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February 27, 2025

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Petition of Philadelphia Gas Works for Waiver of Provisions of Act 11 to Modify the Definition of the Charges Subject to the Distribution System Improvement Charge Cap or, Alternatively, to Increase the Current DSIC.
Docket No. P-2025-

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Petition of Philadelphia Gas Works (“PGW”) for Waiver of Provisions of Act 11 to Modify the Definition of the Charges Subject to the Distribution System Improvement Charge (“DSIC”) Cap or, Alternatively, to Increase the Current DSIC. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Daniel Clearfield

DC/lww

cc: Cert. of Service

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of **PGW’s Petition for Waiver of Provisions of Act 11 to Modify the Definition of Charges Subject to Distribution System Improvement Charge Cap or, Alternatively, to Increase the Current DSIC Cap**, 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: February 27, 2025

Daniel Clearfield, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition Of Philadelphia Gas Works For :
Waiver Of Provisions Of Act 11 To Modify :
The Definition Of The Charges Subject To :
The Distribution System Improvement : Docket No. P-2025-_____
Charge Cap Or, Alternatively, To Increase :
The Current DSIC Cap :

**PETITION OF PHILADELPHIA GAS WORKS FOR WAIVER OF PROVISIONS OF
ACT 11 TO MODIFY THE DEFINITION OF THE CHARGES SUBJECT TO THE
DISTRIBUTION SYSTEM IMPROVEMENT CHARGE CAP OR, ALTERNATIVELY,
TO INCREASE THE CURRENT DSIC CAP**

Pursuant to Sections 1358(a) and 2212(c) of the Public Utility Code, 66 Pa. C.S. §§ 1358(a), 2212(c), and 52 Pa. Code § 5.41, Philadelphia Gas Works (“PGW” or “Company”) respectfully submits this Petition requesting the Pennsylvania Public Utility Commission (“PUC” or “the Commission”) to: (i) modify the rules associated with PGW’s Distribution System Improvement Charge (“DSIC”) so that its over/undercollection mechanism would be separate from and NOT subject to the existing 7.5% DSIC cap; or, alternatively, increase the current DSIC cap; (ii) waive or suspend any requirements of Act 11 of 2012¹ (“Act 11”) so as to permit PGW to be able to bill its DSIC undercollection without reducing the amount of construction expenditures it is able to finance through the DSIC; and (iii) authorize the filing of the attached proposed PGW tariff supplement codifying these changes (attached hereto as “Attachment A”).

In support of approval of the relief requested, PGW states as follows:

¹ 2012, Feb. 14, P.L. 72, No. 11, § 6, effective in 60 days [April 16, 2012].

I. Introduction and Summary

PGW has successfully employed its current DSIC to fund the reduction of its inventory of cast iron distribution mains. Since it was first approved by the Commission in 2013,² PGW has used the funds provided by the DSIC to replace over 374 miles of “at risk” distribution mains, which PGW defines as cast iron and unprotected steel mains.³ A significant development came in January 2016 when the Commission granted PGW’s request to increase the cap on the revenues to be billed from the DSIC from 5% to 7.5%.⁴ This increase in the cap further accelerated PGW’s cast iron main removal, speeding up the time when all cast iron mains will be removed from its prior over 88 years to (currently) 38 years (not including any additional allowed expenditures resulting from the rate increase it is requesting simultaneous with this Petition).

At the same time that the cap was increased to 7.5%, the Commission approved another improvement to PGW’s DSIC, following the recommendation of the PUC Staff in its Report on PGW’s at risk mains.⁵ PGW’s DSIC was levelized and annualized, so that PGW each year establishes its level of DSIC billing at the beginning of the year at an amount that equates to 7.5% of its annual applicable revenues. Previously, PGW was restricted in the amount of DSIC charges it could bill in any quarter to the cost of facilities it had actually placed into service in

² *Petition of Philadelphia Gas Works for Approval of its Long-Term Infrastructure Improvement Plan*, PUC Docket No. P-2012-2337737, Opinion and Order entered on April 4, 2013 (“LTIP DSIC Order”). In this Order, the PUC tentatively approved PGW’s DSIC but directed certain changes in the proposed tariff, which were subsequently approved. *Petition of Philadelphia Gas Works for Approval of a Distribution System Improvement Charge*, PUC Docket No. P-2012-2337737, Opinion and Order entered on May 9, 2013 (“First LTIP Order”).

³ *See, e.g., Petition of Philadelphia Gas Works for Approval of its Third Long-Term Infrastructure Improvement Plan for the Period Beginning September 1, 2022, and Ending August 31, 2027*, PUC Docket No. P-2022-3032303, Petition at ¶ 13, fn 15.

⁴ *Petition of Philadelphia Gas Works for Waiver of Provisions of Act 11 to Increase the Distribution System Improvement Charge CAP and to Permit Levelization of DSIC Charges*, Docket Nos. P-2015-2501500 and C-2015-2504092, Opinion and Order entered January 28, 2016, as amended by Opinion and Order on Reconsideration entered July 6, 2016 (collectively, the “2016 Waiver Order”).

