



September 2, 2020

Via Electronic Filing

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

Re: *Pennsylvania Public Utility Commission v. Philadelphia Gas Works*
2020 Base Rate Case Filing / Docket No. R-2020-3017206

Dear Secretary Chiavetta,

Enclosed for filing in the above-referenced proceeding, please find the Environmental Stakeholders' Reply Brief. As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with a copy of this document. Should you have any questions, please do not hesitate to contact me. Thank you.

Sincerely,

/s/ Devin McDougall

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

REPLY BRIEF OF THE ENVIRONMENTAL STAKEHOLDERS

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I. INTRODUCTION

Pursuant to 52 Pa. Code § 5.501, Clean Air Council and Sierra Club, Pennsylvania Chapter (the “Environmental Stakeholders”) respectfully submit this Reply Brief in support of their positions in the above-captioned proceeding (“Proceeding”) of the Pennsylvania Public Utility Commission (the “Commission”) regarding the \$70 million annual rate increase sought by Philadelphia Gas Works (“PGW”).¹

In its Main Brief, PGW continues to refuse to evaluate potentially cost-effective alternatives to its infrastructure program or to study the stranded asset risks associated with climate change and climate regulation.² PGW also continues to insist on an increased customer charge that will harm both low-income customers and energy efficiency measures.³

To a very large extent, the arguments advanced by PGW were fully addressed in the Environmental Stakeholders’ Main Brief. However, as an aid to the Administrative Law Judges, this Reply Brief will revisit certain key areas of disagreement and respond to material errors and misstatements in PGW’s Main Brief.

The Environmental Stakeholders entered this Proceeding in order to advocate for rigorous and responsible planning for the future, and such planning is what the Environmental Stakeholders have recommended that the Commission order. This is important to clarify, as PGW’s Main Brief misrepresents the position of the Environmental Stakeholders. PGW claims that the Environmental Stakeholders have contended that PGW should “prepare and submit to the Commission a ‘Climate Business Plan’ to ‘significantly’ reduce or eliminate greenhouse gas emissions prior to being granted a rate increase.”⁴ It is notable that PGW includes no citations

¹ PGW 2020 Rate Filing, Vol. I, Part 1 of 3, *Statement of Reasons* at 1, Docket No. R-2020-3017206 (Feb. 28, 2020).

² *PGW Main Brief*, at 40, Docket No. R-2020-3017206 (Aug. 26, 2020) (“PGW Main Brief”).

³ *Id.* at 43–45.

⁴ *Id.* at 2.

supporting this claim. In fact, as a review of the recommendations of expert witness Dr. Ezra Hausman makes clear, the Environmental Stakeholders have not asked the Commission to order PGW to “reduce or eliminate greenhouse gas emissions prior to being granted a rate increase.”⁵ Rather, the Environmental Stakeholders have recommended that PGW develop plans for how it will track and mitigate the stranded asset risks associated with climate change and climate regulations, including future regulatory action by the Commonwealth and the City of Philadelphia, both of which have committed to aggressively reducing greenhouse gas emissions in the near future.⁶

As the Environmental Stakeholders have previously discussed, the City of Philadelphia has committed to achieving a 100% transition off of fossil fuels, including natural gas, for all applications, including heating, by 2050.⁷ As such, the Environmental Stakeholders have argued that PGW must begin planning for how it will minimize the costs and risks to ratepayers if the City of Philadelphia follows through on implementing this commitment. Taking the City of Philadelphia’s resolution seriously necessarily involves planning for how PGW would evolve away from distributing natural gas. PGW has attempted to portray any sort of planning for a post-fossil fuel future for PGW as unthinkable and unreasonable, but the City of Philadelphia itself has expressly committed to this objective.⁸ In the end, all that PGW accomplishes with its blustery opposition to any form of analysis of the stranded asset risks of climate change and

⁵ PGW Main Brief, at 2; *Direct Testimony of Ezra D. Hausman on Behalf of the Environmental Stakeholders*, at 28:9–29:19, Docket No. R-2020-3017206 (June 15, 2020) (“SC St. No 1, Hausman Direct”).

⁶ SC St. No 1, Hausman Direct, at 28:9–29:19.

⁷ *Id.* at 8:13–9:20; Urging the City of Philadelphia to take measures to achieve fair and equitable transition to the use of 100% Clean Renewable Energy by 2050, Resolution 190728, at 2–3 (Sept. 26, 2019) (committing to transition to “100% clean renewable energy” by 2050, and expressing excluding “natural gas” from the definition of “renewable energy”) (“Resolution No. 190728”).

⁸ Resolution 190728, at 3.

climate regulations is confirming that if there is to be responsible planning about these topics, PGW must be ordered to do so.

It is in the public interest to order PGW to evaluate climate-related stranded asset risks and identify ways to minimize them because PGW's rates are already unaffordable for many Philadelphians.⁹ In this rate case, PGW is seeking to extract an additional \$70 million annually from ratepayers and pour it into infrastructure investments with an expected useful life of 54 years while also refusing to evaluate any risks to the expected value of those investments over the coming decades. Moreover, PGW's only plan relating to the impacts of climate change is to keep raising rates as winter demand for heat falls. This failure to plan for how to minimize the costs and risks of climate change is a critical management failure, and PGW's customers deserve better.

II. ARGUMENT

A. The Commission Has Jurisdiction to Consider the Contentions of the Environmental Stakeholders

The arguments of the Environmental Stakeholders are straight-forward, and the jurisdiction of the Commission to consider them should be uncontroversial. The Environmental Stakeholders have argued that PGW has failed to carry its burden of proving that its requested rate increase is just and reasonable because (1) PGW has failed to study potentially cost-effective alternatives, such as energy efficiency, to its proposed infrastructure investments, and (2) PGW has failed to study stranded asset risks to its proposed infrastructure investments from climate

⁹ See *Direct Testimony of Roger Colton on Behalf of the Office of the Consumer Advocate* at 5–12, Docket No. R-2020-3017206 (June 15, 2020) (“OCA St. No. 5, Colton Direct”) (detailing public health and economic impacts from COVID-19 in Pennsylvania); *Direct Testimony of Scott Rubin on Behalf of the Office of the Consumer Advocate* at 9–10, Docket No. R-2020-301720 (June 15, 2020) (“OCA St. No. 1, Rubin Direct”) (discussing deepening affordability challenges during pandemic and concluding “this is not the time to impose higher costs on either people or businesses”).

change and climate regulations.¹⁰ These two analytic gaps go directly to the question of whether or not PGW’s proposed investments would be prudent, cost-effective, and would return their expected value for ratepayers. Until such time as these gaps are filled, either through issue-specific studies or as part of an integrated Climate Business Plan, the Environmental Stakeholders have argued that PGW’s requested rate increase should be denied.¹¹

The Commission has jurisdiction to consider these arguments because the Commission is specifically authorized and required to evaluate whether a proposed rate increase would be just and reasonable.¹² In furtherance of this duty, the Commission has “broad discretion” to determine the reasonableness of proposed rates as well as “discretion to decide what factors it will consider in setting or evaluating a utility’s rates.”¹³ This specifically includes examining whether or not a utility’s proposed investments or expenditures would be prudent under the circumstances.¹⁴

In its Main Brief, PGW does not contest the jurisdiction of the Commission to consider the Environmental Stakeholders’ argument that PGW has failed to consider potentially cost-effective alternatives to its infrastructure investments, such as energy efficiency. As the record

¹⁰ *Environmental Stakeholders Main Brief*, at 20–26, Docket No. R-2020-3017206 (Aug. 26, 2020) (“Environmental Stakeholders Main Brief”); SC St. No. 1, Hausman Direct, at 3:12–19.

¹¹ *Environmental Stakeholders Main Brief*, at 9–10; SC St. No. 1 Hausman Direct, at 3:13–4:18.

¹² 66 Pa. C.S. § 1301; 52 Pa. Code § 69.2703.

¹³ *Popowsky v. Pennsylvania Pub. Util. Comm’n*, 683 A.2d 958, 961 (Pa. Commw. Ct. 1996).

¹⁴ *Pennsylvania Pub. Util. Comm’n Office of Consumer Advocate Office of Small Bus. Advocate v. Wellsboro Elec. Co.*, Docket No. C-2019-3011959, 2020 WL 2487415, at *3 (Pa. PUC Apr. 29, 2020) (“Docket No. C-2019-301195”); *See also e.g., Columbia Gas of Pennsylvania, Inc. v. Pennsylvania Pub. Util. Comm’n*, 613 A.2d 74, *aff’d*, 636 A.2d 627 (addressing cost recovery related to migration of pollution from utility-owned property); *Joint Application of Nui Corp., C&T Enterprises, Inc. & Valley Energy, Inc.*, No. A-125100, 2002 WL 34560229 (PUC 2002) (approving settlement that assured utility’s right to seek recovery through rates of remediation costs, if approved by the Commission); *see also* Order Granting Petition to Intervention of Environmental Stakeholders, at 2, Docket No. R-2020-3017206 (June 1, 2020) (stating that “Environmental Remediation” is within the scope of this rate case) (“Order Granting Petition to Intervene”); *see also* 52 Pa. Code § 69.2702 (requiring PGW rates to be adequate to cover reasonable and prudent operating expenses and maintain adequate financial quality as Commission deems appropriate and in the public interest without exempting any category of expense or any causative factor for an expense from consideration).

reflects, PGW has not examined whether or not increased energy efficiency measures could be a cost-effective way of enabling PGW, over the next several decades during which it plans to replace cast iron mains, to decommission some of those mains instead of replacing them.¹⁵ PGW is obligated to perform such an evaluation before spending massive amounts of ratepayer dollars purely out of PGW’s fiscal responsibility to ratepayers.¹⁶ To the extent that performing such an analysis could lead to increased energy efficiency measures as a way of saving ratepayer dollars, this would be a win-win solution for the environment, but the responsibility to examine potentially cost-effective alternatives is a purely fiscal responsibility.

PGW, in its Main Brief, only partially contests the Commission’s jurisdiction to consider Environmental Stakeholders’ argument that PGW should study stranded asset risks associated with climate change and climate regulation. PGW concedes that they cannot defend the position that “the Commission cannot or should not take into account the actual effects of climate change, such as warming winters, on PGW’s operations or the directives of actual laws or regulations.”¹⁷ As PGW itself admits, it “determines its test year revenues in part by projecting test year degree days, which are affected by warming trends.”¹⁸

As such, PGW and the Environmental Stakeholders are now in agreement that the Commission has jurisdiction to consider “the actual effects of climate change” on PGW’s operations.¹⁹ This is significant, because the actual effects of climate change comprise one of the

¹⁵ *Surrebuttal Testimony of Ezra Hausman on Behalf of the Sierra Club and Clean Air Council*, at 3:15–4:3, Docket No. R-2020-3017206 (July 24, 2020) (“SC St. No. 1-SR, Hausman Surrebuttal”).

