COMMONWEALTH OF PENNSYLVANIA

September 22, 2023

E-FILED

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) & Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. v. Philadelphia Gas Works / Docket No. C-2021-3029259

Dear Secretary Chiavetta:

Enclosed please find the Reply Exceptions, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-captioned proceedings.

Copies will be served on all known parties in these proceedings, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Sharon E. Webb

Sharon E. Webb
Assistant Small Business Advocate
Attorney ID No. 73995

Enclosures
cc: Robert D. Knecht
Office of Special Assistants
Parties of Record

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 User Group	:	**C-2023-3039059**
Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc.	:	**C-2023-3038727**
James M. Williford	:	**C-2023-3039130**
	:	
v.	:	
	:	
Philadelphia Gas Works	:	
Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc.	:	
	:	
v.	:	**C-2021-3029259**
	:	
Philadelphia Gas Works	:	

REPLY EXCEPTIONS
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE

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Date: September 22, 2023

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I. Introduction

On February 27, 2023, PGW filed Supplement No. 159 to Philadelphia Gas Work's Gas Service Tariff –Pa. P.U.C. No. 2, and proposed Supplement No. 105 to Philadelphia Gas Works Supplier Tariff-Pa. P.U.C. No 1 ("Supplement No. 105"). The proposed Tariffs, if approved by the Commission, would increase the retail distribution rates of Philadelphia Gas Works ("PGW" or "Company") by $85.5 million per year (before the effects on universal service charges and distribution system improvement charges are recognized). In addition to the rate filing, PGW also filed a Petition for Waiver seeking a waiver of the application of the statutory definition of the fully projected future test year ("FPFTY") to permit PGW to use a FPFTY beginning September 1, 2023.

On February 28. 2023, the Bureau of Investigation and Enforcement ("I&E) filed a Notice of Appearance. Gray's Ferry Cogeneration Partnership ("GFCP") and Vicinity Energy Philadelphia, Inc. ("VEPI") (collectively "Vicinity") filed a Complaint (docketed at C-2023-3038727). On March 7, 2023, the Office of Consumer Advocate filed a Complaint and Notice of Appearance (docketed at C-2023-3038846). On March 9, 2023, the OSBA filed its Notices of Appearance and Formal Complaint (docketed at C-2023-3038885) in response to PGW's tariff filings. On March 17, 2023, the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG") filed a Formal Complaint (docketed at R-2023-3039059). The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") filed a Petition to Intervene on April 12, 2023. The Tenant Union Representative Network ("TURN") and POWER Interfaith both filed Petitions to Intervene on April 25, 2023.

By Order entered April 20, 2023, pursuant to 66 Pa. §1308(d), PGW's Supplement No. 159 to Philadelphia Gas Work's Gas Service Tariff –Pa. P.U.C. No. 2, and proposed Supplement

No. 105 to Philadelphia Gas Works Supplier Tariff-Pa. P.U.C. No. 1 were suspended by operation of law until November 28, 2023. The Commission ordered an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed Supplement No. 159 and 105.

A Pre-Hearing Conference Order and Notice were issued on April 20, 2023, scheduling a telephonic prehearing conference in this matter for April 28, 2023, before Administrative Law Judges ("ALJ") Eranda Vero and Arlene Ashton. A litigation schedule was established at the Pre-Hearing Conference and memorialized in the ALJs' Pre-Hearing Order issued on May 10, 2023.

On May 5, 2023, pursuant to a Commission order at Docket No. C-2021-3029259, the Company submitted supplemental direct testimony and exhibits regarding the proposed rates, rules and regulations to govern gas service provided to Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. ("GFCP/VEPI"). These materials included a tariff page for a proposed Rate GS-XLT under which service would be provided to GFCP/VEPI.

Four public input hearings were held on May 23, 2023, and May 24, 2023.

On May 31, 2023, the OSBA submitted the direct testimony of Robert D. Knecht.