⁵ *Pennsylvania Public Utility Commission Staff Report: Inquiry into Philadelphia Gas Works’ Pipeline Replacement Program*, April 21, 2015 (“PUC Staff Report”).

the prior quarter. This created wide swings in PGW's DSIC charge because natural gas plant installation is cyclical in nature, with a large amount being placed into service in warmer months and very little being placed into service in the winter months. Because of the "placed in service in the prior quarter rule," PGW had been able to bill the full 5% only twice in the nine quarters prior to the PUC's modification to the "levelized/annualized" procedure.⁶

The levelized/annualized DSIC now permits PGW to charge a flat 7.5% of distribution revenues each month, regardless of the amount of main it successfully replaced in the prior quarter. After the year is over, its billings are reconciled with its actual installation experienced for that year, and customers are credited for any over-collection or, theoretically at least, billed for any under-collection. Permitting such levelization has allowed PGW to bill at the maximum amount permitted by the cap, ensuring that it can actually fund construction at the full 7.5% of revenue level annually.⁷

However, PGW's policy of spending the full 7.5% of projected pro forma distribution revenues creates an ongoing problem for PGW. Since those projections are based on "normal" weather, the actual amount billed invariably turns out to be higher or lower than the projected "normal" levels. When the amounts billed exceed "normal" levels, PGW refunds the excess to customers in a reconciliation charge in the subsequent year.⁸ When the actual amount billed is less than the amount originally projected, PGW is left with an under-recovery. However, currently PGW cannot bill customers for the under-recovery in the subsequent year because its subsequent year's billings are set to bill 7.5% of its projected annual revenue and billing the under-recovery would result in PGW exceeding the existing DSIC cap of 7.5%.

⁶ See, paragraph 39, *infra*.

⁷ PGW is also requesting that Act 11's requirement to pay interest on overcollections be waived. See, paragraphs 55-60, *infra*.

⁸ PGW Gas Service Tariff at Seventh Revised Pg. No. 153.

PGW is fully committed to undertaking DSIC-funded replacement of cast iron and bare steel mains at the full 7.5% of projected distribution revenues. But this policy means that PGW will never be able to also bill for any under-recovery from the prior year caused by actual revenue being lower than “normal” projected revenue, as has regularly been the case. Currently, PGW has an under-recovery as of December 2023 of \$9.2 million; the 2024 under-recovery is still being finalized. Attempting to bill customers in 2025 for the full 7.5% of projected (weather normalized) revenue and for the under-recovery would result in the DSIC exceeding PGW’s currently authorized cap. Accordingly, unless recovery of the under-recovery is permitted, it will not be possible for PGW to continue to maintain its existing commitment to replace at risk mains at the full 7.5% of projected revenue level as it does today.

Accordingly, PGW respectfully urges the Commission to approve these waiver requests and to permit PGW to adjust its existing DSIC tariff to either: 1) remove the over/under-collection mechanism from the DSIC cap; or 2) increase the DSIC cap to higher level so that the prior year under-collection would be billable while still billing to fund at risk main replacement at 7.5% of projected revenues. If this Petition is approved, PGW will: (i) file the attached tariff as part of its compliance filing in its base rate case (Docket No. R-2025-3053112); and (ii) apply the revised DSIC Cap definition to its 2025 DSIC.

Supporting this Petition is the following:

Attachment “A” Proposed Revisions to PGW Gas Service Tariff, Pa PUC No. 2.

II. Background

1. PGW is a city natural gas distribution operation as defined in the Public Utility Code, 66 Pa. C.S. § 102. PGW manages a distribution system of approximately 6,000 miles of

gas mains and service lines⁹ supplying approximately 500,000 customers in the City and County of Philadelphia.

2. The names, addresses and telephone number of PGW's counsel are:

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3. On February 14, 2012, Act 11 was signed into law. That Act authorized the establishment of a DSIC to provide for the timely recovery of reasonable and prudent costs incurred to repair, improve or replace eligible property in order to ensure and maintain adequate, efficient, safe, reliable and reasonable service.¹⁰ The provisions of Act 11 were codified in Chapter 13 of the Public Utility Code.¹¹

4. Certain statutory limitations are included in Act 11. Specifically, absent a PUC waiver, a natural gas utility's DSIC may not exceed 5% of the amount billed to customers under the utility's applicable distribution rates.¹² Additionally, Act 11 provides that the DSIC will: (i)

⁹ There are no customer-owned service lines in the PGW territory. Service lines are also referred to as services.

¹⁰ 66 Pa. C.S. § 1353(a).

