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November 30, 2023

Via Electronic Filing
Rosemary Chiavetta, Secretary
PA Public Utility Commission
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: PA Public Utility Commission, et al., v. Philadelphia Gas Works
Docket Nos. R-2023-3037933; C-2023-3038846; C-2023-3038885; C-2023-3039059; C-2023-3038727 and C-2023-3039130

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' ("PGW") Answer to Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia Inc.'s Petition for Clarification with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely

Norman J. Kennard
Norman J. Kennard

NJK/lww

Enclosure

cc: Hon. Eranda Vero w/enc.
Hon. Arlene Ashton w/enc.
Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PGW's Answer to GFCP/VEPI Petition for Clarification, upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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Date: November 30, 2023

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	:	C-2023-3039059
Gas User Group	:	C-2023-3038727
Grays Ferry Cogeneration Partnership and	:	
Vicinity Energy Philadelphia, Inc.	:	
v.	:	
	:	
Philadelphia Gas Works	:	

PHILADELPHIA GAS WORKS' ANSWER TO PETITION FOR CLARIFICATION

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Dated: November 30, 2023

I. INTRODUCTION

Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. (collectively, "GFCP/VEPI") have filed a "Petition for Clarification" ("Petition"), as they describe it, seeking "confirmation of the 'character' of the ARS service the Commission intended and guidance on the price of the ARS service."[1] The issues for which "clarification" is sought are three, all of which relate to the ARS provisions of Rate GS-XLT:[2]

1. The conversion of Alternative Receipt Service ("ARS") to a capacity release program;
2. Removal of the minimum billable volumes for ARS; and
3. Lowering the ARS ceiling price.

Actually, GFCP/VEPI are seeking to introduce "new" or previously raised (and rejected) issues into the proceeding after the record has closed and the Commission, by unanimous vote, has decided the outcome. Granting "clarification" of any of these issues will increase other customers rates beyond the level contained in PGW's compliance filing of November 21, 2023, and would be grossly unreasonable and contrary to the public interest.

The issues GFCP/VEPI raise are not based on new information or a change in circumstances, the standard for any post-order petition for reconsideration, which is what GFCP/VEPI is really requesting. GFCP/VEPI, had every opportunity to raise these issues concerning capacity release and the ARS minimum bill prior to the close of the record, but GFCP/VEPI's Briefs and Exceptions were silent on these issues The final issue – the ceiling price for ARS Service – was addressed and the Commission ruled against GFCP/VEPI. The relief

[1] Petition at 2.

[2] Based on the Commission's grant of GFCP/VEPI's request that transportation service be interruptible, PGW has relabeled the tariff as "Interruptible Service Extra Large Transportation ("IT-XLT") in the compliance tariff filing submitted on November 21, 2023. Under PGW labeling conventions, general service is considered firm. For the sake of continuity of argument, however, this Answer employs the old name – GS-XLT.

sought is in the nature of reconsideration, not clarification, and GFCP/VEPI raise no new concerns that were not addressed by the Commission or that could not have been made on the record of the case and presented in Briefs and Exceptions.

Accordingly, GFCP/VEPI's Petition should be dismissed because it is legally flawed and fails to meet the Commission's standard for clarification under 52 Pa. Code § 5.572 and if granted, would produce unjust and unreasonable results.

II. BACKGROUND

On November 9, 2023, the Commission issued its Opinion and Order ("Order") in this proceeding. On the four exceptions filed by GFCP/VEPI,[3] the Commission ruled as follows:

> **Transport Rate:** "Therefore, we decline to reduce the costs attributed to PGW's service to Vicinity. Accordingly, we shall deny Vicinity's Exception No. 1.[4]"
>
> **Surcharges:** ". . . imposition of the $3,287,979 related to the OPEB surcharge, upon Vicinity would be a drastic increase in the circumstances," granting Exception No. 2.[5]
>
> **ARS Rates:** "We agree with the ALJs' recommendation to adopt the ARS provision of Rate GS-XLT, as proposed by PGW" and Exception No. 3 was denied.[6] This approval included the rate floor and cap language of the proposed tariff as was expressly recognized and recommended for adoption by the ALJs.[7]
>
> **Quality of Service:** "Accordingly, we shall grant Vicinity's Exception No. 4. We further direct . . . that the conditions for interruptible service set forth in PGW's Rate IT should be incorporated in addition to the proposed terms for Rate GS-XLT."[8]

