

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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IRWINA. POPOWSKY
Consumer Advocate

October 21, 2009

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works – Petition for
Emergency Rate Relief
PGW Gas Supply Collaborative
Docket No. R-2008-2073938

Dear Secretary McNulty:

Enclosed for filing are the Comments of the Office of Consumer Advocate concerning the Alternative Default Service Supplier Collaborative, conducted pursuant to the Commission's December 19, 2008 Order in the above-referenced proceeding. These Comments are being submitted pursuant to the agreed upon schedule of the Collaborative participants.

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

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Aron J. Beatty".

Aron J. Beatty
Assistant Consumer Advocate
PA Attorney I.D. # 86625

Enclosures
cc: Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2008-2073938
	:	
Philadelphia Gas Works – Petition for	:	
Emergency Rate Relief	:	

PGW Gas Supply Collaborative
Comments of the Office of Consumer Advocate

The Office of Consumer Advocate has been an active participant in the PGW/Retail Supplier Collaborative that was ordered by the Commission as part of its Emergency Rate Relief decision. The purpose of the Collaborative was to examine the possibility of outsourcing the gas supply function of PGW’s operations to third parties in order to reduce the overall cost to the Company, and ultimately, to PGW’s ratepayers. See Order of December 19, 2008 (R-2008-2073938). The Commission’s Order stated as follows:

That Philadelphia Gas Works shall convene, no later than sixty (60) days after the entry of this Opinion and Order, a collaborative process to explore options for transitioning some or all of its customers to an alternative default service supplier. The first sixty (60) days of the collaborative shall be devoted to the development of a proposal. At the end of the first sixty (60) day period, Philadelphia Gas Works shall submit a report to the Commission detailing the progress made and identify any areas of agreement or disagreement among the stakeholders. Participating stakeholders may

submit an alternative report outlining a different course of action. The process will continue until the participants agree to submit a final action report unless the Commission orders otherwise.

Id. at Ordering Paragraph 6. The OCA has participated in the Collaborative in order to review the proposals made by interested retail suppliers, and to ensure that PGW's ratepayers are better off under any proposed alternative.

As a general matter, the OCA has maintained throughout this proceeding that PGW customers must have a reasonably stable gas cost rate that meets the statutory "least cost procurement" standard. See 66 Pa. C.S. §§ 1307(f), 1318. Currently, PGW procures natural gas for ratepayers through wholesale market purchases, both at and near the time of customer use, and through forward purchases as part of a hedging program. Under the Company's current hedging program, PGW layers in purchases over a longer time horizon prior to the month that gas is consumed. As a result, PGW's gas cost rate captures a wider range of market prices, resulting in a more stable rate for customers.

The PGW procurement strategy is reviewed on an annual basis through the Company's 1307(f) filings, and the OCA participates fully in that review process. As part of its review, the OCA retains an expert in the gas procurement field to help ensure that PGW's purchasing practices meet the least cost obligation.¹ The OCA submits that, regardless of who serves PGW's default customers, the Public Utility Code's least cost standard and associated review process must be maintained.

¹ The OCA has retained the consulting services of Richard W. LeLash in PGW's recent PGC proceedings and for assistance in the OCA's review of the current proposal. Mr. LeLash has worked extensively on gas policy and procurement issues since 1980. Mr. LeLash has testified on cost of service, rate of return, and regulatory policy issues in more than 290 regulatory proceedings. These testimonies were presented before the Philadelphia Gas Commission, the Federal Energy Regulatory Commission ("FERC") and in the following jurisdictions: Alabama, Arizona, Colorado, Delaware, District of Columbia, Georgia, Illinois, Kansas, Maine, Maryland, Minnesota, Missouri, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, U.S. Virgin Islands, and Vermont. Mr. LeLash graduated in 1967 from the Wharton School of the University of Pennsylvania with a BS in Economics and in 1969 from the Wharton Graduate School with an MBA.

The OCA has several specific comments and concerns with regard to the specific supplier proposal provided by IGS, Dominion Retail and Hess (the NGS proposal) on July 23, 2009. Of critical importance, while the introduction states that the proposal “could produce savings for PGW” there is no discussion of how such savings will be realized. Certainly the provision that “PGW would implement a purchase of receivables program with 100% reimbursement to the suppliers and would continue to manage all of the payment troubled customer programs” does not appear to offer any savings opportunity. The only clear savings for PGW would appear to relate to the Suppliers’ ownership of gas storage and its associated carrying costs. The OCA submits, however, that there is no evidence that these savings would benefit customers as prices under the program may be higher than PGW’s rates.

As for ratepayers, it seems highly unlikely that they will receive any economic benefit from the proposal. There apparently will be no provision for ratepayers to return to PGW’s cost of service gas supply. Likewise, they will lose the benefit of gas price and storage hedging, capacity release credits, off-system margins, and GCR-based levelized pricing. Instead, they will pay the NYMEX monthly settlement price plus an unknown adder for their gas. During the second quarter of 2008 this would have translated to an average price of over \$11.00 per Dth plus whatever adder and other charges would apply. Past experience has indicated that such pricing without any mitigation will be unaffordable for many PGW ratepayers.

