

COMMONWEALTH OF PENNSYLVANIA



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September 22, 2023

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

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

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Reply Exceptions in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

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cc: The Honorable Arlene Ashton (**email only**)
The Honorable Eranda Vero (**email only**)
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Certificate of Service

*4889-0581-9776, v. 1

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate’s Reply Exceptions, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 22nd day of September 2023.

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*4864-8839-3088, v. 1

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

REPLY EXCEPTIONS OF THE
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I. INTRODUCTION

The Office of Consumer Advocate (OCA) submits these Replies to the Exceptions of the Philadelphia Industrial and Commercial Gas Users Group (PICGUG), and Philadelphia Gas Works (PGW). The Commission should deny the Exceptions of PICGUG and PGW and adopt the Recommended Decision (R.D.) of Administrative Law Judges Eranda Vero and Arlene Ashton (ALJs) as modified by the OCA's exceptions.

II. REPLY EXCEPTIONS

A. Revenue Requirement

Reply to PGW Exception No. 1: The ALJs Correctly Found That PGW Failed To Meet Its Burden Of Proof As To Its Requested Revenue Increase.
(R.D. at 13-64; OCA M.B. at 13-23; OCA R.B. at 2-8; PGW Exc. at 3-10)

The ALJs provided a robust discussion of each element of PGW's proposed revenue increase, including a thorough examination of PGW's claimed expenses. R.D. at 13-64. Consistent with the OCA's analysis, the ALJs found that PGW's revenue proposal was overstated. R.D. at 63-64. Accordingly, the ALJs recommended a revenue increase of \$22,306,000, which will satisfy PGW's debt service coverage (DSC), capital structure and days cash on hand metrics. *Id.*

PGW argues that the R.D. contains errors relating to PGW's financial metrics (to be addressed in PGW Exception No. 2), and then proceeds to adjust for those errors in order to show that the revenue increase is insufficient. PGW Exc. at 4. PGW argues that the ALJs have failed to follow the "requirements" of the Commission's Cash Flow Policy Statement. *Id.* PGW argues that the reduction in internally generated funds (IGF) will leave it short of cash in the FPFTY and is inconsistent with the "mandates" of the Policy Statement. *Id.* at 6. PGW also discusses the potential negative effects of the ALJs' recommended increase in years 2025 and 2026, coupled with some discussion of a possible bond downgrade. *Id.* at 6-10.

PGW's Exception is without merit and should be denied for several reasons. One, PGW is free to seek further rate relief as its future business needs may require. Two, the OCA provided substantial evidence to show that PGW's current financial situation is stable and that a revenue increase consistent with the OCA's recommendations would be reasonable and adequate for PGW through the near-term future. OCA M.B. at 13-23; OCA R.B. at 2-8. PGW's assertions about its financial situation years into the future are speculative.

Further, PGW refers to and cites the Commission's Policy Statement as if it were a Commission regulation or a statute. The Commission addressed this issue in the Petition proceeding that gave way to the Policy Statement being issued. *In Re PGW Petition, Order and Proposed Policy Statement*, P-2009-2136508 (Order entered Dec. 30, 2009) (*2009 Order*). Therein the Commission provided the following:

At the outset, it is important to understand the effect of a policy statement. Simply stated, a policy statement is not a regulation. It is not enforceable and has no binding effect on the agency, or on anyone else.

2009 Order at 9. Accordingly, PGW's assertions as to "requirements" and "mandates" of the Policy Statement are misplaced and without merit.

The Policy Statement can serve as a guide for the Commission to consider, but it does not have the force or effect of law as PGW attempts to argue. OCA M.B. at 8-9. The overriding legal requirement is that rates must be "just and reasonable". *Id.* The ALJs reviewed the entire record of PGW's claimed expenses and needs for IGF and found that in many areas PGW had failed to carry its burden of proof. Accordingly, PGW's Exception here must be denied.

Reply to PGW Exception No. 2: PGW's Attempt To Artificially Increase The ALJs' Recommended Revenue Increase Based On Alleged Errors Are Without Merit. (R.D. at Appendices; OCA M.B. at 13-23; OCA R.B. at 2-8; PGW Exc. at 10-11)

PGW argues that the ALJs' recommended revenue increase is not accurate, as the ALJs assigned levels of cash that PGW claims are either non-cash items or are not going to provide PGW with additional cash. PGW Exc. at 10. Specifically, PGW claims that reducing the Pension Expense Adjustment will not create more cash for PGW as this item is only a non-cash accounting entry. *Id.* Further, PGW claims that the Covid-19 Expense claim will not increase its level of cash as it is merely a return of funds that PGW already spent in prior periods. *Id.* In conclusion, PGW argues that the ALJs found that a year-end cash balance of \$75.3 million and 42.16 days of cash to be reasonable, but to actually achieve those numbers the ALJs' recommended revenue increase would have to be adjusted upward by \$11.9 million. *Id.* at 10-11.

In its Exceptions, PGW includes Appendix A which purports to show the Rate Case Tables as attached to the R.D., and then corresponding Rate Case Tables that show PGW's corrections. PGW Exc. App. A. The OCA submits that the appropriate place to start this inquiry is at Table 1, Statement of Income as provided in the R.D.

The Pension Costs (\$44,759,000) and the COVID-19 costs (\$10,162,000) are included in the operating expenses of \$308,102,000 (Table I line 38). The balance of \$308,102,000 is part of the total operating expenses of \$703,776,000 (Table I line 43). The net operating income is \$211,658,000 (Table I line 44). This balance flows through to the net income of \$165,311,000 (Table I line 54). This balance is carried over to Table IB, Net Income line 1.