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[3] GFCP/VEPI's Exceptions were limited to four issues: (1) Transportation rate cost of service; (2) Application of surcharges; (3) The price for ARS service; and (4) Whether transport service should be firm or interruptible. *See generally* GFCP/VEPI Exceptions.

[4] Order at 176; *see also id.* at 181.

[5] *Id.* at 187.

[6] *Id.* at 191.

[7] Recommended Decision at 103. ("We recommend that the Commission approve the ARS provision of Rate GS-XLT as proposed by PGW. The proposal is fair to all parties. On one hand, GFCP/VEPI will pay, at minimum, PGW's cost to obtain the TETCO capacity they need at the pipeline's tariffed rate but only for the volumes that they use… In addition, they have the advantage of potentially receiving more if the competitive markets are willing to pay a higher price.").

[8] Order at 178.

GFCP/VEPI's Petition raises issues relating to their Exception No. 3 (ARS Pricing) and the Commission's Order which expressly adopted "the ARS provision of Rate GS-XLT, ***as proposed by PGW***."[9]

III. <u>LEGAL STANDARD</u>

The standards for granting a petition for clarification were set forth in *Duick*.[10] Such petitions are likely to succeed only when they raise "new and novel arguments" not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission.[11]

However, the Commission will not clarify or reconsider its previous decision based on arguments that have already been made or that could have been made but were not.[12] The *Duick* standard does not permit GFCP/VEPI to raise questions considered and decided below such that the petitioner obtains a second opportunity to argue properly settled matters.[13] Nor can arguments be made which were not presented and, thus, waived.

When evaluating the new or novel argument, or overlooked consideration, the Commission will not necessarily modify its prior decision just because a party offers a new or novel argument or identifies a consideration that was overlooked or not addressed by the Commission in its

[9] *Id.* at 191 (Emphasis added).

[10] *Duick v. Pennsylvania Gas and Water Co.,* 56 Pa. PUC 553 (1982); *see also Petition of PECO Energy Co.*, Docket No. P-2009-2143607, 2010 Pa. PUC LEXIS 1768 at *5 (Opinion and Order entered Aug. 24, 2010) ("A petition for clarification must meet the same standard as a petition for reconsideration." (citations omitted)).

[11] *Duick*, 56 Pa. PUC at 559.

[12] *See Petition of the Pennsylvania Office of Consumer Advocate for Clarification and Reconsideration of the Pennsylvania Public Utility Commission's Supplemental Implementation Order entered October 27, 2022*, Docket No. M-2012-2293611, 2023 Pa. PUC LEXIS 54, at *10 (Order entered Mar. 2, 2023).

[13] *Duick*, 56 Pa. PUC at 559 (quoting *Pennsylvania Railroad Co. v. Pennsylvania Public Service Commission*, 179 A. 850, 854 (Pa. Super. Ct. 1935) ("Parties . . ., cannot be permitted [a second opportunity] . . ., to raise the same questions which were specifically considered and decided against them.").

previous order.[14] There must be a sufficient basis for the Commission to exercise its discretion to amend or rescind a prior order.[15]

IV. ARGUMENT

A. Use of Underlying Capacity

GFCP/VEPI first contend that, because the Commission approved a market-based ceiling price for ARS, the Commission also "must have intended" that GFCP/VEPI have the full use of that capacity as if it had been fully released into Texas Eastern Transmission's ("TETCO") secondary capacity market regulated by the Federal Energy Regulatory Commission ("FERC").[16] This argument should be rejected for multiple reasons.