¹¹ 66 Pa. C.S. §§ 1350 - 1360. On August 2, 2012, the Commission issued its Final Implementation Order establishing procedures and guidelines to carry out the ratemaking provisions of Act 11. *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611, Final Implementation Order entered Aug. 2, 2012 ("Final Implementation Order"). The Final Implementation Order is a policy statement setting forth how the Commission intends to interpret Act 11 in future adjudications and rulemakings. *See Petition of PPL Electric Utilities Corporation For Approval of a Distribution System Improvement Charge*, Docket No. P-2012-2325034, Recommended Decision dated July 25, 2014, at 18-19, modified (on other grounds) in part by Opinion and Order entered April 9, 2015.

¹² 66 Pa. C.S. § 1358(a)(1).

change each quarter;¹³ (ii) be calculated to recover the fixed cost of eligible property that has been placed in service during the prior quarter;¹⁴ and (iii) will be reset to zero as of the effective date of new base rates that provide for prospective recovery of the annual costs previously recovered under the DSIC.¹⁵

5. Act 11 and the Commission's regulations¹⁶ also required PGW to submit a Long-Term Infrastructure Improvement Plan ("LTIIIP") in order to be qualified to recover eligible improvement costs through a DSIC.

PGW's Prior LTIIIP and DSIC Filings

6. In order to qualify to begin to charge a DSIC, PGW filed a LTIIIP with the Commission on December 3, 2012, which was approved on April 4, 2013.¹⁷ PGW's Commission-approved LTIIIP describes the process of evaluating, improving, and replacing its distribution related facilities and equipment, the plans to continue accelerated investments under this process, and the categories and estimated cost of DSIC-eligible property that PGW expected to install over a five-year period. PGW's first LTIIIP was for the period 2013 through 2017.¹⁸ Its

¹³ See 66 Pa. C.S. §§ 1353(b)(i)(iv), 1354(3), 1357(a)(2), 1357(b)(3) (relating to quarterly updates of the DSIC). See also footnote 14, *infra*.

¹⁴ 66 Pa. C.S. §§ 1357(a)(1)(ii), (a)(2), (b)(1).

¹⁵ 66 Pa. C.S. § 1358(b)(1).

¹⁶ The Commission adopted final regulations related to Long-Term Infrastructure Improvement Plans in December 2014. 52 Pa. Code §§ 121.1 to 121.8; Review of Long-Term Infrastructure Improvement Plan, 44 Pa.B. 7809, 7856 (December 20, 2014). It is within the discretion of the Commission to grant waiver of the requirements contained in its Regulations. See 52 Pa. Code §§ 1.91, 5.43.

¹⁷ See *LTIIIP DSIC Order*. In that Order, the PUC tentatively approved PGW's DSIC but directed certain changes in the proposed tariff, which were subsequently approved. See footnotes 21 and 22, *infra*.

¹⁸ *Id.*

second LTIP was for the period 2018 through 2022 and was approved in 2017.¹⁹ Its current LTIP, for the period 2023 through 2027, was approved by the Commission in 2022.²⁰

7. Generally, each of PGW's LTIPs proposed that it would advance the replacement of high-risk, cast-iron main by adding to its historical "18 mile" program, as well as by replacing bare steel main (these two categories, collectively, referred to as "at risk" main).

8. PGW filed its initial DSIC Petition on January 18, 2013, which was approved on May 9, 2013.²¹ PGW's DSIC compliance tariff, Supplement No. 62 to Gas Service Tariff – Pa P.U.C. No. 2, went into effect June 1, 2013.²² Pursuant to the Commission's First DSIC Order, and Supplement No. 62, PGW was authorized to bill customers up to 5% of its non-gas revenues, which, at that time, amounted to approximately \$22 million annually, to fund the expedited replacement of its cast iron main. The Commission's DSIC Order acknowledged that PGW's DSIC would collect 100% of the cost of the facilities to be replaced on a "pay-as-you-go" basis.²³ The Commission's Order also directed that PGW's DSIC be calculated quarterly and reflect only the cost of facilities which were placed into service in the previous quarter.²⁴

9. On September 1, 2015, PGW proposed an increase in the DSIC Cap from 5.0% to 7.5% of distribution revenues and to levelize and annualize the DSIC. The PUC issued an Opinion and Order granting PGW's request to increase its DSIC to 7.5% on January 28, 2016,

¹⁹ *Petition of Philadelphia Gas Works for Approval of its Second Long-Term Infrastructure Improvement Plan for the Period Beginning September 1, 2017, and Ending August 31, 2022*, Docket No. P-2017-2602315, Opinion and Order entered August 31, 2017 ("Second LTIP").

²⁰ *Petition of Philadelphia Gas Works for Approval of its Third Long-Term Infrastructure Improvement Plan for the Period Beginning September 1, 2022, and Ending August 31, 2027*, PUC Docket No. P-2022-3032303, Opinion and Order entered August 25, 2022 (Third LTIP").

²¹ *See First LTIP Order*.

