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April 30, 2020

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Fl.
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works;
Docket No. R-2020-3017206

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' ("PGW") Prehearing Memorandum with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

Sarah C. Stoner

Sarah C. Stoner

SCS/jls
Enclosure

cc: Hon. Marta Guhl w/enc.
Hon. Darlene Heep w/enc.
Cert. of Service w/enc.
Graciela Christlieb, Senior Attorney, PGW (via email)

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the foregoing upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email

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Dated: April 30, 2020

Sarah C. Stoner

Sarah C. Stoner, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2020-3017206
	:	
	:	C-2020-3019161
Office of Consumer Advocate	:	C-2020-3019100
Office of Small Business Advocate	:	C-2020-3019430
Philadelphia Industrial And Commercial Gas	:	
User Group	:	
	:	
v.	:	
	:	
Philadelphia Gas Works	:	

**PREHEARING MEMORANDUM OF
PHILADELPHIA GAS WORKS**

Philadelphia Gas Works (“PGW” or the “Company”) hereby submits this Prehearing Memorandum pursuant to 66 Pa.C.S. § 333 and the directives of Administrative Law Judges Darlene Heep and Marta Guhl.

I. PROCEDURAL HISTORY

On February 28, 2020, PGW filed Supplement No. 128 to PGW’s Gas Service Tariff – PA. P.U.C. No. 2 (Supplement No. 128) and Supplement No. 85 to PGW’s Supplier Tariff – Pa. P.U.C. No. 1 (Supplement No. 85) to become effective April 28, 2020, seeking a general rate increase calculated to produce \$70 million (10.5%) in additional annual revenues. At that time, PGW also filed a Petition for Waiver seeking waiver of the application of the statutory definition of the fully projected future test year (FPFTY) so as to permit PGW to use a FPFTY beginning on September 1, 2020 (its fiscal year) in this proceeding.

By Order entered April 16, 2020 (“Suspension Order”), the Pennsylvania Public Utility Commission (“Commission” or “PUC”) instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase. Supplement No. 128 and Supplement No. 85

were suspended by operation of law until November 28, 2020, unless permitted by Commission Order to become effective at an earlier date. The Suspension Order did not consider the Petition for Waiver.

The Commission's Bureau of Investigation and Enforcement ("BIE") filed a Notice of Appearance. Three formal complaints have been filed: the Office of Consumer Advocate¹ ("OCA"); the Office of Small Business Advocate² ("OSBA"); and the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG")³. In addition, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), Direct Energy Services, Inc. ("Direct Energy") and Tenant Union Representative Network ("TURN") and Action Alliance of Senior Citizens of Greater Philadelphia ("Action Alliance," together with TURN, "TURN *et al.*"), filed Petitions seeking to intervene in this proceeding.

This matter was assigned to Administrative Law Judges Darlene Heep and Marta Guhl (collectively, the "ALJs"). A Prehearing Conference Order was entered on April 16, 2020 scheduling a telephonic prehearing conference in this case for Tuesday, May 5, 2020 at 2:00 p.m.

II. SERVICE OF DOCUMENTS

PGW requests that all documents be served on:

Daniel Clearfield, Esquire
Sarah C. Stoner, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
717.237.6000; Fax 717.237.6019

Craig W. Berry, Esq.⁴
Senior Attorney
Philadelphia Gas Works
800 W. Montgomery Ave.
Philadelphia, PA 19122

¹ The OCA's complaint was docketed at C-2020-3019161.

² The OSBA's complaint was docketed at C-2020-3019100.

³ PICGUG's complaint was docketed at C-2020-3019430.

⁴ PGW moved for the admission *pro hac vice* of Craig Berry, Esq., in this proceeding on April 23, 2020, and the motion is pending.

Gregory J. Stunder, Esq.
PGW's Vice President, Regulatory and
Legislative Affairs
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122

PGW also agrees to receive service of documents electronically in this proceeding. To the extent that materials are available electronically, it is requested that copies be served upon:

Daniel Clearfield – dclearfield@eckertseamans.com
Sarah C. Stoner – sstoner@eckertseamans.com
Gregory Stunder – Gregory.Stunder@pgworks.com
Craig W. Berry – Craig.Berry@pgworks.com

Please note that Mr. Clearfield and Ms. Stoner will be PGW's lead attorneys for the purposes of this proceeding, including the prehearing conference.

III. ISSUES AND WITNESSES

A. Issues

The primary issue in this proceeding is what level of base rate increase is justified and just and reasonable by applying PGW's required ratemaking methodology – the Cash Flow Method – and complying with Section 2212(e) and (f) of the Public Utility Code (regarding PGW's bond covenants), as well as the Commission's Policy Statement,⁵ which explains the way in which the Commission intends to apply the PGW Cash Flow Method.

