



COMMONWEALTH OF PENNSYLVANIA

October 19, 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 Answer and Verification, on behalf of the Office of Small Business Advocate (“OSBA”), to the Motion of Philadelphia Industrial and Commercial Users Group (“PICGUG), to Strike Portions of the Reply Exceptions of the Office of Small Business Advocate and Philadelphia Gas Works, filed September 29, 2023, 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/ Steven C. Gray

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

Enclosures

cc: Robert D. Knecht
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	:	

**ANSWER OF THE OFFICE OF SMALL BUSINESS ADVOCATE TO THE
PHILADELPHIA INDUSTRIAL AND COMMERCIAL GAS USERS GROUP’S
MOTION TO STRIKE PORTIONS OF THE REPLY EXCEPTIONS OF THE OSBA**

AND NOW comes the Office of Small Business Advocate (“OSBA”), by its attorneys, and, pursuant to 52 Pa. Code Section 5.103, answers the Motion to Strike (the “PICGUG Motion”) of the Philadelphia Industrial and Commercial Users Group (“PICGUG”). In opposition to the Motion, the OSBA submits as follows:

I. INTRODUCTION AND PROCEDURAL HISTORY

The Office of Small Business Advocate (“OSBA”) is an agency of the Commonwealth of Pennsylvania authorized by the Small Business Advocate Act (Act 181 of 1988, 73 P.S. §§ 399.41 – 399.50) to represent the interests of small business consumers as a party in proceedings

before the Pennsylvania Public Utility Commission (“Commission”). On February 27, 2023, Philadelphia Gas Works (“PGW” or “Company”) 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 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 in this proceeding.

On March 9, 2023, the OSBA filed a Complaint, alleging that the materials filed by PGW may be insufficient to justify the rate increase requested and that the Company’s present and proposed rates, rules, and conditions of service may be unjust, unreasonable, unduly discriminatory, and otherwise contrary to law, particularly as they pertain to small business customers.

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 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 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.

Evidentiary hearings were held before ALJs Vero and Ashton on July 11 and 12, 2023.

At the July 11, 2023 hearing, the OSBA moved the testimony and exhibits of its witness, Robert D. Knecht, into the record.

In accordance with the procedural schedule the OSBA filed Main and Reply Briefs and Reply Exceptions.

On September 29, 2023, PICGUG filed a Motion to Strike Portions of the Reply Exceptions of the OSBA and PGW.

II. RESPONSE TO THE MOTION TO STRIKE

The OSBA’s Response to the specific numbered paragraphs of the Motion to Strike includes the following:

1. ADMITTED
2. ADMITTED. By way of further response, the averments in paragraph 2 refer to writings which speak for themselves.
3. The averments in paragraph 3 refer to writings which speak for themselves.

4. The averments in paragraph 3 refer to writings which speak for themselves.
5. DENIED. In its testimony and briefs, the OSBA responded to PICGUG's cost allocation and acknowledges the PGW's recognition that Rate IT customers are essentially firm service customers. *See* OSBA Statement No. 1 at 29 and OSBA Main Brief at 16-17. The OSBA In its Reply Exceptions, responded to the PICGUG statement that the that the RD's treatment of Rate IT as firm...would result discriminatory treatment of Rate IT citing to record evidence. Within PICGUG's own motion (Para. 7 at 4), it acknowledges that the OSBA's evidence used to reply to PICGUG's Exceptions was in fact record evidence.
6. DENIED. In its testimony and briefs, the OSBA responded to PICGUG's cost allocation and acknowledges the PGW's recognition that Rate IT customers are essentially firm service customers. *See* OSBA Statement No. 1 at 29 and OSBA Main Brief at 16-17. The OSBA In its Reply Exceptions, responded to the PICGUG statement that the that the RD's treatment of Rate IT as firm...would result discriminatory treatment of Rate IT citing to the record evidence. Within PICGUG's own motion (Para. 7 at 4), it acknowledges that the OSBA's evidence used to reply to PICGUG's Exceptions was in fact record evidence.
7. DENIED. The OSBA's responsive analysis in the OSBA's Reply Exceptions is drawn from the record evidence to reflect the absurdity of PICGUG's assertion of discriminatory treatment for Rate IT. The comparison to which PICGUG objects, cites OSBA Statement No. 1 and RDK WP3 which are both record evidence. PICGUG's own motion (Para. 7 at 4), it acknowledges that the OSBA's evidence used to reply to

PICGUG's Exceptions was in fact record evidence. *See also* response to Para 5 and 6 herein above.

8. DENIED. *See also* response to Para 5, 6 and 7 herein above.

9. DENIED. *See also* response to Para 5, 6, 7 and 8 herein above.

Paragraphs 10-13 are specifically directed to PGW. To the extent a response is required, the averments of paragraphs 10-13 are DENIED.

WHEREFORE, for all of the forgoing reasons, the OSBA submits that the issues raised in its Reply Exceptions relating to the OSBA's response to the arguments raised in PICGUG's Exceptions 1 and 2 were properly and timely presented in response to the arguments raised in the PICUG's Exceptions based on the Testimony and Exhibits that were admitted into the record of the proceeding, and respectfully requests that the Commission DENY PICGUG's Motion to Strike.

Respectfully submitted,

/s/ Sharon E. Webb

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

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Dated: October 19, 2023

VERIFICATION

I, NazAarah Sabree, hereby state that the facts set forth herein above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: October 19, 2023



(Signature)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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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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DATE: October 19, 2023

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