²² *Petition of Philadelphia Gas Works for Approval of a Distribution System Improvement Charge*, Docket No. P-2012-2337737, Secretarial Letter dated June 4, 2013; *Petition of Philadelphia Gas Works for Approval of a Distribution System Improvement Charge*, Docket No. P-2012-2337737, Secretarial Letter dated June 10, 2013.

²³ LTIP DSIC Order at 13-14.

²⁴ LTIP DSIC Order at 36; First LTIP Order at 4-6.

which went into effect on February 1, 2016.²⁵ Encouraged by a comprehensive Staff Report on the state of PGW's at risk facilities and the urgent need to speed up their removal, PGW proposed and received approval to increase the DSIC cap in order to further expedite its pace of main replacement. As a result, PGW has been able to hasten its point of full replacement by more than five decades.

10. PGW's 2013 LTIP estimated that, utilizing a 5% DSIC, and assuming 2% inflation, PGW's cast iron main removal would have been "expedited" to 88 years (no estimate of the removal date for unprotected steel was made).

11. The increase in the cap to 7.5% further accelerated PGW's cast iron main removal, speeding up the time when all cast iron mains will be removed from its prior over 88 years to (currently) 38 years.

12. Expected DSIC billing in FY 2026 is \$36.0 million. In FY 2024, FY 2023, and FY 2022, the DSIC surcharges were \$35.0 million, \$34.6 million, and \$36.8 million, respectively.

13. Part of its success in reducing its cast iron main inventory stems from permitting PGW to bill its DSIC (at the 7.5% level) on an annualized and levelized basis. This means that, at the beginning of each year, it calculates 7.5% of its projected revenues and determines a rate that, over the 12 months, will permit it to bill the entire amount.

14. Importantly, PGW's annual construction budget plans to expend the full 7.5% of projected revenues on the replacement of at-risk main.

²⁵ See 2016 Waiver Order.

15. After the year is over, PGW compares its expenditures on DSIC-eligible property with the revenues billed through the DSIC. If the revenues billed exceed PGW's spending for DSIC-eligible property, PGW refunds the difference with interest.²⁶

16. However, if PGW's actual units of service billed are less than its projected units of service, the DSIC revenues billed will be less than the amount it had projected. This is frequently the case because, in the last several years, PGW's actual revenues have been less than its weather normalized projected revenues because of warmer than normal weather. As a result, the projected level of revenues produced by the 7.5% cap has been more than the actual level of revenues produced by the 7.5% cap.

17. Because of its commitment annually to expend on replacing DSIC-eligible property at 7.5% of PGW's projected distribution revenues, it has experienced a consistent undercollection in virtually every year since the PUC increased the DSIC cap to 7.5%. The following table shows PGW's annual DSIC-eligible expenditures, its DSIC billings for that year and the ensuing shortfall.

Projected	Year	PAR (Projected Annual Recoverable Costs)	Projected DSIC Revenue based on DSIC percentage	Total DSIC Revenue Billed	Variance Projected (Projected DSIC based on % - DSIC Revenue Billed)	Actual DSIC Recoverable costs	Cumulative Over/(Under collection) + Over/under collection balance
	2013			\$5,601,602		\$8,726,928	-\$3,125,326
	2014			\$20,322,841		\$18,536,584	-\$1,339,069
	2015			\$12,016,096		\$22,115,137	-\$11,438,110
	2016			\$27,992,896		\$32,994,771	-\$16,439,986
	2017	\$439,214,000		\$35,695,476		\$32,675,455	-\$13,419,965
	2018	\$477,583,000		\$42,520,544		\$32,940,228	-\$3,839,649
	2019	\$469,694,000	\$35,227,050	\$34,491,092	\$735,958	\$33,437,041	-\$2,785,599
	2020	\$450,254,000	\$33,769,050	\$31,140,261	\$2,628,789	\$28,578,627	-\$223,966
	2021	\$510,000,000	\$38,250,000	\$35,547,587	\$2,702,413	\$37,854,584	-\$2,530,963
	2022	\$547,000,000	\$41,025,000	\$37,280,920	\$3,744,080	\$41,060,957	-\$6,311,000
	2023	\$520,000,000	\$39,000,000	\$33,997,011	\$5,002,989	\$36,908,324	-\$9,222,314
	2024	\$490,000,000	\$36,750,000	\$34,792,100	N/A	N/A	N/A
	2025		\$36,200,000			N/A	
	2026		\$36,700,000				
	2027		\$37,000,000				
	2028		\$37,400,000				
	2029						

²⁶ PGW Gas Service Tariff No. 2, at Seventh Revised Pg. No. 153.

18. PGW’s undercollection as of December 31, 2023 was \$9.2 million. The 2024 undercollection is still being finalized.

19. Unfortunately, however, because PGW is constrained by the 7.5% cap, PGW has not been able to recover the undercollection in the subsequent year.