The balance of \$165,311,000 is part of the calculation of Cash Flow used to produce ending cash (Table IB line 23). Expenses included in the Income Statement are expenses to be recovered in rates during the FPFTY 2024 period for its operations. This is the same methodology used by

PGW in the development of its cash flow balance. *See* PGW Exh. JFG-2. The ALJs calculated the \$38.453 million of IGF by taking the cash surplus/(shortfall) of \$41.012 million at Table IB line 21 and subtracting the cash shortfall of \$2.559 million at Table 1B Line 24. The ALJs calculations are correct.

These costs are like any other expenses to be recovered through rates and to be recovered from ratepayers. PGW's Exceptions on this issue should be denied.

Reply to PGW Exception No. 3: PGW's Argument That Additional IGF Is Needed Is Inconsistent With The Record And Must Be Denied. (R.D. at 13-64; OCA M.B. at 18-20; OCA R.B. at 4-7; PGW Exc. at 11-19)

PGW argues that the ALJs incorrectly disallowed \$38.5 million of its requested \$53.2 million in internally generated funds (IGF). PGW Exc. at 11. PGW alleges that the adjustment is unsupported in the record and the ALJs fail to explain the adjustment. *Id.* at 12. PGW argues that the full amount of its IGF claim, \$53.2 million, should be accepted. *Id.* Alternatively, PGW argues that if the Commission were to entertain an adjustment the OCA's recommended \$17 million reduction should be accepted and in that case the ALJs' recommended revenue increase would need to be adjusted upwards by \$21.5 million. *Id.* at 19.

PGW's claim that the IGF adjustment is unsupported is without merit. The Bureau of Investigation and Enforcement (I&E) provided substantial testimony as to why PGW's \$53.2 million claim for IGF should be denied. I&E M.B. at 11-17. As discussed in the OCA's Reply Brief, PGW's theory that using ratepayer funds to pay for capital projects is better for ratepayers as opposed to debt financing is not supported on this record. OCA R.B. at 4-7. I&E's testimony and arguments as to PGW's desire to fund 50% of capital improvements using only ratepayer funding echo many of the same OCA concerns on this issue. OCA R.B. at 7-8.

PGW's Exception confuses the issues. The OCA recommended that PGW's proposed construction spend for the FPFTY be reduced by \$17 million. OCA R.B. at 4-7. I&E's adjustment to IGF was related to how PGW finances its construction spending, not how much it should spend. I&E M.B. at 11-17. In the R.D. the ALJs appropriately considered these concerns and provided that "Our recommended revenue increase strikes a reasonable balance between PGW's intention to fund a portion of capital improvements through rates, rather than debt, and the burden this imposes upon its ratepayers." R.D. at 63. PGW's arguments as to the need for further IGF are without merit and its Exception must be denied.

Reply to PGW Exception No. 4: The ALJs Properly Recommended Normalization of PGW's Pension Expense for the FPFTY. (R.D. at 48-51; OCA M.B. at 39-40; OCA R.B. at 18-20; PGW Exc. at 19-21)

In the R.D., the ALJs adopted the OCA's normalization approach to pension expense. R.D. at 50-51. PGW excepts to the ALJs' decision. PGW Exc. at 19-21. PGW maintains that the ALJs confuse PGW's cash requirement for pension expense with the "accounting line for Pension Expense on PGW's accounting statement." *Id.* at 19. PGW observes that its cash outlay has varied little over the years as shown in the table. *Id.* at 20; R.D. at 49. PGW states that the accounting line reflects the requirements of GASB 68 and that adherence to those requirements contributes to the fluctuations in the Total Pension Expense. PGW asserts that the changes in the GASB 68 amounts from year to year do not necessarily mean that PGW will incur larger cash outlays during the period the new base rates will be in effect. It says that it expects the actual cash outlay in the FPFTY to be the \$30.806 million shown in the table. In adopting a normalization adjustment, PGW claims that the R.D. is not looking at the cash outlay, rather at the variability of the accounting line reflecting GASB 68 requirements. PGW asserts that normalization of the accounting line is neither appropriate nor consistent with Cash Flow ratemaking concepts. PGW Exc. at 19-21.

The OCA submits that while there is a difference between the cash outlay and the GASB 68 amortization expense, the two combine to make up PGW's total pension expense and as demonstrated in the R.D. table, that amount has fluctuated significantly between 2020 and what is projected for 2024. R.D. at 49. As OCA witness Mugrace stated, "prior contributions and the variability of the year to year contributions should be taken into consideration. Solely relying on one source to set the contribution rate may result in contributions being too high or too low for the new regulatory period when new rates are set for gas service." OCA St. 1SR at 14.

The ALJs found that the evidence in this case strongly demonstrates that PGW's pension expense, though regularly occurring, fluctuates significantly from year-to-year. Accordingly, they determined that normalization of this expense would be appropriate and consistent with sound ratemaking principles. R.D. at 51. PGW's Exception should be denied.

