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December 4, 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") Replies to Exceptions of Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. ("GFCEP/VEPI") to the Compliance Filing submitted by PGW on November 21, 2023. Copies are served in accordance with the attached Certificate of Service.

As the Commission is aware, the only Exceptions that have been filed are those of GFCEP/VEPI, to which the attached document replies. PGW is authorized to represent that the OCA, OSBA and I&E, the only other parties participating on GFCEP/VEPI issues in the proceeding, will not be filing Replies of their own. Therefore, the pleadings regarding compliance are complete and ready for decision.

We recognize that, under the terms of the Order and 66 Pa.C.S. § 1308, PGW will be authorized to start charging the new rates for service rendered on or after December 1, 2023. However, practically speaking, applying the new rates on a recoupment basis for the period between that date and the receipt of compliance approval letter will be very complicated, time consuming and not likely possible as a billing matter. Therefore, PGW will not receive the full benefit of the Commission's rate award.

Accordingly, PGW respectfully requests that a Secretarial Letter ruling on the exceptions and authorizing it to impose the rates, terms and conditions set forth in its compliance tariff be issued as soon as possible. Alternatively, PGW would request that it be authorized to put the

compliance rates, as filed on November 21, 2023, into effect subject to any subsequent revisions that might be directed.

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 Replies to Exceptions to the Compliance Filing, 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: December 4, 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 Gas User Group	:	C-2023-3039059
Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc.	:	C-2023-3038727
	:	
v.	:	
	:	
Philadelphia Gas Works	:	
	:	

**PHILADELPHIA GAS WORKS' REPLIES
TO EXCEPTIONS TO THE COMPLIANCE FILING**

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Dated: December 4, 2023

I. INTRODUCTION

Philadelphia Gas Works (“PGW”) submits these Replies to the Exceptions of Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. (collectively “GFCP/VEPI”) to Philadelphia Gas Works’ Compliance Filing (“Exceptions”) filed on December 1, 2023.

II. SUMMARY OF ARGUMENT

GFCP/VEPI’s Exceptions fail to identify any aspect whatsoever of PGW’s Compliance Filing that “deviates” from the Commission’s November 9, 2023 Opinion and Order (“Order”) and totally ignores the narrow scope of compliance review established in 52 Pa. Code § 5.592. Nowhere do GFCP/VEPI’s Exceptions acknowledge the applicable “strict” deviation standard, let alone allege any deficiency in PGW’s Compliance Tariff from the Order as required. Each and every argument made by them violates the rules of the compliance review and is an abuse of process.

Rather, GFCP/VEPI are simply continuing to argue their meritless positions already rejected by the Commission, address alterations to the Order made in their pending Petition for Clarification (Reconsideration), or raise new issues not previously presented anywhere in this proceeding. This is not the proper stage to raise issues on their merits. The sole consideration here is whether PGW’s Compliance Filing conforms with the Commission’s Order, which it does. Arguing about the merits of issues to gain more than the Order would allow or to reverse the Order is inappropriate. The Commission should deny GFCP/VEPI’s Exceptions and approve PGW’s Compliance Filing in its entirety.

III. BACKGROUND

The November 9, 2023, Order resolved GFCP/VEPI's¹ four exceptions to the ALJs' Recommended Decision ("RD") 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."²

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. 2.³

ARS Rates: "We agree with the ALJs' recommendation to adopt the ARS provision of Rate GS-XLT, as proposed by PGW" and GFCP/VEPI's Exception No. 3 was denied.⁴ This approval included the rate floor and cap language of the proposed tariff as was expressly recognized and recommended for adoption by the ALJs.⁵

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."⁶

On November 21, 2023, pursuant to Commission's Order, PGW filed Compliance Tariffs Supplement No. 167 to Gas Service Tariff – Pa. P.U.C. No. 2 and Supplement No. 110 to Supplier Tariff – Pa. P.U.C. No. 1 (the "Compliance Filing").

In all respects the Compliance Tariffs accurately and faithfully reflect the Commission's Order. The originally filed tariff applicable to GFCP/VEPI service⁷ has been revised to reflect the interruptible service as ordered by the Commission and relabeled "Interruptible Service Extra

¹ 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.

² Order at 176; *see also Id.* at 181.

³ *Id.* at 187.

⁴ *Id.* at 191.

⁵ RD 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.").

⁶ Order at 178.

