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November 20, 2023

**VIA ELECTRONIC FILING**

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

RE: Pennsylvania Public Utility Commission, et al. v. Philadelphia Gas Works; Docket Nos. R-2023-3037933 and C-2023-3038727; **PETITION OF GRAYS FERRY COGENERATION PARTNERSHIP AND VICINITY ENERGY PHILADELPHIA, INC. FOR CLARIFICATION OF THE COMMISSION'S NOVEMBER 9, 2023 OPINION AND ORDER**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is the Petition of Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. ("Vicinity") for Clarification of the Commission's November 9, 2023 Opinion and Order in the above-captioned proceedings. Copies of the Petition have been served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions related to this filing, please do not hesitate to contact me.

Very truly yours,

Todd S. Stewart  
Dennis A. Whitaker  
*Counsel for Grays Ferry Cogeneration  
Partnership and Vicinity Energy Philadelphia,  
Inc.*

TSS/jld  
Enclosure  
cc: Per Certificate of Service

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party)

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DATED: November 20, 2023

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Todd S. Stewart

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket Nos. R-2023-3037933
Grays Ferry Cogeneration Partnership and	:	C-2023-3038727
Vicinity Energy Philadelphia, Inc.	:	
	:	
v.	:	
	:	
Philadelphia Gas Works	:	

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**PETITION OF  
GRAYS FERRY COGENERATION PARTNERSHIP  
AND VICINITY ENERGY PHILADELPHIA, INC.  
FOR CLARIFICATION OF THE COMMISSION’S NOVEMBER 9, 2023  
OPINION AND ORDER**

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On November 9, 2023, the Pennsylvania Public Utility Commission (“Commission”) issued an Opinion and Order (“Order”) in the above-caption matters. The Order addressed the base rate increase request submitted by the Philadelphia Gas Works (“PGW”) and intended to resolve the disagreement between Vicinity Energy Philadelphia, Inc. (“VEPI”) and Grays Ferry Cogeneration Partnership (“Grays Ferry”) (collectively “Vicinity”) with PGW over the just and reasonable rates to be charged to Vicinity after the expiration of its 1995 contract with PGW. The Vicinity issues are the culmination of a formal complaint filed by Vicinity in 2021. In the Order, the Commission addressed a number of elements of the rate increase proposed by PGW for its service to Vicinity, including the appropriate distribution charge, the interruptible character of service that is provided and to be provided to Vicinity, the applicability of surcharges and the appropriate rates and conditions for Alternate Receipt Service (“ARS”). It is this last matter – the appropriate ARS terms and rates which are the subject of this request.

## I. CHARACTER OF ARS

In advance of PGW submitting revised tariffs, and to avoid future controversy, Vicinity seeks confirmation of the “character” of the ARS service the Commission intended and guidance on the price of the ARS service.

In its Order of November 9, 2023, the Commission states, in relevant part:

[W]e agree that it is reasonable for Vicinity to pay, at minimum, PGW’s cost to obtain the TETCO capacity it needs at the pipeline’s tariffed rate based upon the volumes that Vicinity uses.<sup>1</sup>

The Order states, effectively, that Vicinity should pay PGW a market price for the cost of capacity PGW procures for Vicinity and adopts PGW’s proposed sales receipts methodology as a market price. The Order appears to envision a back-to-back deal wherein Vicinity pays the equivalent rate PGW could have received for the ARS capacity Vicinity uses, bounded at the low end by the maximum TETCO tariff rate.

As a matter of fairness, it follows that if Vicinity is required to pay the full market price of the capacity Vicinity uses, Vicinity should have the full use of that capacity. That is, if Vicinity is paying the full market price for capacity between the Gulf of Mexico and the Philadelphia Lateral, then Vicinity should be able to use the capacity between the Gulf of Mexico and the Philadelphia Lateral. Vicinity is certain the Order intends Vicinity to be charged by and remit payment to PGW

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<sup>1</sup> Order at p. 191. The Order continues with a note that “the proposed price for ARS is substantially less than Vicinity was prepared to pay in the *2023 PGW GCR Case*.” Order at p. 191. Vicinity does not understand this note as at no point did Vicinity offer anything above the TETCO tariff price (which is substantially less than PGW’s proposed “market price.” Further, that offer was for the long-haul capacity. See Direct Testimony of James Crist at p. 21 (Docket Number C-2021-3029259) and Order at p. 189 (citation omitted) (“Vicinity maintained that the appropriate rate for ARS could be based upon a permanent release with a market value of such release capacity of \$0.345/Dth/day, or in the alternative, the price should be based on the only segment of the capacity that provides any benefit to Vicinity: the Philadelphia lateral section, which has a market value of \$0.10/Dth/day.”).

for the precise capacity it receives; long-haul.<sup>2</sup> Vicinity is similarly certain the Order did not intend that Vicinity pay the full market price for long-haul capacity but receive the benefits of short-haul. By way of example, for 2022 the short-haul capacity market price was shown to be worth \$0.10/dth. See Order at p. 189 (citation omitted) (“Vicinity maintained that the appropriate rate for ARS could be based upon a permanent release with a market value of such release capacity of \$0.345/Dth/day, or in the alternative, the price should be based on the only segment of the capacity that provides any benefit to Vicinity: the Philadelphia lateral section, which has a market value of \$0.10/Dth/day.”). Charging Vicinity at PGW’s alleged long-haul market rate of \$1.05/dth would result in profits for PGW of 165% and that does not include any other revenue PGW obtains by releasing other parts of the long-haul capacity (i.e., if PGW releases only the last leg of the run to Vicinity, that leaves PGW the ability to release the other legs to other parties).<sup>3</sup> For these reasons, Vicinity believes the Commission’s Order intended that Vicinity gets what it pays for; if it pays for long-haul capacity, it gets long-haul capacity.<sup>4</sup>

