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February 7, 2024

Via Email Only

The Honorable Eranda Vero
Administrative Law Judge
PA Public Utility Commission
801 Market Street, Suite 4063
Philadelphia, PA 19107

RE: *SBG Management Services, Inc./Simon Garden Realty Co., L.P. et al., v. Philadelphia Gas Works* Docket Nos. C-2012-2304183; C-2012-2304324; C-2015-2486618; C-2015-2486677; C-2015-2486674; C-2015-2486670; C-2015-2486664; C-2015-2486655; C-2015-2486648; C-2015-2486674

Dear Judge Vero:

Philadelphia Gas Works (“PGW”) is in receipt of SBG Management Services, Inc. *et al* (“Complainants”) letter requesting a sixty (60) day extension for Complainants to file their written “Sur-surrebuttal” testimony with a corresponding delay in the further evidentiary proceedings in the above captioned matters.

PGW respectfully requests that Your Honor deny the request for an extension of the litigation schedule at this time because the Complainants have not provided *good cause* to further delay the schedule which was agreed to by all parties during the October 20, 2023 Prehearing Conference¹ and entered by Your Honor’s Order dated November 15, 2023.

First, the Complainants have requested more time merely due to the “size” of PGW’s January 22, 2024 Surrebuttal testimony. However, the request should be viewed in the proper context, specifically where Complainants’ request *does not* allege and indeed cannot factually allege that PGW raised any issues not directly responsive to Complainants’ May 2, 2023 testimony.

By way of background, after the April 25, 2023, evidentiary hearing, Complainants submitted the (Direct) Testimony of Samantha Pulley on May 2, 2023. Ms. Pulley’s May 2, 2023, testimony *belatedly* challenged the amounts owed by Complainants to PGW and purports to be the Complainants’ “case-in-chief” questioning certain charges, payments, and/or accounting entries between December 15, 2000 and May 2, 2023. Ms. Pulley’s testimony consisted of more than 680 pages (inclusive of exhibits) and, by PGW’s count, raised 104 ***new*** claims.

¹ See N.T. 1300 – 1306. The transcript reflects that PGW anticipated a significant investigation to take place to address Ms. Pulley’s new claims, and the Complainants’ agreed to a responsive testimony period of over a month to respond in anticipation of PGW’s testimony which would respond only to the 680+ page testimony of Ms. Pulley.

PGW's January 22, 2024, Surrebuttal testimony, which totals 455 pages (inclusive of exhibits), addresses only (1) the 104 new claims made by Ms. Pulley's testimony and (2) the updates to PGW's prior exhibits needed to comply with Your Honor's October 10, 2023, Order regarding the Statute of Limitations for the Complaints. PGW's January 22, 2024 testimony, therefore, is simply a response to numerous new claims raised by Ms. Pulley and PGW did not, in fact, raise any issues not directly responsive to the claims in Ms. Pulley's May 2, 2023 (Direct) Testimony. There is no legitimate basis that the litigation schedule be delayed simply due to the "size" of PGW's responsive testimony that addressed claim-by-claim Complainants' May 2, 2023 testimony consisting of over 680 pages.

Second, PGW notes that Complainants' February 29, 2024 written Sur-surrebuttal may not expand the scope of this proceeding beyond the claims in their "case-in-chief" testimony (*i.e.*, Samantha Pulley's May 2, 2023 testimony and Christopher E. Hanson's January 20, 2023 testimony²), as Complainants' are not permitted to introduce new evidence that should have been included in their case-in-chief. 52 Pa. Code § 5.243(e).

Given the prior belated addition of claims in this proceeding by Ms. Pulley's testimony, PGW is concerned that granting a further procedural extension to the mutually agreed to schedule will simply give Complainants the opportunity to continue to expand the scope of this proceeding in violation of the Commission's regulations and in a way that would deny PGW any meaningful ability to investigate and prepare responses in advance of an evidentiary hearing.

Therefore, PGW respectfully request that Your Honor deny Complainants' request to delay these proceedings and that the current and agreed to procedural schedule remain in effect.

Sincerely,



Bryce R. Beard, Esq.

BRB/lww

cc: Hon. Eranda Vero
Cert. of Service

² Mr. Hanson's testimony admitted to the record addresses the universe of liens identified in Exhibits CEH-2 and CEH-3 and recalculation of partial payment application in Exhibit CEH-1.

CERTIFICATE OF SERVICE

I hereby certify that this date I served a copy of Philadelphia Gas Works' Letter upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

VIA EMAIL ONLY

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Dated: February 7, 2024

/s/ Bryce R. Beard

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