On June 26, 2023, the OSBA submitted the rebuttal testimony of Robert D. Knecht. On July 7, 2023, the OSBA submitted the surrebuttal testimony of Mr. Knecht. On July 31, 2023, the OSBA submitted the Corrected Direct Testimony of Mr. Knecht. The Corrected Direct Testimony redacted responsive testimony to PGW's weather normalization adjustment ("WNA") mechanism, which was stricken by an Order issued on June 6, 2023 by ALJs Vero and Ashton.

Evidentiary hearings were held before ALJs Vero and Ashton on July 11 and 12, 2023. At the hearing on July 11, 2023, the OSBA moved the testimony of its witness, Robert D. Knecht, into the record.

On July 27, 2023, the OSBA submitted its Main Brief.

On August 7, 2023, the OSBA submitted its Reply Brief.

On September 5, 2023, ALJ Vero and ALJ Ashton issued their Recommended Decision ("RD").

On September 15, 2023, the Company, the OCA, Vicinity, CAUSE-PA and PICGUG filed Exceptions.

The OSBA submits the following Reply Exceptions in response to the Exceptions filed by the Company and the PICGUG.

II. Reply Exceptions

A. Reply to PGW Revenue Requirement Exceptions 1-12: The RD's revenue requirement recommendations are massively insufficient in that they fail to provide PGW with cash to pay all its anticipated bills when due…. (Company Exceptions, at 1)

The OSBA is not offering a detailed evaluation of all aspects of PGW's exceptions to the ALJs' Recommended Decision ("RD"). In evaluating the Company's Exceptions regarding its revenue requirement, the OSBA recommends that the Commission consider the following uncontested facts:

- PGW's ratepayers have contributed more than $1 billion to the Company's equity over the past 17 years, inclusive of some $216 million in City Fee payments.[1]
- While PGW's ratepayers were struggling through a debilitating pandemic, PGW's net income from 2020 to 2022 was nearly $475 million, resulting in a significant decline in the Company's debt to capital ratio from 83.7 percent at year-end 2019 to 64.1 percent at year-end 2022.[2]
- The Company's forecasts for its revenue requirement as presented in its 2020 base rates proceeding at Docket No. R-2020-3017206 for the 2020 to 2022 period were vastly overstated. Specifically, the average annual cost over-forecast in that period was as follows:

[1] OSBA Statement No. 1 at 12, RDK WP1.

[2] OSBA Statement No. 1, RDK WP1.

PGW 2020 Base Rate Forecast Variances Actual Minus Budget, Average Annual 2020-2022	
	$mm
Field Services/Distribution	($7.0)
A&G Expense	($14.6)
Pension/OPEB/Health Insurance	($43.5)
Bad Debt	($4.3)
Gas Processing	$1.5
Other Expense	($2.3)
Sub-Total O&M Expense	($70.0)
Source: OSBA Statement No. 1, RDK WP1	

In essence, PGW over-forecasted its costs by an average of $70 million per year over a three-year period, most of which coincided with the COVID-19 pandemic. The OSBA submits that PGW's cost forecasts are demonstrably untrustworthy.

PGW's Exceptions are filled with overheated and dire prose threatening that reducing the claimed revenue requirement will result in massive curtailment of operations and a failure to make needed investments in safety.[3] In reality, however, the impact of a reduction in the claimed revenue requirement will simply be that PGW needs to increase its debt financing relative to that offered in its forecast. A modestly higher level of debt in the test year will allow PGW to continue to operate safely, and it will resolve PGW's concerns about year-end cash balances. Moreover, modifying PGW's forecast to include higher debt balances will not result in

[3] Alleged negative impacts on safety are cited in PGW Exceptions at 1, 2, 12, 14, 17, 18, 19, and 23. By way of example, at page 23, PGW asserts: "To do so will *force* PGW to *massively* curtail its operations to avoid being unable to pay for the goods and services it otherwise needs to maintain safe, reliable and reasonable service." (*emphasis* added)

any increase in the debt to capital ratio – it will simply slow the process of reducing that debt to capital ratio.

PGW should calm its rhetoric.