Additional issues include 1) the appropriate allocation of the rate increase among the customer classes; and 2) PGW's tariff modifications which include (a) the continuation of its Technology and Economic Development Rider beyond the initial pilot period; (b) the continuation of "Back-Up Service," where a customer's primary energy source is something

⁵ 52 Pa.Code §§ 69.2701 to 69.2703; *Petition of Philadelphia Gas Works for a Statement of Policy on the Application of Philadelphia Gas Works' Cash Flow Ratemaking Method*, PUC Docket No. P-2009-2136508, Order of December 30, 2009.

other than natural gas (e.g., steam or electricity) and the customer uses PGW distribution service as a back-up; (c) modifications to incentives offered through its micro-combined heat and power incentives program to encourage customers to install micro-CHP equipment of various sizes up to 50 kW; (d) modifications to its daily imbalance surcharge; and (e) clarification of firm supplier obligations with respect to released capacity and to establish pricing for firm pool imbalances when suppliers discontinue serving PGW customers.

B. Witnesses

PGW anticipates offering the following witnesses to testify in this proceeding on the following subject matters:

<u>PGW Statement</u>	<u>Witness</u>	<u>General Subject Matter</u>
1	Gregory Stunder, PGW's Vice President, Regulatory and Legislative Affairs Philadelphia Gas Works 800 W. Montgomery Ave. Philadelphia, PA 19122 Tel. 215.684.6878	Mr. Stunder provides an overview and roadmap of the PGW's filing, including a summary of the reasons for the increase.
2	Joseph F. Golden, Jr., PGW's Executive Vice President and Acting Chief Financial Officer Philadelphia Gas Works 800 W. Montgomery Ave. Philadelphia, PA 19122 Tel. 215.684.6464	Mr. Golden provides documentation and supporting methodology for the schedules and exhibits that are included in PGW's base rate filing. He describes PGW's financial results for the FPFTY (comprised of the period from September 1, 2020 through August 31, 2021). He also details and provides supporting justification for PGW's requested annual increase in existing base rate of \$70 million

- 3 **Daniel J. Hartman,**
Managing Director and Partner with
PFM Financial Advisors LLC
("PFM")
- PFM Financial Advisors LLC
4350 North Fairfax Road
Arlington, VA 22203
Tel. 703.741.0175
- Mr. Hartman testifies to the importance of obtaining the rate increase being sought, in order for PGW to maintain its bond ratings, access to the municipal capital markets at reasonable pricing, and to ensure there are not unforeseen impacts to PGW's capital structure. Specifically, his testimony focuses on the adverse financial consequences to PGW, which could be considerable and broadly based, if the Commission does not approve a substantial portion of the requested rate increase.
- 4 **Harold Walker III**
Manager, Financial Studies,
Gannett Fleming
- Gannett Fleming Valuation and Rate
Consultants, LLC
P.O. Box 80794
Valley Forge, PA 19484
Tel. 610.783.3875
- Mr. Walker discusses the results of a comparable utility analysis. His testimony benchmarks the financial performance of PGW over the 2014-2018 time period, and analyzes both average performance over the time period and also trends over the time period. The benchmarking indicates that there is a continued need to support PGW's financial stability with timely and appropriate rate increases to enable PGW to further strengthen its credit profile.
- 5 **Constance E. Heppenstall,**
Senior Project Manager, Rate
Studies, Gannett Fleming
- Gannett Fleming Valuation and Rate
Consultants, LLC
P.O. Box 80794
Valley Forge, PA 19484
Tel. 610.783.3785
- Ms. Heppenstall presents PGW's class cost of service study ("CCOSS"). The primary purpose of the present CCOSS is to allocate PGW's costs of providing service to each Rate Class. The purpose of her testimony is to describe the principles, methodology, and data used in the present CCOSS. Ms. Heppenstall also shows the monthly fixed customer cost per class.

- 6 **Kenneth S. Dybalski,**
PGW's Vice President - Energy
Planning & Technical Compliance
- Philadelphia Gas Works
800 W. Montgomery Ave.
Philadelphia, PA 19122
Tel. 215.684.6317
- Mr. Dybalski describes and supports (i) the process used to develop the sales forecast for the test year; (ii) the allocation of the proposed base rate increase by customer class; and (iii) the proposed customer charges by class.
- 7 **Douglas A. Moser,**
PGW's Executive Vice President
and Acting Chief Operating Officer
- Philadelphia Gas Works
800 W. Montgomery Ave.
Philadelphia, PA 19122
Tel. 215.684.6899
- Mr. Moser provides an overview of PGW's operations. He discusses PGW's initiatives taken to improve its overall safety and reliability and to improve customer service. In addition, he addresses certain tariff changes proposed by PGW.
- 8 **Florian Teme,**
PGW's Vice President, Marketing
and Sales
- Philadelphia Gas Works
800 W. Montgomery Ave.
Philadelphia, PA 19122
Tel. 215.684.6463
- Mr. Teme explains and provides support for the Company's proposed continuation of the Technology and Economic Development Rider, the modifications to the Micro-Combined Heat and Power Incentive Program, and PGW's proposal to clarify tariff language on back-up service.

