[15] Instead, PGW will continue to reap the benefit of reserving the right to curtail these customers at the Company's sole discretion in order to protect the gas supply of firm service customers on a going forward basis.[16]

Unfortunately, the R.D.'s analysis confounded the costs incurred by interruptible customers to receive service under Rate IT with the benefits received from PGW (and its firm service customers) due to the Company retaining the ability to interrupt Rate IT at PGW's sole discretion. Specifically, the R.D. found that Rate IT customers "are receiving tremendous benefits from their lower cost distribution system, [and] should be responsible during the allocation phase for the costs incurred by PGW to make those benefits possible."[17] In this instance, Rate IT is <u>**not**</u> receiving any benefits from a lower cost distribution system, but rather, incurring additional costs to maintain the interruptibility requirements set forth by PGW.[18] Simply because PGW has had excess capacity that has resulted in PGW voluntarily choosing not

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[14] *Id*. at 9.

[15] *Id*. at 9-10.

[16] *Id*.

[17] R.D., p. 69.

[18] PICGUG M.B., pp. 10-12.

to interrupt Rate IT in several years does not mean that PGW has incurred additional cost to serve Rate IT customers.[19]

The R.D.'s confusion regarding the costs incurred by Rate IT customers and the resulting benefits provided to PGW and its firm customers is further evidenced by the R.D.'s inappropriate agreement with PGW's claim that "Rate IT customers are getting the advantage they bargained for when they incurred the costs of being interruptible, but that does not mean they should be excluded for cost allocation purposes from being treated as the firm service customers they practically are."[20] In fact, Rate IT customers' "bargain" with PGW was specifically the agreement by Rate IT customers to implement processes to meet PGW's interruptible requirements in return for receiving cost-based interruptible rates. Under the R.D., Rate IT customers would be required to remit the costs applicable to receiving firm service (thereby subsidizing PGW's actual firm service customers) while continuing to comply with PGW's mandates regarding interruptibility requirements (again to the benefit of PGW's actual firm service customers).[21]

The R.D.'s decision to reject cost causation principles and utilize value of service methodology is further evidenced by the ALJs' finding that "PICGUG has not recognized the **value** it has enjoyed and would continue to enjoy (under PGW's proposal) of paying distribution

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[19] As part of its review of this issue, the R.D. seemed to suggest that the issue is whether Rate IT should be allocated mains costs in PGW's COSS. R.D., p. 67. Rate IT class is currently being allocated mains costs, and PICGUG is not seeking to change that allocation. PICGUG M.B., pp. 17-21; PICGUG R.B., pp. 11-13. Rather, as discussed more fully in Exception No. 3, *infra*, PICGUG submits that 20% of PGW's mains costs should be classified as customer-related costs, as compared to PGW's current process of classifying 100% of mains costs as demand-related costs. Out of an abundance of caution, PICGUG seeks to clarify that one of PICGUG's arguments related to PGW's COSS refers to the inappropriate **allocation** of peak demand costs for Rate IT, while a second argument refers to the **classification** of mains costs under PGW's COSS, as applied to all customer classes.

[20] R.D., p. 69.

[21] PICGUG M.B., p. 8.

rates on Rate IT that are far lower than PGW's firm service rates."[22] As noted previously, Commonwealth Court precedent provides that the polestar of ratemaking is cost causation; however, the R.D. specifically utilized value of service by recommending that Rate IT pay rates based upon firm service costs.[23] Thus, the R.D. rejected sound PUC precedent by specifically finding that Rate IT should be charged based upon the "value" of PGW's service to date.[24]

In addition to rejecting PUC precedent, the use of value of service principles for purposes of determining Rate IT's treatment with PGW's COSS creates a slippery slope. For example, the R.D. did not indicate how interruptions must occur in a year for Rate IT to be considered interruptible under PGW's COSS or how many years can go by without PGW calling an interruption for Rate IT to be considered "practically" firm service. In this instance, PGW has not interrupted Rate IT for several years; however, the R.D.'s recommendation failed to address how many or how often interruptions would need to occur in order for the ALJs not to find Rate IT to be interruptible under PGW's COSS. Moreover, PGW's "proposal" in this instance does not seek to modify the provisions of its Tariff related to the requirements needed to receive interruptible service. Accordingly, Rate IT customers will still be required to maintain interruptibility requirements under PGW's Tariff. As such, the possibility exists that PGW, at its discretion, could interrupt Rate IT customers this winter. Unfortunately, under the findings of the R.D., Rate IT would be required to continue to remit "firm" based rates regardless of the number of times PGW interrupted these customers in the coming months or years. These glaring logical gaps illustrate the arbitrariness of the R.D.'s findings.

