



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166  
Tel: 717.232.8000 • Fax: 717.237.5300

Jo-Anne Thompson  
Direct Dial: 717.237.5285  
Fax: 717.237.5300  
jthompson@mcneeslaw.com

October 15, 2020

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

**VIA ELECTRONIC FILING**

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

Dear Secretary Chiavetta,

Attached for filing with the Pennsylvania Public Utility Commission are the Exceptions of the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG") in the above-referenced proceeding.

As shown by the attached Certificate of Service, all parties to these proceedings are being duly served via email only due to the current COVID-19 pandemic. Upon lifting of the aforementioned Emergency Order, we can provide parties with a hard copy.

Sincerely,

McNEES WALLACE & NURICK LLC

By 

Jo-Anne Thompson

Counsel to the Philadelphia Industrial  
and Commercial Gas Users Group

Enclosures

c: Administrative Law Judge Marta Guhl (via E-Mail and First Class Mail)  
Administrative Law Judge Darlene Heep (via E-Mail and First Class Mail)  
Office of Special Assistants (via E-Mail [ra-OSA@pa.gov](mailto:ra-OSA@pa.gov))  
Certificate of Service

[www.McNeesLaw.com](http://www.McNeesLaw.com)

HARRISBURG, PA • LANCASTER, PA • SCRANTON, PA • STATE COLLEGE, PA • COLUMBUS, OH • FREDERICK, MD • WASHINGTON, DC

## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

### VIA E-MAIL AND FIRST CLASS MAIL

Craig Berry, Esq.  
Graciela Christlieb, Esq.  
Gregory J. Stunder, Esq.  
Philadelphia Gas Works  
800 West Montgomery Avenue  
Philadelphia, PA 19122

[Craig.Berry@pgworks.com](mailto:Craig.Berry@pgworks.com)  
[Graciela.Christlieb@pgworks.com](mailto:Graciela.Christlieb@pgworks.com)  
[Greg.Stunder@pgworks.com](mailto:Greg.Stunder@pgworks.com)

Daniel Clearfield, Esq.  
Deanne M. O'Dell, Esq.  
Sarah C. Stoner, Esq.  
Kristine Marsilio, Esq.  
Eckert Seamans Cherin & Mellott, LLC  
213 Market Street, 8th Floor  
Harrisburg, PA 17101

[dclearfield@eckertseamans.com](mailto:dclearfield@eckertseamans.com)  
[dodell@eckertseamans.com](mailto:dodell@eckertseamans.com)  
[sstoner@eckertseamans.com](mailto:sstoner@eckertseamans.com)  
[kmarsilio@eckertseamans.com](mailto:kmarsilio@eckertseamans.com)

Lauren M. Burge, Esq.  
Philadelphia Gas Works  
600 Grant Street, 44<sup>th</sup> Floor  
Pittsburgh, PA 15219

[lburge@eckertseamans.com](mailto:lburge@eckertseamans.com)

Steven Gray, Esq.  
Sharon E. Webb, Esq.  
Office of Small Business Advocate  
202 Commerce Building  
300 North Second Street  
Harrisburg, PA 17101

[sgray@pa.gov](mailto:sgray@pa.gov)  
[swebb@pa.gov](mailto:swebb@pa.gov)

Carrie B. Wright, Esq.  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

[carwright@pa.gov](mailto:carwright@pa.gov)

Darryl A. Lawrence, Esq.  
Christy M. Appleby, Esq.  
Santo G. Spataro, Esq.  
Laura Antinucci, Esq.  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5th Floor  
Harrisburg, PA 17101 1921

[DLawrence@paoca.org](mailto:DLawrence@paoca.org)  
[CApplby@paoca.org](mailto:CApplby@paoca.org)  
[SSpataro@paoca.org](mailto:SSpataro@paoca.org)  
[lantinucci@paoca.org](mailto:lantinucci@paoca.org)