Reply to PGW Exception No. 5: The ALJs Properly Recommended Normalizing PGW's Expense for Other Post-Employment Expenses (OPEBs).
(R.D. at 51-53; OCA M.B. at 41-42; OCA R.B. at 20-21; PGW Exc. at 21-22)

The ALJs adopted the OCA's recommendation for normalization of the OPEBs expense. R.D. at 53. PGW excepts to the ALJs' determination. PGW Exc. at 21-22. PGW contends that the ALJs conflated PGW's cash requirements claim (titled "Total Cash Outlay – OPEB" in the table) with the so-called "accounting line" in the table (titled "less Total OPEB Expense"). PGW states that its OPEBs claim is based on the amount in the Total Cash Outlay – OPEB line for the FPFTY of \$47.924 million. *Id.* at 21. PGW observes that the amounts on the Total Cash Outlay – OPEB line vary little from year to year. The Company states that normalizing the "accounting line" is neither appropriate nor consistent with ratemaking principles since it does not reflect the actual cash outlay being claimed by the Company. PGW Exc. at 22.

In its Reply Brief, the OCA argued that even if one considers the amounts shown in the bottom line of the table in the R.D. at 51, (titled “Total Cash Outlay - OPEB not seen on JFG-1/JFG-2”) which reflects the total cash outlay, the fluctuations in the amounts from year-to-year shows that normalizing this expense is proper. OCA R.B. at 21. The ALJs held that normalization is proper and consistent with past Commission precedent as the expense varies widely. R.D. at 53. The ALJs’ recommendation should be upheld.

Reply to PGW Exception No. 6: The ALJs Properly Adopted OCA’s Vacancy Ratio Applied to Employee Headcount for the FPFTY. (R.D. at 32-33; OCA M.B. at 36-37; OCA R.B. at 9-10; PGW Exc. at 22-23)

In the R.D., the ALJs adopted an OCA-proposed adjustment regarding PGW’s employee headcount in the FPFTY. R.D. at 33. PGW excepts to the ALJs’ ruling. PGW Exc. at 22-23. The Company maintains that utilizing the vacancy ratio will mean that its headcount for the FPFTY will be 1,588. PGW states that nothing in the record demonstrates that level is reasonable in light of PGW’s experience in the FTY and its projected headcount for the FPFTY. PGW Exc. at 22. In its M.B., the Company stated that its employee headcount as of June 30, 2023, was 1,587. In its exceptions, PGW states that by adopting the OCA’s vacancy rate, the Company is being allowed in rates the value of one additional employee above its June headcount, and it asserts that it is unreasonable to assume that its employee complement in the FPFTY will grow by just one. It maintains that the record shows that PGW’s headcount is increasing and that it is adding employees at the rate of five per month. PGW Exc. at 22-23.

The ALJs found that PGW had not provided sufficient evidence regarding the five employee per month increase, and that relying strictly on the employee numbers during the six-month period from December 2022 to June 2023 is not a reasonable means of establishing the employee headcount for the FPFTY. R.D. at 33. The ALJs found PGW’s evidence on the employee

headcount to be insufficient and the OCA's approach to be more reasonable. The ALJs also cited as precedent the case of *Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.*, R-2020-3018835 (Opinion and Order entered Feb. 19, 2021) in which the Commission agreed with the OCA's proposed employee complement adjustment based on uncertain and varying employee counts. R.D. at 33. For similar reasons, the ALJs' ruling in the present case is well-founded and the R.D. should be upheld.

Reply to PGW Exception No. 7: The ALJs Properly Normalized PGW's Various Operating Expenses Which Varied Significantly from Year-to-Year.
(R.D. at 55-60; OCA M.B. at 29-36; OCA R.B. at 23-24;
PGW Exc. at 23-25)

In the R.D., the ALJs accepted the OCA's recommendation for a three-year normalization of the identified expense categories. R.D. at 60. PGW excepts to the ALJs' ruling. PGW Exc. at 23-25. The Company raises a number of arguments against the normalization adjustments. First, it states that as a Cash Flow utility it needs to receive cash that will cover its actual expenses, not a normalized or averaged amount of cash. *Id.* at 23. Second, it contends that the ALJs have incorrectly applied the concept of normalization. PGW maintains that the ALJs are using normalization to reflect historical averages of costs whenever future costs are expected to be higher than the historic average. The Company argues that historic costs and averages may be useful in comparing spending levels between fiscal years, but they are not useful in setting future rates. According to PGW, setting future rates requires looking ahead to anticipated actions and expenses in a future year. The Company contends that simply because an expense is projected to be higher in the FPFTY than the historic average does not make the expense unreasonable. PGW asserts that the position taken by the ALJs (and as recommended by the OCA) turns the idea of a fully projected future test year into a historic average test year. The Company asserts that relying on normalization will totally deny any recognition of the cost increases it has experienced since its

last rate case as well as the effects of higher inflation that the Company has experienced in recent years. *Id.* at 23-24.

PGW's concerns overlook the fact that in a fully projected test year environment, all expense projections are estimates. The expense figures projected by PGW are equally subject to deviation as an expense projection based on normalization. In response to PGW's criticism of employing normalization adjustments, the OCA, in its M.B., explained that the objective of the ratemaking process, whether using a Cash Flow or Rate of Return method, is to provide a utility with the *opportunity* to recover the costs it prudently incurs in the provision of its utility service. It is not intended to *guarantee* total cost recovery. OCA M.B. at 35. There is nothing about the use of an FPFTY for ratemaking purposes that cuts against normalization based, in part on historic averages.