⁷ For ease of comparison, a copy of the originally proposed Rate GS-XLT tariff is attached hereto as Appendix A. It is included in the record below as PGW Exh. FT-6.

Large Transportation – Rate IT-XLT (referred to as “Rate GS-XLT” during the case because it was proposed as firm service).⁸ The Rate IT-XLT surcharges have been revised to exclude the OPEB Surcharge and limit recovery of the Universal Service Surcharge. The Commission approved transportation rate has been included. The terms of Alternative Receipt Service were not changed, inasmuch as they were adopted by the Commission as proposed by PGW.

IV. LEGAL STANDARD FOR REVIEW OF COMPLIANCE TARIFF

Under 52 Pa. Code § 5.592(c), objections to tariff revisions contained in a compliance filing “shall be strictly limited in scope to the factual issue of alleged deviation from requirements of the Commission order.”⁹ As a result, the Commission will deny exceptions to compliance filings that are beyond the scope of the strict limitation in Section 5.592(c).¹⁰

Nor will the Commission entertain, as a compliance matter, arguments made on reconsideration or clarification.¹¹ GFCP/VEPI do exactly that -- argue the merits of their pending Petition for Clarification in these Exceptions, which is an inappropriate practice that has been previously rejected by the Commission.¹²

⁸ 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”). Under PGW tariff labeling conventions, general service is considered firm.

⁹ 52 Pa. Code § 5.592(c).

¹⁰ See, e.g., *Pa. Pub. Util. Comm’n v. Columbia Water Co.*, Docket No. R-2013-2360798, *et al.*, 2014 WL 978288 (Pa.P.U.C.), at *6 (Opinion and Order entered Mar. 6, 2014); *Pa. Pub. Util. Comm’n v. Columbia Gas of Pa., Inc.*, Docket No. R-00049783, *et al.*, 2006 Pa. PUC LEXIS 839, at *28–29 (Order entered July 21, 2006).

¹¹ On November 20, 2023, GFCP/VEPI filed a Petition for Clarification of the Commission’s Order (“Petition for Clarification”). PGW filed its Answer to GFCP/VEPI’s Petition for Clarification on November 30, 2023.

¹² *Columbia Water Co.*, 2014 WL 978288 (Pa.P.U.C.), at *6 (denying OCA’s exceptions because they “do not allege that the Compliance Filing deviates from the [Commission] Order” and “the Exceptions continue the same central arguments of the OCA’s Petition [for Reconsideration]”).

V. REPLY TO EXCEPTIONS

A. Exception No. 1 – Interruption Status of Transportation Service

GFCP/VEPI argued in this proceeding that their character of service should be interruptible in nature.¹³ In its Order, the Commission granted GFCP/VEPI's exception on this point,¹⁴ and directed PGW to incorporate the same terms of interruption applicable to all other transport customers:

We further direct, as requested by PGW, that because we determine that the character of PGW's service to Vicinity is interruptible, we therefore determine that the conditions for interruptible service set forth in PGW's Rate IT should be incorporated in addition to the proposed terms for Rate IT-XLT.¹⁵

Consistent with the Commission's directive in its Order, PGW incorporated the Rate IT terms and conditions into the Compliance Filing of Rate IT-XLT, *verbatim*. That is, the language PGW has inserted into Rate IT-XLT is taken directly, *word for word*, from PGW's Rate IT, as the Commission required in its Order.¹⁶

GFCP/VEPI's proposed limitations on the "interruptability" of Rate IT-XLT transportation service¹⁷ to make it "firmer" than Rate IT customers are not taken from PGW's Rate IT and, therefore, deviate from the Commission's Order. Limitation of interruption to circumstances where "service is not feasible as a result of operation [sic] issues to the service gates or pipeline that serve the Customer" or to "a maximum of fifteen (15) days per calendar year where the

¹³ See *Exceptions of Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc.*, Docket Nos. R-2023-3037933 and C-2023-3038727, at 22–24 (Sept. 15, 2023) ("Exception No. 4 – The RD's assertion that Vicinity's service is not and never was interruptible is error.").

¹⁴ Order at 178.

¹⁵ *Id.*

¹⁶ See PGW Gas Tariff – Pa P.U.C. No. 2 at Original Page No. 112 ("The Company may curtail (reduce) or interrupt deliveries to the Customer whenever, at the Company's sole discretion, it determines that the available capacity in all or a portion of its system is projected to be insufficient to meet the requirements of all Customers . . .").