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[22] R.D., p. 69 (emphasis added). The R.D. also cited PGW's claims that PICGUG has not provided evidence quantifying any cost customers incur to preserve interruptibility. *Id*. This argument is a red herring in that, as noted above, PUC precedent is based upon cost causation principles. Therefore, PGW's attempt to shift the evidentiary burden to PICGUG for a standard that is not applicable in this proceeding is inappropriate and misplaced.

[23] R.D., p. 69.

[24] *Id*.

The R.D.'s recommendation to reject cost causation principles for Rate IT and instead implement value of service ratemaking violates PUC precedent, while also creating a slippery slope for future ratemaking purposes. For these reasons, the ALJs' recommendation should be rejected, and PGW's COSS should be revised to appropriately treat Rate IT as interruptible.

B. Exception No. 2: The Recommended Decision Erred by Inappropriately Discriminating Against Rate IT in PGW's COSS.[25]

The R.D. recommended that, because PGW has not interrupted Rate IT for several years, Rate IT be treated as a firm service class solely for purposes of PGW's COSS.[26] In doing so, however, the R.D. did not recommend any changes to PGW's Tariff, which currently requires interruptible customers to maintain the equipment and processes needed to interrupt, at PGW's sole discretion. In rendering this conclusion, the R.D. inappropriately discriminated against Rate IT customers by treating these customers as firm for purposes of PGW's COSS while treating these customers as interruptible for purposes of PGW's Tariff.[27] Because the R.D.'s recommendation is in violation of the Public Utility Code, the Commission must reject the R.D.'s recommendation regarding the treatment of Rate IT under PGW's proposed COSS. Instead, the PUC must require PGW to remove the allocation of peak-related costs from Rate IT since these customers are required to continue to stand at the ready to interrupt at PGW's sole discretion for the protection of actual firm service customers.

Section 1304 of the Public Utility Code provides that "[n]o public utility shall establish or maintain any unreasonable difference to as rates…as between classes of service."[28] While the R.D. seemed to rely on PGW's argument that Rate IT is "technically" interruptible, in actuality,

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[25] *Id*. at 64-69.

[26] *Id*. at 69.

[27] *Id*. As discussed more fully in Exception No. 1, *supra*, the R.D. utilized value of service ratemaking **solely** for Rate IT, thereby further discriminating against this rate class.

[28] 66 Pa. C.S. § 1304.

the Company requires Rate IT customers to remain unequivocally interruptible.[29] Exception No. 1, *supra*, sets forth the requirements that must be met in order for Rate IT customers to begin receiving and to continue receiving service under Rate IT. Moreover, the very concept of being "technically" interruptible is nonsensical, as a customer is either subject to interruption or not. In this instance, Rate IT customers must meet stringent requirements, which are not required for firm service customers.[30] Moreover, PGW's discretionary right to interrupt, rather than the actual frequency of interruptions, defines a customer's status as interruptible.[31] Importantly, PGW has no obligation to serve interruptible customers on peak days, and those customers must stand at the ready to be interrupted each and every day, unlike PGW's firm service customers who are guaranteed service on peak demand days.[32] Further, if a Rate IT customer does not interrupt as required, the customer will be subject to penalties.

Under the R.D.'s recommendation, Rate IT would continue to be subject to the requirements of PGW's Tariff.[33] In other words, Rate IT customers would continue to be the "safety net" that keeps PGW from having to curtail service to firm customers involuntarily during extreme weather or unplanned emergencies.[34] Moreover, if PGW were to call upon Rate IT customers during such an event and Rate IT customers did not interrupt because they are only

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[29] R.D., p. 69; PICGUG M.B., pp. 13-15.

[30] PICGUG M.B., pp. 13-15. The R.D. also cited the OSBA's correct claim that Rate IT imposes costs on interruptible customers that are not faced by firm service customers. *Id*. at 67. The R.D., however, also noted OSBA's argument that PGW failed to provide a cost analysis addressing whether Rate IT provides actual benefit to firm service customers associated with avoided cost. *Id*. Because cost causation, not avoided cost to other rate classes, is the polestar in ratemaking, this argument is also a red herring.

[31] *Id*.

[32] *Id*.