In reaching their decision, the ALJs cited *Pa. PUC et al. v. PECO Energy –Gas Division*, 2021 Pa. PUC LEXIS 241 at *56, 59 (*PECO Gas*). R.D. at 60. There the Commission adopted the OCA's recommendation to normalize expenses for OPEBs and for Injuries and Damages where there were wide fluctuations in year-to-year spending. Both were normalized over a three-year period. The ALJs found the principles followed by the Commission in *PECO Gas* persuasive and ruled that the same principles should apply for PGW. *Id.* The ALJs ruled properly on this issue and the R.D. should be upheld.

Reply to PGW Exception No. 8: The ALJs Properly Rejected PGW's Proposed Inflation Adjustment Related to Seven Items of Expense. (R.D. at 42-45; OCA M.B. at 23-24; OCA R.B. at 13-15; PGW Exc. at 25-26)

As succinctly explained by the ALJs, in determining its budget for the FPFTY, PGW used specific levels of increased expenses/costs (if specific data/information was available) and a generic inflation adjustment of 4.63% (when expenses/costs were expected to increase in the

future, but that the specific level of increase could not be separately and specifically determined). R.D. at 42. According to PGW, the generic inflation adjustment was applied to seven lines of its Income Statement, comprising approximately 20% (\$62.5 million) of its total operating expenses. PGW M.B. at 26.

The OCA urged that the expenses represented by this generic inflation adjustment be denied in the amount of \$2.89 million ($\$62.5 \text{ million} \times .0463$). The OCA cited several cases in which the Commission has required utilities to use specificity when employing an inflation factor, and in which the Commission has disallowed inflation factors that are too speculative in nature. OCA M.B. at 24.

PGW argued that the OCA and other parties who cited those cases had misapplied them. PGW stated that contrary to the utilities involved in those cases, it did not use a “general inflation adjustment.” PGW Exc. at 25. Rather, PGW asserts that it used a projection of how prices would increase in the FPFTY for just a handful of expense items where a more targeted specific level was not available. In other words, PGW’s experts affirmed that they expected prices to go up in their area of the budget but did not have a specific level to recommend. PGW maintained that this is entirely different than just applying a generic price hike to all expenses. PGW Exc. at 25.

The ALJs disagreed. The ALJs noted that in *Aqua 2022*, the Commission rejected a blanket inflation adjustment that the Company had applied to 22% of its operating expenses. R.D. at 44. They noted that PGW’s adjustment would apply to 20% of its expenses. Regarding *Wellsboro 2020*, the ALJs noted that the Commission denied an inflation adjustment because the Company did not demonstrate that the increase to each expense item directly related to the actual costs expected to be incurred in each expense account in the FPFTY. *Id.* In similar fashion, the ALJs

concluded that PGW cannot demonstrate that the 4.63% inflation factor is directly tied to the actual costs expected in the FPPTY. *Id.*

Here, the ALJs properly construed and applied Commission precedent to the facts presented by PGW in this case. It was the ALJs' conclusion that PGW failed to carry its burden of proving whether and to what level the expenses to which the inflation factor was applied will increase or decrease in the future. *Id.* at 45. The R.D. should be upheld.

Reply to PGW Exception No. 9: The ALJs' Ruling to Recover COVID-19 Expenses Over 53 Months Was Proper. (R.D. at 25-26; OCA M.B. at 36-37; OCA R.B. at 12-13; PGW Exc. at 26)

PGW has sought recovery of \$30.485 million in COVID-19-related expenses. PGW M.B. at 24. The critical issue concerning this recovery is the period of time over which PGW should be permitted to recoup these expenses. PGW proposed a three-year recovery period. PGW St. 2 at 11. The OCA proposed recovery over five years (60 months). OCA St. 1 at 53; OCA St. 1SR at 9. I&E recommended recovery over 53 months, which it determined to be PGW's historical rate case filing frequency. I&E M.B. at 20.

The ALJs adopted I&E's 53-month recovery period. R.D. at 41-42. PGW excepted to this ruling contending that a longer recovery period is unreasonable since the Company has been filing rate cases on a three cycle. PGW also maintains that as a Cash Flow utility, utilizing a longer recovery period is particularly inappropriate. PGW Exc. at 26.

In reaching their decision, the ALJs agreed with I&E that PGW's actual rate case filing interval was 53 months, not 36. They also agreed with the OCA that the creation of a regulatory asset for COVID-19 expenses will enable PGW to fully recover these expenses and that customers will benefit from a longer recovery period. R.D. at 41. Although the ALJs did not adopt the OCA's

recommended period of recovery, their reasoning in adopting I&E's position was conceptually consistent with that which OCA proposed. The R.D. should therefore be upheld.

Reply to PGW Exception No. 10: The ALJs Properly Disallowed a Portion of PGW's Proposed Advertising Expense. R.D. at 47-48; OCA M.B. at 26-27; OCA R.B. at 17-18; PGW Exc. at 26-27)

The OCA recommended disallowance of two components of PGW's proposed advertising expenses for the FPFTY totaling \$467,500. OCA St. 1SR at 15-16. The OCA cited *Pa. PUC v. UGI Utilities, Inc.*, 1994 Pa. PUC LEXIS 137*, 105-06 (Order July 27, 1994) (*UGI*) in which the Commission held that it is not possible to judge the reasonableness of a marketing plan that has not been initiated because of the uncertainty of the content. OCA M.B. at 27.

The ALJs agreed with the OCA and disallowed the \$467,500 as recommended by the OCA. In doing so, the ALJs cited *UGI*. They responded to PGW's argument that the Company supported its claim by describing the substance of the advertising by pointing out that PGW failed to cite any supporting case law. R.D. at 48.