The basic fact is that PGW's debt to capital ratio at the end of FY 2022 was 64.1 percent.[4] PGW's proposed increase would reduce that value to 60.6 percent.[5] According to PGW's calculations, the debt to capital ratio under the RD would drop to 61.7 percent, and a zero increase would produce a 62.7 percent ratio.[6] By way of contrast, in the Company's last base rates case, its financial forecast for FY 2022 *with the full proposed rate increase* forecast that the debt to capital ratio would be 70.2 percent at the end of FY 2022, which it deemed to be sufficient to meet its cash obligations.[7] The OSBA observes that the 70.2 percent forecast in the last case was consistent with the Commission Staff findings cited by I&E Witness Patel.[8]

PGW's Exceptions castigate the ALJs who had the temerity to suggest that capital investments in the test year should rely less on Internally Generated Funds ("IGF") for financing than that proposed by PGW. As noted earlier, reduced use of IGF for financing new capital projects will not result in unsafe operations, it will not result in massive changes in operations, it will not result in a cash shortage, and it is most unlikely that it will result in a debt downgrade because the debt to capital ratio will continue to decline. It will simply mean that PGW needs to increase its debt financing relative to that in its forecast.

[4] OSBA Statement No. 1, RDK WP1.

[5] *Id.*

[6] PGW Exceptions at 8, OSBA Statement No. 1, RDK WP1.

[7] OSBA Statement No. 1, RDK WP1.

[8] I&E Statement No. 1 at 29.

Of note, PGW asserts that ". . .the RD did not propose an offsetting recommendation that PGW issue additional debt (or make an allowance for additional debt service expenses) to maintain the level of capital projects planned to the FPFTY."[9] As a conceptual matter, OSBA agrees that, all other factors being equal, a reduction in IGF for new capital projects implies higher debt.[10] The OSBA therefore does not disagree with modifying the ALJs' RD to reflect the additional costs associated with a minor increase in debt financing in the test year. The OSBA further notes that PGW has not offered any evidence that the additional debt financing associated with reduced use of IGF for capital projects would result in an unreasonable debt to capital ratio in either the 2024 test year or the 2025 forecast year.

OSBA agrees with PGW's assertion that it ". . . should reasonably balance its capital structure."[11] However, PGW's idea of a balance leaves something to be desired. The balance to be made, of course, is to balance the amount of financing that is raised from current period ratepayers with the amount of financing raised by debt. From an overall cost to ratepayers perspective, the obvious issue is whether the cost of capital to ratepayers is lower or higher than PGW's incremental cost of debt. In its Exceptions, PGW makes the absurd argument that the cost of (IGF is less than the cost of debt.[12] In effect, PGW is arguing that the financing cost incurred by ratepayers in providing equity now is lower than the interest costs future ratepayers

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[9] PGW Exceptions at 11.

[10] The OSBA, however, must suppress a chuckle at PGW's chutzpah in this respect. PGW uses exactly this same approach in its own financial forecasting. That is, when PGW develops its financial forecasts for the "no rate increase" scenario, it fails to include any additional debt requirements. As shown in OSBA Statement No. 1 RDK WP1, the debt financing levels in the no-increase and full-increase scenarios are identical. This approach allows PGW to claim inadequate cash balances at the end of the test year.

[11] PGW Exceptions at 11.

[12] PGW Exceptions at 15.

will pay for PGW debt service. Unsurprisingly, the OSBA is unable to locate any evidence on the record that the cost of capital for small businesses (or residential customers) in Philadelphia is lower than PGW's (tax subsidized) cost of debt. It is common knowledge that the cost of financing for both residential customers and small business customers is far higher than that for a municipal authority. Does PGW truly believe that its debt costs exceed a credit card rate for a residential customer, or a small business bank loan?