## II. PRICING OF ARS

Again, so as to facilitate resolution of any outstanding potential issues between the parties, Vicinity believes the logic of the Order entails the following consequences for purposes of the

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<sup>2</sup> It is undisputed that the vast majority of the value of the capacity is in the Gulf to Philadelphia segment, not the Philadelphia Lateral segment. This is evidenced by PGW’s purported market rate for 2022 of \$1.05/Dth compared to the most recent Philadelphia Lateral sale at \$0.10/Dth, or the 5-year average at \$0.35/Dth. See Crist Direct Testimony at p. 12. Further, the relative values are also evidenced by PGW’s initial contract to provide ARS to Vicinity for \$54,000 per year, for up to 21,000/Dth/day.

<sup>3</sup> Worth noting, if PGW were to charge Vicinity a long-haul capacity rate, yet only provide Vicinity short-haul capacity service - and then inexplicably double sell the paid for but unused long-haul capacity - that would result in profiteering, an outcome Vicinity is certain the Order did not intend. Further, it would also serve as a cross-subsidization of other rate classes.

<sup>4</sup> Although the Order is sparse on its rationale related to market pricing, Vicinity believes the Commission could only have intended the proposed tariff mechanism to be a market-based price. The other alternative, using a market price as an approximation of PGW’s cost of service, would be unlawful as it would allow PGW to change its pricing every year without a rate case and no true nexus between PGW’s costs and the pricing mechanism.

revised tariffs. First, Vicinity is certain the Order does not require Vicinity to purchase ARS during periods for which it has no need of ARS. By way of background and explanation, ARS has exclusively been used by Vicinity only during the winter months. During the summer months the parties used a different mechanism called “Capacity Release” that had its own terms and pricing. Because Vicinity acquired sufficient capacity on its own, and no longer needed Capacity Release, PGW and Vicinity agreed to remove the Capacity Release from the parties’ dealings. As stated by Mr. Reeves in connection with PGW’s 2023-2024 Annual Gas Cost Rate Adjustment (Docket No. R-2023-3038069): “Both parties to the Complaint Proceeding have agreed that this service is unnecessary and can be discontinued.” Rebuttal Testimony of Ryan E. Reeves (Docket No. R-2023-3038069) at p. 4. Requiring Vicinity to purchase ARS during periods it has no need for ARS would be a surprising result, and particularly so if PGW were requiring Vicinity to purchase ARS in the periods it used to purchase Capacity Release. Similarly, Vicinity should be under no obligation to purchase a minimum of 5,000/dth/day of ARS in periods in which Vicinity has no need for ARS. In keeping with the Commission’s Order’s spirit, Vicinity should only be required to pay for ARS in the periods Vicinity elects to receive ARS.

A trickier issue arises in connection with PGW’s proposed “market” pricing of ARS. PGW’s draft tariff effectively defines the relevant “market” as whatever sales PGW consummates. Vicinity believes that there should be mechanisms in place within the tariff to ensure that the “market” set by PGW is fair and reasonable. Under the draft tariff PGW proposes that the “market” price is the greater of (1) the maximum [Texas Eastern Transmissions (“TETCO”)] tariff rate or (2) the “average revenue per Dth received” by PGW “from all releases ... of recallable capacity on [TETCO] during PGW’s prior fiscal year.” While the TETCO maximum tariff rate is transparent, there is no mechanism in the draft PGW tariff to ensure transparency or fairness. For

example, in a fiscal year where PGW elects to utilize all of its available capacity (apart from ARS capacity) to produce liquified natural gas (LNG), or any other reason, except for a single dekatherm which it sells for one-million dollars, there should be mechanisms in place to ensure that the price of ARS does not get set at \$1,000,000/dth. Vicinity believes this issue can be corrected by (a) referencing published TETCO release information (e.g., the TETCO Link™ system) during the year rather than PGW's receipts, and (b) limiting the comparison sales to those that are substantially similar to Vicinity's usages (i.e., similar quantum and similar point of release). Lastly, the nomination process for ARS should mirror the nomination process for any other market transaction for release capacity.

### **III. CONCLUSION**

Vicinity believes the parties would benefit from the Commission's explicit acknowledgement that the Order intended Vicinity to pay a market rate for ARS and, in turn, receive market terms. Specifically, because Vicinity is to be charged for long-haul capacity, Vicinity should have the benefit of long-haul capacity. Also, as with any other market transaction, Vicinity should not be compelled to purchase ARS during the periods it has no need for ARS. The price for ARS should be set by reference to a transparent set of data, with comparison sales that are of similar size and location. Lastly, the nomination process for ARS should mirror other market transactions of release capacity. In short, Vicinity's mandate to purchase at market rates should come with the same protections and benefits of other market transactions.

Respectfully submitted,



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DATED: November 20, 2023