PGW excepts to this ruling by stating that it met its burden of proof by describing the substance of the advertising to be used. PGW Exc. at 26-27. PGW further states that its descriptions indicate that the advertising will benefit customers and that it is unreasonable to require examples of materials for programs that will not be instituted until the FPFTY. *Id.*

The ALJs found that absent the content of the advertising, the Commission can only conclude that the expense claims for those portions of the advertising campaigns questioned by the OCA are uncertain and cannot be determined to benefit PGW's customers. R.D. at 48. The R.D. should be upheld as PGW has failed to meet its burden.

Reply to PGW Exception No. 12: The ALJs Properly Disallowed PGW’s Claim for Lobbying Expense. (R.D. at 34-36; OCA M.B. at 27-29; OCA R.B. at 11-12; PGW Exc. at 27-28)

The ALJs recommended the denial of PGW’s lobbying expense claim. R.D. at 36. In its exceptions, PGW repeated the arguments it has made in its testimony and briefs in favor of allowing the lobbying expense in rates – that PGW is a municipal utility that has an obligation to maintain lines of communication with other parts of government, that PGW’s government relations professionals assist in obtaining information and funding for state and federal programs such as LIHEAP, that these efforts directly benefit customers and that all of PGW’s lobbying efforts benefit customers since PGW has no shareholders. PGW Exc. at 27-28.

The R.D. rejected PGW’s claim and agreed with the OCA and other parties that the lobbying expense should be excluded from rates. R.D. at 36. In particular, the ALJs agreed that there were no “special circumstances” that would warrant a waiver under Section 2212(c) of the Code and a change to the treatment of lobbying expense from earlier PGW rate cases. The ALJs found that PGW’s reasons for requesting a waiver were similar to those proposed by the Company in its 2006 rate case. R.D. at 35-36.

In view of the clear statutory provision prohibiting inclusion of lobbying expenses in rates (Section 1316) and applicable Commission precedent which previously rejected arguments made by PGW that were similar or identical to those made in the instant case, the Commission should adopt the ALJs’ recommendation with regard to lobbying expense.

B. Rate Design

Reply to PICGUG Exceptions No. 1 and 2: The ALJs Correctly Concluded That Rate IT Customers Should Be Treated Within The COSS As Receiving Firm Service. (R.D. at 64-69; OCA M.B. at 49-52; OCA R.B. at 28-30; PICGUG Exc. at 3-11)

No Party in this case disputes the fact that the IT class has not been interrupted since 2004. R.D. at 67. While the IT class is technically “interruptible”, for all intents and purposes it has been receiving firm service for the last 20 years. Accordingly, the ALJs held that “We agree with PGW that the Rate IT customers cannot be truly considered as interruptible for cost allocation purposes. Accordingly, we recommend that PICGUG’s proposed approach of setting Rate IT’s extra demand to zero be rejected.” R.D. at 69.

PICGUG submitted two Exceptions on this issue. PICGUG Exc. At 3-11. PICGUG argues that treating the IT class as firm for purposes of assigning costs within the COSS is inappropriate, as PGW’s tariff would still allow that class to be interrupted. *Id.* Further, PICGUG argues that the IT class is still required to maintain back-up facilities in case of interruption, that other firm customers do not need to do. *Id.*

The facts do not support PICGUG’s arguments. As OCA Watkins’ testimony shows, the IT class is currently significantly underpaying its cost to serve. OCA St. 3 at 10-17. The IT class has been served during peak periods for the last 20 years, principles of cost causation require that some costs of those mains be allocated to the IT class. R.D. at 69; OCA R.B. at 28-30. Further, as OCA witness Watkins testified, even excluding the IT class from any peak period costs shows that class is still significantly underpaying its cost to serve. OCA St. 3 at 15; OCA R.B. at 30. Based on the record evidence, the ALJs’ recommendation on this issue is well supported and should be adopted by the Commission.

Reply to PICGUG Exception No. 3: The ALJs Correctly Rejected PICGUG’s COSS That Included A Customer Component For The Allocation Of Mains Costs. (R.D. at 64-69; OCA M.B. at 52-56; OCA R.B. at 25-28; PICGUG Exc. at 11-14)

PICGUG advocated for the use of a Customer Demand (CD) COSS, whereby a portion of mains costs would be allocated based on the number of customers. R.D. at 66. OCA witness Glenn Watkins performed several COSSs and found that although the Peak and Average (P&A) method is preferred, the Average and Excess (A&E) method used by PGW provided reasonable results. OCA St. 3 at 17; OCA M.B. at 52. The ALJs held that “The parties advocating for the CD method have not justified a departure from the A&E method. Moreover, the weightings proposed by OSBA and PICGUG for use with the CD method have not been fully developed and would require a stronger analysis than that provided in this case.” R.D. at 67.

In its Exception, PICGUG argues that PGW’s assignment of 100% of mains costs is inconsistent with cost causation. PICGUG Exc. at 11. A customer component of mains costs is an accepted practice in the natural gas industry. *Id.* at 12. PICGUG concludes that the Commission should accept a 20-25% allocation of mains costs based on a CD COSS. *Id.* at 13-14.

This Commission has consistently rejected the theory of assigning the cost of distribution mains based on the numbers of customers. OCA St. 3R at 4-5; OCA M.B. at 53-56. Commission precedent as to many other natural gas utility decisions on this matter weigh against the use of a CD COSS, as do PGW’s past litigated rate cases. OCA M.B. at 55-56. PICGUG has not cited even one case in support of its proposal. OCA R.B. at 26. The ALJs’ decision here is consistent with decades of precedent, supported by the facts and should be adopted.