John W. Sweet, Esq.  
Elizabeth R. Marx, Esq.  
Ria M. Pereira, Esq.  
Pennsylvania Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)  
*Counsel for CAUSE-PA*

Todd S. Stewart, Esq.  
Hawke McKeon & Sniscak LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)  
*Counsel for Direct Energy Services*

Josie B. H. Pickens, Esq.  
Kintéshia Scott, Esq.  
Community Legal Services  
1410 West Erie Avenue  
Philadelphia, PA 19140  
[jpickens@clsphila.org](mailto:jpickens@clsphila.org)  
[kscott@clsphila.org](mailto:kscott@clsphila.org)  
*Counsel for TURN et al.*

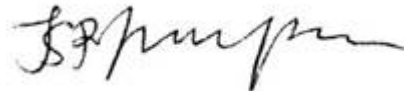
Robert W. Ballenger, Esq.  
Joline Price, Esq.  
Community Legal Services  
1424 Chestnut Street  
Philadelphia, PA 19102  
[rballenger@clsphila.org](mailto:rballenger@clsphila.org)  
[jprice@clsphila.org](mailto:jprice@clsphila.org)

Certificate of Service

Page 2

Joseph Minott, Esq.  
Logan Welde, Esq.  
Clean Air Council  
135 S. 19<sup>th</sup> Street, Suite 300  
Philadelphia, PA 19103  
[Joe\\_minott@cleanair.org](mailto:Joe_minott@cleanair.org)  
[lwelde@cleanair.org](mailto:lwelde@cleanair.org)

Cassandra R. McCrae, Esq.  
Devin McDougal, Esq.  
Earthjustice  
1617 JFK Boulevard, Suite 1130  
Philadelphia, PA 19103  
[cmccrae@earthjustice.org](mailto:cmccrae@earthjustice.org)  
[dmcdougall@earthjustice.org](mailto:dmcdougall@earthjustice.org)  
*Counsel to Clean Air Council*



---

Jo-Anne Thompson

Counsel to the Philadelphia Industrial and  
Commercial Gas Users Group

Dated this 15<sup>th</sup> day of October, 2020, at Harrisburg, Pennsylvania



## Table of Contents

	Page
I. INTRODUCTION.....	1
II. EXCEPTIONS.....	2
<u>Exception No. 1. The Recommended Decision Erred in Recommending     Modifications to the Partial Settlement. (R.D., pp. 2, 75-78).</u> .....	2
III. CONCLUSION .....	4

## I. INTRODUCTION

On February 28, 2020, Philadelphia Gas Works ("PGW" or "Company") filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") Supplement No. 128 to Gas Service Tariff – Pa. P.U.C. No. 2 ("Supplement No. 128"). By this Supplement, PGW requested a general rate increase of approximately \$70 million over present rates. *Pennsylvania Public Utility Commission v. Philadelphia Gas Works*, Docket No. R-2020-3017206 (Feb. 28, 2020) (hereinafter, "Rate Case Filing").

On April 7, 2020, the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG") filed a Complaint against Supplement No. 128. On March 10, 2020, the Office of Consumer Advocate ("OCA") filed a formal Complaint. The Bureau of Investigation and Enforcement ("I&E") filed a notice of appearance on March 11, 2020. The Office of Small Business Advocate ("OSBA") also filed a formal Complaint on March 6, 2020. The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") filed a Petition to Intervene and Answer on March 10, 2020. Direct Energy Services filed a Petition to Intervene on March 19, 2020. On April 10, 2020, the Tenant Union Representative Network ("TURN") and Action Alliance of Senior Citizens of Greater Philadelphia filed a Petition to Intervene (collectively, "TURN et al."). Thereafter, the Environmental Stakeholders filed a Petition to Intervene on May 25, 2020.