¹⁷ GFCP/VEPI Exceptions at 3.

forecasted temperature is 25°F [sic] or less” is not part of the terms of Rate IT.¹⁸ GFCP/VEPI’s position on exceptions is simply an attempted revival of arguments previously made that were not adopted by the Commission.¹⁹ As a result, GFCP/VEPI’s Exception should be denied as required by 52 Pa. Code § 5.592(c).

B. Exception No. 2 – Transportation Volume

PGW’s proposed tariff for GFCP/VEPI has always contained a maximum transportation delivery obligation of 50,000 Dth/day.²⁰ GFCP/VEPI now demand, at the compliance stage, that it be increased to 60,000 Dth/day.²¹

GFCP/VEPI never previously complained about this cap on PGW’s legal obligation to deliver service anywhere in testimony, briefs, or exceptions. As a result, the Commission Order does not address this issue and there no such requirement. GFCP/VEPI’s exception would cause a deviation from the Order in violation of 52 Pa. Code § 5.592. To be clear, PGW will always make reasonable efforts to meet GFCP/VEPI’s requested demand; the Tariff merely sets forth the limits of its legal obligation.

C. Exception No. 3 – Alternative Receipt Service

GFCP/VEPI’s Exception No. 3 should be denied because Rate IT-XLT does not deviate from the Commission’s Order, which “adopts the ARS provision of Rate IT-XLT, *as proposed by PGW*.”²² GFCP/VEPI Exception No. 3 is simply an attempt to reiterate and incorporate arguments

¹⁸ GFCP/VEPI Exceptions, Exh. A at Original Page No. 157.

¹⁹ Nor have GFCP/VEPI requested reconsideration in their pending Petition.

²⁰ See PGW St. No. 6-SD, Exh. FT-6 at Second Revised Page No. 118.

²¹ GFCP/VEPI Exceptions at 4.

²² Order at 191 (emphasis added).

contained in their Petition for Clarification on several ARS issues and is not, in any way, “strictly limited in scope to the factual issue of alleged deviation from requirements of the Commission order.”²³ The ARS-related issues inappropriately raised by GFCP/VEPI are as follows:

1. Use of Underlying Capacity

GFCP/VEPI contend, echoing their Petition for Clarification, that if charged the full market capacity rate for ARS, then they should receive the full capacity rights.²⁴ This was not a part of Rate GS-XLT as “proposed by PGW” and was rejected when the Commission approved ARS as a tariffed service and not a capacity release program. GFCP/VEPI are attempting to change the Commission’s ruling in its Petition, but that is not appropriately resolved here.²⁵

2. Pricing for ARS

As proposed by PGW, ARS has always contained language establishing a clear delineation of minimum and maximum rates for ARS,²⁶ which language remains unchanged in PGW’s Compliance Filing. GFCP/VEPI contend that that the method of establishing the price of ARS “should be transparent, verifiable, challengeable, and based on sales of a similar nature”²⁷ and propose that PGW add language limiting comparison sales to releases of capacity to similar size as ARS at the same delivery point.²⁸ Again, this is a matter that was resolved by the Commission’s Order and which GFCP/VEPI are seeking to reverse in their Petition of Clarification.

²³ 52 Pa. Code § 5.592(c).

²⁴ GFCP/VEPI Exceptions at 4.

²⁵ *Columbia Water Co.*, 2014 WL 978288 (Pa.P.U.C.), at *6.

²⁶ See PGW St. No. 6-SD, Exh. FT-6 at First Revised Page No. 119.

²⁷ GFCP/VEPI Exceptions at 4.

²⁸ GFCP/VEPI Exceptions, Exh. A at Original Page No. 158 (“Rate IT-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 of capacity of similar size to Customer’s ARS usage with the receipt point in TETCO zone M-3 and delivery point at any meter on the Philadelphia Lateral, excluding choice capacity releases and asset management agreement associated release, of

Because the Commission adopted “the ARS provision of Rate IT-XLT, *as proposed by PGW*,”²⁹ PGW’s compliance filing does not deviate from the Commission’s Order.³⁰

3. Minimum ARS Quantity and Minimum Monthly Charge

GFCP/VEPI assert that the 5,000 Dth/day Minimum ARS Quantity contained in Rate IT-XLT be replaced with “0” Dth, so that they have no obligation to take the service that PGW is required to set aside for them.³¹ Relatedly, GFCP/VEPI also struck the minimum monthly charge provision.³² These are issues raised in the pending Petition for Clarification.