Reply to PICGUG Exception No. 5: The ALJs Correctly Rejected PICGUG’s Proposal To Not Assign Any Rate Increase To The IT Class. (R.D. at 71-74; OCA M.B. at 57-60; OCA R.B. at 32-35; PICGUG Exc. at 15-17)

The allocation of the revenue increase generally flows directly from the COSS that is adopted. Not surprisingly, the ALJs held that “We find that PGW’s revenue allocation proposal is consistent with the Company’s CCOSS and aligns with PGW’s goals of moving classes closer to the cost of service, while considering the principle of gradualism. Therefore, we recommend that the Commission adopt the revenue allocation presented by PGW.” R.D. at 74.

PICGUG argues that treating the IT class as firm in PGW’s COSS is resulting in an unreasonable revenue allocation to that class. PICGUG Exc. at 15. Further, not accepting PICGUG’s CD COSS also results in an unreasonable revenue allocation to the IT class. *Id.* at 15-16. In its briefs, PICGUG argued that even at PGW’s full revenue request, rate IT should be given no increase. OCA R.B. at 33.

PICGUG sponsored no specific revenue allocation proposal, other than the IT class should get a \$0 increase. PGW M.B. at 44; OCA R.B. at 32-33. The ALJs provided a thorough discussion of the different allocation proposals, and noted that “In the previous section, we addressed the concerns raised about the CCOSS upon which the other parties’ revenue allocation proposals are based.” R.D. at 74. PICGUG’s arguments as to why the IT class should not be treated as receiving firm service were evaluated and dismissed. R.D. at 69. Similarly, PICGUG’s proposal to adopt a CD COSS was also rejected. R.D. at 67. As PGW’s A&E COSS was adopted as a guide to allocate revenue in this matter, the resulting revenue allocation is reasonable and supported by the record. Accordingly, the Commission should adopt the ALJs’ recommendation on this issue.

Reply to PICGUG Exception No. 6: The ALJs Correctly Rejected PICGUG’s Scaleback Proposal That Was Based On Its Flawed CD COSS. (R.D. at 74-76; OCA M.B. at 59-60; OCA R.B. at 35-36; PICGUG Exc. at 17-20)

As the ALJs recommended a lower amount than PGW's full request, they also recommended the use of a proportional scaleback. However, in reviewing the impacts to the different classes, the ALJs recommended that I&E's additional proposal to apply the first \$7 million of any revenue reduction to bring the Residential class closer to unity. R.D. at 76. The ALJs also held that "we find that PICGUG's suggested \$1 million scale back proposal is unreasonable and recommend that it be rejected as it is based on PICGUG's CCOSS." *Id.*

PICGUG supports a \$0 increase to the IT class if PGW is awarded its full revenue request, as according to PICGUG the IT class is already overpaying its cost to serve. PICGUG Exh. At 18. PICGUG bases this assertion on its proposals that the IT class should be treated as interruptible within the COSS, and also that its CD COSS should be adopted. *Id.* If PGW does not get its full revenue request, then PICGUG asserts that the IT Class should receive the first \$1 million in any scaleback to account for the class's alleged overpayment status. *Id.*

The record evidence is clear in this case that under almost every COSS submitted in this proceeding, the IT class is substantially underpaying its cost of service. OCA 3SR at 2; OCA M.B. at 55-56. Conversely, the relative rate of return of the Residential class is higher than any other class. I&E St. 3 at 9. The ALJs correctly recognized that PICGUG's scaleback proposal could only be considered if in fact that class was overpaying, which is not the case. As such, the ALJs' recommended scaleback approach, as to the revenue increase, should be adopted.

Reply to PGW Exception No. 13: PGW's Argument That The Scaleback As Set Out In The R.D. Needs Clarification Is Unfounded. (R.D. at 75-82; OCA M.B. at 63-67; OCA R.B. at 36-39; PGW Exc. at 28-29, Appendix B)

PGW argues that the scaleback proposal as contained in the R.D. is unclear and does not provide any specific customer charges for the various classes. PGW Exc. at 28. PGW then goes on to propose a method as to how the scaleback should be applied. *Id.* at 28-29. PGW's Appendix B provides the calculations that PGW submits should be used to calculate the scaleback, and further provides that under this method and the ALJs' recommended revenue increase the customer charge for the Residential class would be \$16.25. *Id.* at 29; Appendix B.

The OCA submitted an Exception on the scaleback issue, as the OCA continues to argue that no increase to the Residential class customer charge should be adopted. OCA Exc. No. 4. That said, however, if a scaleback is employed the OCA disagrees with how PGW wants it to be calculated. Appendix B contains a calculation that includes PGW's proposed 33% customer charge increase as one of the factors. Appendix B. The OCA submits that a straight proportionate scaleback should not include this additional factor. The OCA does agree with PGW that the ALJs' recommended increase represents approximately 26% of PGW's full revenue ask. With that, the current customer charge is \$14.90 and PGW's proposed customer charge is \$19.50, a difference of \$4.60. Under a proportionate scaleback, $\$4.60 \times .26 = \1.20 (rounded). $\$14.90 + \$1.20 = \$16.10$ as the residential customer charge, not the \$16.25 as recommended by PGW.

Accordingly, the OCA submits that PGW's Exception and its proposed scaleback be denied.