Pursuant to the Administrative Law Judges' ("ALJ") Amended Procedural Schedule, PGW and the Environmental Stakeholders filed Main Briefs on August 26. On the same date, PGW filed with the ALJs a Joint Petition for Partial Settlement ("Joint Petition" or "Settlement") including Statements in Support from PGW, I&E, OSBA, OCA, and PICGUG. The Joint Petition indicated settlement of all of the issues among all of the parties with the exception of

those issues raised by the Environmental Stakeholders. Additionally, PGW, I&E, and Environmental Stakeholders filed Reply Briefs on September 2, 2020.

On September 30, 2020, the presiding ALJs issued a Recommended Decision ("R.D.") recommending approval of PGW's Partial Settlement with certain material modifications. PICGUG now files these Exceptions ("Exc.") to certain provisions of the R.D. As discussed more fully herein, PICGUG excepts to the R.D.'s recommendation to modify the Joint Petition, including imposing a six-month delay on the start of the phased-in rate increases and reflecting that six-month delay by extending the rate case stay-out by one-year until January 1, 2023. *See* PICGUG Exc. 1.

As discussed more fully herein, the parties worked diligently to achieve this Settlement, and the R.D.'s recommended modifications may result in the withdrawal of the Settlement, thereby requiring the parties to litigate all of these issues. Because the Joint Petition is already just, reasonable, and in the public interest, PICGUG submits that the modifications recommended in the R.D. are unnecessary at this time. Rather, the PUC should approve the Joint Petition without modification.

## **II. EXCEPTIONS**

### **Exception No. 1. The Recommended Decision Erred in Recommending Modifications to the Partial Settlement. (R.D., pp. 2, 75-78).**

The R.D. fails to recognize that the Joint Petition is a product of compromise, and, that by recommending modifications to the Settlement, there is a risk that one or multiple Joint Petitioners will withdraw the entire settlement agreement. *See* Joint Petition for Partial Settlement at ¶52. The Joint Petitioners have spent time and resources negotiating the terms of the Settlement and, as a result, were able to resolve most of the issues in this case. *See* Joint Petition at ¶13. PICGUG, as well as the other Joint Petitioners support the Joint Petition because

it provides a reasonable resolution to the issues that all Joint Petitioners raised with the case. *See* Joint Petition at ¶48. The Settlement managed to balance the interests of ratepayers and the public, all while providing a reasonable resolution of PGW's claims for increased rates. *Id.* Due to the Joint Petitioners' ability to reach a partial settlement, substantial litigation and costs associated therewith will be avoided. *Id.* The Settlement is also in the public interest and complies with the Commission's policy promoting negotiated settlements. *Id.*

Further, as is customary for Joint Petitions filed with the Commission, the Joint Petitioners included a provision authorizing any Joint Petitioner to withdraw from the Settlement if the Commission were to modify the Joint Petition. *See* Joint Petition at ¶52. Any modifications to the Settlement could cause a breakdown in this amicable resolution to the issues of this case and would force parties to fully litigate the issues raised throughout this proceeding. Such a result would be contrary to the Commission's policy to encourage parties to negotiate and settle cases.

The recommended six-month delay to the phased rate increases and extension of the mutually agreed upon stay-out should, therefore, be rejected.



### III. CONCLUSION

**WHEREFORE**, the Philadelphia Industrial and Commercial Gas Users Group respectfully requests that the Pennsylvania Public Utility Commission grant the Exceptions of the Philadelphia Industrial and Commercial Gas Users Group and deny the Recommended Decision's recommendations to modify the Joint Petition for Partial Settlement.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

---

Charis Mincavage (Pa. I.D. No. 82039)  
Adeolu A. Bakare (Pa. I.D. No. 208541)  
Jo-Anne S. Thompson (Pa. I.D. No. 325956)  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
Phone: (717) 232-8000  
Fax: (717) 237-5300  
[cmincavage@mcneeslaw.com](mailto:cmincavage@mcneeslaw.com)  
[abakare@mcneeslaw.com](mailto:abakare@mcneeslaw.com)  
[jthompson@mcneeslaw.com](mailto:jthompson@mcneeslaw.com)

Counsel to the Philadelphia Industrial and  
Commercial Gas Users Group

Dated: October 15, 2020