[33] R.D., p. 69.

[34] PICGUG M.B., p. 15.

"technically interruptible" or classified as "firm" under the COSS, such action would most likely be considered a violation of PGW's Tariff.[35]

The R.D.'s treatment of Rate IT as firm for purposes of the COSS but as interruptible for purposes of PGW's Tariff would result in Rate IT customers being inappropriately discriminated against contrary to the requirements of the Public Utility Code.[36] Specifically, treating Rate IT as firm for purposes of the COSS requires these customers to pay rates based upon PGW incurring additional costs to serve these customers during peak days. PGW, however, is not incurring additional costs to serve these customers on peak days. Rather, these customers are implementing and maintain procedures needed to allow PGW to interrupt these customers, at the Company's sole discretion, so that PGW does not have to incur excess capacity to serve these customers.[37] Accordingly, contrary to the R.D.'s claims that Rate IT customers will "continue to enjoy value," Rate IT customers will be forced to remit rates based upon a firm service customer profile while also maintaining the requirements needed to receive interruptible service. In other words, Rate IT will not only be providing a safety to PGW and its firm service customers through the ability to interrupt, but Rate IT will also be subsidizing the truly firm rate classes by paying inappropriately discriminatory rates.

Conversely, if Rate IT is to be treated as firm for purposes of PGW's COSS, PGW's Tariff must also be modified to remove any mandatory requirements for interruption by these customers. As noted previously, PGW retains the discretion to interrupt Rate IT on a going forward basis. If Rate IT is treated as firm under PGW's COSS in this proceeding, and PGW interrupts Rate IT in the months ahead, no course correction can occur for purposes of Rate IT.

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[35] *Id.*

[36] *Id.*

[37] *Id.*

Thus, the inappropriate discrimination against Rate IT will only be exacerbated. Accordingly, the ALJs' recommendation regarding the treatment of Rate IT under PGW's COSS must be rejected, and PGW's COSS must be corrected to reflect Rate IT's continuing efforts to protect PGW's firm service customers.

C. <u>Exception No. 3</u>: The Recommended Decision Erred by Not Requiring PGW to Classify a Portion of Its Mains Cost as Customer Related.[38]

As noted previously, the R.D. correctly found that PGW's use of the A&E methodology was correct for purposes of this proceeding. Within the components of the COSS, however, PGW classified its mains costs as 100% demand related costs. Because this methodology is contrary to cost causation practices, both PICGUG and OSBA argued that a portion of mains costs must be classified as customer related. The R.D. seemed to reject this recommendation by indicating that this proposal has "not been fully developed and would require a stronger analysis than that provided in this case."[39] Because lack of information from PGW should not be the basis for correcting a process that is contrary to cost causation practices, the R.D.'s recommendation must be rejected. Rather, the PUC should require PGW to classify 20% of mains costs as customer related for purposes of its COSS as part of this proceeding, or, at a minimum, require PGW to provide the information that would be required to complete this analysis for purposes of the Company's next base rate proceeding.

Distribution mains are the various pipes used to deliver natural gas to end use customers. Under its COSS, PGW is proposing that all gas distribution mains costs be allocated to customer classes using the A&E method; however, no distribution mains were classified as customer-

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[38] R.D., pp. 68-69.

[39] *Id*. at 67.

related costs.[40] Because gas distribution utilities must make minimum investments in facilities, including distribution mains and service lateral, just to connect customers to the gas delivery system, the investment is completely independent of the level of peak demand of the customer.[41] To the extent that this component of the distribution mains costs is a function of the requirement to connect the customer and support the deliverability of natural gas, regardless of the customer's size, it is appropriate and consistent with cost causation to allocate the cost of those facilities to service classes based on the number of customers.[42]

Moreover, allocating a portion of distribution mains costs on a customer basis is consistent with accepted regulatory practice.[43] For example, the NARUC Gas Rate Design ("GRD") Manual indicates that the cost associated with distribution mains is typically functionalized on a demand and customer basis.[44] Similarly, the Gas Distribution Rate Design ("GDRD") Manual provides that a portion of the costs associated with the distribution system may be included as customer cost.[45] Moreover, acceptance of this practice is demonstrated in the Gas Rate Fundamentals, which provides that the required length and capacity of distribution mains are a function of both the number of customers and their demand on the distribution system and may be classified as having both customer and capacity components.[46] In addition,

[40] PICGUG M.B., p. 17.

[41] *Id*. at 18.