¹⁶ 66 Pa. C.S. § 1301(a) (“Every rate made, demanded, or received by any public utility . . . shall be just and reasonable, and in conformity with [the] regulations or orders of the commission.”); *id.* § 2212 (allowing PGW rates adequate to cover reasonable and prudent expenses, as the Commission deems appropriate and in the public interest).

¹⁷ PGW Main Brief, at 32.

¹⁸ *Id.* at 14.

¹⁹ *Id.* at 32.

two types of climate-related stranded asset risks that the Environmental Stakeholders have argued that PGW should study.²⁰

The second type of climate-related stranded asset risk is the risk to PGW's operations from future climate regulation.²¹ Here, PGW does contest the Commission's jurisdiction to consider this risk, claiming that the Commission can only consider "the directives of actual laws or regulations."²² Yet PGW does not provide any reasoning to support this conclusory assertion, which makes little sense. If the Commission is charged with determining the prudence of PGW's long-term infrastructure investments, why should the Commission lack jurisdiction to consider evidence concerning regulatory trends which could severely impact the expected useful life of the investments? Moreover, PGW concedes that PGW itself considers "warming trends" in projecting its revenue and concedes that the Commission has jurisdiction to consider such trends.²³ If the Commission has jurisdiction to consider climate change trends and risks during the life of a long-term infrastructure investment, but it cannot be that the Commission somehow lacks jurisdiction to consider regulatory trends and risks during the life of a long-term infrastructure investment.

PGW's claim that the Commission has jurisdiction only to consider current laws and regulations, and is jurisdictionally barred from considering potential future laws and regulations, would remove the Commission's ability to receive or consider evidence relating to regulatory risk in any context, which would be an absurd result that would be contrary to the public interest. PGW does not even attempt to engage with, let alone resolve, such issues in its Main Brief, and

²⁰ *E.g.*, SC St. No. 1, Hausman Direct, at 27:13–28:4.

²¹ *Id.*

²² PGW Main Brief, at 32.

²³ *Id.* at 14, 32.

they fatally undermine PGW’s unreasoned insistence that the Commission lacks jurisdiction to consider evidence on regulatory risks to proposed investments.

The final topic for jurisdictional analysis is the nature of the remedy for the analytic gaps in PGW’s rate increase filing. As noted above, the Environmental Stakeholders have proposed that a Climate Business Plan that addresses alternatives and potential risks in an integrated fashion and examines means of mitigating them would be the most efficient and cost-effective use of ratepayer dollars.²⁴ The Climate Business Plan proposed would be a document informed by and based on information gathered about potentially cost-effective alternatives and the stranded asset risks posed by climate change and future climate change regulations.²⁵ The Environmental Stakeholders have also recommended that PGW’s development of a Climate Business Plan incorporate a stakeholder process and public comment.²⁶ As such, although the plan would need to gather objective information and rigorously address alternatives and risks, its precise contents and conclusions would not be fixed in advance.²⁷

PGW, in its Main Brief, only partially contests the Commission’s jurisdiction for such a remedy.²⁸ It is well-settled that the Commission has jurisdiction to order the production of reports or studies, as needed, by utilities, and PGW does not attempt to contest the Commission’s authority to do so.²⁹ PGW argues, however, that the Commission lacks jurisdiction either (1) to

²⁴ SC St. No. 1, Hausman Direct, at 12:3–18:10.

²⁵ *Id.* at 12:3 – 21; Environmental Stakeholders Main Brief, at 28–30.

²⁶ SC St. No. 1, Hausman Direct, at 12:22–13:5.

²⁷ SC St. No. 1-SR, Hausman Surrebuttal, at 5:11–14 (“The important thing is to fill the analytic gaps left by the Company on alternatives and risks, so that PGW is not ‘flying blind’ into the future with hundreds of millions or billions of ratepayer dollars at stake.”); *see also* SC St. No. 1, Hausman Direct at 11:14–13:5; Environmental Stakeholders Main Brief, at 28–30.

²⁸ PGW Main Brief, at 32 (conceding that Commission has jurisdiction to take the actual effects of climate change on PGW’s operations and the directives of actual laws or regulations).

²⁹ 66 Pa. C.S. § 504 (providing that “commission may require any public utility to file periodical reports, at such times, and in such form, and of such content, as the commission may prescribe, and special reports concerning any matter whatsoever about which the commission is authorized to inquire, or to keep itself informed, or which it is required to enforce.”); SC St. No. 1, Hausman Direct, at 11:14–12:2; SC St. No. 1-SR, Hausman Surrebuttal, at 6:1–8.

immediately order PGW to cease distributing natural gas, (2) set greenhouse gas emissions limits for PGW, or (3) to perform any contingency planning for how PGW would minimize costs for ratepayers if future regulations required PGW to reduce or eliminate natural gas distribution.³⁰

PGW's arguments are misplaced, for several reasons. First, the Environmental Stakeholders have not asked the Commission to order PGW to cease distributing natural gas or to set greenhouse gas emissions limits for PGW.³¹ It is a sign of the unseriousness of PGW that it attempts to derail necessary discussions about planning for its future with hyperbolic misrepresentations. The actual question posed by the Environmental Stakeholders is about how to protect ratepayers in a scenario where PGW is planning long-term infrastructure investments that extend past 2050 but has refused to evaluate in any fashion how climate change or future climate regulations may affect the expected return on those investments, a concern sharpened by the City of Philadelphia's resolution declaring that it will transition to 100% clean renewable energy for all purposes, including heating, by 2050.³² Yet PGW offers absolutely no authority for the proposition that if a utility faces a potential regulatory risk to its investments, then the Commission is without jurisdiction to order the utility to evaluate that risk and contingency plan to minimize cost impacts on ratepayers. PGW simply offers more of its usual fare, strident and conclusory declarations that the PUC lacks jurisdiction over "anything environmental"³³ or any "environmental considerations."³⁴

³⁰ PGW Main Brief, at 32.

³¹ SC St. No. 1, Hausman Direct, at 3:12–4:23.

³² Resolution No. 190728 defines "clean renewable energy" to include energy from "solar, wind, and geothermal" and clarifies that it "does not include natural gas." Resolution No. 190728, at 2. The Resolution emphasizes that "'Renewable Energy'...specifically excludes energy derived from fossil fuels." *Id.* Although PGW imagines natural gas might be part of Philadelphia's commitment to "clean renewable energy," (PGW Main Brief, at 32), the Resolution making that commitment plainly forecloses reliance on natural gas or any other fossil fuel in favor of solar, wind, and geothermal. Resolution No. 190728, at 2.

³³ *Initial Telephonic Evidentiary Hearing Transcript* ("Tr."), Cawley Cross, at 288:25–289:1 (July 29, 2020).

³⁴ PGW Main Brief, at 14, 29.

What PGW has consistently failed to reckon with, throughout this Proceeding, is that there simply no carveout in the law that provides that alternatives, costs, and risks associated with environmental factors are somehow removed from the Commission’s jurisdiction to receive and consider evidence on when evaluating the prudence of a utility’s expenditures. There is no reason that such a carveout should exist, because a dollar misspent by PGW for one reason is just as harmful to the public as a dollar misspent for any other reason. At the end of the day, a ratepayer who is burdened by rising rates from PGW is hurt just as much from mismanagement relating to a failure to plan for warming winters or compliance costs associated with climate regulations as from mismanagement relating to executive salaries or employee health insurance.³⁵

As such, the Commission does have jurisdiction to order PGW to fill the analytic gaps in its rate increase filing concerning cost-effective alternatives and stranded asset risks either through an integrated Climate Business Plan or through issue-specific studies.³⁶ This assessment can and should include contingency planning for how to minimize stranded asset costs to ratepayers if PGW’s business model is subjected to regulation by, for example, the City of Philadelphia, which follows through on the City’s commitment to transition to 100% clean energy by 2050. PGW’s objection that preparing such a contingency plan would involve projecting regulatory trends into the future is fundamentally misconceived. Ratemaking inherently involves making projections about the future. As the Commonwealth Court has found, “[r]ate setting is a process which necessarily involves valuation of economic elements in the

³⁵ *E.g.*, Docket No. C-2019-3011959 at *3 (Pa. PUC Apr. 29, 2020) (“To the extent that expenses are not incurred, imprudently incurred, or abnormally overstated during the test year, they should be disallowed and found not recoverable through rates.”).

³⁶ 66 Pa. C.S. § 504 (providing that “commission may require any public utility to file periodical reports, at such times, and in such form, and of such content, as the commission may prescribe, and special reports concerning any matter whatsoever about which the commission is authorized to inquire, or to keep itself informed, or which it is required to enforce.”); Environmental Stakeholders Main Brief, at 13–16.

future tense. Because ‘rates must be fixed for the future as well as for the present,’ such future ‘estimates . . . must necessarily enter into the disposition of any rate case.’”³⁷

To be clear, PGW is not simply arguing that an evaluation of stranded asset risks and means of minimizing them is not warranted under the circumstances. PGW is arguing that the Commission is jurisdictionally-barred from ordering a utility to prepare such a study relating to regulatory risks under *any* circumstances. The idea that the Commission is forbidden, as matter of jurisdiction, from ordering a utility to prepare a contingency plan to minimize the costs of regulatory risks to ratepayers is simply not credible.

B. PGW’s Failure to Study Potentially Cost-Effective Alternatives is Unjust and Unreasonable

As noted above, the first analytic gap the Environmental Stakeholders have identified is PGW’s failure to evaluate potentially cost-effective alternatives.³⁸ PGW is required to control the costs it passes to its captive customers, in part, by searching for prudent and cost-effective alternatives to capital intensive infrastructure investments.³⁹ The Commission is obliged to ensure that monopoly utilities charge their captive customers just and reasonable rates.⁴⁰ Particular to PGW, revenue from rates must be adequate to cover reasonable and prudent expenses; but just and reasonable rates cannot include unreasonable or imprudent expenses.⁴¹ Generally, the Commission has explained that an “evaluation of reasonableness is whether the record provides sufficient detail to objectively determine whether the expense is prudently

³⁷ *Cohen v. Pennsylvania Pub. Util. Comm’n*, 468 A.2d 1143, 1146 (1983), order aff’d and remanded sub nom. *Barasch v. Pennsylvania Pub. Util. Comm’n*, 493 A.2d 653 (1985) (quoting *Peoples Natural Gas Co. v. Pennsylvania Public Utility Comm’n*, 14 A.2d 133, 138 (1940)).