First, GFCP/VEPI's arguments are not "new or novel" in this proceeding. Capacity release was expressly raised within their Exception No. 3.[17] Specifically, GFCP/VEPI asserted that the ARS pricing language in the now-approved Rate GS-XLT requires GFCP/VEPI "to pay for the long-haul capacity but only be entitled to use the short-haul capacity."[18] GFCP/VEPI further claimed in their Exceptions that "PGW's proposal creates a mechanism for PGW to effectively

[14] *Interstate Gas Supply, Inc., et al. v. Metropolitan Edison Company, et al.,* PUC Docket Nos. C-2019-3013805; C-2019-3013806; C-2019-3013807; C-2019-3013808, Opinion and Order on Reconsideration dated April 14, 2022, *affirmed*, 298 A.3d 1181 (Pa. Cmwlth. April 28, 2023) (PUC did not abuse its discretion in denying suppliers' request for reconsideration).

[15] *See Petition of the Pennsylvania Office of Consumer Advocate for Clarification and Reconsideration of the Pennsylvania Public Utility Commission's Supplemental Implementation Order entered October 27, 2022*, Docket No. M-2012-2293611, 2023 Pa. PUC LEXIS 54, at *10–11 (Order entered Mar. 2, 2023) (holding that a petition for clarification "should only be granted judiciously and under appropriate circumstances because such an action results in the disturbance of a final order" (citing *West Penn Power Co. v. Pa. Pub. Util. Comm'n*, 659 A.2d 1055, 1065 (Pa. Commw. Ct. 1995)).

[16] Petition at 2–3.

[17] GFCP/VEPI Exceptions at 20 (emphasis added) ("Vicinity's position is that it should pay the market price for the capacity, either at the lower price of the segmented capacity it uses, *or if Vicinity was able to use the full capacity rights*, at a market price - up to the full tariff price.").

[18] *Id.*

sell the long-haul capacity twice: once to Vicinity by mandating that it pay for capacity it cannot use under PGW's scheme and again on the open market."[19]

These are the exact same arguments GFCP/VEPI now raise in the Petition. There are no new, overlooked facts or law presented. Just the same old disagreements previously presented to the Commission. Therefore, GFCP/VEPI's arguments in their Petition that it should receive the long-haul capacity are not new or novel and violate the *Duick* standard.

GFCP/VEPI argue that, since "the Order is sparse on its rationale related to market pricing," they are entitled to speculate about the Commission's intent.[20] PGW disagrees with this characterization of the Order which clearly agrees with the ALJs and "adopt[s] the ARS provision of Rate GS-XLT, as proposed by PGW." Such a ruling is a clear rejection of any other method of ARS rate design and certainly not an "intended" adoption of capacity release. As the Order states:

> As we proceed in our review of the various positions of the Parties in this proceeding, we note that any issue or Exception that we do not specifically address shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties.[21]

Second, even were these arguments again considered on the merits, GFCP/VEPI have not established that the circumstances justify the disturbance of a final order. ARS has never been a capacity release program. It is a displacement service designed to accept receipt of GFCP/VEPI gas at one location and deliver it to another.[22] "Under ARS, GFCP/VEPI delivers gas to the 034

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[19] *Id.* at 20–21.

[20] GFCP/VEPI Exceptions at 3 (Footnote 4).

[21] Order at 15.

[22] "Alternative Receipt Service ("ARS") is a continuation of the displacement service that PGW has provided to GFCP/VEPI for the last twenty-five years and which they have stated elsewhere they would like to continue." PGW St. 6-SD at 4.

gate station and PGW makes the same quantities of gas available to GFCP/VEPI at Gate Station 060 . . . GFCP/VEPI have elsewhere stated that they wish for PGW to do so."[23]

PGW witness Reeves, on Direct testimony, explained ARS pricing as follows:

> PGW has consistently recognized the need to maximize value for the GCR customers, who pay for the capacity. However, ARS is a service, not a capacity release. Under ARS, GFCP/VEPI contract monthly for the volumes they require. Depending on winter weather conditions, GFCP/VEPI may not need the entire 21,000 Dth and the proposed ARS tariff does not require that they use it. This gives PGW the flexibility to deploy the unused portion itself or release it into the secondary market.[24]

GFCP/VEPI previously acknowledged that Rate GS-XLT, as proposed and recommended by the ALJs, does not release capacity.[25] Rather, GFCP/VEPI argued that the ARS rate should be set at the ridiculously low price of $0.10/Dth as it attempted to manipulate the market value of the capacity that underlies ARS.