The originally proposed Rate IT-XLT specifically included the 5,000 Dth Minimum ARS Quantity and minimum monthly charge language.³³ Because the Commission’s Order adopts “the ARS provision of Rate IT-XLT, *as proposed by PGW*,”³⁴ PGW’s Compliance Filing contained the Minimum ARS Quantity provision identical to that in the draft Rate GS-XLT originally proposed. PGW’s Rate IT-XLT, therefore, is in compliance with the Commission’s Order. GFCP/VEPI do not allege that the Compliance Filing is a “deviation from requirements of the Commission order” under the applicable standard of 52 Pa. Code § 5.592(c). They just now have decided that they do

recallable capacity on Texas Eastern Transmission (“TETCO”) during PGW’s prior fiscal year, which shall be annually updated by PGW with the Commission in a special proceeding in which Customer may participate by September 15 of each year following.”). These redlined additions must be rejected.

²⁹ Order at 191.

³⁰ GFCP/VEPI’s proposed revisions to Rate GS-XLT related to this Exception are, in fact, deviations from the requirements in the Commission’s Order.

³¹ GFCP/VEPI Exceptions, Exh. A at Original Page Nos. 158, 161.

³² *Id.*

³³ See PGW St. No. 6-SD, Exh. FT-6 at First Revised Page No. 119 (“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.”). As Mr. Teme testified for PGW: “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 Order at 191 (emphasis added).

not want to be subject to a minimum. Indeed, to make the change sought by GFCP/VEPI would violate the rule.

4. Notice For Monthly ARS Nominations

GFCP/VEPI, for the first time in this proceeding, now raise an issue with the ARS nomination language in Rate IT-XLT and recommend drastically reducing the notice required to initiate ARS from 30 days to 42 hours.³⁵ GFCP/VEPI advocate completely rewriting the ARS notice provision in the compliance Rate IT-XLT.³⁶

PGW's originally proposed tariff language for Rate IT-XLT included both the 30-day notice and nomination language now excepted to by GFCP/VEPI.³⁷ GFCP/VEPI have never previously contested this notice language, not in their various rounds of testimony, briefs, or exceptions. Nor is it raised in GFCP/VEPI's Petition for Clarification.³⁸ The argument is improperly raised after the close of the record and in the compliance stage.

Once again, the Commission's Order adopts "the ARS provision of Rate IT-XLT, *as proposed by PGW.*"³⁹ The monthly notice and nomination process for ARS in the Rate IT-XLT complies because it contains identical language to the Rate IT-XLT that was originally proposed.⁴⁰

³⁵ GFCP/VEPI Exceptions at 5; *see also id.*, Exh. A at Original Page No. 159.

³⁶ *See* GFCP/VEPI Exceptions, Exh. A at Original Page No. 159.

³⁷ *See* PGW St. No. 6-SD, Exh. FT-6 at First Revised Page No. 119 ("ARS, as described above, is a displacement service. Rate GS-XLT Customers are obligated to notify PGW thirty (30) days in advance of the first of every month they will accept ARS service of the volume of ARS they are accepting for the entire month up to the Maximum ARS Quantity without adjustment throughout the month. PGW, at its discretion, may use such unclaimed ARS volume's up to the Maximum ARS Quantity, at its discretion, for another purpose.").

³⁸ In their Petition for Clarification, GFCP/VEPI merely state that "the nomination process for ARS should mirror the nomination process for any other market transaction for release capacity," without any further elaboration or clarification. *See* GFCP/VEPI Petition for Clarification at 5.

³⁹ Order at 191.

⁴⁰ *See* PGW St. No. 6-SD, Exh. FT-6 at First Revised Page No. 119.

Accordingly, the Commission should deny GFCP/VEPI's Exception on this issue because they fail to "allege[] deviation from requirements of the Commission order."⁴¹

D. Exception No. 4 – Balancing and LAUF

In Exception No. 4, GFCP/VEPI argue that "[t]here should be no balancing and unaccounted for gas requirements imposed by PGW,"⁴² an argument GFCP/VEPI made earlier in testimony, but which then was discontinued.