20. PGW anticipated this problem in its 2015 Petition. For this reason, it therein requested that its DSIC Cap be set at 10% and that the additional 2.5% be available to permit PGW to bill any undercollection from the prior year.²⁷ In addition, PGW made a specific request to permit it to bill a then existing \$11.2 million undercollection – which had accumulated prior to increasing the cap and installing the annualization/levelization approach. While the Commission agreed to permit the collection, over two years, of the then-existing undercollection, even though this resulted in PGW billing *more* than the 7.5% cap, it declined at that time to approve this as a regular feature.²⁸

Legal Background

21. By its terms, the “cap” provision of Act 11 may be waived or suspended by the Commission. Section 1358 of the Public Utility Code grants the Commission the legal authority to establish a maximum allowable DSIC at a percentage higher than 5% “in order to ensure and maintain adequate, efficient, safe, reliable and reasonable service.” Section 1358(a) states:

[T]he distribution system improvement charge may not exceed 5% of the amount billed to customers under the applicable rates of the wastewater utility or distribution rates of the electric distribution company, natural gas distribution company or city natural gas distribution operation. The commission may upon petition grant a waiver of the 5% limit under this paragraph for a utility in order to

²⁷ *Petition of Philadelphia Gas Works for Waiver of Provisions of Act 11 to Increase the Distribution System Improvement Charge CAP and to Permit Levelization of DSIC Charges*, Docket Nos. P-2015-2501500, and C-2015-2504092, Opinion and Order on Reconsideration entered July 6, 2016, at Ordering Paragraphs 1 through 3.

²⁸ *Id.*

ensure and maintain adequate, efficient, safe, reliable and reasonable service.²⁹

22. Further, under Section 2212 of the Public Utility Code, the Commission “upon request of [PGW], may suspend or waive the application to [PGW] of any provision of [the Public Utility Code], including any provision of [Chapter 22 (relating to Natural Gas Competition)] other than [Section 2212].”³⁰ Pursuant to this provision, the PUC has the authority to modify the applicability of the statutory cap, including excluding an undercollection mechanism from the cap restraint.

Support for Creating a Separate Over/Under-Collection Mechanism That Would Not Count Against the Existing DSIC Cap

23. Pursuant to 2212(c) of the Public Utility Code, PGW requests a waiver or suspension of the requirements of Act 11 so as to restructure PGW’s DSIC so that the DSIC over/under-collection mechanism is not covered by the existing DSIC cap. This will permit PGW to continue to use expend 7.5% of PGW’s projected distribution revenues on main replacement.

24. As noted, Act 11 provides that the DSIC will change each quarter and be calculated to recover the fixed cost of eligible property that has been placed into service during the prior quarter.³¹ In the Commission’s initial Order authorizing PGW’s DSIC, it directed that PGW calculate the charge quarterly and reflect only the cost of facilities which were placed into service in the previous quarter.³²

25. In its subsequent Order, PGW was authorized to increase its DSIC cap from 5% to 7.5% and to levelize and annualize its DSIC billings. This was appropriate and reasonable because, unlike rate of return/rate base-regulated utilities which are required to apply the “used

²⁹ 66 Pa. C. S. § 1358(a)(2).

³⁰ 66 Pa. C.S. § 2212.

³¹ LTIP DSIC Order at 29.

³² *Id.*

and useful” rule, PGW was not constrained to wait to bill customers for infrastructure replacements until the infrastructure improvement was actually completed and put into service.

26. Instead, the Commission agreed that PGW could charge a level amount each month that equated to 7.5% of its projected distribution revenues for the year.

27. This means that PGW is able to bill the full 7.5% of projected distribution revenues and to plan to expend the entire amount to replace DSIC eligible property by year’s end.

28. That has not been PGW’s experience prior to levelizing and annualizing the DISC. Prior to levelizing and annualizing its DSIC, PGW experienced significant DSIC fluctuations.³³

29. The following table shows PGW’s experienced DSIC as a percentage of its distribution revenues prior to annualizing and levelizing its DSIC³⁴:

<u>PGW DSIC – HISTORICAL BILLINGS AS % OF DISTRIBUTION REVENUE.</u>	
7/1/2015	1.64%
4/1/2015	2.09%
1/12015	2.24%
10/1/2014	5.00%
7/1/2014	5.00%
4/1/2014	2.60%
1/1/2014	4.34%
10/1/2013	4.14%
7/1/2013	3.02%

30. Each year in which PGW was unable to time its main replacements so that it expended the full 5% meant that less cast iron main was being replaced than was authorized.

³³ PUC Staff Report at 36, Table 26.

³⁴ *Id.* at 9.

31. The 2014 PUC Staff Report recognized this problem and suggested that PGW seek to levelize and annualize its billings for DSIC-eligible costs.³⁵ Staff noted that, ideally, DSIC billings should remain relatively level throughout the year in order to pass on costs equally to all customers, regardless of seasonal usage patterns. The Staff recommended that PGW seek a waiver of any statutory provision that would restrict its ability to levelize and annualize its DSIC-eligible charges.³⁶

32. PGW accepted the Staff's recommendation and did seek the described waiver, which was granted by the Commission in 2015.³⁷ However, and as noted above, this modification, while a positive step for keeping the pace of PGW's main replacement as robust as possible (within the limits of the 7.5% cap) created another problem.