³⁸ Environmental Stakeholders Main Brief, at 20–21; *e.g.*, SC St. No. 1, Hausman Direct, at 3:14–16 (arguing that PGW “has inadequately studied potential cost-effective alternatives to its proposed infrastructure work (such as energy efficiency)”).

³⁹ 66 Pa. C.S. § 1301(a); *id.* § 2212.

⁴⁰ *Id.* § 1301(a) (“Every rate made, demanded, or received by any public utility . . . shall be just and reasonable, and in conformity with [the] regulations or orders of the commission.”); 52 Pa. Code § 69.2703.

⁴¹ 66 Pa. C.S. § 2213; 52 Pa. Code § 69.2703.

incurred.”⁴² If instead expenses are imprudently incurred, “they should be disallowed and found not recoverable through rates.”⁴³

In addition to requiring all utility expenses to be prudently incurred, Pennsylvania law requires quality management of utilities, including PGW. When determining whether PGW’s rates are just and reasonable, the Commission must consider “PGW’s management quality, efficiency and effectiveness.”⁴⁴ Controlling costs that will be passed along to customers is a critical aspect of management quality, efficiency and effectiveness.⁴⁵

These fundamental legal requirements for prudent expenditures and effective management apply independent of environmental circumstances. Meaning, irrespective of how climate change is impacting and will continue to impact PGW’s business, PGW is still limited to only recovering its prudently incurred expenses, and PGW is still required to examine cost-effective alternatives.

The Environmental Stakeholders introduced un rebutted evidence in the form of interrogatory responses from PGW in which PGW concedes that it failed to consider potentially cost-effective alternatives, such as energy efficiency, to accelerating its infrastructure investments.⁴⁶

⁴² *Popowsky v. Pennsylvania Pub. Util. Comm’n*, 683 A.2d 958, 961 (Pa. Commw. Ct. 1996).

⁴³ Docket No. C-2019-3011959 at *3 (citing *Popowsky*, 674 A.2d at 1153–54).

⁴⁴ 52 Pa. Code §§ 69.2702, 2703. One of the Environmental Stakeholders’ major concerns in this Proceeding is PGW’s lack of quality management practices with regard to climate-related stranded asset risks, and it is perhaps telling that PGW chooses not to include the Pennsylvania Code’s requirement that PGW demonstrate “management quality, efficiency, and effectiveness” in its recitation of the legal standards that it must meet in its Main Brief. PGW Main Brief, at 11.

⁴⁵ *E.g.*, *Direct Testimony of Gregory Stunder on Behalf of Philadelphia Gas Works*, at 4:23–6:22, Docket No. R-2020-3017206 (Feb. 28, 2020) (providing testimony on cost controlling measures as evidence of management quality, efficiency and effectiveness) (“PGW St. No. 1, Stunder Direct”); Stunder Cross, Tr. at 345:18–19 (“[A] utility should be concerned about costs[.]”).

⁴⁶ ES Hearing Ex. 10, Response to ES Interrogatories Set I, No. 8.f (admitting PGW did not study whether increased energy efficiency could enable the decommissioning of some mains or services anytime over the next 35 years); *see also* SC St. No. 1-SR, Hausman Surrebuttal, at 3:6–4:3; SC St. No. 1, Hausman Direct, at 12:3–21 (explaining the benefits of energy efficiency); PGW Main Brief, at 21 (agreeing that conservation, energy efficiency, and weatherization can reduce gas demand).

The Environmental Stakeholders also confirmed this on cross-examination.⁴⁷ However, in its Main Brief, PGW claims that “it is untrue that PGW has ‘ignored’ potential alternatives to gas usage in its infrastructure planning[.]”⁴⁸ In support of this claim, PGW claims simply that it “has aggressively pursued energy efficiency programs[.]”⁴⁹ Leaving aside PGW’s rather self-serving characterization of its voluntary energy efficiency programs as “aggressive” (an evaluation for which PGW has introduced no evidence), what PGW does not, and cannot, say is that it has in any way integrated consideration of targeted energy efficiency measures into its infrastructure planning as a means of decommissioning old mains rather than replacing them. PGW cannot say this because it would be untrue. As noted above, PGW’s own discovery responses clearly state that PGW does not incorporate consideration of energy efficiency as an alternative in its infrastructure planning.⁵⁰ PGW’s attempt to muddy the waters by simply reciting the fact that it has voluntary energy efficiency programs is unhelpful, and should be accorded no weight.

Energy efficiency, like other non-pipeline alternatives, is critical to consider in infrastructure planning because it has the potential to reduce load and therefore reduce the necessary size of PGW’s distribution system over time.⁵¹ PGW agrees that conservation, efficiency and weatherization efforts are effective in limiting gas consumption.⁵² Precisely because these non-pipeline alternatives reduce demand, PGW should be integrating these

⁴⁷ Moser Cross, Tr. at 318:1-6; 324:17-25.

⁴⁸ PGW Main Brief, at 9.

⁴⁹ *Id.*

⁵⁰ ES Hearing Ex. 10, Response to ES Interrogatories Set I, No. 8.f (admitting PGW did not study whether increased energy efficiency could enable the decommissioning of some mains or services anytime over the next 35 years); *see also* SC St. No. 1-SR, Hausman Surrebuttal, at 3:6–4:3; SC St. No. 1, Hausman Direct, at 12:3–21.

⁵¹ *See, e.g.*, SC St. No. 1, Hausman Direct, at 12:3–21 (explaining value of energy efficiency programs).

⁵² PGW Main Brief, at 21 (“It is false to claim that PGW has not addressed limiting gas consumption through conservation, efficiency and weatherization – it has.”).

alternatives in its infrastructure planning, using targeted energy efficiency or weatherization investments, for example, to reduce the size and configuration of PGW's distribution system.⁵³

PGW has voluntary energy efficiency programs,⁵⁴ but it has not integrated energy efficiency or other non-pipeline alternatives into its infrastructure planning process.⁵⁵ Further, PGW has not performed any studies of whether increased energy efficiency measures, if targeted, could enable the decommissioning of some mains or services over the next 35 years.⁵⁶ As Dr. Hausman testified, "PGW's voluntary energy efficiency programs may have positive effects in their own right, but they are clearly not a substitute for integrating review of energy efficiency alternatives into infrastructure planning."⁵⁷

Critically, PGW's management has missed the opportunity to save customers money by more prudently exploring alternatives to in-kind infrastructure replacement, including increased energy efficiency.⁵⁸ Because PGW did not analyze, and this record therefore does not contain any evidence on, the relative cost-effectiveness of non-pipeline alternatives to accelerated infrastructure investments, there is no basis on which to determine whether those accelerated investments would be prudent, such that they can be recovered from customers in just and reasonable rates.

The Commission should require PGW to evaluate the potential for energy efficiency and other non-pipeline alternatives to reduce the cost of its infrastructure plans before further increasing customer rates. Accelerating investments without ever considering alternatives epitomizes imprudent spending. If targeted non-pipeline alternatives can reduce the costs of

⁵³ SC St. No. 1-SR, Hausman Surrebuttal, at 10:14–11:7.

⁵⁴ PGW Main Brief, at 21; *see also* PGW St. No. 1-R, *Rebuttal Testimony of Gregory Stunder on Behalf of PGW*, at 9:5–19, Docket No. R-2020-3107206 (July 13, 2020) ("Stunder Rebuttal").

⁵⁵ SC St. No. 1-SR, Hausman Surrebuttal, at 10:17–18.

⁵⁶ Moser Cross, Tr. at 318:1–6; ES Hearing Ex. 10, Response to ES Interrogatories Set I, No. 8.f.

⁵⁷ SC St. No. 1-SR, Hausman Surrebuttal, at 11:3–5.

⁵⁸ *Id.* at 12:11–19.

necessary infrastructure investments, it would be prudent to pursue those alternatives. This is particularly so considering the many co-benefits of energy efficiency, including reduced bills, more comfortable homes, and reduced greenhouse gas emissions. Consistent with the Commission’s obligation to ensure that only prudently incurred expenses are passed to customers and to require quality, efficient, and effective management, rates should not be increased to accelerate infrastructure investments unless and until PGW evaluates whether energy efficiency and other non-pipeline alternatives can reduce the costs and risks for its customers.⁵⁹

C. PGW’s Failure to Study Stranded Asset Risks is Unjust and Unreasonable

The second key analytic gap that the Environmental Stakeholders have identified is PGW’s failure to study the stranded assets associated with climate change, both those arising directly from climate change and those arising from climate change regulation.⁶⁰ As discussed *supra*, the Commission has jurisdiction over this issue as part of its authority to require that utilities demonstrate their proposed investments to be just, reasonable and prudent, which requires an assessment of their future expected value and any risks thereto.⁶¹ Moving beyond jurisdiction, the Environmental Stakeholders have argued that PGW (1) has not studied stranded asset risks associated with climate change, and (2) this failure is unjust, unreasonable, and inconsistent with quality management practices because it exposures ratepayers to substantial risk over the expected life of PGW’s proposed infrastructure investments.⁶²

In response, PGW’s Main Brief tries to have it both ways, arguing both that PGW “has considered climate change and environmental issues in its infrastructure planning”⁶³ and also that

⁵⁹ 66 Pa. C.S. § 1301(a) (“Every rate made, demanded, or received by any public utility . . . shall be just and reasonable, and in conformity with [the] regulations or orders of the commission.”); 52 Pa. Code § 69.2703.

⁶⁰ Environmental Stakeholders Main Brief, at 22–26; SC St. No. 1, Hausman Direct, at 3:12–4:10; SC St. No. 1-SR, Hausman Surrebuttal, at 4:4–8.

⁶¹ *See supra* at Section II.A.

⁶² Environmental Stakeholders Main Brief, at 22–26; SC St. No. 1, Hausman Direct, at 3:12–4:10.

⁶³ PGW Main Brief, at 39.

it would “unrealistic” and “unfair” for PGW to be required to consider climate change in its infrastructure planning.⁶⁴ Both of these contentions are entirely unsupported, and as such should be rejected by the Commission.