Now, in the Petition, GFCP/VEPI argue that "as a matter of fairness," they should have "the full use of that capacity" which makes ARS possible.[26] Speculatively and without any support, GFCP/VEPI posit that "the Commission's Order intended that Vicinity . . . gets long-haul capacity" rights, and not ARS service.[27] There is no evidence in the Order of such an intent. Rather, the Order solely and expressly approved the maximum ARS rate as recommended by the ALJs.

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[23] PGW St. 8 at 2–3.

[24] PGW St. 8-R at 15 (presented in response to the OSBA position that ARS should be structured as a capacity release).

[25] GFCP/VEPI Exceptions at 19–20 ("ARS allows PGW to use its TETCO capacity contracts to provide winter deliverability of gas . . . without actually releasing the capacity to [GFCP/VEPI].").

[26] Petition at 2.

[27] *Id*. at 3.

GFCP/VEPI's last minute attempt to totally restructure ARS should be denied as it conflicts with other aspects of the tariff that were not contested and which are directly inapposite. For example, Rate GS-XLT expressly provides that: "PGW, at its discretion, may use such unclaimed ARS volumes up to the Maximum ARS Quantity, at its discretion, for another purpose."[28]

Moreover, the release of TETCO capacity raises serious jeopardy to PGW's gas supply. As Mr. Reeves testified:

> PGW cannot permanently release capacity to GFCP/VEPI on the Philadelphia Lateral is because, based on PGW's design day and design season analysis, permanent release of capacity at that level could result in system failures that would require PGW to curtail firm customer load (as well as interrupting all IT customers that receive pipeline deliveries on the Philadelphia Lateral).[29]

It would be unprecedented and unreasonable for a natural gas distribution company to be forced to give over the wholesale capacity that it might employ to provide a retail service to an end user customer such as Vicinity. The fact that the ARS service will be priced with reference to certain capacity purchases used by PGW does not transform this retail service into a capacity release.

There are also several legal infirmities also to GFCP/VEPI's proposal. GFCP/VEPI cannot dictate the terms of capacity release on TETCO. Nor can PGW. Under FERC rules, the capacity would be released to TETCO and then to GFCP/VEPI. The FERC's rules specifically state that Shippers (i.e., PGW) releasing capacity must do so "without restriction on the terms or conditions

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[28] Rate GS-XLT at 119 (Proposed) and Supplement No. 167 to Gas Service Tariff – Pa P.U.C. No. 2 (Compliance Tariff), Original Page No. 159. Also, the tariff states that: "The Alternative Receipt Service rights granted to Rate GS-XLT Customers pursuant to the Service shall not be assignable by Rate GS-XLT Customers, and any Gas delivered by PGW to the Facility pursuant to ARS shall be used only in the Facility." *Id*.

[29] PGW St. No. 8-R, Exh. RER-2 at 2–3. Allowing GFCP/VEPI to monthly order the full release of 21,000 Dth of daily TETCO capacity is tantamount to a "permanent release."

of the release."[30] The Commission should not order PGW to involuntarily release capacity to GFCP/VEPI that is essential to maintaining service reliability for PGW's customers. Nor does the Commission have the legal authority to force an involuntary sale of these invaluable contracts and assets, and GFCP/VEPI cite to none.

Nor would it be fair to other customers' rates to convert ARS into a capacity release transaction creating arbitrage opportunities for GFCP/VEPI. For example, the ARS ceiling pricing is based upon a twelve-month historic average. During the winter months, the market price will be higher than this average. When the price for capacity release is higher than ARS, GFCP/VEPI could order the full 21,000 Dth that ARS earmarks for their use and reap the financial benefit of the difference, denying the GCR customers the credits that they would otherwise receive were the capacity rights held by PGW and PGW was able to release the capacity.[31]

ARS is designed to provide the level of service that GFCP/VEPI need meet their own capacity shortfall and to run their operations, not to allow them to arbitrage the market with PGW's capacity rights. Any additional proceeds from capacity release should be realized by the GCR customers who otherwise pay all pipeline capacity costs.