33. PGW's annual DSIC billing is based on "normal" sales levels. To the extent that PGW's actual sales diverge (as they are virtually certain to do) from "normal" levels, PGW will either collect more or less than the projected, normalized levels. Those amounts must either be returned to customers in the subsequent year (with interest) or collected from customers, as an additional undercollection charge.³⁸

34. In fact, PGW's actual sales levels have been less than its projected sales levels in each year in which it has billed its DSIC on an annualized/levelized basis. As Table 1, above, shows, if: (i) PGW annually bills its customers at the projected 7.5% of revenues; and (ii) PGW expends the entire 7.5% of revenues, PGW will not also be able to bill any undercollection from the prior year and still have its DSIC be under the 7.5% of revenues cap.

³⁵ PUC Staff Report at 5-6, 42-44.

³⁶ *Id.*

³⁷ *See 2016 Waiver Order.*

³⁸ Any under or over-collection is reconciled and filed by January 31 of each year and is billed or credited from April 1 to March 31 each year, assuming that, if an undercollection, PGW's total DSIC revenues do not exceed the 7.5% cap.

35. As noted by the PUC Staff in its original Report, levelizing and annualizing PGW's DSIC structure has enabled PGW to reduce the replacement timelines and further achieve the intent of both PGW's approved LTIP and Act 11 itself by permitting PGW to actually bill and expend an amount equating to 7.5% of its distribution revenues to be used for main replacement. The PUC Staff Report calculated that levelization and annualization would permit PGW to fully bill the 7.5% of revenue cap.³⁹ In fact, it has, as shown in Table 1, above.

36. But PGW's commitment to spend the full 7.5% of projected *pro forma* revenues means that PGW has no room under the cap to recover this undercollection. PGW cannot continue to incur substantial annual undercollections. As a cash flow company, PGW's rates are set to provide it only with the funds needed to fund its operating budget and finance capital improvements, either through the issuance of long-term debt, ratepayer revenues (i.e., "pay-go") or via government grants. PGW must fully recover the amounts it has billed through the DSIC, or those funds will have to be taken away from other operating or capital projects. This would be unfair and inequitable.

37. Absent the change proposed here, the only prudent course for PGW would be to reduce the amount of at-risk main replacement it plans to achieve each year in order to maintain a sufficient "cushion" so that it will still have sufficient headroom under the 7.5% cap to recover any undercollection from the prior year. That result would clearly be contrary to PGW's desires and the PUC's stated directives to PGW to replace its inventory of at-risk mains, including cast iron, as soon as possible.

³⁹ PUC Staff Report at 43.

38. For these reasons, PGW respectfully requests that the PUC reinterpret the application of the existing 7.5% cap and declare that the cap does not apply to the separate “undercollection factor” that already exists in PGW’s DSIC formula.⁴⁰

39. To the extent that the Commission views such an interpretation as inconsistent with provisions of Section 1358 of the Code – the Section that establishes the DSIC cap as a consumer protection – PGW requests that the PUC employ its powers pursuant to Section 2212(c) of the Public Utility Code and waive any statutory requirements inconsistent with this request. Note that, in its 2015 Order, the Commission has already used this Section to waive the requirements that the DSIC: (i) change each quarter;⁴¹ and (ii) be calculated to recover the fixed cost of eligible property that has been placed in service during the prior quarter.⁴²

40. The Commission has previously employed the discretion the Legislature has afforded it in regulating PGW in order to waive other sections of the Public Utility Code that plainly did not fit for a municipal utility regulated on a cash flow basis rather than a return on rate base basis, as those requirements are established in Section 2212 (the provisions of which may not be waived).⁴³

41. Indeed, upon reconsideration of its 2015 Order increasing PGW’s DSIC cap to 7.5%, it granted a waiver of the 7.5% cap to permit PGW to recover the then-existing \$11.2 million undercollection over 2 years.⁴⁴ This resulted in the total collection pursuant to the DSIC to be in excess of 7.5% in those two years.

⁴⁰ See PGW’s Gas Service Tariff No. 2, at Eighth Revised Pg. No. 152.

⁴¹ See 66 Pa. C.S. §§ 1353(b)(i)(iv), 1354(3), 1357(a)(2), 1357(b)(3) (relating to quarterly updates of the DSIC). See also footnote 14, *infra*.

⁴² 66 Pa. C.S. §§ 1357(a)(1)(ii), (a)(2), (b)(1); § 1358(b)(1).

⁴³ See, e.g., *PUC v. PGW*, Docket No. R-2008-2073938, Reconsideration Opinion and Order entered March 26, 2009 (relating to the grant of several waivers, including waiver of portions of 66 Pa. C.S. § 1308(e), to the extent necessary to give full effect to the rate relief, conditions and directives set forth in the Commission’s prior order).

