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February 24, 2010

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VIA E-FILING

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17102

Re: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works, Docket No. R-2009-2139884

Dear Secretary McNulty:

Enclosed please find a Petition to Intervene of The Retail Energy Supply Association in the above-captioned proceeding. Copies have been served on all parties as indicated in the attached certificate of service.

Very truly yours,


John F. Povilaitis

JFP/ck
Enclosures
Certificate of Service
The Honorable Charles E. Rainey Jr.

Sharon E. Webb, Esquire
Lauren M. Lepkoski, Esquire
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101

Philip A. Bertocci, Esquire
Thu B. Tran, Esquire
1424 Chestnut Street
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2. RESA'S members include competitive natural gas suppliers ("NGSs") licensed to operate in the service territory of PGW.

3. RESA's attorneys in this matter are:

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4. PGW has filed Supplement No. 36 to its Tariff Gas – PaP.U.C. No. 2, which was to be effective February 16, 2010. At the Public Meeting of February 11, 2010, the Commission voted to suspend the tariff filing and investigate the lawfulness, justness, and reasonableness of this general rate increase request. In Ordering Paragraph No. 4 of the Suspension Order, the Commission specified that this investigation shall include consideration of the lawfulness, justness, and reasonableness of the PGW's existing rates, rules, and regulations. The case has been assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings and the issuance of a Recommended Decision.

5. Eligibility to intervene in Commission proceedings is governed by the Commission's rule at 52 Pa. Code § 5.72. Under Section 5.72, a "right or interest" sufficient to warrant intervention includes an interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding; or, another interest of such nature that participation of the petitioner may be in the public interest.

6. RESA meets the standards set forth above. As an organization whose members include NGSs licensed to operate in PGW's service territory, RESA has direct interests in this proceeding that cannot be represented adequately by any other party. These direct interests include investigating whether there are certain supply-related costs that should be removed from PGW's base rates and included in its Purchased Gas Cost rate. These direct interests also include the reasonableness of PGW's existing supplier rules, which, as specified in Ordering Paragraph No. 4 of the Suspension Order, are subject to investigation in this proceeding. Moreover, the Commission has found that competitive marketers asserting an interest grounded in obtaining access to facilities monopolistic in nature have demonstrated a sufficient interest to intervene in rate proceedings. *Pa. Pub. Util. Comm'n v. PG&W*, 1992 Pa. PUC LEXIS 113. RESA has a direct stake in assuring that the outcome of this proceeding will not adversely affect its interests as a competitor and will encourage competition in the supply of natural gas to serve retail customers via PGW's facilities.

7. In addition, RESA has a direct interest in pursuing issues related to the potential transition of some or all of PGW's customers to an alternative default service provider, which is an issue that arose out of PGW's November 2008 Petition for Extraordinary Rate Relief and is an issue that remains pending.

8. In a December 19, 2008 Order at Docket No. R-2008-2073938 that addressed PGW's request for emergency rate relief, the Commission required PGW to convene a collaborative "to explore options for transitioning some or all of its customers

to an alternative default service supplier.”³ The Commission’s rationale was that such a transitioning could help minimize PGW’s working capital needs, and thus, ease the financial burdens of serving customers.⁴ This issue has not been resolved by the collaborative and remained outstanding when PGW filed the above request for a general rate increase.

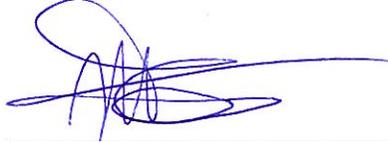
9. The collaborative effort has stalled, due to PGW's request that it obtain guidance from the Commission on the NGS proposal to transition PGW’s customers to competitive service, including issues related to costs associated with the NGS proposal. Because the transition issue arose out of PGW's most recent general rate filing and remains pending and because PGW has requested a general rate increase, which includes, among other things, an assessment of its appropriate costs, RESA submits that consideration of its proposal to transition customers to alternative default service supply, including cost issues, is within the scope of this proceeding.

10. RESA reserves the right to raise additional issues in the proceeding, as warranted.

³ *Pennsylvania Public Utility Commission, et al. v. Philadelphia Gas Works*, R-2008-2073938 (Opinion and Order entered December 19, 2008), Slip. op. at 40. The Commission also stated that “[w]e believe it is important that PGW explore any and all means of reducing the financial risks and costs of its utility business.”

⁴ *Id.*

WHEREFORE, for all the foregoing reasons, the Retail Energy Supply Association respectfully requests that its Petition to Intervene be granted and that the Commission grant it such other relief as is just and reasonable under the circumstances.



Dated: February 24, 2010

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