GFCP/VEPI raised these arguments in their Direct Testimony which attached a similar revision to PGW's proposed tariff.⁴³ The contested nature of this issue ceased when PGW witness Reeves demonstrated in his Rebuttal Testimony that the same balancing charges and lost and unaccounted for ("LAUF") gas requirements are imposed upon all other transportation customers, but, under the Rate GS-XLT tariff language, would not apply to GFCP/VEPI so long as they remain the only customers taking service off of PGW's Four Mile Line.⁴⁴ However, Mr. Reeves accurately described the tariff language to state that "if additional customers are served off of Gate Station 060 then, upon 30 days' notice, balancing [and LAUF] rules will become applicable."⁴⁵

GFCP/VEPI's witness described these concerns as "valid,"⁴⁶ and GFCP/VEPI discontinued their arguments about balancing and LAUF, which were never briefed or the subject of exceptions.

⁴¹ 52 Pa. Code § 5.592(c).

⁴² GFCP/VEPI Exceptions at 6. Similarly, GFCP/VEPI propose revisions to Rate IT-XLT that remove any obligation of customers taking service under Rate IT-XLT to pay for lost and unaccounted for ("LAUF") gas and pay for imbalance charges in Paragraphs 3 and 5 of the Conditions of Use, respectively. *See* GFCP/VEPI Exceptions, Exh. A at Original Page No. 161.

⁴³ *See* GFCP/VEPI St. JC-1 at 17–18; *see also id.*, Exh. JC-7 at First Revised Page No. 121.

⁴⁴ PGW St. No. 8-R at 3-6.

⁴⁵ *Id.* at 4.

⁴⁶ GFCP/VEPI St. No. 1-SR at 21.

Therefore, the Commission Order does not address these concerns.⁴⁷ GFCEP/VEPI fail to “allege[] deviation from requirements of the Commission order” as required by 52 Pa. Code § 5.592(c). For these reasons, the Commission should deny GFCEP/VEPI’s Exception No. 4.

E. GFCEP/VEPI’s Further Tariff Edits Not Explained in the Exceptions

Buried within the edited tariff presented by GFCEP/VEPI as Exhibit A are several additional changes that are not identified or explained in the body of the Exceptions.

1. Actual vs. Max TETCO Rate as ARS Floor

Without any explanation, GFCEP/VEPI Exhibit A tariff propose that the lower bound of the ARS rate be changed from the “max” TETCO tariff rate to the “actual” TETCO tariff rate and add “for the transportation path used.”⁴⁸

Rate IT-XLT, as originally proposed by PGW, identified the “max” TETCO tariff rate as the floor for the ARS rate.⁴⁹ The “max” TETCO tariff rate as set forth in TETCO’s FERC tariffs, was the term used throughout the proceeding and was never contested. Rate IT-XLT included in PGW’s Compliance Filing contains the same ARS rate language found in the proposed Rate GS-XLT.

Because the Commission adopted “the ARS provision of Rate IT-XLT, *as proposed by PGW*,”⁵⁰ PGW’s Compliance Filing does not deviate from the requirements in the Commission’s

⁴⁷ GFCEP/VEPI claim that the balancing and LAUF provisions run counter to the Commission’s discussion on the entirely different topic of ARS. GFCEP/VEPI Exceptions at 6; *see* Order at 187–193. The Commission’s discussion of ARS contains no express or implied requirement that PGW remove balancing charges or LAUF gas losses from Paragraphs 3 and 5 of the Conditions of Use in the Rate IT-XLT Compliance Filing.

⁴⁸ GFCEP/VEPI Exceptions, Exh. A at Original Page No. 158 (“ . . . or (2) the ~~max~~ actual TETCO tariff rate for the transportation path used”).

⁴⁹ *See* PGW St. No. 6-SD, Exh. FT-6 at First Revised Page No. 119.

⁵⁰ Order at 191 (emphasis added).

Order. GFCP/VEPI's Exception should, therefore, be denied for going beyond the scope of issues permitted in exceptions to compliance filings under 52 Pa. Code § 5.592(c).

2. Challenges to Annual ARS Report

GFCP/VEPI propose additional tariff language to require that the annual filing of PGW's TETCO release transactions that form the ARS ceiling rate be subject to "a special proceeding in which Customer may participate."⁵¹ This issue was not, prior to GFCP/VEPI's compliance exceptions, previously raised.

