



July 15, 2020

*Via Efiling*

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

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

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Petition of the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia for Interlocutory Review and Answer to Material Question in the above referenced proceeding.

Due to the ongoing COVID-19 pandemic, a copy of this Petition is being served upon the ALJs and all parties via email, as indicated on the attached Certificate of Service.

Sincerely,

Joline R. Price, Esquire  
Attorney ID No. 315405

*Enclosures*

Cc: Hon. Marta Guhl  
Hon. Darlene Heep  
Parties of Record

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**Certificate of Service**

I hereby certify that I have this day served copies of the Petition of the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia for Interlocutory Review and Answer to Material Question upon the parties of record in the above captioned proceeding in accordance with the requirements of 52 Pa. Code §1.54 in the manner and upon the persons listed below.

**VIA EMAIL**

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July 15, 2020

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Office of Small Business Advocate	:	C-2020-3019100
Philadelphia Industrial and Commercial Gas User Group	:	C-2020-3019430
v.	:	
Philadelphia Gas Works	:	

**PETITION OF THE TENANT UNION REPRESENTATIVE NETWORK AND ACTION  
ALLIANCE OF SENIOR CITIZENS OF GREATER PHILADELPHIA FOR  
INTERLOCUTORY REVIEW AND ANSWER TO MATERIAL QUESTION**

AND NOW COMES the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (“TURN *et al.*”), by and through its counsel, Community Legal Services, Inc., pursuant to 52 Pa. Code § 5.302, to file this Petition for Interlocutory Review and Answer to Material Question. The Material Question presented for consideration is:

Does the Order on PGW’s Motions *In Limine* Regarding Testimony on Behalf of OCA and TURN, dated July 8, 2020, err in excluding the Direct Testimony of Harry Geller regarding the quality of PGW’s customer service to its customers of Limited English Proficiency in the context of a general base rate proceeding?

TURN *et al.* respectfully submit that this question should be answered in the affirmative. On June 15, 2020, TURN *et al.* submitted the Direct Testimony of Harry Geller, TURN *et al.* St. No. 1. Mr. Geller’s testimony focused on the reasonableness of PGW’s rate increase request in the context of PGW’s policies regarding low-income customers, victims of domestic violence, and Limited English Proficiency (LEP) households. On June 25, 2020, PGW filed a Motion *in Limine* regarding Testimony filed by TURN *et al.*, which included a request to strike the entirety of Mr.

Geller's Testimony on how PGW serves its LEP customers.<sup>1</sup> On June 30, 2020, TURN *et al.* filed an Answer to PGW's Motion.

On July 8, 2020, Administrative Law Judges Heep and Guhl entered an Order that, in relevant part, struck the entirety of Mr. Geller's testimony regarding the quality of customer service that PGW provides to its LEP customers. In doing so, the ALJs wrote that

This forum, and, particularly, this base rate matter, is not the place to address the Civil Rights Act of 1964 or the Philadelphia Home Rule Charter compliance issues with respect to CRP language access program design [sic].<sup>2</sup>

However, Mr. Geller's testimony makes only a single, passing mention to Title VI of the Civil Rights Act of 1964 and the Philadelphia Home Rule Charter, indicating that he has been advised by counsel that those provisions may apply to PGW. On the basis of that one statement, the ALJs erroneously struck more than six pages of Mr. Geller's testimony, setting forth the extent of language access needs in Philadelphia, examining and criticizing PGW's policies and practices for meeting those needs, and providing his recommendations for PGW LEP customer service improvements.

The customer service a utility provides to its customers must be relevant to a request to increase rates.<sup>3</sup> The law cannot impose an obligation on customers to pay for the cost of service without a reciprocal obligation of the utility to satisfy standards of reasonable service.<sup>4</sup> The

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<sup>1</sup> PGW's Motion also challenged sections of Mr. Geller's testimony regarding PGW's universal service programming. The ALJs correctly denied PGW's Motion with respect to those issues.

<sup>2</sup> Order at 6. While the ALJs frame the issue as "CRP language access program design", the stricken testimony is much broader and raises issues of customer service to LEP households irrespective of CRP enrollment.

<sup>3</sup> This is particularly true when examining a utility's service to suspect classes. By way of example, the PUC explicitly prohibits discrimination in its regulations. See e.g., 52 Pa. Code § 56.31 (prohibiting credit and deposit policies that discriminate on the basis of status, including national origin).

<sup>4</sup> See Nat'l Utilities, Inc. v. Pa. PUC, 709 A.2d 972, 979 (Pa. Commw. Ct. 1998), following D.C. Transit Sys., Inc. v. Washington Metro. Area Transit Com'n, 466 F.2d 394, 411 (D.C. Cir. 1972), *cert denied*. In previous PGW rate cases, the Commission has found that customer service issues are relevant, and implemented conditions on PGW as a part of approving a rate increase. See Pennsylvania Public Utility Commission et al. v. Philadelphia Gas Works, Docket No. R-00005654 (Order entered Nov. 22, 2000), 94 Pa. P.U.C. 479.

stricken section of Mr. Geller's testimony is directly responsive to PGW's claims of improved customer service and consistent with the Commission's own recognition of the importance of language access as a matter of customer service.<sup>5</sup> As described in Mr. Geller's testimony, nearly a quarter of Philadelphia's population speaks a language other than English at home, and more than half of those households speak a language other than Spanish. The quality of service that PGW provides to its LEP customers is a component of PGW's overall customer service and is relevant to whether the Commission should grant PGW's rate request. Such testimony is squarely within the jurisdiction of the Commission and should not be stricken in this case.

Interlocutory review is necessary to prevent substantial prejudice to TURN *et al.* and ensure that a full record is developed.<sup>6</sup> Absent interlocutory review, there will be no opportunity for development of this issue on the record, which is directly relevant to the reasonableness of PGW's current and proposed rates, rules and regulations.

Respectfully Submitted,



DATE: July 15, 2020

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<sup>5</sup> See, e.g., 52 Pa. Code § 56.91 (b) (17), 52 Pa. Code § 56.201 (requiring utilities to provide information in other languages in certain circumstances).

<sup>6</sup> See Applications of Transource Pennsylvania, LLC for Approval of the Siting & Constr. of the 230 Kv Transmission Line Associated with the Indep. Energy Connection - E. & W. Projects in Portions of York & Franklin Clys., Pennsylvania. Petitions of Transource Pennsylvania, LLC for A Finding That A Bldg. to Shelter Control Equip. at the Rice Substation in Franklin Cty., Pennsylvania & the Furnace Run Substation in York Cty., Pennsylvania, Docket No. A-2017-2640195, 2019 WL 1506801, at \*1 (Mar. 20, 2019).

## VERIFICATION

I, **Joline R. Price**, attorney for the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (“TURN *et al.*”) hereby state that the facts contained in the foregoing pleading are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).



Date: July 15, 2020

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Joline R. Price

*Counsel for TURN et al.*