Many of the third party marketer or customer choice programs that have been initiated for natural gas customers throughout the country have had very little, if any, customer participation, and there has been no evidence that customers have benefitted from utilizing third party marketer supply options. Accordingly, the OCA submits that the burden of proof is on potential NGSs to show that claimed benefits will actually be realized. The NGS proposal, as it stands, simply does not meet such a burden of proof either in the mechanics of its program or in its potential benefits for PGW and its ratepayers.

For example, in the introduction of its proposal, reference is made to Suppliers being allocated “a fair slice of the transportation and storage capacity” which will “serve a slice of all customers.” There is no specification of how these slices will be determined or whether customers will have a choice to participate or will alternatively be arbitrarily assigned to Suppliers. Indeed, it is unclear whether or not Suppliers will only sell gas to PGW or will also market to customers directly.

Later in the proposal it is stated that “All capacity, including upstream pipeline capacity, storage capacity and deliverability from storage will be assigned proportionately to the winning bidders” while “PGW will retain control of LNG and a small percentage of no-notice service to manage daily balancing, etc.” There is no specification of how the small percentage of capacity will be determined or how much capacity for balancing, etc. will be needed by PGW.

The proposal goes on to state that “Suppliers would over-deliver in summer in order to fill the LNG, with PGW paying back in-kind in the winter months.” Again, there is no specification for the timing of “summer over deliveries” or the “paying back in-kind in the winter months.” The operation of PGW’s LNG facility and the ability “to fill LNG” is subject to considerable operating constraints. Therefore, the timing of injections and withdrawals and any assumed level of LNG storage is neither a simple nor immaterial matter.

One of the major omissions from the Suppliers’ proposal involves the status of ratepayers. There is no definitive information in the proposal concerning the scope or the procedure for determining what number of ratepayers would be assigned to various Suppliers. Likewise, it is unclear whether ratepayers would have a choice to remain as PGW customers rather than be assigned to a supplier. This uncertainty seems to be related to the fact that suppliers can provide either retail or wholesale (through PGW) service.

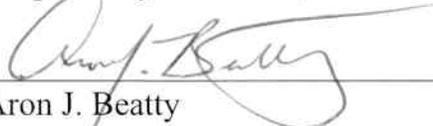
One of the essential elements of almost all third party marketer programs is a customer choice option. Ratepayers should be allowed to choose a marketer and likewise should have the ability to return to utility service if the Supplier option is not providing benefit. Accordingly, the OCA submits that PGW should be required to remain as the default Supplier providing a regulated gas supply option. With such a provision, ratepayers will have an alternate price to compare and will be provided with a significant safeguard to ensure that Supplier prices remain reasonable over time.

Absent the availability of a regulated gas supply option, there can be no assurance that ratepayers will not be harmed. Based on the evidence from numerous jurisdictions, ratepayers often have not found that Suppliers provide any material benefits, either in price or in pricing options, to warrant abandoning regulated utility supply.²

² See, for example, the Citizens Utility Board of Illinois' study of retail gas supply offers, available at <http://www.citizensutilityboard.org/GasMarketMonitor.php>. In addition, the Ohio Commission maintains an "Apples to Apples" chart on its website that provides comparisons of current offers by natural gas suppliers. On August 18, 2009, the chart indicated that of the 18 offers available to Columbia Gas of Ohio customers, only 2 were lower than the Columbia rate. A recent series of articles in the Columbia Dispatch on retail natural gas choice in Ohio found that a review of 10 years of data from the Public Utility Commission of Ohio showed that in large measure, the Columbia Gas of Ohio regulated rate has been the least expensive option most of the time. These articles can be found at: http://www.dispatch.com/live/content/business/stories/2009/05/03/apples_sidebar.ART_ART_05-03-09_D1_T4DNJ2L.html?sid=101.

While the OCA is prepared to continue to meet with the parties to attempt to develop a third party marketer program, it is necessary for the NGSs to define a tangible proposal that can be evaluated based on specified provisions and reasonable expectations concerning its economic impacts for PGW and its ratepayers. The current NGS proposal simply does not allow meaningful review or appropriate evaluation. As such, the OCA does not support the expenditure of ratepayer dollars to complete a cost/benefit study based on this proposal.

Respectfully Submitted,



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Dated: October 21, 2009

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CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2008-2073938
 :
 Philadelphia Gas Works – Petition for :
 Emergency Rate Relief :

I hereby certify that I have this day served a true copy of the foregoing document, Comments of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 21st day of October 2009.

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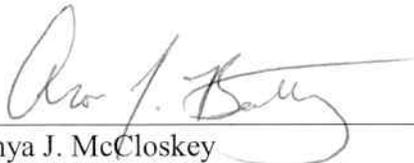
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