1. PGW Has Not Studied Stranded Asset Risks from Climate Change or Climate Regulations

To start, the record demonstrates that PGW has not “considered climate change and environmental issues in its infrastructure planning” in any way relevant to controlling costs for ratepayers.⁶⁵ As indicated by PGW’s own responses to interrogatories, PGW has not conducted any evaluation at all of how climate change or climate regulation may affect the expected value of its infrastructure investments over their lifetime.⁶⁶ Similarly, PGW has not conducted any planning at all related to how to minimize costs to ratepayers of climate change or climate regulation.⁶⁷

Despite this record evidence, in which PGW itself concedes that it has done no evaluation of climate-related stranded asset risks, PGW nevertheless insists in its Main Brief that it has “consider[ed] stranded asset risks associated with climate change and climate regulations”⁶⁸ and “considered climate change”⁶⁹ in its infrastructure planning. These contentions are so directly contradicted by PGW’s discovery responses that it is worth revisiting the text of the questions and responses. Regarding stranded asset risk from climate change, the relevant interrogatory and response is as follows:

ES-I-3(c): “Has PGW’s management evaluated the risk that climate change may pose to PGW’s ability to implement its infrastructure plans or to obtain the full expected value from its planned infrastructure investments? If so, please provide all documents relating to any such evaluations. If not, please explain why not.”⁷⁰

⁶⁴ *Id.* at 40.

⁶⁵ *Id.*

⁶⁶ Environmental Stakeholders Main Brief, at 25 (discussing ES Hearing Ex. 10, PGW’s Response to ES-I-3(a), (c)).

⁶⁷ *Id.* (discussing ES Hearing Ex. 10, PGW’s Response to ES-I-3(b), (d)); Moser Cross, Tr. at 325:4-21.

⁶⁸ PGW Main Brief, at 9.

⁶⁹ PGW Main Brief, at 39.

⁷⁰ ES Hearing Ex. 10, PGW’s Response to ES-I-3(c).

PGW Response: “Gregory Stunder: Please see the response to ES-I-2.d.”⁷¹

PGW’s response to ES-I-2.d is as follows: “Daniel Furtek: The system is evaluated for the current needs of our customers and networking studies.”⁷² Since PGW’s sole response to question ES-I-3(c) regarding climate-related stranded asset risk is to state that it evaluates its system based on the current needs of customers, and PGW provides no documents demonstrating any evaluation of climate-related stranded asset risks, the record demonstrates that PGW has not considered climate-related stranded asset risks in any meaningful fashion.

Regarding stranded asset risk associated with climate regulations, the relevant interrogatory and response is as follows:

ES-I-3(a): “Has PGW’s management evaluated the risk that future regulatory changes relating to greenhouse gases or fossil fuel use may pose to PGW’s ability to implement its infrastructure plans or to obtain the full expected value from its planned infrastructure investments? If so, please provide all documents relating to any such evaluations. If not, please explain why not.”⁷³

PGW Response: “Gregory Stunder: No. Regulatory changes have not been imposed.”⁷⁴

As can be seen here, with respect to the question of whether PGW has considered climate regulation-related stranded asset risks, PGW’s answer is “No.”⁷⁵

Based on this record evidence, it is unclear why PGW believes it is acceptable to turn around and claim, in its Main Brief, that it “consider[ed] stranded asset risks associated with climate change and climate regulations.”⁷⁶ Again, this directly contradicts PGW’s own prior verified statements in its interrogatory responses. Nevertheless, PGW attempts to support this

⁷¹ *Id.*

⁷² ES Hearing Ex. 10, PGW’s Response to ES-I-2(d).

⁷³ ES Hearing Ex. 10, PGW’s Response to ES-I-3(a).

⁷⁴ *Id.*

⁷⁵ ES Hearing Ex. 10, PGW’s Response to ES-I-3(a).

⁷⁶ PGW Main Brief, at 9

contention by identifying three individual and unrelated infrastructure-related actions it claims to have undertaken. However, it is plain that none of them actually involve any stranded asset risk analysis. First, PGW claims that it has studied renewable natural gas and determined that its system can accept renewable natural gas that meets certain specifications.⁷⁷ Second, PGW claims that it evaluates whether mains that are underutilized can be decommissioned or reduced in size rather than replaced.⁷⁸ Third, PGW claims that “the very nature of it [sic] pipeline replacement program reduces methane emission [sic].”⁷⁹

This attempt to concoct, in contradiction to its own prior discovery responses, a *post hoc* claim that PGW has in any meaningful way evaluated climate-related stranded asset risks should be rejected. It is obvious that these individual and unrelated actions do not add up to a serious and prudent review of stranded asset risks facing ratepayers and ways to mitigate those risks.

2. PGW Should Be Required to Study Stranded Asset Risks from Climate Change and Climate Regulations

Although PGW has not studied climate-related stranded asset risks, it should. As discussed above, there are two key categories of climate-related stranded asset risks, the effects of climate change itself and the effects of climate-related regulatory action.⁸⁰ With respect to the first category, PGW has conceded that the Commission can and should “take into account the actual effects of climate change, such as warmer winters, on PGW’s operations.”⁸¹ Given that this is so, PGW should be ordered to provide the Commission with the information necessary to do so. Both in this rate case, and in future rate cases, PGW should supply the Commission with information concerning the “actual effects of climate change...on PGW’s operations,”⁸² as well

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ PGW Main Brief, at 9.

⁸⁰ *See supra* at 13.

⁸¹ PGW Main Brief, at 32.

⁸² *Id.*

as analysis concerning the stranded asset risks posed by such effects and how PGW plans to mitigate such risks. Filling this analytic gap is an essential part of PGW carrying its burden of demonstrating that its proposed rate increase is just and reasonable and of PGW demonstrating that its management practices are prudent and responsible.⁸³

With regard to the second category of stranded asset risk, those from climate regulation, PGW's Main Brief argues that PGW should not study such risks.⁸⁴ PGW's reasoning is that doing so would be "complete speculation," because "[t]he Environmental Stakeholders have not pointed to any rule or regulation that suggests that PGW or other gas companies will be forced to cease operation 30 or 40 years hence."⁸⁵

This assertion is incorrect, as the Environmental Stakeholder submitted extensive, and unrebutted, expert testimony on Commonwealth and City of Philadelphia climate policies.⁸⁶ Notably, the Governor of Pennsylvania recently issued an Executive Order committing the Commonwealth to achieve an 80% reduction in greenhouse gas emissions by 2050.⁸⁷ Moreover, the City of Philadelphia has passed a resolution committing the City to transitioning to 100% "clean renewable energy" for all purposes, including heat, by 2050.⁸⁸ The resolution defines "clean renewable energy" as including "solar, wind, and geothermal" but not "natural gas" or any "energy derived from fossil fuels."⁸⁹ In the resolution, the City Council "commits to allocating appropriate resources to ensure that the goals of this resolution are achieved[.]"⁹⁰ These policy

⁸³ 66 Pa. C.S. § 1301(a); 52 Pa. Code § 69.2703.

⁸⁴ PGW Main Brief, at 33.

⁸⁵ *Id.*

⁸⁶ SC St. No. 1, Hausman Direct, at 7:5–9:20.

⁸⁷ *Id.* at 8:4–8 (citing Pa. Exec. Order No. 2019-01 (Jan. 8, 2019)).

⁸⁸ *Id.* at 9:5–20 (citing Resolution No. 190728).

⁸⁹ Resolution No. 190728, at 2.

⁹⁰ *Id.* at 3.

actions do more than “suggest” that 30 years from now PGW may need to cease or reduce its natural gas distribution by 2050—they amount to a red flashing warning light.

Moreover, as the Environmental Stakeholders have noted, in the request for proposals for a business diversification study that the City of Philadelphia is conducting in coordination with PGW, the City stated that PGW “has been experiencing a decrease in customers and usage for decades due to appliance efficiencies and conservation efforts, and warming weather patterns have also contributed to demand reductions,” and that this trend “will only intensify as temperatures are projected to continue to rise in the future and new policies may restrict the production of greenhouse gases.”⁹¹

PGW attempts to portray any attempt at responsibly planning for such future challenges as mere “speculation.”⁹² However, 2050 is only 30 years away, and the mains PGW is planning to continue to install as replacements past 2050 have an expected useful life of 54 years.⁹³ In order to minimize costs to ratepayers of compliance if the Commonwealth and the City do what they say they are going to do, the time to start planning is now.

As the Environmental Stakeholders have argued, the reason that PGW is so indifferent to stranded asset risks appears to be that PGW simply plans to pass off any increased costs onto ratepayers.⁹⁴ Thus far, PGW has responded to climate change exclusively through relying on a Weather Normalization clause and through regularly ratcheting up its rates. A serious, responsible, and public-minded utility would be planning for how to minimize the costs of

⁹¹ SC St. No. 1, Hausman Direct, at 15:3–12 (quoting Public Bids, *City of Philadelphia’s RFP for a Philadelphia Gas Works Business Diversification Study*, Philadelphia Energy Authority (Oct. 22, 2019)).

⁹² PGW Main Brief, at 33.

⁹³ Moser Cross, Tr. at 317:2–5.

⁹⁴ Environmental Stakeholders Main Brief, at 57.

climate change and future climate regulations to ratepayers. Since PGW has refused, it is in the public interest that they be ordered to do so.

D. PGW’s Proposed Increase to its Customer Charge is Unjust and Unreasonable

Increasing PGW’s customer charge is not just, reasonable, or consistent with quality management because it is contrary to broadly accepted economic theory, will reduce customers’ ability to control their bills, and will dampen incentives to conserve.⁹⁵ These general principles are widely accepted and well-documented by multiple parties in this record.⁹⁶ Additionally, these principles illustrate that increased recovery of fixed costs through customer charges is imprudent—especially during an unprecedented public health crisis and economic recession—whether the increase is for one dollar or five. In response, PGW’s Main Brief defends its proposed higher customer charges with a mix of conjecture and unsupported assertions.⁹⁷ For the reasons explained below, these contentions should be rejected.

1. Substantial Evidence Shows Recovery of All Fixed Costs Through Customer Charges is Contrary to Economic Theory and Utility Accounting Principles

Although PGW’s Main Brief continues to claim its cost of service study justifies radical customer charge increases,⁹⁸ PGW has offered no support for the idea that it is appropriate to recover all fixed costs through customer charges.⁹⁹ Instead, PGW’s Main Brief merely asserts that Dr. Hausman’s testimony, which demonstrated that neither economic theory nor utility ratemaking best practices support PGW’s approach to customer charges, is “inconsistent with

⁹⁵ 66 Pa. C.S. § 1301(a); 52 Pa. Code § 69.2703; *See* Environmental Stakeholders Main Brief, at 31–38.