⁴⁴ See *2016 Waiver Order*.

42. PGW respectfully submits that the circumstances are similar here. The requirement that the DSIC undercollection count as part of the calculation of the 7.5% DSIC cap is clearly contrary to the Commission's other determination: that PGW *spend* the full 7.5% of distribution revenues on at risk main replacement each year.

43. Currently, PGW has had to find funding from revenues produced by its base rates to cover the shortfall in DSIC collection. PGW cannot continue to do this and still have sufficient cash available to cover its annual operating and capital budgets, virtually all of which costs are focused on improving and maintaining the safety and reliability of the PGW distribution system.

44. Accordingly, if not permitted a vehicle to recover these likely undercollections, PGW may well be forced to throttle down the amount of at-risk main it is able to replace each year. This result would be contrary to PGW's goals, the clear directives from the PUC to take every step possible to remove at risk main from its system, and contrary to the best interests of PGW's ratepayers and the citizens of Philadelphia.

45. The effect on the DSIC would not be unreasonable. If permitted to recover the anticipated DSIC undercollection of around \$9 million in its existing DSIC, the DSIC charge would represent approximately 9.4% of applicable revenues.

Alternative Basis for Approval

46. Alternatively, PGW respectfully requests that the Commission increase PGW's DSIC cap to a level that would be likely to permit it to recover any undercollection. PGW believes that a level of 10% is reasonably likely to cover any future undercollection. The PUC has the general authority to do so by virtue of Section 1358(a) of the Public Utility Code.⁴⁵ As

⁴⁵ 66 Pa. C.S. § 1358(a). Further, under Section 2212 of the Public Utility Code, the Commission "upon request of [PGW], may suspend or waive the application to [PGW] of any provision of [the Public Utility Code], including any provision of [Chapter 22 (relating to Natural Gas Competition)] other than [Section 2212]." 66 Pa. C.S. § 2212(c).

noted above, PGW requests that it be permitted to modify its DSIC tariff so that if an under-collection of the annual DSIC billings occur (at 7.5% of distribution revenues) PGW will be authorized (as part of the annual reconciliation process) to implement a total DSIC charge higher than 7.5%, to 10% of applicable revenues. This will permit PGW to adjust the DSIC for under-collections while still billing customers and expending 7.5% of its projected distribution revenues for main replacement. This proposal will not impact the rules for the annual reconciliation audit or the treatment of over-collections.

47. The Commission is authorized to grant an increase in the DSIC cap when it would “ensure and maintain adequate, efficient, safe, reliable and reasonable service.”⁴⁶ PGW’s proposal here clearly meets this standard. Absent an increase in the existing cap – solely to permit PGW to bill and collect any DSIC undercollection from prior years – PGW will be forced to reduce the amount of at-risk main replacement it undertakes so that it will be able to collect the undercollection and still stay within the 7.5% cap. This would occur even though the Commission would have already authorized expenditures of the full 7.5% of projected revenues and PGW would have already spent at that level.

III. Consolidation and Approval

48. PGW is filing this Petition simultaneously with its filing of a base rate increase request pursuant to Section 1308(d) of the Public Utility Code. By separate Motion, PGW intends to request that investigation and resolution of this Petition be done in the context of PGW’s base rate proceeding. This will be the most efficient and comprehensive manner in which the Commission and the Parties can investigate this request.

49. PGW has served copies of this Petition on the main parties that participated in PGW’s initial DSIC filing including: the Pennsylvania Office of Consumer Advocate, the

⁴⁶ 66 Pa. C.S. § 1358(a).

Pennsylvania Office of Small Business Advocate, the Commission's Bureau of Investigation and Enforcement, and the Philadelphia Industrial and Commercial Gas Users Group.

IV. Conclusion

WHEREFORE, PGW respectfully requests that the Commission:

- a) Authorize the filing, as part of the compliance filing in its base rate increase at Docket No. R-2025-3053112, of the proposed PGW tariff supplement which clarifies that any DSIC undercollection is not constrained by the existing DSIC cap and can be charged in accordance with the procedures set forth therein (attached hereto as "Attachment A");
- b) Alternatively, authorize the increase of PGW's DSIC cap from its current 7.5% to a level that would permit PGW to collect its existing DSIC undercollection and to continue to collect the undercollection in the future; and
- c) Take any other action deemed to be in the public interest.