The OSBA recognizes that PGW's debt to capital ratio is lower than that for the typical investor-owned utility.[13] The OSBA similarly agrees that, in normal economic periods (e.g., no pandemic), it is reasonable for PGW to make steady progress toward improving its capital structure. Nevertheless, there must be a balance between what is asked of current day ratepayers in the form of equity financing and the benefit to future ratepayers in the form of lower debt service costs. The OSBA respectfully submits that PGW has made enormous progress on that metric during the pandemic on the backs of ratepayers (especially during the pandemic), and that basic fairness considerations militate in favor of reducing the rate of progress.

PGW's Exceptions argue that the ALJs RD improperly reduced the proposed increase for the RD's modification to non-cash pension costs.[14] OSBA agrees that PGW's revenue requirement should reflect cash flow considerations. Nevertheless, the OSBA observes that the RD's use of a more realistic pension cost estimate will more accurately show PGW's equity position, and thus its overall debt to capital ratio. This modification will further improve the Company's forecast debt to capital ratio, and thus its financial rating. PGW's Exceptions fail to account for this consideration.

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[13] OSBA Statement No. 1 at 10. The OSBA does not believe that there are comparable municipal utilities to PGW, particularly with respect to historical debt to capital ratios.

[14] PGW Exceptions at 19

PGW takes exception to the RD's recommended use of a "normalization" approach to setting the revenue requirement for various O&M expenses, including gas processing, field operations, collection, customer service, account management, marketing, and A&G.[15] PGW asserts that its revenue requirement must cover actual expenses, not normalized expenses, and that a disallowance of $4.3 million will cause it to ". . . massively curtail its operations." The OSBA agrees that the approved revenue requirement for PGW should be based on a reasonable estimate of the actual cost PGW will incur in the test year. For these expenses, the OSBA observes that, in making that determination, the Commission can rely on the historical actual values, or it can rely on PGW's forecasts. As demonstrated above and in Mr. Knecht's analysis, PGW's forecasts in the last base rates case were badly biased. Moreover, the bias in PGW's forecasts was far more than $4.3 million per year of which PGW complains. Even excluding the employee benefits and uncollectibles costs, PGW's forecasts overstated actual costs by an average of $22.3 million per year. The OSBA respectfully submits that the normalization approach is a far more reliable approach for estimating future PGW costs than relying on PGW's forecasts.

PGW offers a similar exception to the RD's rejection of its generic inflation adjustment, in the amount of $2.9 million per year.[16] Again, the OSBA submits that PGW's forecasts are not credible. As Mr. Knecht explained: *"As shown in RDK WP1, the Company's forecasts in the last base rates case were only modestly higher than the actual 2019 HTY results available at the time. Except for interest costs, the Company's FPFTY O&M cost forecasts in the last case averaged only 6.4 percent over the contemporaneous HTY value, and still those forecasts proved*

[15] PGW Exceptions at 23.

[16] PGW Exceptions at 25.

to be substantially overstated. In this case, the Company has ramped up its cost inflation machine, and now forecasts that O&M costs will exceed HTY actuals by some 35.5 percent, with O&M costs increasing by more than $90 million from HTY 2022 actuals."[17] The OSBA respectfully submits that the evidence regarding PGW's ability to credibly forecast its costs would imply a much larger disallowance than that presented in the RD.

B <u>Reply to PICGUG Exception No. 1:</u> The Recommended Decision Erred by Rejecting Cost Causation Principles for Rate IT in PGW's COSS. (PICGUG Exceptions, at 3-7)

In Exception No. 1, PICGUG argues that the RD errs by inappropriately applying the principle of value of service to the allocation of costs to Rate IT. While the OSBA acknowledges that the principle of cost causation is the best standard for allocation of utility costs, the OSBA observes that there is little or no agreement as to what cost causation means for interruptible service on gas distribution mains. The cost associated with providing service to interruptible customers is substantially dependent on the specifics of the distribution system, the capacity that exists on the distribution system, and the specific parameters under which customers are interrupted. The OSBA therefore respectfully submits that it is an entirely reasonable approach to allocate costs to the interruptible Rate IT class as if it were receiving firm service, and then to provide a value of service discount to those rates to reflect the specific