[42] *Id*.

[43] *Id*.

[44] *Id*.

[45] *Id*.

[46] *Id*. at 19.

PGW does not have any unique characteristics indicating that the same cost causation principles generally applied to all other local gas distribution companies should not be applied to PGW.[47]

In order to correct this process, PICGUG argued that approximately 20% of PGW's distribution mains should be classified as a customer-related cost.[48] This recommendation is derived from the best data available provided by PGW in the current proceeding, as well as additional data provided by PGW in its last base rate proceeding.[49] To that same end, OSBA proposed the same argument albeit preferring the zero-intercept method, which would result in a 25% classification of mains costs to customer-related costs.[50]

While PGW seems to agree that a certain portion of the costs of mains could be classified as the customer related, the Company argues that a more robust analysis would be required to determine the correct amount.[51] Unfortunately, the R.D. did not provide specific insight into the parties' arguments on this issue, but rather, simply noted that the "weightings proposed by OSBA and PICGUG… have not been fully developed and would require a stronger analysis than that provided in this case."[52]

In this instance, PGW's inability to provide adequate information should not be the basis for rejecting a modification to the Company's COSS, which is needed in order to adhere to cost causation principles. In fact, PICGUG recognized PGW's lack of information, which is the reasoning behind PICGUG's conservative estimate of 20%, which is also in line with OSBA's 25% proposal. Nothing in the R.D. found that either PICGUG's proposal or OSBA's proposal is

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[47] *Id*.

[48] *Id*. at 20.

[49] *Id*.

[50] OSBA Main Brief ("OSBA M.B."), p. 15.

[51] PICGUG M.B., p. 20.

[52] R.D., p. 67.

inappropriate. To that end, the PUC should reject the R.D.'s recommendation and instead require PGW to classify a portion (of approximately 20% to 25%) of its mains costs as customer-related. In addition, the PUC should require PGW provide additional information as part of the Company's next base rate proceeding to ensure this issue can be more fully developed and allow the parties to perform a more thorough analysis to achieve a specific percentage for classification.

D. <u>Exception No. 4</u>: The Recommended Decision Erred by Failing to Require PGW to Provide its Peak Design Day Demand by Customer Class for Purposes of the Company's Next Base Rate Proceeding.[53]

As stated above, PICGUG generally concurs with the R.D.'s finding that the use of the A&E methodology is appropriate for purposes of PGW's COSS; however, PICGUG contests specific components within that COSS. One critical error in PGW's application of the A&E methodology that was overlooked by the R.D. is PGW's reliance on Peak Day Demand data to calculate excess demand for purposes of the COSS.[54] To prospectively remedy this error, the Commission must require PGW to provide Peak Design Day Demand data by customer class in its next base rate case.

Importantly, there is no dispute that use of Peak Design Day Demand data comports with cost-of-service principles. As set forth in PICGUG's Reply Brief, PGW, in its Main Brief, agreed with PICGUG and OSBA that Peak Design Day Demand is the appropriate metric to assign costs for a gas utility's COSS.[55] Unfortunately, not only has PGW relied on Peak Day Demand Data, but the Company has also claimed it cannot provide Peak Design Day Demand data within the

[53] *Id*. at 68-69.

[54] *Id*. at 68.

[55] PICGUG R.B., p. 10.

context of the base rate case.[56] When challenged to explain its contrary reliance on Peak Day Demand data and refusal to provide Peak Design Day Demand data, PGW offered no substantive basis, but instead blithely claimed that the data is unavailable, and the issue warrants no further review until such time as the data becomes available.[57]

While the R.D. acknowledged PICGUG's request that PGW be directed to provide Peak Design Day Demand data as part of its next base rate proceeding, the R.D. offered no analysis or recommendation on the issue.[58] As PGW has failed to offer any compelling reason for its refusal to furnish Peak Design Day Demand data that is necessary to assign excess demand costs consistent with cost-of-service principles, the R.D.'s silence on PICGUG's recommendation is in error. The Commission must correct this oversight and direct PGW to provide Peak Design Demand data by customer class as part of its next base rate case.

