

COMMONWEALTH OF PENNSYLVANIA



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March 19, 2025

**Via Electronic Mail**

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

Re: Pennsylvania Public Utility Commission v.  
Philadelphia Gas Works

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

Docket Nos.: R-2025-3053112, P-2025-3053659

Dear Secretary Chiavetta:

In accordance with 52 Pa. Code § 1.24(b)(2), enclosed for electronic filing in this proceeding, please find the Answer to PGW's Motion to Consolidate on behalf of the Office of Consumer Advocate.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

*/s/ Harrison W. Breitman*  
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Assistant Consumer Advocate  
PA Attorney I.D. # 320580  
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Enclosures

cc: The Honorable Charles E. Rainey, Jr. (email only: [crainey@pa.gov](mailto:crainey@pa.gov))  
Parties of Record (per Certificate of Service)

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2025-3053112
	:	
Philadelphia Gas Works	:	
	:	
	:	
Petition Of Philadelphia Gas Works for	:	
Waiver of Provisions of Act 11 to Modify	:	
the Definition of the Charges Subject to the	:	Docket No. P-2025-3053659
Distribution System Improvement Charge	:	
Cap or, Alternatively, to Increase the	:	
Current DSIC Cap	:	
	:	

I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and served a true copy of the following document, the Office of Consumer Advocate’s Answer to PGW’s Motion to Consolidate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 19<sup>th</sup> day of March 2025.

SERVICE BY E-MAIL ONLY

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Respectfully submitted,

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Dated: March 19, 2025

/s/ Harrison W. Breitman  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2025-3053112
	:	
Philadelphia Gas Works	:	
	:	
	:	
Petition Of Philadelphia Gas Works for	:	
Waiver of Provisions of Act 11 to Modify	:	
the Definition of the Charges Subject to the	:	Docket No. P-2025-3053659
Distribution System Improvement Charge	:	
Cap or, Alternatively, to Increase the	:	
Current DSIC Cap	:	
	:	

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ANSWER OF THE OFFICE OF CONSUMER ADVOCATE  
TO PHILADELPHIA GAS WORKS’  
MOTION TO CONSOLIDATE  
PGW’S DSIC WAIVER PETITION WITH  
PGW’S BASE RATE CASE FILING

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Pursuant to Section 5.103(c), 52 Pa. Code Section 5.103(c), the Office of Consumer Advocate (OCA) submits this answer to Philadelphia Gas Works’ (PGW or Company) Motion to formally consolidate PGW’s Distribution System Improvement Charge (DSIC) Waiver Petition filed on February 27, 2025, at P-2025-3053659 (DSIC Waiver Petition), with PGW’s base rate case proceeding filed on February 27, 2025, at R-2025-3053112. As explained below, the OCA does not oppose the Company’s Motion to Consolidate and avers the following:

1. Denied as stated. By way of further answer, the OCA respectfully submits the following:
  - a. The Company has two separate rate filings pending before the Commission. The first is the Company’s request to increase its base rates by \$105 million annually (PGW base rate

filing). PGW filed this general rate increase request on February 27, 2025 at Docket No. R-2025-3053112. The second is PGW's DSIC Waiver Petition filed on the same day at Docket No. P-2025-3053659.

b. On March 3, 2025, PGW filed a Motion to Consolidate these two independent rate filings, so that both rate filings may be litigated as part of PGW's 2025 base rate proceeding. The OCA does not oppose PGW's proposal to consolidate these cases. However, the OCA requests that the Commission refrain from permitting an immediate increase to the Company's current DSIC cap with its base rate case proceedings. Rather, the OCA asks that the analysis of the DSIC cap remain an independent issue, which adheres to 66 Pa. C.S. Sections 315(a), 332(a), 1358 and follows the two-step framework required of a DSIC waiver analysis: Once a utility has been approved to implement a DSIC, the statutory 5% cap is a ceiling that cannot be crossed absent a very specific showing that doing so is necessary to ensure and maintain adequate, efficient, safe, reliable and reasonable service.

c. Thus, the OCA does not oppose consolidation of the matters listed above, so long as the analyses remain distinct per issue and the parties are afforded the ability to argue the issues independently within the case/record. Therefore, in support of judicial economy, the OCA supports the motion and asks that the motion be granted with guardrails to protect consumers in places.

2. Denied as a conclusion of law. To the extent that this paragraph is deemed to contain any factual allegations, they are specifically denied, and strict proof thereof is demanded.

3. Admitted.

4. No answer is required.

5. No answer is required. By way of further answer, the OCA does not object to consolidation of these matters as stated above.