B. Minimum ARS Volumes

GFCP/VEPI next ask the Commission to remove the minimum take provisions of the tariff "[i]n keeping with the Commission's Order's spirit…"[32]

First, the issue of minimum bill was never raised by GFCP/VEPI prior to its Petition. [33] GFCP/VEPI never discussed the proposed tariff provision in testimony. It was never raised in

[30] 18 C.F.R. § 284.8(b)(1).

[31] All capacity release revenues are credited to PGW's customers. PGW St. No. 8-R at 15–16.

[32] Petition at 4.

[33] Mr. Crist, witness for GFCP/VEPI, marked up the draft tariff and deleted the minimum volume (Exh. JC-7), but never explained why. The testimony itself never referenced the change, let alone supported it. In response Mr. Teme

GFCP/VEPI's briefs. When the tariff was recommended for approval by the ALJs "as filed by PGW," no exception was filed on this issue. It is now improperly raised under the fiction of a "clarification." Even if it was truly a request for "clarification" the Commission has stated that it will not grant petitions for clarification or reconsideration when a party fails to previously raise them (if they could raise them previously).[34] As a result, GFCP/VEPI have waived this argument.

Rate GS-XLT, since its original filing, has set a billing minimum of 5,000 Dth per day:

> The Minimum ARS Quantity provided by the Company shall be 5,000 Dth per day. The minimum monthly charge shall be the above rate times 5,000 Dth times the number of days in the month regardless of whether the Customer uses less. The Maximum ARS Quantity provided by the Company shall be 21,000 Dth/day.[35]

Minimum daily quantity billing is a common industry convention and there is nothing unusual or unfair about the practice. VEPI's own steam tariff maintains ratchets that "bill very high demand charges based upon the customer's highest steam demand for eight months of the year."[36] The Commission has previously approved for VEPI a peak minimum bill of 90%.[37] Here,

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testified that: "The minimum volumes are appropriate and should be retained for PGW gas planning purposes." PGW St. No. 6-R at 29. GFCP/VEPI never responded and, hence, PGW's position is the sole evidence of record.

[34] *See Merritt v. Duquesne Light Co.*, Docket No. F-2009-2122659, 2011 Pa. PUC LEXIS 1197, at *9–10 (Order entered Mar. 31, 2011) (quoting *Generic Investigation Regarding Transportation Assessments*, Docket No. I-2008-2022003 (Order entered August 26, 2008)); *Maslar v. PPL Elec. Util. Corp.*, Docket No. C-2018-3003075, 2020 Pa. PUC LEXIS 439, at *13–14 (Order entered Aug. 27, 2020); *In re: Merger Savings Remand Proceeding*, Docket No. R-00061366, et al., 2006 Pa. PUC LEXIS 727, at *245–46 (Order entered Oct. 31, 2006) ("When parties have been ordered to file briefs and fail to include all the issues they wish to have reviewed, the issues not briefed have been waived." (quoting *Jackson v. Kassab*, 812 A.2d 1233 (Pa. Super. Ct. 2002), *appeal denied*, 825 A.2d 1261 (2003); *Brown v. PA Dep't of Transportation*, 843 A.2d 429 (Pa. Commw. Ct. 2004), *appeal denied*, 863 A.2d 1149 (2004)).

[35] Rate GS-XLT at 118 (Proposed) and Supplement No. 167 to Gas Service Tariff – Pa P.U.C. No. 2 (Compliance Tariff), Original Page No. 158.

[36] Exh. FT-9 at 19.