⁹⁶ SC St. No. 1, Hausman Direct, at 18–25; Direct Test. of Harry S. Geller on Behalf of Tenant Union Representative Network (“TURN”) and Action Alliance of Senior Citizens of Greater Philadelphia, at 9:18–10:16, Docket No. R-2020-3017209 (June 15, 2020) (“TURN et al. St. No. 1, Geller Direct”); OCA St. No. 5, Colton Direct, at 16:1–18:14.

⁹⁷ PGW Main Brief, at 44–45.

⁹⁸ *Id.*

⁹⁹ PGW St. No. 6, *Direct Testimony of Kenneth S. Dybalski of Behalf of PGW*, at 5:17–21, Docket No. R-2020-3017209 (Feb. 2020) (“PGW St. No. 6, Dybalski Direct”); *see also id.* at 6:10–12 (explaining that CCOSS “results show the level of monthly customer charge that would be required if the Company were to recover 100% of its fixed customer related costs in a monthly customer charge”).

utility costing principles.”¹⁰⁰ Yet PGW fails to support this conclusory assertion. These few words are, however, entirely unsupported on this record, and mere conclusory assertion without any underlying support cannot amount to substantial evidence.¹⁰¹

Dr. Hausman’s Direct Testimony explains the fundamental problems with PGW’s proposal to recover a greater proportion of its fixed costs through an increased customer charge, beginning with running afoul of economic theory and basic utility accounting principles.¹⁰² Unlike PGW’s witnesses, Dr. Hausman’s expert opinion on PGW’s customer charge proposal is supported by credible authorities. For example, Dr. Hausman’s testimony is consistent with guidance from the Regulatory Assistance Project, a regulatory think-tank staffed by “former utility and environmental regulators, industry executives, system operators, and other policymakers and officials with extensive experience in the power sector.”¹⁰³ The Regulatory Assistance Project explains the error in PGW’s approach:

Utilities often argue that the majority of their costs are fixed, and extrapolate from this that these fixed costs should be recovered in fixed charges. This is lacking in both economic foundation and accounting principles: Just because a cost is fixed in the short run does not mean it should be recovered in a fixed charge. Utilities often assert that most of their costs are “fixed” and should be recovered in fixed charges. While interest and depreciation expense are fixed in the short run, virtually every other cost is variable even in the short run. Even if a cost is “fixed” it does not mean it should be recovered in a fixed charge.¹⁰⁴

As Dr. Hausman testified, PGW’s request to increase its customer charge “is an expression of the monopoly power of the utility, and should be regarded with skepticism by the regulatory body

¹⁰⁰ PGW Main Brief, at 45; PGW St. No. 6-R, *Rebuttal Testimony of Kenneth S. Dybalski on Behalf of PGW*, at 7:5–8, Docket No. R-2020-3017209 (July 13, 2020) (“PGW St. No. 6-R, Dybalski Rebuttal”).

¹⁰¹ *City of Pittsburgh v. Pennsylvania Pub. Util. Comm’n*, 126 A.2d 777, 781 (1956) (internal citation omitted) (“The commission is not empowered to base a finding upon ‘conjectural and unsatisfactory estimates.’”).

¹⁰² SC St. No. 1, Hausman Direct, at 18–25.

¹⁰³ *Id.* at 20:8–11.

¹⁰⁴ *Id.* at 20:12–25 (quoting Ex. EDH-2) (“It should be noted that the discussion in Exhibit EDH-2 is primarily focused on electric utilities, but is equally applicable to gas utilities.”).

whose responsibility it is to rein in that monopoly power.”¹⁰⁵ Here again, Dr. Hausman’s expert opinion is consistent with those of the broad collection of experts at the Regulatory Assistance Project, who thusly explain the relationship between the exercise of monopoly power and utility requests to increase customer charges:

Another important role of utility regulation is to impart to natural monopolies . . . the same pricing discipline that competitive firms experience, so that they endeavor to minimize costs and maximize customer satisfaction. If utilities are allowed to recover their system costs in fixed charges for the privilege of being a customer, much of this discipline is lost. Conversely, if they recover their costs in the per kWh price, they must compete with alternatives to electricity consumption from the utility, including energy efficiency and customer self-generation. This discipline helps to hold costs down for all consumers.¹⁰⁶

The Commission Guide to Ratemaking similarly recognizes the tendency of monopoly utilities to increase customer charges: “Typically, companies will categorize a significant number of costs as customer related in order to capture more revenue in fixed costs.”¹⁰⁷

Dr. Hausman further referred to findings of other utility regulators rejecting utility attempts to move toward recovery of all fixed costs through a fixed customer charge. Examples include the Illinois Commerce Commission rejecting a proposal similar to PGW’s as “inconsistent with the public policies of attributing costs to cost causers, encouraging energy efficiency and eliminating inequitable cross-subsidization of high users by low users of natural gas.”¹⁰⁸

Consistent with economic theory and utility accounting principles, as well as the Commission’s Guide to Utility Ratemaking,¹⁰⁹ customer charges should be set at a level

¹⁰⁵ *Id.* at 23:22–24:1.

¹⁰⁶ *Id.* at 24:3–12 (quoting Ex. EDH-2 at D-4–D-5).

¹⁰⁷ James H. Cawley, *A Guide to Utility Ratemaking*, Pennsylvania Pub. Util. Comm’n, at 148 (2018) (“*Guide to Utility Ratemaking*”), http://www.puc.pa.gov/General/publications_reports/pdf/Ratemaking_Guide2018.pdf.

¹⁰⁸ SC St. No. 1, Hausman Direct, at 22:13–20 (quoting Ex. EDH-8 at 176).

¹⁰⁹ Guide to Utility Ratemaking, at 148.

sufficient to recover the incremental costs of connecting a customer to PGW’s system.¹¹⁰ PGW’s CCOSS sought a different result—moving toward recovery of all fixed costs through customers’ fixed charges.¹¹¹ But PGW has yet to offer a single authority or precedent to show its approach is anything more than an exercise of its monopoly power that will harm its captive customers.

2. PGW’s Conclusory Assertions Regarding Impacts To Its Customers Are Not Supported By Any Analysis or Authority and Should Be Afforded No Weight

Although Mr. Dybalski’s testimony¹¹² and PGW’s Main Brief¹¹³ continue to assert that customer charge increases will not impede energy conservation incentives, PGW offers no credible authorities or actual analysis to support that conclusion. The only evidence PGW put into the record on this point is a quantification of the percentage of a “typical” residential customer bill that would be recovered through the originally proposed customer charge (17.4%) versus the volumetric charge (82.6%).¹¹⁴ All this calculation establishes, however, is Mr. Dybalski’s ability to do arithmetic. That math, standing alone, is not at all probative of the effects PGW’s proposal on conservation.

In order to determine such effects, one would next need to conduct some analysis of customer sensitivity to changes in price signals and impacts to the cost-effectiveness of efficiency measures, but PGW did no such analysis.¹¹⁵ Not only did PGW do no such analysis, it offers no supporting authority claiming that the generally observed fact that increased customer

¹¹⁰ *Id.* at 25:17–22.

¹¹¹ PGW St. No. 6, Dybalski Direct, at 5:17–21; *see also id.* at 6:10–12 (explaining that CCOSS “results show the level of monthly customer charge that would be required if the Company were to recover 100% of its fixed customer related costs in a monthly customer charge”).

¹¹² PGW St. No. 6-R, Dybalski Rebuttal, at 6:4–16.

¹¹³ PGW Main Brief, at 44–45.

¹¹⁴ *Id.*; PGW St. No. 6-R, Dybalski Rebuttal, at 6:6–16.

¹¹⁵ SC St. No. 1, Hausman Direct, at 23:10–14 (explaining that, in response to a discovery request from Clean Air Council, PGW admits it has not attempted to analyze the impact its proposed increase in customer charges would have on energy efficiency initiatives such as the Company’s EnergySense program). PGW similarly neglected to consider the degree of harm increasing customer charges would have on low-income customers. *Id.*

charges diminish conservation incentives¹¹⁶ only occurs if the fixed percentage of customers' bills meets some particular threshold.¹¹⁷ Instead, PGW rests on mere conjecture.

Conjecture is not a sufficient basis for findings before the Commission.¹¹⁸ PGW's requested customer charge increases should be rejected because this record is devoid of evidence beyond Mr. Dybalski's unsupported supposition that such an increase would not materially impede conservation efforts. To the contrary, this record shows, through multiple expert witnesses representing intervenors with varied interests, that increasing fixed charges is generally known to harm customers,¹¹⁹ in part, by impeding conservation.¹²⁰

3. No Evidence Supports PGW's Assertion That Its Proposed Fixed Charge Increases Are Consistent With Precedent or the Rate Structure of A Single Pennsylvania Utility

PGW asserts in its Main Brief that, should the Commission grant any revenue increase in this proceeding, recovering that increase exclusively through fixed charges as Dr. Hausman recommends would be inconsistent with "Commission precedent and the rate structure of every Pennsylvania utility."¹²¹ This assertion in PGW's Main Brief includes no citation and is entirely unsupported in the record. None of PGW's pre-filed testimony identifies any Commission precedent endorsing recovery of 100% of the fixed costs attributable to each customer class through that class's customer charge. Similarly, none of PGW's pre-served testimony identified a

¹¹⁶ SC St. No. 1, Hausman Direct, at 24:1–25:22 (explaining findings of The Regulatory Assistance Project showing usage increases when rates are restructured to allow increased recovery through fixed rather than variable charges, as PGW seeks to do).

¹¹⁷ See PGW Main Brief, at 44–45 (exclusively relying on Mr. Dybalski's pre-filed testimony, with no mention of any supporting authority); PGW St. No. 6, Dybalski Direct, at 5:14–6:14 (citing no authority to support rate structure that recovers all fixed costs through fixed customer charge); PGW St. No. 6-R, Dybalski Rebuttal, at 7:1–8 (providing no authority).

¹¹⁸ *Pennsylvania Pub. Util. Comm'n*, 126 A.2d at 781 (1956) (internal citation omitted) ("The commission is not empowered to base a finding upon 'conjectural and unsatisfactory estimates.'").

¹¹⁹ TURN *et al.* St. No. 1, Geller Direct, at 9:18–10:16; OCA St. No. 5, Colton Direct, at 16:1–18:14; OSBA St. No. 1, *Direct Testimony of Robert Knecht on Behalf of the Office of Small Business Advocate*, at 37:7–15, Docket No. R-2020-3017206 (June 15, 2020).