[17] OSBA Statement No. 1 at 14-15.

circumstances that apply at this utility. The OSBA submits that it is undisputed that value of service is a legitimate rate design criterion.[18]

C. <u>Reply to PICGUG Exception No. 2:</u> The RD Erred by Inappropriately Discriminating Against Rate IT in PGW's COSS (PICGUG Exceptions at 8)

In Exception 2, PICGUG argues that the RD inappropriately discriminates against Rate IT in the COSS. As explained above, OSBA believes that it is reasonable to treat Rate IT customers as firm service for cost allocation purposes, and to provide a rate discount that reflects the specific circumstances facing those customers. Regarding those circumstances, the OSBA believes that it is undisputed that (a) PGW Rate IT customers have not been interrupted for nearly 20 years,[19] (b) PGW Rate IT customers are required to maintain alternative fuel capacity or otherwise demonstrate their interruptibity at some unknown cost to those customers,[20] and (c) PGW has failed to present any credible quantitative evidence regarding any savings that it achieves associated with the interruptibility of these customers.[21]

PICGUG argues, "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." PICGUG's argument would have merit if, in fact, PGW did in fact avoid costs associated with providing interruptible service, and if Rate IT were not discounted below firm service rates to reflect the value of its interruptibility to other ratepayers. As noted above, there is no evidence regarding the magnitude, if any, of PGW savings associated with the interruptibility of Rate IT

[18] OSBA Statement No. 1 at 29.

[19] PGW M.B. at 38.

[20] PICGUG M.B. at 9.

[21] OSBA Statement No. 1-SR at 7-8.

customers. OSBA supports Mr. Knecht's proposal that PGW be required to present such analysis in its next base rates proceeding.[22]

However, regarding the purportedly discriminatory rates, OSBA offers the following comparison of rates paid by firm service industrial customers in Rate GS-Industrial and the Rate IT customers who purportedly suffer from unreasonable rate discrimination, as proposed by PGW for this proceeding.

[22] OSBA Statement No. 1-SR at 7.

PGW Proposed Rates for Industrial Customers ($/mcf)		
	GS-Industrial	**Rate IT**
Customer Charge Avg.*	$0.04	$0.10
Delivery Charge Avg.	$6.05	$1.31
USEC**	$1.78	$0.00
CR	$0.00	$0.00
OPEB***	$0.27	$0.00
DSIC	$0.65	$0.00
Total Base Rates	$8.79	$1.42

* GS-Industrial customer charge applied to Rate IT average customer, on a per-mcf basis.

** Current USEC charge, reflecting minimal Rate GS-XLT contribution to USEC.

*** Proposed OPEB charge, with significant Rate GS-XLT contribution to OPEB.

Source: OSBA Statement No. 1, RDK WP3

Thus, even with PGW's proposed rate increase for the Rate IT class at the full revenue requirement (a nearly 30 percent base rate increase), the proposed rates for PGW exhibit a discount of some 84 percent from the comparable firm service rates. While OSBA agrees with PICGUG that the PGW approach results in undue discrimination, the OSBA respectfully submits that the undue discrimination favors the Rate IT class. Surely an 84 percent rate discount is more than sufficient to justify the interruptibility of customers who have not been interrupted for nearly 20 years.

With respect to PICGUG's Exceptions 3 through 6:

- The OSBA does not disagree with PICGUG Exceptions 3 and 4.

- The OSBA respectfully submits that PICGUG Exceptions 5 and 6 rely on the arguments set forth in Exceptions 1 and 2, to which OSBA responds above herein.

III. Conclusion

For the reasons set forth herein, the OSBA respectfully requests that the Commission deny PGW's Exceptions on Revenue Requirement, PICGUG Exceptions No. 1, 2 , 5 and 6.

Respectfully submitted,

/s/ Sharon E. Webb

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Dated: September 22, 2023

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v.	:	**C-2021-3029259**
	:	
Philadelphia Gas Works	:	

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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The Honorable Judge Arlene Ashton
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