[37] *See, e.g.*, *Petition of Trigen-Philadelphia Energy Corporation Under 52 Pa. Code § 5.41 for Approval of Economic Development and Load Stabilization Rider Agreement and Related Operations and Maintenance Agreement,* Docket No. P-2010-2185173, 2010 Pa. PUC LEXIS 1991, at *6–7 (Order entered Dec. 16, 2010) ("The Amended Agreement provides that Penn [*Pennsylvania University*] will continue to purchase steam from [Vicinity predecessor], and *must use or pay for at least 1,120,000 Mlbs*. annually … An additional provision included in the Amended Agreement will require Penn to purchase *90% of its current average summer steam load*." (emphasis added)).

PGW's minimum ARS charge will equal less than 24% of the peak GFCP/VEPI's ARS demand.[38] Establishing a minimum daily quantity assures that there will be some compensation if PGW is required to hold off releasing capacity that it otherwise could release because it has to stand ready to use it to provide this retail service to GFCP/VEPI. The minimum take requirement is reasonable.

The Rate GS-XLT tariff rules proposed by PGW are clear and unmistakable. There is no "clarification" required. Nor, given the unambiguous nature of the tariff, is there any basis to claim that there might be a different interpretation. There is no unfairness, where VEPI maintains minimum bills to its customers also, albeit at much higher levels.

C. ARS Ceiling Pricing

Thirdly, GFCP/VEPI contend that "there is no mechanism in the draft PGW tariff to ensure transparency or fairness."[39] GFCP/VEPI postulate that "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)."[40]

The proposed Rate GS-XLT tariff has always established a clear delineation of a minimum and maximum rate for ARS:

> Rate GS-XLT Customers shall pay PGW a rate per Dth equal to the greater of (1) **average revenue per Dth received by the Company from all releases**, excluding choice capacity releases and asset management agreement associated release, **of recallable capacity on Texas Eastern Transmission** ("TETCO") **during PGW's prior fiscal year**, which shall be annually updated by PGW with the

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[38] 5,000 Dth/21,000 Dth.

[39] Petition at 4–5.

[40] Petition at 4.

> Commission by September 15 of each year following; or (2) the max TETCO tariff rate.[41]

This language was expressly approved by the ALJs and the Commission.

As to GFCP/VEPI first point, the issue of verifying the capacity release figures filed by PGW, as with all prior issues now raised, was never in testimony, in brief, or in exceptions. GFCP/VEPI previously argued over the *price* for ARS, but never the source of the information or the manner in which it is reported. By failing to raise this argument previously in this proceeding, GFCP/VEPI waived its ability to raise these arguments after the Commission's Order.[42]

Nor is there a basis for such concern. PGW's tariff compliance filing made on November 21, 2023, calculated an ARS ceiling rate of \$0.7881/Mcf (\$0.7622/Dth) based on the historic information for the period ending August 30, 2023.[43] The compliance filing contains a separate document which identifies the details of the specific transactions on TETCO that form the rate.[44] PGW intends that this same information will be filed in each year, as required by the tariff. This same release data is annually included in the GCR filing,[45] the veracity of which has never been questioned or challenged, because PGW accurately reports and calculate the historic release transactions. If GFCP/VEPI wish to verify the numbers themselves, they have access to the TETCO data and are free to independently confirm them.

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[41] Rate GS-XLT at 118 (Proposed) and Supplement No. 167 to Gas Service Tariff – Pa P.U.C. No. 2 (Compliance Tariff), Original Page No. 158 (Emphasis added).

[42] *See supra* note 32.

[43] Supporting Schedules PGW 2023 Compliance Tariff Supplements filed on November 21, 2023.

[44] PGW 2023 Rate Case Compliance Tariff Supporting Schedule: Capacity Releases for ARS Calculation filed on November 21, 2023.

[45] 52 Pa.Code § 53.64(c)(7) ("A list of off system sales, including transportation, storage or capacity releases by the utility at less than the weighted average price of gas, or at less than the original contract cost of transportation, storage or capacity supplied to the utility for its own customers.")

As to GFCP/VEPI's second point, the ALJs and the Commission clearly adopted the above recited tariff language that calculates the ceiling rate based upon "***all releases***, excluding choice capacity releases and asset management agreement associated release, ***of recallable capacity on Texas Eastern Transmission***. . . ."