¹²⁰ SC St. No. 1, Hausman Direct, at 22:11–25:5.

¹²¹ PGW Main Brief, at 45.

single Pennsylvania utility recovering 100% of its fixed costs through a customer charge. Simply put, nothing in the record supports PGW's passing 100% of its fixed costs to customers through customer charges.

For the foregoing reasons, the Commission should decline to increase PGW's customer charges at this time. PGW has not shown that the incremental costs to connect an additional customer to its system warrant a customer charge increase at this time. Moreover, unrebutted evidence demonstrates that a customer charge increase would harmful impacts both on low-income customers and on conservation and energy efficiency measures.

E. A Climate Business Plan Would Be an Appropriate and Practical Remedy

In light of the above-identified deficiencies, a Climate Business Plan would be an appropriate and efficient remedy.¹²² As noted above, PGW has failed to evaluate potentially cost-effective alternatives to its proposed infrastructure work and has failed to evaluate or mitigate stranded asset risks associated with climate change and climate regulations. These analytic gaps could be filled with issue-specific studies, but it would likely be a more cost-effective and efficient use of ratepayer dollars to address them in an integrated study that can serve as a roadmap.¹²³ Moreover, public input should be included, and the study should be coordinated with the business diversification study PGW is currently developing in coordination with the City of Philadelphia, in order to ensure the most comprehensive and useful study possible.¹²⁴

¹²² Environmental Stakeholders Main Brief, at 28–30; SC St. No. 1, Hausman Direct, at 11–18.

¹²³ SC St. No. 1-SR, Hausman Surrebuttal, at 2:9–3:5.

¹²⁴ Environmental Stakeholders Main Brief at 29–30; SC St. No. 1, Hausman Direct, at 12:22–13:5, 16:9–16.

1. The Commission Has the Legal Authority to Order PGW to Prepare a Climate Business Plan Studying Cost-Effective Alternatives and Stranded Asset Risks as Recommended by the Environmental Stakeholders

In its Main Brief, PGW raised a number of objections to such a CBP.¹²⁵ First, PGW claims that there is a “lack of recognized legal authority for the PUC to order a CBP.”¹²⁶ PGW contends that “the Environmental Stakeholders cannot point to any legal requirement that specifically directs PGW and the Commission to engage in the sort of climate change analysis that they demand in this case.”¹²⁷

This argument is unavailing. It is well-settled that in a general rate case, PGW bears the burden of demonstrating that its proposed rates are just reasonable, a burden PGW must bear by coming forward with record evidence sufficient to support such a determination.¹²⁸ Additionally, PGW must show that it has demonstrated prudent and high quality management practices, including as related to environmental issues.¹²⁹ The Commission is authorized and required to investigate all general rate increase requests, and has broad discretion as to the factors to be considered in such an investigation.¹³⁰ Moreover, the Public Utility Code expressly authorizes the Commission to require a utility to submit periodic or special reports on any topic that the

¹²⁵ PGW Main Brief, at 39–40.

¹²⁶ *Id.* at 40.

¹²⁷ *Id.* at 22.

¹²⁸ 66 Pa. C.S. § 1301(a) (“Every rate made, demanded, or received by any public utility . . . shall be just and reasonable . . .”); 66 Pa. C.S. § 315(a); *Lower Frederick Twp. Water Co. v. Pennsylvania Util. Comm’n*, 409 A.2d 505, 507 (Pa. Commw. Ct. 1980) (“It is well-established that the evidence adduced by a utility to meet this burden [of proving the justness and reasonableness of a proposed rate hike] must be substantial”).

¹²⁹ 52 Pa. Code § 69.2703(a)(6) (requiring Commission to consider “PGW’s management quality, efficiency and effectiveness” in determining just and reasonable rates); *Columbia Gas of Pennsylvania, Inc.*, 613 A.2d 74 (addressing cost recovery related to migration of pollution from utility-owned property); *Joint Appl. of Nui Corp., C&T Enterprises, Inc. & Valley Energy, Inc.*, Docket No. A-125100, 2002 WL 34560229 (Feb. 7, 2002) (approving settlement that assured utility’s right to seek recovery through rates of remediation costs, if approved by the Commission).

¹³⁰ 66 Pa. C.S. § 1301; *Popowsky v. Pennsylvania Pub. Util. Comm’n*, 683 A.2d 958, 961 (Pa. Commw. Ct. 1996) (explaining that “the [C]ommission has broad discretion in determining whether rates are reasonable” and “is vested with discretion to decide what factors it will consider in setting or evaluating a utility’s rates”).

Commission is authorized to inquire into.¹³¹ The Commission is authorized to inquire into and consider the prudence of PGW’s management and investments in light of costs and stranded asset risks associated with climate change as part of its authority and duty to ensure that PGW’s rates are just and reasonable and that PGW is implementing quality management practices.¹³²

Importantly, the Commission’s scope of investigation is not limited to topics specifically listed by name in the statute or regulations. For example, environmental remediation costs, executive salaries, and health insurance are not listed by name in the statute or regulations, but there is no dispute that the Commission can review and investigate those topics in a rate case.¹³³ The key factor is whether or not a topic is related to the justness and reasonableness of PGW’s rates and the prudence and quality of PGW’s management practices—not whether a topic is named specifically in the statute or regulations. As the Environmental Stakeholders have discussed previously, the prudent assessment of cost-effective alternatives and climate-related stranded asset risks is integral to the justness and reasonableness of rates and the prudence of management.¹³⁴ As such, there is no barrier to the Commission’s inquiry into such matters simply because environmental factors such as climate change may be involved.¹³⁵

2. Preparing a Climate Business Plan is Reasonable, Since PGW is Already Evaluating Climate Issues in Other Contexts and Has No Basis to Refuse to Study Ways to Minimize the Costs and Risks of Climate Change for Ratepayers

Second, PGW claims it would be “unrealistic” for it to prepare a CBP because doing so would require PGW to “synthesize all of the science and proposed remedies before any of the

¹³¹ 66 Pa. C.S. § 504.

¹³² See *supra* at Section II.A.

¹³³ E.g., *Columbia Gas of Pennsylvania*, 613 A.2d 74 (addressing cost recovery related to environmental remediation); *Pennsylvania Pub. Util. Comm’n v. Valley Utils Co.*, 72 Pa. P.U.C. 310 (Mar. 22, 1990) (rejecting as unreasonable and unsupported by evidence utility’s request to increase executive salary); *Pennsylvania Pub. Util. Comm’n v. Philadelphia Suburban Water Co.*, 71 Pa. P.U.C. 593 (Dec. 28, 1989) (approving as reasonable utility’s proposed above-inflation increase to employee benefits and health care costs).

¹³⁴ See *supra* Sections II.B–C; Environmental Stakeholders Main Brief, at Sections V.A.1–3.

¹³⁵ See *supra* Sections II.B–C; Environmental Stakeholders Main Brief, at Sections V.A.1–3.

larger discussion begins to sort itself out[.]”¹³⁶ PGW overstates its case. Climate change is a well-settled scientific reality, as recognized by Governor Wolf in Executive Order 2019-01, which found that “climate change impacts in Pennsylvania are real and continue to put Pennsylvanians at risk: in recent years, extreme weather and natural disasters have become more frequent and more intense.”¹³⁷ This is consistent with the conclusions of the Philadelphia City Council, which found that “[c]limate change is not just a future threat to be avoided, but – with the planet having already experienced one degree Celsius warming due to human activity, which has caused the rising sea levels, severe storms, and other extreme weather events we see right now – a present danger requiring significant human adjustments to avoid far worse damage.”¹³⁸ Specifically, as Dr. Hausman testified, unless greenhouse gas emissions are curtailed, “large areas of Philadelphia will be inundated either persistently or during storm surges.”¹³⁹

Moreover, despite its protestations regarding the uncertainty of climate change, PGW itself is already studying aspects of climate change. To start, as the Environmental Stakeholders have noted previously, PGW studies winter temperature warming trends, and projects them at least 10 years into the future in order to inform its revenue needs.¹⁴⁰ Moreover, as discussed *supra*, PGW is currently working with the City of Philadelphia to develop a “business

¹³⁶ PGW Main Brief, at 40.

¹³⁷ SC St. No. 1, Hausman Direct, at 7:7–10 (citing Pa. Exec. Order No. 2019-01).

¹³⁸ *Id.* at 13:18–22 (citing Resolution No. 181081).

¹³⁹ *Id.* at 27:11–12.

¹⁴⁰ ES Hearing Ex. 11, PGW 2017 Rate Case, Vol. II, *Direct Testimony of Gregory Stunder* at 3–4, Docket No. R-2017-2586783 (Feb. 2017) (“ES Hearing Ex. 11”) (“PGW is facing declining sales, which leads to not only declining revenues but also declining cash flow and bond coverages. Warmer weather is contributing to significant decreases in consumption. Fiscal Year (FY) 2016 reflected a 20.8% warmer than normal winter and 24.5% warmer than the prior year. In fact, since 2010, the average annual usage of PGW’s residential heating customer has decreased by 15.38% from 91 Mcf (for 2010–2011) to 77 Mcf (for 2015–2016). This decreased level of degree days represents a loss of about six Bcf of normal sales or roughly \$36 million in lost margin. And this trend has been long-term.”).

diversification study which would provide a roadmap toward an environmentally and economically sustainable future for PGW.”¹⁴¹ According to the City of Philadelphia, this study is designed to examine “economically, and environmentally sustainable pathways” through future challenges that “will only intensify as temperatures are projected to continue to rise in the future and new policies may restrict the production of greenhouse gases.”¹⁴²

Additionally, PGW’s own spokesperson, at a hearing convened by the Philadelphia City Council concerning the future sustainability of PGW, testified that PGW’s “scientists and engineers and regulatory specialists had studied issues of environmental impact, sustainability, and emission reduction for many years.”¹⁴³ PGW has also stated that it is currently in the process of preparing a greenhouse gas inventory.¹⁴⁴

Accordingly, it is clear that PGW is capable of, and is actually doing, certain kinds of studies on climate issues. Notably, PGW is currently examining climate change to inform its rate increase requests (as reflected in PGW’s 2018 rate increase request),¹⁴⁵ and to identify new opportunities for business diversification (as reflected in the business diversification study PGW is conducting with the City).¹⁴⁶

¹⁴¹ SC St. No. 1, Hausman Direct, at 14:12–13 (quoting testimony from Christine Knapp, Director of Sustainability for the City of Philadelphia, during hearing on PGW’s sustainability, pursuant to Resolution No. 181081).