As previously noted, the Commission's Order adopts "the ARS provision of Rate IT-XLT, *as proposed by PGW.*"⁵² This ARS rate language in the originally proposed Rate GS-XLT was not changed in PGW's compliance filing.⁵³

PGW's compliance filing does not deviate from the Commission's Order, nor does GFCP/VEPI allege any deviation.⁵⁴ The Commission, therefore, should deny GFCP/VEPI's Exception.

3. Definition of "Gate Station 060"

In Exhibit A to their Exceptions, GFCP/VEPI revise the definition of "Gate Station 060" in the ARS provision of Rate IT-XLT.⁵⁵

⁵¹ GFCP/VEPI Exceptions, Exh. A at Original Page No. 158 ("... which shall be annually updated by PGW with the Commission in a special proceeding in which Customer may participate by September 15 of each year following").

⁵² Order at 191.

⁵³ Compare PGW St. No. 6-SD, Exh. FT-6 at First Revised Page No. 119, with Supplement No. 167 to Gas Service Tariff – Pa. P.U.C. No. 2 at Original Page No. 158.

⁵⁴ See 52 Pa. Code § 5.592(c).

⁵⁵ GFCP/VEPI Exceptions, Exh. A at Original Page No. 159 ("'Gate Station 060' shall mean the new gate station, referred to by TETCO as Point of Delivery No. 73060, to be installed pursuant to the TETCO Precedent Agreement located at near the interconnection of the PGW Liquids high-pressure pPipeline and the TETCO Philadelphia Lateral.").

GFCP/VEPI provide no explanation for this proposed revision. Nor do GFCP/VEPI allege that the definition of Gate Station 060 in Rate IT-XLT in PGW's Compliance Filing deviates from the requirements in the Commission's Order, which it does not.⁵⁶ As a result, the Exceptions are not "strictly limited in scope to the factual issue of alleged deviation from requirements of the Commission order" as required by 52 Pa. Code § 5.592 and should be dismissed.

4. Change to Minimum Annual Quantity

The Exhibit A tariff appended to GFCP/VEPI's Exceptions, also without explanation, reduces the "minimum annual quantity" from 9 Bcf to 6 Bcf.⁵⁷ This is the first time that GFCP/VEPI are raising this issue. It was not a subject addressed in the Commission's Order. Reducing the quantity would be a deviation from the Commission's Order in violation of 52 Pa. Code § 5.592 and should be dismissed.

VI. CONCLUSION

GFCP/VEPI's Exceptions are simply a collateral attack on the Commission's Order of November 9, 2023. The arguments made are in clear disregard of the standard established by the plain language of 52 Pa. Code § 5.592, which strictly limits exceptions to compliance filings "in scope to the factual issue of alleged deviation from requirements of the Commission order." GFCP/VEPI neither sufficiently allege that, nor actually identify, any part of PGW's compliance

⁵⁶ As repeatedly explained herein, the ARS provisions of Rate GS-XLT in the Compliance Filing are identical to the ARS provisions in PGW's proposed Rate GS-XLT. Therefore, the ARS provisions of Rate GS-XLT in the Compliance Filing do not deviate in any way from the Commission's Order, which "adopts the ARS provision of Rate GS-XLT, as proposed by PGW." Order at 191 (emphasis added).

⁵⁷ See GFCP/VEPI Exceptions, Exh. A at Original Page No. 157 ("This Rate IT-XLT is only available to Customer(s) whose natural gas throughput to its Facilities on the PGW system is greater than 6 ~~9~~ Bcf annually...") and Page No. 158 ("Minimum annual quantity is ~~9~~ 6 Bcf.").

filing that deviates from requirements in the Commission's Order. As a result, the Commission should deny GFCP/VEPI's Exceptions and approve PGW's Compliance Filing.

Respectfully submitted,

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Dated: December 4, 2023

Appendix A

PHILADELPHIA GAS WORKS

GENERAL SERVICE EXTRA LARGE TRANSPORTATION - RATE GS-XLT

AVAILABILITY

This Rate GS-XLT is only available to Customer(s) who share a common point of interconnection that collectively consumes gas and whose natural gas throughput to its Facilities on the PGW system is greater than 9 Bcf annually or, if a new customer, that can demonstrate to the Company's satisfaction such future use and throughput.

The term "Facilities" means the gas burning equipment of the Customers. Facilities that operate in a coordinated fashion among affiliated (commonly owned) entities on a contiguous parcel of land and receive service through a common point of interconnection shall be treated as a single customer for purposes of this rate schedule.