C. Customer Service Issues

Reply to PGW Exception No. 14: The R.D. Properly Recommended That PGW Implement Call Center Performance Plans. (R.D. at 106-108; OCA M.B. at 69-72; OCA R.B. at 39-40; PGW Exc. at 29-32)

PGW excepts to the R.D.'s recommendation that PGW maintain its pre-pandemic response rate and develop plans to address the near tripling in call center abandonment as unsupported and unnecessary as the call center's performance has returned to pre-pandemic standards. R.D. at 108; PGW Exc. at 29-32.

While PGW disagrees with the R.D.'s assessment that there are any "problems" and argues that the Parties made no allegations of inadequate service (PGW Exc. at 30), PGW has a history of poor performance that was documented by OCA witness Alexander. *See* OCA St. 5 at 5-7; OCA M.B. at 69-72. PGW's abandonment rate (the rate that customers drop off the call prior to being answered by a customer service representative) was 9% in 2021, the highest rate of all Pennsylvania NGDCs. OCA St. 5 at 6; OCA M.B. at 69. PGW's comparison to Columbia Gas Company's and UGI Gas' 7% abandonment rate does not change this fact. PGW Exc. at 31. Call center performance significantly deteriorated during the September 2021-August 2022 period with a call answering result of 76% and an abandonment rate of 24%. OCA St. 5 at 6; OCA M.B. at 69. Moreover, PGW has experienced staffing challenges that occurred following the closure of its district offices and the move of its call center to an in-house operation. *Id.* Customers who are being threatened with disconnection and failed payment plans need to be able to obtain access to PGW with a reasonable level of call center performance. OCA St. 5 at 6-7.

The ALJs agreed with all of the OCA's recommendations. R.D. at 108. Maintaining call center performance during months in which termination of service is allowed is particularly important for PGW given that there are no longer in-person offices available to PGW customers to discuss their account and negotiate a payment agreement due to the closure of the PGW service center offices. OCA St. 5SR at 2. PGW's exception should be denied.

Reply to PGW Exception No. 15: The R.D. Properly Recommended That PGW Undertake Quarterly Reporting Showing Analyses of Initial Decisions Adverse to PGW. (R.D. at 108-110; OCA M.B. at 69-72; OCA R.B. at 40-41; PGW Exc. at 32-33)

PGW excepts to the R.D.'s recommendation that PGW undertake a quarterly analysis of Initial Decisions adverse to PGW to identify underlying trends, develop and implement actions to address the identified trends to prevent or lower complaints, improve compliance with the Code, and requiring that the first such analysis be completed within 90 days after the Commission's final order. PGW Exc. at 32; R.D. at 110. PGW argued that the R.D. and the OCA did not point to any statute to justify their recommendations, PGW already performs this type of analysis, and, if PGW is directed to provide analysis, the analysis should be focused only on final PUC Orders as opposed to Initial Decisions. PGW Exc. at 32-33.

The ALJs, however, found that PGW lacks any policy for reviewing BCS complaints. R.D. at 109. PGW fails to identify any harm or negative impact that would occur in adopting the R.D.'s recommendation and documenting identified trends as a condition of a rate increase. As PGW does not currently analyze complaint trends and has no plans to develop a complaint trend analysis, the ALJs "recommend that as a condition to approval of any rate increase, PGW be required to undertake an analysis of Initial Decisions adverse to PGW, in whole or in part to identify underlying trends no less than quarterly. Further, we recommend that PGW be required to develop and implement actions to address trends identified through such analysis to prevent or lower complaints, improve compliance with the Code and Commission regulations and policies, and increase customer satisfaction." R.D. at 110. PGW's exception on this issue should be denied.

D. Low Income Customer Service Issues

Reply to PGW Exception No. 16: PGW's Universal Service Issues Are Properly Addressed In PGW's Base Rate Case. (R.D. at 119-121; OCA M.B. at 76; OCA R.B. at 45-46; PGW Exc. at 33-36)

PGW excepts to the R.D.'s recommendation that PGW address low-income programming in this base rate case and argues that low-income issues are better addressed in a Universal Service and Energy Conservation Plan (USECP) proceeding. PGW Exc. at 33-36. The Recommended Decision reasonably noted that, in light of the current level of PGW's rates, the magnitude of the proposed rate increase, and the delay involved in the proposal or timing of an alternative process, delaying resolution of low-income issues would deny low-income customers relief for an extended period of time and should be addressed in the base rate case. R.D. at 120-121.

As noted by PGW, PGW's revised USECP was filed on July 11, 2023, and was approved on July 12, 2023. PGW Exc. at 34. The R.D. fully considered PGW's argument regarding low-income issues being dealt with in the USECP and correctly noted that the filing date of PGW's next Needs Assessment will be February 28, 2025. R.D. at 120. The fact that PGW recently filed its current USECP, and that PGW's Needs Assessment deadline would occur in February 2025 reasonably illustrates the problem of waiting until the next USECP to correct PGW's low-income issues.

PGW argues that the decision in Aqua's recent base rate case supports a determination that PGW's low-income issues are better reviewed in a USECP. PGW Exc. at 33-34. However, Section 69.2703(a)(7) of the Commission's regulations, the Commission's Policy Statement specific to PGW ratemaking, identifies the importance of quality of service issues and the effect on universal service in assessing PGW's rate request. *See* 52 Pa. Code §§ 69.2703(a)(7), 69.2703(a)(8). Accepting PGW's exception and postponing consideration of low-income customers for multiple years would effectively disregard the Commission's policy statement that, in determining just and

reasonable rate levels for PGW, the Commission will consider quality of service and the effect on universal service.