PGW previously filed copies of these statements. The testimony and exhibits fully support PGW's proposed rate increase, allocation of that increase among customer classes, and the design of rates to recover that increase from customers.

PGW reserves the right to submit additional witnesses after the submission of the direct testimony of the other parties in rebuttal, surrebuttal or rejoinder.

C. Admissions or Stipulations

There have been no admissions or stipulations finalized at this time.

IV. PROPOSED SCHEDULE AND DISCOVERY

A. Proposed Schedule

1. Litigation Schedule

PGW supports adoption of the schedule below for this proceeding based on the current November 28, 2020 end of the suspension period.

<u>Item</u>	<u>Proposed Schedule</u>
Public Input Hearings	May 26-28, 2020
Non-Company Direct	May 29, 2020
Rebuttal	June 26, 2020
Surrebuttal	July 10, 2020
Evidentiary Hearings/ Rejoinder	Week of July 13, 2020 (Philadelphia)
Close of Record	July 17, 2020
Main Briefs	August 6, 2020
Reply Briefs	August 17, 2020
Recommended Decision	September 18, 2020
Public Meeting	November 19, 2020

All dates are in-hand delivery. Electronic mail for receipt and distribution will satisfy in-hand service dates.

PGW is aware that, as a result of the restrictions imposed by Governor Wolf to respond to the COVID-19 pandemic, at least one party is seeking to extend the litigation schedule to give

parties more time to prepare and file testimony in the case.⁶ PGW plans to confer with the Parties about this request prior to the Prehearing Conference.

2. Public Input Schedule

PGW will attempt to accommodate the public input hearing schedule that best meets the needs of the other parties and will confer with the interested parties in this regard prior to the Prehearing Conference.

PGW's proposes to use cyber hearings for the public input hearing in this proceeding due to the COVID-19 pandemic. Cyber hearings will meet social distancing guidelines, save money, allow greater participation, and be generally more safe and efficient for all parties.

B. Discovery

The parties have ample time to conduct discovery before the filing of their direct testimony. PGW has already received a large number of formal discovery requests from the parties (with multiple subparts). PGW has either responded or is the process of responding to these requests. PGW is also willing to work with the parties to provide information through informal discovery conferences.

PGW is willing to consider reasonable modifications to the Commission's discovery rules. However, PGW notes that the Commission's Discovery Rules already provide for shortened timeframes for responses for rate proceedings, fifteen days. *See* 52 Pa. Code §§ 5.432(d) (written interrogatories), 5.349(d) (requests for documents, entry for inspection and other purposes). Due to the large number of requests and additional difficulties created by the

⁶ Bureau of Investigation and Enforcement's Expedited Motion to Extend the Statutory Suspension Period During the Emergency Interruption of Normal Operations of the Pennsylvania Public Utility Commission (filed 4/29/2020).

necessity to work remotely in many cases, PGW requests that the 15 day time frame be maintained.

In addition, PGW has established a cloud-based, secure site for the assistance of the parties. Discovery responses including attachments are available at Eckert Seamans Cherin & Mellott's ShareFile site. To receive access, please contact Sarah Stoner at sstoner@eckertseamans.com or 717-237-6026 and provide the name and email address of the person seeking access.

C. Protective Order

PGW will file a Motion for Protective Order to protect proprietary information of any party.

D. Petition for Waiver – Consolidation

PGW filed a Petition requesting the PUC to waive the application of the statutory definition of the fully projected future test year (“FPFTY”) so as to permit PGW to use a FPFTY beginning on September 1, 2020, in this proceeding (PGW’s fiscal year). PGW understands that the Petition was separately docketed at P-2020-3018975. The granting of the Petition is necessary in order to permit PGW to utilize its fiscal year, the twelve months ending August 31, 2021, as its Fully Projected Future Test Year. Accordingly PGW hereby moves that the Petition at P-2020-3018975 be consolidated with this rate proceeding and then granted. If the ALJs believe that a separate pleading needs to be filed to raise this request for consolidation, PGW can make such filing. A similar petition was filed in PGW’s last base rate case, was not opposed by any party and granted by the PUC.⁷

⁷ *PaPUC et al. v. Philadelphia Gas Works*, Docket No. R-2017-2586783, Prehearing Order #1 issued March 30, 2017.

V. **SETTLEMENT**

PGW is willing to discuss the settlement of its claims, and will be initiating such discussions as soon as the parties indicate that they have had sufficient time to review PGW's direct case.

Respectfully submitted,

Sarah C. Stoner

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Sarah Stoner, Esq. (Attorney I.D. No. 313793)
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Dated: April 30, 2020

Counsel for
Philadelphia Gas Works