E. Exception No. 5: The Recommended Decision Erred by Relying on PGW's Unjust, Unreasonable, and Inappropriately Discriminatory Treatment of Rate IT Customers in its COSS to Support the Recommendation of Approving PGW's Proposed Revenue Allocation.[59]

PICGUG's Exception Nos. 1 and 2, *supra*, detail the fundamentally flawed reasoning advanced by PGW, OCA, and OSBA (and adopted by the R.D.) to treat Rate IT as "technically firm" for COSS purposes. PICGUG's Exception No. 3, *supra*, further addresses the R.D.'s decision to reject the well-supported proposals to classify a portion of PGW's distribution mains expense on a per-customer basis. Based on these erroneous COSS findings, the R.D. additionally recommended that the Commission adopt PGW's proposed revenue allocation.[60] Because PGW's proposed revenue allocation relies on its fundamentally flawed COSS, the

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[56] *Id.*

[57] *Id.* (*citing* Philadelphia Gas Works' Main Brief ("PGW M.B."), p. 39.).

[58] R.D., p. 68.

[59] *Id*. at 74.

[60] *Id*.

Commission must reject the R.D.'s recommendation and correct PGW's COSS in order to derive a reasonable revenue allocation.

The R.D. approved PGW's proposed revenue allocation on grounds it is "consistent with the Company's COSS and aligns with PGW's goals of moving classes closer to the cost of service, while considering the principle of gradualism."[61] The R.D. recognized that this finding is predicated on a COSS for which parties, including PICGUG, have raised fundamental concerns.[62] The Commission should recognize that application of PGW's COSS would result in unreasonable and discriminatory rates for Rate IT customers. Most importantly, adopting PGW's revenue allocation would contravene cost-of-service principles and require Rate IT customers to pay for firm service while continuing to receive fully interruptible service under the terms set forth in PGW's Tariff.[63] As discussed at length above, PGW's proposed COSS adopts a value-of-service cost allocation for Rate IT customers instead of cost-of-service. Additionally, PGW's proposed revenue allocation fails to reflect the well-reasoned arguments supporting a customer-based classification for a portion of PGW's distribution mains expense.[64] These flaws in PGW's COSS result in a baseline proposal that inappropriately discriminates against Rate IT customers.

PICGUG's Reply Brief quantifies the unreasonable impact of PGW's COSS. If the Commission follows traditional cost of service principles and rejects PGW's proposal to allocate excess demand costs to interruptible customers, that single correction would show that PGW currently earns a Relative Rate of Return ("RROR") of 2.06 from Rate IT customers.[65] Further incorporating PICGUG's proposal to classify 20% of mains expense as customer related would

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[61] *Id*.

[62] *Id*.

[63] *See* PICGUG Exceptions No. 1 and No. 2, *supra*.

[64] *See* PICGUG Exception No. 3, *supra*.

[65] PICGUG R.B., p. 15.

increase Rate IT's RROR at present rates to 2.52.[66] For perspective, the Commission should remain cognizant that no party to this proceeding disputes that PGW will continue to reserve all rights to interrupt Rate IT customers. Yet, rather than supporting a COSS reflective of the 2.06 RROR, the R.D. endorsed a COSS depicting Rate IT customers as below cost-of-service and recommended allocating Rate IT a rate increase that would be 1.35x the system average.

Accordingly, approval of PGW's proposed revenue allocation would sanction unjust, unreasonable, and inappropriately discriminatory rates for PGW's Rate IT customers. Thus, the Commission must reject the arbitrary basis for the R.D.'s recommended approval of PGW's COSS and the parallel flaws reflected by recommending use of PGW's proposed revenue allocation.

F. Exception No. 6: The Recommended Decision Erred by Rejecting the Scaleback Proposed to Move Rate IT Customers Closer to Cost-of-Service.[67]

Because the R.D. recommended a revenue increase lower than that proposed by PGW, the R.D. also reviewed the parties' various scaleback proposals for purposes of rate allocation. As part of this review, the R.D. recommended use of I&E's recommended scaleback, even though that scaleback is based upon PGW's inappropriately discriminatory COSS. In addition, the R.D. rejected PICGUG's scaleback proposal due to rejection of PICGUG's proposed COSS modifications.[68] As argued extensively above, the Commission should correct PGW's COSS to remove any allocation of excess demand for Rate IT customers and further modify PGW's COSS to classify 20% of the Company's mains expense as customer related. Once these changes are adopted, the COSS shows Rate IT to be above its cost-of-service, thereby warranting no rate

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[66] *Id.*

[67] R.D., p. 76

[68] *Id*.

increase.[69] Moreover, because the R.D. recommended PGW receive less than its requested revenue increase, the first $1 million of that reduction should be allocated to Rate IT to bring this class closer to its cost to serve.