Respectfully submitted,



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Of Counsel:
Raquel Guzman, Esq.
Senior Vice President, Administration &
General Counsel
Philadelphia Gas Works
800 W. Montgomery Ave.
Philadelphia, PA 19122


Dated: February 27, 2025

Counsel for
Philadelphia Gas Works

VERIFICATION

I, Joseph F. Golden, Jr., hereby state that I am the Executive Vice President and Acting Chief Financial Officer for Philadelphia Gas Works ("PGW") state that the facts set forth in the foregoing **Petition** are true and correct (or are true and correct to the best of my knowledge, information and belief) and I expect Philadelphia Gas Works to be able to prove the same at a hearing held in this matter. I understand that statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: February 27, 2025



Joseph F. Golden, Jr.
Executive Vice President and Acting Chief
Financial Officer
Philadelphia Gas Works

Attachment A

Proposed Gas Service
Tariff Supp. No. 176
Pages 152-153
(Redlined)

PHILADELPHIA GAS WORKS
GAS SERVICE TARIFF



Issued by: Seth Shapiro
President and CEO

PHILADELPHIA GAS WORKS
800 West Montgomery Avenue
Philadelphia, PA 19122

~~Rates effective March 1, 2025 in accordance with the Commission's Order entered
July 11, 2024 at R-2024-3045966 approving PGW's 2024-2025 Gas Cost Rate.~~

The dates and types of changes in the DSIC rate will occur as follows:

Effective Date of Change	Rate Change That Will Occur
January 1	Annual levelized C-factor rate adjustments
April 1	Adjustment prior year over/under collection
July 1	Optional rate adjustment
October 1	Adjustment for +/- 2% over / under collection

B. Recoverable Costs: The recoverable costs shall be amounts reasonably expended or incurred to purchase and install eligible property and associated financing costs, if any, including debt service, debt service coverage, and issuance costs.

C. Application of DSIC: The DSIC will be expressed as a percentage carried to two decimal places and will be applied to the total amount billed to each customer for distribution service under the Utility’s otherwise applicable rates and charges. To calculate the DSIC, the annual recoverable costs to be placed into service during the calendar year in which the DSIC is being charged will be divided by the Utility’s projected revenues for distribution services (including all applicable clauses and riders) for the annual period during which the charge will be collected.

D. Formula: The formula for calculation of the DSIC is as follows:

$$DSIC = \frac{DSI + e}{PAR}$$

Where:

- DSI = The projected annual level of recoverable costs (defined in Section B. directly above)
- e = the amount calculated under the annual reconciliation feature or Commission audit, as described below.
- PAR = Projected annual revenues for distribution service (including all applicable clauses and riders) including any revenue from existing customers plus netted revenue from any customers which will be gained or lost by the beginning of the applicable service period.

3. Quarterly Updates: Supporting data for each quarterly update will be filed with the Commission and served upon the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate and the Bureau of Audits at least ten (10) days prior to the effective date of the update.

4. Customer Safeguards

A. Cap: The DSIC is capped at 7.50% of the amount billed to customers for distribution service (including all applicable clauses and riders), ~~inclusive of amounts billed for annual reconciliation pursuant to the “e” factor set forth above, as determined on an annualized basis.~~ **(C)**

(C) - Change

B. Audit/Reconciliation: The DSIC is subject to audit at intervals determined by the Commission. Any cost determined by the Commission not to comply with any provision of 66 Pa C.S. §§ 1350, *et seq.*, shall be credited to customer accounts. The DSIC is subject to annual reconciliation based on a reconciliation period consisting of the twelve months ending December 31 of each year. The annual reconciliation shall be filed on January 31 of the next year. The revenue received under the DSIC for the reconciliation period will be compared to the Company's eligible costs for that period. The difference between revenue and costs will be recouped or refunded, as appropriate, in accordance with Section 1307(e), over a one-year period commencing on April 1 of each year. If DSIC revenues exceed DSIC-eligible costs for the reconciliation period, such over collections will be refunded with interest. Interest on over-collections and credits will be calculated at the residential mortgage lending specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law (41 P.S. §§ 101, *et seq.*) and will be refunded in the same manner as an over-collection. Under collections shall be considered a separate adjustment and not subject to the limitation in Section (4)(A) above.

(C)

C. New Base Rates: The DSIC will be reset at zero upon application of new base rates to customer billings that provide for prospective recovery of the remaining costs (if any) that had previously been recovered under the DSIC. Thereafter, only the costs of new eligible plant additions that have not previously been reflected in the Utility's rates will be reflected in the quarterly updates of the DSIC.

D. Customer Notice: Customers shall be notified of changes in the DSIC by including appropriate information on the first bill they receive following any change. An explanatory bill insert shall also be included with the first billing.

E. All customer classes: The DSIC shall be applied equally to all customer classes, except that the Company may reduce or eliminate the DSIC to any customer with competitive alternatives and customers having negotiated contracts with the Company, if it is reasonably necessary to do so.

(C) – Change

Proposed Gas Service
Tariff Supp. No. 176
Pages 152-153
(Clean)

PHILADELPHIA GAS WORKS
GAS SERVICE TARIFF



Issued by: Seth Shapiro
President and CEO

PHILADELPHIA GAS WORKS
800 West Montgomery Avenue
Philadelphia, PA 19122

PHILADELPHIA GAS WORKS

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