CHARACTER OF SERVICE

Transportation Service under this rate schedule is firm and shall be interrupted only in cases of operating emergencies experienced by the Company or instances of Force Majeure. The Company assumes no liability for interruptions caused by failure of supply sources or upstream transportation by third parties and shall not be obligated to deliver Gas under this rate schedule on any day that Gas is not received at its gate station for the Customer's account.

MONTHLY RATE

The Monthly Charge shall be the sum of the following:

1. **CUSTOMER CHARGE:** \$1,100.00 per month per meter.
2. **LOCAL GAS TRANSPORTATION SERVICE:**

"Local Gas Transportation Service" shall mean the local Gas transportation service provided by the Company, pursuant to this Rate GS-XLT, from Gate Station 060 to the Facility metering station.

PGW will provide firm non-interruptible Local Gas Transportation Service to the Customer's Facility for up to 50,000 Dekatherms per Day. Customer, at PGW discretion, may balance its daily purchases, nominations, and deliveries in the interstate pipeline(s) and PGW shall have no responsibility for banking or balancing Customer's transportation deliveries.

The Local Gas Transportation Charge shall be an amount equal to \$0.11067 per Dth, as measured by PGW at the Customer's metering station(s).

The Customer shall reimburse Company for any expense actually incurred for Customer's benefit from third party sources in the provision of this Service, such as directly assignable taxes, pipeline balancing penalties, governmentally imposed charges, and contingent liability for external transportation charges and fuel requirements. Additionally, for existing Customers, any unavoidable Gas supply costs (e.g., pipeline demand charges) incurred on the Customer's behalf. Such charges shall be in addition to charges specified elsewhere in this Rate GS-XLT. Minimum annual quantity is 9 Bcf.

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3. **ALTERNATIVE RECEIPT SERVICE**

Rate GS-XLT Customers shall pay PGW a rate per Dth equal to the greater of (1) the 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 Commission by September 15 of each year following; or (2) the max TETCO tariff rate. 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.

Definitions Relevant to ARS

"Day" shall mean a period of time consisting of twenty-four hours and including the solar day and the night.

"Gate Station 060" shall mean the new gate station, referred to by TETCO as Point of Delivery No. 73060, to be installed pursuant to the TETCO Precedent Agreement near the interconnection of the PGW Liquids Pipeline and the TETCO Philadelphia Lateral.

"Gate Station 034" shall mean the gate station, referred to by TETCO as Point of Delivery No. 70034, located at an interconnection of PGW's distribution system and TETCO's pipeline system in Montgomery County, Pennsylvania.

"Maximum ARS Quantity" shall mean 21,000 Dth of gas daily; provided.

Description of ARS

PGW will, (i) accept at PGW's facilities at the outlet of Gate Station 034 delivery of a quantity in Dth of Gas nominated by the Rate GS-XLT Customer and actually delivered by TETCO (the "ARS Quantity") for such Day up to the Maximum ARS Quantity for such Day, and (ii) in exchange for such Gas, deliver to PGW's facilities at the outlet of Gate Station 060 on such Day a quantity of Gas in Dth equal to the ARS Quantity for such Day; provided however, that at its election, PGW shall be excused from its ARS obligations on any Day.

ARS, as described above, is a displacement service. Rate GS-XLT Customers are obligated to notify PGW thirty (30) days in advance of the first of every month they will accept ARS service of the volume of ARS they are accepting for the entire month up to the Maximum ARS Quantity without adjustment throughout the month. PGW, at its discretion, may use such unclaimed ARS volume's up to the Maximum ARS Quantity, at its discretion, for another purpose.

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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.

4. **SALES SERVICE:**

PGW will make Sales Service available to the Customer on a "best efforts" basis solely for use at the Customer's Facility, Rate GS-XLT Customers acknowledge that, from time to time on any given day, a request for Sales Service may be denied or limited by PGW in its sole judgment for economic or operational reasons.

The rate for such service shall be composed of a transportation component and a commodity component, as follows:

Transportation component:	The lowest applicable Interruptible Service Rate
Commodity component:	The current GCR Rate per Dth

For purposes of calculating Sales Service and transportation quantities, the first Gas recorded through the meters at the Facility Delivery Point on each Day for which Sales Service Gas has been nominated shall be considered Sales Service Gas.