The R.D. failed to fully account for the basis of PICGUG's proposed scaleback. As discussed more fully in Exception No. 5, *supra*, once PGW's COSS is corrected to account for Rate IT's interruptibility, Rate IT's corrected RROR is 2.06, thereby requiring Rate IT to receive a rate decrease of 9.3% to bring this rate closer to its cost to serve.[70] Moreover, if the COSS is further corrected to classify 20% of distribution main costs as customer related, Rate IT's corrected RROR is 2.52, thereby requiring Rate IT to receive a 17.5% rate decrease.[71] In other words, because Rate IT is already substantially above its cost to service, Rate IT is providing a RROR that is substantially higher than PGW's cost to serve this class. Although the appropriate means by which to address this issue would be a rate decrease for Rate IT customers, PICGUG has recognized the need for gradualism and simply requested that Rate IT receive no rate increase.[72] If, however, PGW receives less than its requested revenue increase, the first $1 million of that reduction should be allocated to Rate IT to bring this class closer to its cost to serve, with the remaining decrease applied proportionality.[73]

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[69] Because Rate IT is so far above its cost to serve, a rate decrease would be the best means by which to move this class closer to its cost to serve. In recognizing the principles of gradualism, however, PICGUG has proposed simply no rate increase to Rate IT if PGW is granted its full revenue request.

[70] PICGUG M.B., pp. 28-29.

[71] *Id*.

[72] *Id*.

[73] *Id*. at 29-30. In addition, PICGUG submits that any additional revenues recovered from GFCP/VEPI should be allocated to all other rate classes, including Rate IT. *See Direct Testimony of Billie LaConte*, PICGUG Statement No. 1 ("PICGUG St. 1"), p. 5.

In this proceeding, the R.D. generally agreed that a proportionate scaleback approach should be used, however the R.D. rejected PICGUG's proposed scaleback.[74] Rather, the R.D. recommended using I&E's proposed scaleback wherein the first $7 million of the decrease is allocated solely to the residential class.[75] According to the R.D., this scaleback is necessary in order to bring the residential class to unity; however, this recommendation is based upon the R.D.'s use of PGW's faulty COSS, which fails to account for the interruptibility of Rate IT.[76] As a result, not only will Rate IT customers continue to maintain the processes needed to meet PGW's interruptibility requirements for the protection of firm service customers, Rate IT customers will also be forced to subsidize these firm service customers because Rate IT's RROR will be set even higher than that at current rates. In other words, use of I&E's proposed scaleback adds insult to injury for Rate IT customers.

Assuming, *arguendo*, that the Commission denies approval of PICGUG's COSS and scaleback, at a minimum, the Commission should reject I&E's proposed scaleback and utilize PGW's proportionate scaleback. Particularly where the result is based on a construct that ignores the interruptibility of Rate IT customers, the Commission should take a cautious approach in recognition of the fact that Rate IT customers remain at risk of interruption and apply gradualism principles to moderate the resulting rate increase. While still based upon a faulty premise, PGW's proposed scaleback would not be quite as unreasonably discriminatory to Rate IT as that set forth by I&E.

Accordingly, PICGUG primarily recommends that the Commission should grant no rate increase to Rate IT with the additional modification that, if PGW is granted less than its

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[74] R.D., p. 76.

[75] *Id*.

[76] *Id*.

requested revenue increase, Rate IT should be allocated the first $1 million of any revenue decrease with the remaining scaleback being applied proportionately. Assuming, *arguendo*, that the Commission approves PGW's proposed COSS, the Commission should consider allocating Rate IT less than the 1.35% system average increase proposed by PGW in recognition of the additional compliance obligations Rate IT customers will need to meet to retain interruptibility to the benefit of firm service customers (which would no longer be recognized in the COSS), as well as subsidization of these firm customers through an increase to Rate IT based upon the fallacy of this class receiving firm service.

III. CONCLUSION

WHEREFORE, the Philadelphia Industrial and Commercial Gas Users Group respectfully requests that the Pennsylvania Public Utility Commission grant the Exceptions of the Philadelphia Industrial and Commercial Gas Users Group.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By Charis Mincavage

Charis Mincavage (Pa. I.D. No. 82039)
Adeolu A. Bakare (Pa. I.D. No. 208541)
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Fax: (717) 237-5300
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com

Counsel to the Philadelphia Industrial and Commercial Gas Users Group

Dated: September 15, 2023