6. Admitted in part, denied in part. The OCA respectfully avers that the Prehearing Order granting the request for Consolidation for *PUC et al v. PWSA*, Docket No. R-2021-3024773 et al, is dated June 8, 2021. By way of further answer, the Commission or presiding officer has also refused to consolidate cases for any purpose. *Dopp v. Williamsburg Borough Dept. of Water and Sewer*, 59 Pa. PUC 25 (1984).

7. Admitted. By way of further answer, the OCA requests that the Commission refrain from permitting an immediate increase to the Company's current DSIC cap with its base rate case proceedings. Rather, the OCA asks that the analysis of the DSIC Cap remain an independent issue, which adheres to 66 Pa. C.S. Sections 315(a), 332(a), 1358 and follows the two-step framework required of a DSIC waiver analysis: Once a utility has been approved to implement a DSIC, the statutory 5% cap is a ceiling that cannot be crossed absent a very specific showing that doing so is necessary to ensure and maintain adequate, efficient, safe, reliable and reasonable service.

8. Admitted. By way of further answer, "a base rate is the product of an extensive and complex rate setting process that results in a numerical figure, which is intended to apply for several years." *McCloskey v. Pa. PUC*, 255 A.3d 416, 419 (2021). The DSIC mechanism, adopted via Act of February 14, 2012, P.L. 72, No. 11 (Act 11), allows for a surcharge to be added to the base rate charged to consumers to compensate public utilities for infrastructure investments. *Id.* The DSIC mechanism was intended to incentivize public utilities to engage in the costly endeavor of repairing, improving, and replacing Pennsylvania's aging infrastructure. *Id.*, citing to 66 Pa.C.S. Sec. 1353(a). "The DSIC rate adjustment process was intended to reduce

this regulatory lag and provide a streamlined rate adjustment process between the more complex base rate proceedings.” *Id.* at 420. Therefore, the OCA does not oppose consolidation of the matters listed above, so long as the analyses remain distinct per issue and the parties are afforded the ability to argue the issues independently within the case/record, and so long as the analysis of the DSIC Cap remains an independent issue, which adheres to 66 Pa. C.S. Sections 315(a), 332(a) and follows the two-step framework required of a DSIC waiver analysis pursuant to 66 Pa.C.S. Sec. 1358.

9. Denied as a conclusion of law. To the extent that this paragraph is deemed to contain any factual allegations, they are specifically denied, and strict proof thereof is demanded.

10. No answer is required.

11. Denied as stated. Please see ¶¶ 1, 7-8. To the extent that this paragraph is deemed to contain any factual allegations, they are specifically denied, and strict proof thereof is demanded.

12. Denied as stated. While the OCA does not object to the consolidation of the above-captioned proceedings, it is believed and therefore averred that consolidation is not essential to avoid duplicated efforts thereto. Rather, the OCA does not object to the consolidation of the matters due to the data that the Company seeks to admit into both records is either the same or similar to support the different requests for relief of the two proceedings. By way of further answer, please also see the OCA’s Answer to the Company’s Petition For Waiver Related To The Cap On The Distribution System Improvement Charge in response thereto.

13. Admitted in part, denied in part. The OCA agrees that the consolidation will reduce litigation costs for the parties and streamline decision-making for the Commission. However, it is denied that consolidation will produce an orderly record that can be used to

adjudicate all three proceedings or stave off a perceived “unduly delay” as to the resolution of the proceedings. By way of further answer, it is believed and therefore averred that there are only two proceedings, PGW base rate filing and PGW DSIC Petition, that would be consolidated if the Company’s Motion to Consolidate is granted.

14. Admitted in part, denied in part. The OCA agrees that consolidating these proceedings for hearing and decision would promote judicial economy and conserve valuable resources for the parties and the Commission. However, the OCA denies that the two petitions “involve the same issues of fact and law.” Please see ¶¶ 1, 7-8. To the extent that this paragraph is deemed to contain any factual allegations, they are specifically denied and strict proof thereof is demanded.

WHEREFORE, the Office of Consumer Advocate respectfully requests that the Presiding Administrative Law Judges and the Commission grant the Company's request to consolidate its rate filing at Docket No. R-2025-3053112 with its DSIC Petition at Docket No. P-2025-305365, with a finding that the petitions are related and may rely on the same or similar data in the record, but with direction and/or reservation that that the analysis of the DSIC Cap remain an independent issue, which adheres to 66 Pa. C.S. Sections 315(a), 332(a), 1358 and follows the two-step framework required of a DSIC waiver analysis: Once a utility has been approved to implement a DSIC, the statutory 5% cap is a ceiling that cannot be crossed absent a very specific showing that doing so is necessary to ensure and maintain adequate, efficient, safe, reliable and reasonable service.

Respectfully submitted,

/s/ Katie Kennedy

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Dated: March 19, 2025

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