5. **SURCHARGES**

The Universal Service and Energy Conservation Surcharge; the Efficiency Cost Recovery Surcharge; Other Post Employment Benefit Surcharge; and Distribution System Improvement Charge shall apply to the Local Gas Transportation Service applied under this Rate GS-XLT.

6. **MINIMUM MONTHLY CHARGE:**

The minimum monthly charge shall be the Customer Charge per meter, and the minimum monthly ARS charge.

TERMS OF PAYMENT

Bills will be rendered and payment terms applied in accordance with this Tariff.

CONDITIONS OF USE

1. The Company shall not be obligated to incur the cost of additional facilities to provide Transportation Service hereunder for existing load. Nonetheless, in the event the Company elects to provide additional facilities, which in the Company's sole judgment are required to provide Transportation Service, the cost of such facilities shall be the responsibility of the Customer. Customers may appeal the Company's judgment to the Commission. The Company shall provide, install, own and maintain such facilities. Where applicable, extensions and enlargements of Gas supply facilities for qualifying new load shall be in accordance with Section 10.

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2. The Customer warrants and will provide satisfactory documentation, upon request, that it has good and merchantable title for all Gas delivered to the Company for transportation hereunder. Title shall be free and clear of all liens, encumbrances and claims whatsoever. Customer will indemnify Company and hold the Company harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising out of the adverse claims of any or all persons to said Gas and/or to royalties, taxes, license fees or charges thereon, including pipeline transportation and service charges, which are applicable to such Gas and/or the delivery of such Gas to the Company.
3. The Company may retain for line loss and unaccounted-for Gas a percentage of the total volume of Gas delivered into its system for Customer's account. The percentage of Gas to be retained by the Company shall be equivalent to the percentage for total system line loss and unaccounted-for, as utilized in the Company's annual operating budget. This condition may, at the Company's discretion, be revised as appropriate, where the transported Gas can be delivered directly to the Customer without commingling with other distribution system supplies. If circumstances change, the Company will notify the Customer in writing thirty (30) days prior to any change.
4. In the event that the Company declares an emergency situation it may, at its discretion, divert Customer's Gas for such purposes as Company deems appropriate and Customer will be compensated for such Gas at the cost at which the Customer acquired the Gas, at the Customer's cost of the alternate fuel utilized or at the Company's avoided cost of Gas during the billing month, whichever is highest. The Customer shall demonstrate its cost of Natural Gas or replacement fuel by making a copy of its purchase contract available to Company upon request. All Gas purchased by the Company will be credited to the Customer's account.
5. Rate GS-XLT is subject to the provisions of the Daily Balancing Service – Rate DB in this Tariff (pgs. 101-109). For purposes of Rate DB, Rate GS-XLT customers with a common point of interconnection will be deemed by the Company to meet the qualifications for Rate DB regardless of how they structure their natural gas purchases. This condition may, at the Company's discretion, be waived or revised as appropriate, where the transported Gas can be delivered directly to the Customer without commingling with other distribution system supplies. If circumstances change, the Company will notify the Customer in writing thirty (30) days prior to any change.

UNAUTHORIZED USE

If a Customer uses Rate GS-XLT service after being notified that service under this schedule is not available, uses gas at other than the specified Facilities allowed under this tariff or uses this service in excess of authorized limitations when established and duly notified, all such unauthorized usage shall be billed a penalty charge of seventy five dollars (\$75.00) per Dth on the positive difference between the amount consumed by Customer and the amount delivered to the Company. Failure to comply with an Operational Flow Order (OFO) will result in a penalty charge of seventy-five dollars (\$75.00) per Dth plus all incremental costs incurred by the Company as a result of the failure to comply with the OFO.

LIABILITY

The Company shall not be liable for curtailment of service under this rate schedule or loss of Gas of the Customer as a result of any steps taken to comply with any law, regulation or order of any governmental agency with jurisdiction to regulate, allocate or control Gas supplies or the rendering of service hereunder, and regardless of any defect in such law, regulation or order.

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The Company reserves the right to commingle transport Gas with its other supplies but Gas is and remains the property of the Customer while being transported and delivered by the Company. The Customer shall be responsible for maintaining all insurance it deems necessary to protect its property interest in such Gas before, during and after receipt by the Company.

The Company shall not be liable for any loss to the Customer or any other entity or person(s) arising from or out of service under this rate schedule, including loss of Gas in the possession of the Company or any other cause.

COMPANY RULES

The provisions of this Tariff GS-XLT shall govern the service under this classification except where noted herein.