Arguing that "limiting the comparison sales to those that are substantially similar to Vicinity's usages (i.e., similar quantum and similar point of release)" as GFCP/VEPI request on "clarification" is simply a cynical attempt to relitigate an issue clearly resolved by the Commission's Order (without ever flagging that intention). GFCP/VEPI's prior suggestion that releases should be selectively curated based upon GFCP/VEPI's location and point of release were rejected by both the ALJs and the Commission.[46]

GFCP/VEPI raise no new evidence to warrant the Commission's reconsideration. The Petition argues no fact and cites no law that justify the Commission changing its mind. It is a mere request, stated with no argument or support. This grossly fails the *Duick* test.

As PGW has previously explained, the location method used by GFCP/VEPI to drive down the price of ARS to $.10/ Dth is flawed and self-serving.[47] The resulting ARS revenues would be a paltry $0.4 million per year, well below the cost borne by GCR customers of $2,298,920 for the capacity that underlies ARS.[48]

GFCP/VEPI's position would require PGW to break up its long haul TETCO contracts in order that GFCP/VEPI may only use the most valuable segment. PGW witness Mr. Reeves

[46] GFCP/VEPI Exceptions at 19–22. (Exception No. 3).

[47] PGW MB at 64–65. The $0.10/Dth claim comes from a rate paid by Paulsboro Refinery for a single winter release last year; it was not a competitively determined rate, since GFCP/VEPI do not bid on capacity, but chose to rely upon ARS instead. One customer's bid does not set the market. "By refusing to bid, GFCP/VEPI have prevented a competitive market price from emerging." PGW St. No. 8-R at 13. For this reason, setting the rate on this single bid would be grossly unreasonable.

[48] PGW MB at 64.

summarized the arrangement thusly: "By offering $0.10 per DTH to use the most valuable portion of our TETCO capacity contract, GFCP/VEPI's proposal leaves our customers on the hook for making up the difference."[49] The position is akin to demanding to rent only the front seat of a car and leaving the costs of the backseat for the owner to pick up.

The ALJs, after a thorough review of the evidence and parties' positions, rightly concluded that the tariff should be approved, including the calculation of the ceiling:

> We recommend that the Commission approve the ARS provision of Rate GS-XLT as proposed by PGW… On one hand, GFCP/VEPI will pay, at minimum, PGW's cost to obtain the TETCO capacity they need at the pipeline's tariffed rate but only for the volumes that they use. GFCP/VEPI can continue to avoid the secondary market and do not have to burn more expensive oil to fire Vicinity's boilers. They do not have to pursue demand management or other techniques to control their natural gas usage. The price is substantially less than GFCP/VEPI was prepared to pay in the GCR case [of $0.80]. On the other hand, ***PGW's other customers*** are assured that PGW will recover the cost of the TETCO capacity required for the ARS without subsidizing the cost of gas supplied to GFCP/VEPI via the ARS. In addition, they ***have the advantage of potentially receiving more if the competitive markets are willing to pay a higher price***.[50]

The Commission's Order states: "***We agree with the ALJs' recommendation to adopt the ARS provision of Rate GS-XLT, as proposed by PGW***" because it "is fair to all Parties."[51]

GFCP/VEPI have offered nothing new that would change these conclusions.

V. <u>CONCLUSION</u>

In essence, GFCP/VEPI ask the Commission to reverse or add additional rulings to its November 9, 2023, Opinion and Order on a number of points relating to ARS. The issues raised

[49] PGW St. No. 8-R at 14.

[50] RD at 103 (emphasis added).

[51] Order at 191 (emphasis added).

by GFCP/VEPI have either been fully argued and resolved, or never raised and, thus, waived. This is not "clarification." Because every position taken in GFCP/VEPI's Petition fails to meet the *Duick* standard for clarification and reconsideration, and the requested "clarifications" would produce unjust and unreasonable results that would be contrary to the public interest the Commission should deny the Petition.

Respectfully submitted,

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