¹⁴² *Id.* at 15:3–12.

¹⁴³ *Id.* at 14:18–15:2 (quoting testimony from Barry O’Sullivan, PGW’s Director of Corporate Communications, during hearing on PGW’s sustainability, pursuant to Resolution No. 181081).

¹⁴⁴ PGW Main Brief, at 39.

¹⁴⁵ ES Hearing Ex. 11 at 3–4 (“PGW is facing declining sales, which leads to not only declining revenues but also declining cash flow and bond coverages. Warmer weather is contributing to significant decreases in consumption. Fiscal Year (FY) 2016 reflected a 20.8% warmer than normal winter and 24.5% warmer than the prior year. In fact, since 2010, the average annual usage of PGW’s residential heating customer has decreased by 15.38% from 91 Mcf (for 2010-2011) to 77 Mcf (for 2015-2016). This decreased level of degree days represents a loss of about six Bcf of normal sales or roughly \$36 million in lost margin. And this trend has been long-term.”).

¹⁴⁶ SC St. No. 1, Hausman Direct, at 15:3–12; Public Bids, *City of Philadelphia’s RFP for a Philadelphia Gas Works Business Diversification Study*, Philadelphia Energy Authority (Oct. 22, 2019), https://philaenergy.org/public_bids/city-of-philadelphias-rfp-for-a-philadelphia-gas-works-business-diversification-study/.

All the Environmental Stakeholders are asking is that PGW evaluate, as part of its prudent stewardship of ratepayer funds, not just how PGW can increase its revenues or expand its business in light of climate change, but how PGW can responsibly minimize the costs and risks of climate change for ratepayers. It is disingenuous for PGW to turn around and claim that when it comes time to examine ways to minimize the costs and risks of climate change for ratepayers, rather than raise rates, then suddenly climate-related planning becomes impossible.¹⁴⁷

The reasonableness of evaluating climate change as part of long-term planning for utilities is also made clear by reference to other jurisdictions. There is no special “Pennsylvania climate” that is somehow more difficult to incorporate into long-term planning than the climate in other jurisdictions. As Dr. Hausman testified, the Commonwealth of Massachusetts recently launched an investigation into how natural gas distribution companies (“NGDCs”) in Massachusetts can ensure that ratepayers are protected as they adapt their operations for a “net-zero GHG emissions energy future.”¹⁴⁸ Similarly, in the State of New York, the Central Hudson Gas and Electric Corporation recently designed, pursuant to a settlement, a program of pursuing non-pipes alternatives for meeting demand for heating fuels, it said would “help ensure the transition to lower-carbon energy markets in New York State.”¹⁴⁹ Finally, in Washington, D.C. (the “District”), AltaGas recently submitted to the District of Columbia Public Service Commission a “Climate Business Plan” addressing how AltaGas will adapt its business model to

¹⁴⁷ It is also disingenuous for PGW to claim that because the Environmental Stakeholders intervened in this Proceeding after the Prehearing Conference, the arguments of the Environmental Stakeholders should not be considered. PGW Main Brief, at 22. The Environmental Stakeholders served their Direct Testimony, and all subsequent papers, on exactly the same schedule as every other party, including PGW. PGW would have received the Direct Testimony of the Environmental Stakeholders on exactly the same scheduled date even if the Environmental Stakeholders had intervened prior to the Prehearing Conference.

¹⁴⁸ SC St. No. 1, Hausman Direct, at 17:2–6 (quoting Exhibit EDH-4 at 3).

¹⁴⁹ *Id.* at 17:17–18:6 (quoting Exhibit EDH-5 at 68–69).

meet the District’s climate commitments of reaching “carbon neutrality” and “shift[ing] away from fossil fuels, including natural gas” by 2050.¹⁵⁰

PGW also contends that it is unreasonable for it to prepare a Climate Business Plan because in PGW’s view, “natural gas *does* have a place in a reduced greenhouse gas future[.]”¹⁵¹ As a starting point, a fatal flaw with this contention is that one of the critical stranded asset risks driving the need for planning is that the City of Philadelphia has committed to transitioning 100% off of fossil fuels, including natural gas, for all purposes, including heating, by 2050.¹⁵² It is a matter of basic prudence to evaluate this stranded asset risk, whether PGW agrees with the public policies of the City of Philadelphia or not. Furthermore, PGW claims that it should not need to prepare a Climate Business Plan because the use of natural gas has contributed to greenhouse gas reductions in the past.¹⁵³ As Dr. Hausman noted, however, PGW relies for this claim not on scientific evidence, but on lobbying materials prepared by a fossil fuel industry association, which should be accorded no weight.¹⁵⁴ Moreover, PGW’s pro-fossil fuel views are not a substitute for, or a reason not to conduct, prudent and comprehensive analysis of the risks and costs posed by climate change and means of mitigating those costs and risks for ratepayers. Finally, PGW contends that it should not prepare a Climate Business Plan because its distribution network could be used to deliver “other types of energy such as renewable energy, storage and...renewable gases derived from biogenic sources.”¹⁵⁵ However, as the record demonstrates, other than determining that its system could accept certain kinds of renewable natural gas, PGW

¹⁵⁰ SC St. No. 1, Hausman Direct, Exhibit EDH-9, at 2-3.

¹⁵¹ PGW Main Brief, at 35 (emphasis in original).

¹⁵² Resolution 190728, at 3. Notably, Resolution No. 190728 defines “clean renewable energy” to include energy from “solar, wind, and geothermal” and clarifies that it “does not include natural gas.” *Id.* at 2. The Resolution emphasizes that “‘Renewable Energy’...specifically excludes energy derived from fossil fuels.” *Id.*

¹⁵³ PGW Main Brief, at 36.

¹⁵⁴ SC St. No. 1-SR, Hausman Surrebuttal, at 7:17–23.

¹⁵⁵ PGW Main Brief, at 36.

has performed no evaluation of the cost or feasibility of actually using its system for any of these applications, and has not identified where it would obtain “renewable gases” from in any meaningful quantity.¹⁵⁶ Additionally, as Dr. Hausman testified, technology such as “renewable gases” is speculative and unproven, and PGW has relied solely on “gas industry lobbying statements” in its discussion of them.¹⁵⁷ Rather than relying on conclusory, unsupported statements to fend off the need for planning, responsible and fact-based planning is exactly what is needed to separate reality from speculation.

In light of the serious risks of climate change, as recognized by both the Commonwealth and the City of Philadelphia,¹⁵⁸ it should not be considered acceptable for PGW to “fly blind” into the future without conducting a comprehensive and rigorous study of the stranded asset risks it is facing from climate change and climate regulations and how those risks can be prudently mitigated.

¹⁵⁶ Moser Cross, Tr. at 328–331 (conceding study of “renewable gas” only began in “past few months” and is ongoing, with aim to determine whether “if indeed an entity would want to build an [renewable natural gas] facility in the Philadelphia vicinity . . . and they wanted to inject [renewable natural gas] into our system, that we would . . . be able to adequately perform”); SC St. No. 1-SR, Hausman Surrebuttal, at 9:11–15 (“Mr. Stunder’s unsupported and conclusory statements, about speculative technologies, for which no citations beyond lobbying pamphlets are provided, do not remedy the analytical deficiencies that I identified in my direct testimony. They should be accorded no weight by the Commission.”); Hausman Cross, Tr. at 412:25–413:8 (observing that there is no evidence renewable gas is available, cost-effective, or compatible with PGW’s system; “it just seems like . . . pulling something out of thin air or out of a pamphlet from the American Gas Association”).

¹⁵⁷ SC St. No. 1-SR, Hausman Surrebuttal, at 9:1–10:13.

¹⁵⁸ SC St. No. 1, Hausman Direct, at 7:7–10; SC St. No. 1, Hausman Direct, 13:18–22; Pa. Exec. Order No. 2019-01 (finding that “climate change impacts in Pennsylvania are real and continue to put Pennsylvanians at risk: in recent years, extreme weather and natural disasters have become more frequent and more intense.”); Resolution No. 181081 (finding that “[c]limate change is not just a future threat to be avoided, but – with the planet having already experienced one degree Celsius warming due to human activity, which has caused the rising sea levels, severe storms, and other extreme weather events we see right now – a present danger requiring significant human adjustments to avoid far worse damage.”).

3. Preparing a Climate Business Plan is Fair, Since PGW Should Not be Permitted to Simply Raise Rates in Response to Rising Temperatures but Should also be Required to Study Ways to Minimize the Costs and Risks of Climate Change to Ratepayers

PGW has also contended that it would be “unfair” to require PGW to evaluate climate issues “in the absence of any industry wide [sic] policy or determination.”¹⁵⁹ This objection is unavailing for several reasons. First, as the steward of hundreds of millions of ratepayer dollars, PGW has a statutory responsibility to handle those funds prudently, regardless of whether or not other NGDCs are doing so. As noted above, PGW is capable of studying climate issues and developing plans based on them, but is currently doing so only with an eye to maximizing its own revenues. Moreover, PGW’s only current plan for handling climate change is just to continue relying on weather normalization and regular rate increases.¹⁶⁰ It is only fair that PGW be required, on behalf of its captive base of ratepayers, to study how to minimize the costs and risks of climate change to ratepayers.

Second, as one of the largest NGDCs in Pennsylvania, serving Pennsylvania’s largest city, it would be appropriate for PGW to help develop best practices for assessing and minimizing climate-related costs and risks. Moreover, PGW has advantages in this task that other NGDCs may not, such as “scientists and engineers and regulatory specialists [that have] studied issues of environmental impact, sustainability, and emission reduction for many years” as well as the cooperation and resources of the City of Philadelphia, which has committed to examining

¹⁵⁹ PGW Main Brief, at 40.

¹⁶⁰ ES Hearing Ex. 11 at 3 (explaining key reason for rate increase request as “combination of increasing costs over time and decreasing revenues caused chiefly by progressively warmer temperatures in PGW’s service territory, resulting in less use of natural gas for heating, makes additional revenues imperative”); PGW Vol. 1, Part 1, *Response to Filing Requirement II.A.4, Independent Consultant’s Engineering Report (July 2017)*, Sec. 7.4, p. 49 (“Since 2002, PGW’s Tariff has included a weather normalization adjustment (“WNA”) clause. The benefit of a WNA is that it mitigates the single biggest risk to PGW of not recovering its approved margin due to warmer than normal weather during the winter season.”); *Direct Test. of Joseph F. Golden, Jr. on Behalf of PGW*, Docket No. R-2020-3017206, at Ex. JFG-3, Part 1 of 3, p. 4 (Feb. 28, 2020) (“Favorably, PCW’s weather normalization adjustment (WNA) mechanism has helped keep margins stable. The weather normalization adjustment is key to the utility’s financial stability.”).

pathways to sustainable future for PGW. A Climate Business Plan developed by PGW could serve as a pilot or model for climate-related planning by other NGDCs, thereby benefiting ratepayers around the Commonwealth.