The ALJs found that “In light of the current level of PGW rates, the magnitude of PGW’s proposed rate request, the delay involved in the proposal or timing of an alternative proceeding, and the impact on all PGW customers of the outcome of this proceeding, we find such an outcome unacceptable. Accordingly, consistent with the subsection (8) of the Commission’s Policy Statement, which explicitly relates to Universal Service, we address these issues raised by OCA, CAUSE-PA/TURN and POWER.” R.D. at 121.

PGW’s Exception that the Commission should delay consideration of PGW’s low-income issues until a future USECP proceeding is unreasonable and should be denied.

Reply to PGW Exception No. 17: The R.D. Correctly Determined That PGW’s Method For Identifying Low-Income Customers is Flawed. (R.D. at 122-125; OCA M.B. at 81-86; OCA R.B. at 46-47; PGW Exc. At 36-38)

PGW excepts to the R.D’s Recommendation that PGW should be required to: (1) adopt the BCS census-based estimated low-income customer count and use this data to increase enrollment in CRP and evaluate the effectiveness of the Company’s universal service program outreach and participation; and (2) implement this change with PGW’s next USECP filing and all reports concerning service to low-income customers filed on or after December 31, 2023. PGW Exc. At 36-38; R.D. at 124-125.

PGW disagrees that the criteria it utilizes for identifying Confirmed Low-Income customers does not meet the requirements of Section 62.2 of the Commission’s regulations. PGW Exc. At 36. As correctly noted by the R.D., however, “the regulation specifically contemplates, without restriction, *any* information that would reasonably place the customer in a low-income

designation.” R.D. at 125 (emphasis added). This includes the BCS census-based estimated low-income count.

Additionally, PGW argues that it is currently undergoing a full replacement of its customer information system and that it will be unable to begin system changes necessary to bring PGW into compliance until the system change is complete. PGW Exc. at 37-38. Alleged technical issues are not a reasonable justification to defend a lack of compliance with the Public Utility Code in identifying low-income customers. Even if PGW is correct that certain timelines are impossible for PGW to meet, the solution is for PGW to request an extension of the timelines instead of allowing PGW to continue to not follow the Public Utility Code.

After reviewing the position of all Parties, the ALJs recommended “that the Commission direct PGW to improve identification of low-income customers in universal service programs by adopting the BCS census-based estimated low-income customer count and to utilize such data to improve enrollment in PGW’s universal service program and the evaluation of the effectiveness of PGW’s universal service program outreach and participation.” R.D. at 125. PGW’s exception on this issue should be denied.

Reply to PGW Exception No. 18: The ALJs Correctly Determined that PGW Should Be Required to Develop A Data Sharing and Coordination Plan.
(R.D. at 125-128; OCA M.B. at 86-89; OCA R.B. at 56-58; PGW Exc. at 38-40)

PGW excepts to the R.D.’s recommendation that PGW be directed to develop and deliver to the Commission for its approval data sharing and coordination plans. R.D. at 127; PGW Exc. at 38-40. According to PGW, the data sharing and coordination recommended in the R.D. are not supported by statute and are too costly. PGW Exc. at 38-39. Additionally, PGW argues that the Commission lacks jurisdiction over the entities that PGW would share data with, and that this issue is best addressed on a statewide basis. PGW Exc. at 39.

Providing data sharing and coordination plans to improve PGW's identification of Confirmed Low-Income customers and increase its enrollment of CRP participants is reasonable and should be adopted. PGW's claim that the Commission lacks jurisdiction and that the R.D. cannot force entities to enter into data sharing agreements lacks any support as PGW offered no testimony that the City would not want to work with PGW on data sharing. PGW Exc. at 39. To the contrary, the record evidence shows that the City is already working with the Philadelphia Water Department, and it is reasonable to conclude that the City would also work with PGW. OCA St. 4 at 45-46. Moreover, while PGW claims that providing plans would be too costly, PGW provided no evidence, let alone a cost-estimate, of the alleged cost.

PGW's current performance as to identifying and enrolling customers in CRP is poor. *See* OCA St. 4 at 28-33; OCA St. 4SR at 8-17. The OCA provided a series of potential avenues that PGW could explore to improve its CRP enrollment, some of which were adopted in the R.D. R.D. at 127; OCA St. 4 at 28-33; OCA St. 4SR at 8-17. PGW, however, made it clear in both its Main Brief and its Exceptions that it is completely unwilling to even start a conversation in this area without a statewide proceeding. PGW M.B. at 74-75; PGW Exc. at 38-40.

The ALJs reviewed similar PGW arguments in the R.D. and concluded "We agree with OCA and CAUSE-PA/TURN, that PGW should use data sharing and coordination to improve PGW's customer service to low-income customers and applicants, where they entail modest expansion of existing PGW practices and where PGW already has ready the relevant data, or it is readily available to PGW." R.D. at 126-127.

PGW's arguments that it should not share data and coordinate with other agencies regarding enrollment in low-income assistance programs are unreasonable and its exception should be denied.

III. CONCLUSION

The Office of Consumer Advocate respectfully requests that the Commission deny the Exceptions filed by PICGUG and PGW. The ALJs' Recommended Decision on these contested issues is based on the record, consistent with the law and should be adopted by the Public Utility Commission.

Respectfully submitted,

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