Third, PGW is also differently situated from other NGDCs in that the City of Philadelphia has committed itself to completely transitioning off fossil fuels, including for heat, by 2050. Yet PGW has, by its own admission, not conducted any planning whatsoever for this eventuality and has not even discussed the topic once at meetings of its senior leadership.¹⁶¹ Thus, another reason why it is appropriate for PGW to help develop best practices for minimizing the costs and risks of climate change and climate regulation is that the municipality in which it is located (and which owns it) has taken a leading role in responding to climate change by transitioning off of fossil fuels.

4. Preparing a Climate Business Plan is Prudent, Since a Key Component of Quality Management is Planning Responsibly for the Future

Finally, it is important to correct a persistent misrepresentation from PGW in its Main Brief. PGW has repeatedly attempted to mischaracterize the Environmental Stakeholders as seeking in this Proceeding to immediately end the distribution of natural gas by PGW and electrify all of Philadelphia.¹⁶² The Environmental Stakeholders have not requested such a remedy.¹⁶³ Rather, the Environmental Stakeholders have requested that PGW, as part of the quality management that it is required to demonstrate, be required to prepare a Climate Business

¹⁶¹ ES Hearing Ex. 5, PGW's Response to Discovery Request CAC-01-CAC-01-8; PGW's Responses to CAC-01-CAC-01-10, CAC-01-CAC-01-12; ES Hearing Ex. 7, PGW's Suppl. Responses to Discovery Request CAC-01-CAC-01-10.Supplemental.01, CAC-01-CAC-01-12.Supplemental.01.

¹⁶² *E.g.*, PGW Main Brief, at 20; *id.* at Appx. A, ¶ 32 (Though PGW's Main Brief at 20 misleadingly suggests so, the Environmental Stakeholders have never characterized the Climate Business Plan as a "going-out-of-the-natural-gas business" plan).

¹⁶³ Environmental Stakeholders Main Brief, at 28–30 (asking that PGW be required to fill analytic gaps underlying this rate increase request with a Climate Business Plan that comprehensively examines lower-cost alternatives and risks); SC St. No. 1, Hausman Direct, at 12:3–21 ("The CBP should consider the impacts of climate change and the need to tailor the Company's investments to serve customers in a low-carbon future . . ."); SC St. No. 1-SR, Hausman Surrebutal, at 11:8–20.

Plan to responsibly study cost-effective alternatives to its proposed infrastructure work as well as to evaluate and mitigate stranded asset risks.¹⁶⁴ One such clear and present stranded asset risk is that the City of Philadelphia has committed to transitioning off fossil fuels completely by 2050, and the Environmental Stakeholders have asked that PGW begin preparing a prudent contingency plan for this eventuality.¹⁶⁵

The Environmental Stakeholders have also recommended that PGW be required to manage ratepayer dollars consistent with any need to reduce greenhouse gases that is demonstrated by the Climate Business Plan study to be prudent or necessary to mitigate stranded asset risks from climate change or climate regulation.¹⁶⁶ As part of this mitigation strategy, the study should also include prudent contingency planning for how PGW would reduce its greenhouse gas emissions in light of demonstrated regulatory trends towards such limitations. This is an essential part of minimizing the stranded asset risks PGW faces in coming decades, and it is part and parcel of PGW's duty of diligence and prudent that it owes to ratepayers.

PGW has sought to construe this advocacy for quality management planning as some kind of extreme position, but the fact of the matter is that the City of Philadelphia itself has recognized that PGW's business model faces severe challenges from both rising temperatures and "new policies [that] may restrict the production of greenhouse gases," and is working with PGW to examine "economically, and environmentally sustainable pathways" as well as the "anticipated carbon emissions reductions of...each pathway."¹⁶⁷ The City of Philadelphia has

¹⁶⁴ SC St. No. 1, Hausman Direct, at 12:3–21; 52 Pa. Code § 69.2703.

¹⁶⁵ *Id.* at 10:5–11:2.

¹⁶⁶ SC St. No. 1-SR, Hausman Surrebuttal, at 4:9–5:4.

¹⁶⁷ SC St. No. 1, Hausman Direct, at 15:3–12.

also, as noted above, committed itself to transitioning 100% off fossil fuels, including natural gas, by 2050.¹⁶⁸

Yet PGW still feels that it can come into this Proceeding and represent to the Commission that it would be impossible and unreasonable for PGW to evaluate future climate change and climate regulation risks or to identify ways to mitigate those risks on behalf of ratepayers. Where PGW has shown itself in other contexts to be perfectly able and willing to do climate-related planning (especially where PGW can leverage data on rising winter temperatures to raise rates), PGW's refusal in this Proceeding to study ways of minimizing climate-related costs and risks for ratepayers is inconsistent and suggests a lack of seriousness. It also displays an indifference to ratepayers that cannot be reconciled with the public interest.

The Environmental Stakeholders have been clear about their perspective regarding the public interest in responding effectively to climate change, which threatens to hit the most vulnerable sectors of society the hardest. As Dr. Hausman has testified, a sober review of the best available science makes clear that a just and equitable transition off of fossil fuels is needed in order to avoid the worst impacts of climate change in the future.¹⁶⁹ However, the Environmental Stakeholders also understand the complexities and challenges involved with navigating PGW's future in a climate-constrained world. This is why, in this Proceeding, all that the Environmental Stakeholders have asked for is a rigorous, science-based study of potential cost-effective alternatives to further infrastructure buildout and of the costs and stranded asset risks associated with climate change and climate regulation as well as ways to minimize those costs and risks.¹⁷⁰ The critical task is to prepare such a science-based study, which will fill analytic gaps that have

¹⁶⁸ *Id.* at 9:14–17 (quoting Resolution No. 190728).

¹⁶⁹ *Id.* at 26:10–13; SC St. No. 1-SR, Hausman Surrebuttal, at 8:3–10.

¹⁷⁰ SC St. No. 1, Hausman Direct, at 28:9–29:17.

to be open for far too long, and the debate over what to do with that data will follow once the data has been gathered.

5. A Climate Business Plan Could Be Prepared in a Number of Ways, But Quality of Information is Key

Above all, the Environmental Stakeholders are seeking in this Proceeding to advance practical ways to improve the quality of PGW's management as it relates to climate issues, with the objective of helping to shield ratepayers from the costs and risks posed by climate change to PGW's operations and infrastructure in the coming decades. This results-oriented practicality is reflected in the flexibility of the solutions that the Environmental Stakeholders have proposed.

One design question is whether issues are tackled in individual reports or as part of an integrated study. As the Environmental Stakeholders have consistently emphasized, the two key analytic gaps that need to be filled are evaluating potentially cost-effective alternatives such as energy efficiency and evaluating stranded asset risks associated with climate change and climate regulation as well as means of minimizing such risks. Although it would likely be more efficient and effective to address these issues in an integrated Climate Business Plan, they could also be addressed in issue-specific studies.¹⁷¹

Another process issue is the role of the public. The Environmental Stakeholders have emphasized that public comment and Commission approval are needed to provide an external "vetting" that will help ensure the quality of the report. In this Proceeding, PGW has relied on lobbying materials from the fossil fuel industry, rather than scientific evidence, to support its contentions regarding climate change.¹⁷² Notably, PGW submitted Rebuttal Testimony that

¹⁷¹ SC St. No. 1-SR, Hausman Surrebuttal, at 5:5–6:8; *see also* Environmental Stakeholders Main Brief, at 29.

¹⁷² PGW St. No. 1-R, *Rebuttal Testimony of Gregory Stunder on Behalf of PGW*, at 6:4–8:2, Docket No. R-2020-3017206 (July 13, 2020) ("PGW St. No. 1-R, Stunder Rebuttal"); Stunder Cross, Tr. at 366–73; *see also* SC St. No. 1-SR, Hausman Surrebuttal, at 9:1–15 (explaining unreliability of lobbying statements relied on by Mr. Stunder).

incorporated large chunks of text relating to climate change that had been directly copied and pasted from an American Gas Association (“AGA”) lobbying pamphlet, without quotation marks.¹⁷³ As PGW admitted, PGW is a major contributor to the AGA and PGW personnel hold leadership positions in the AGA, raising serious questions regarding PGW’s influence over the AGA materials on which PGW purports to rely on as impartial evidence.¹⁷⁴ In order to ensure quality scientific information is used to fill the analytic gaps identified herein, the ability of the public to comment on the record, and for the Commission to review and approve the report, is important. However, if PGW persists in relying on fossil-fuel industry lobbying materials instead of scientific evidence, the Commission should consider ordering the appointment of an independent expert to complete the study.¹⁷⁵

III. CONCLUSION

PGW has asked to extract \$70 million more annually from Philadelphia’s ratepayers for a plan of infrastructure work that will extend past 2050 and involves the installation of mains that have an expected useful life of 54 years. A responsible and forward-looking utility would plan for how to steward ratepayer dollars responsibly in light of projected climate and regulatory trends during those decades. PGW, in contrast, has made it clear that it must be ordered to do so.

Such an order would be in the public interest. Both the Commonwealth and the City of Philadelphia have determined that climate change poses severe risks in the coming decades and have committed to pursuing aggressive greenhouse gas reductions over that time. Notably, the City of Philadelphia has committed itself to transitioning 100% off fossil fuels, including natural gas, by 2050. As such, both climate change itself and Commonwealth and City of Philadelphia

¹⁷³ PGW St. No. 1-SR, Stunder Rebuttal, at 6:4–8; Stunder Cross, Tr. at 368:7–20.

¹⁷⁴ Stunder Cross, Tr. at 368:21–369:15.

¹⁷⁵ See, e.g. *Pennsylvania Pub. Util. Comm’n Bureau of Investigation & Enft.*, No. C-2018-3006534, 2020 WL 2764457, at *6 (May 21, 2020).

climate regulations could have significant impacts on the expected value of PGW’s infrastructure investments. Meanwhile, many of PGW’s customers are already struggling to keep up with rates. It is a matter of basic prudence—as well as basic fairness—for PGW to evaluate ways to minimize the costs and risks of climate change to ratepayers in the difficult decades that lie ahead.

September 2, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of this electronically-filed document upon the parties, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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