

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**ORDER ON PGW’S MOTION *IN LIMINE*
REGARDING THE DIRECT TESTIMONY OF EZRA D. HAUSMAN, Ph.D.,
SUBMITTED BY THE ENVIRONMENTAL STAKEHOLDERS**

HISTORY OF THE PROCEEDING

On February 28, 2020, PGW filed Supplement No. 128 to PGW’s Gas Service Tariff – PA. P.U.C. No. 2 (Supplement No. 128) and Supplement No. 85 to PGW’s Supplier Tariff – Pa. P.U.C. No. 1 (Supplement No. 85) to become effective April 28, 2020, seeking a general rate increase calculated to produce \$70 million (10.5%) in additional annual revenues. At that time, PGW also filed a Petition for Waiver seeking waiver of the application of the statutory definition of the fully projected future test year (FPFTY) so as to permit PGW to use a FPFTY beginning on September 1, 2020 (its fiscal year) in this proceeding.

By Order entered April 16, 2020 (Suspension Order), the Pennsylvania Public Utility Commission (Commission or PUC) instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase. Supplement No. 128 and Supplement No. 85 were suspended by operation of law until November 28, 2020, unless permitted by Commission Order to become effective at an earlier date. The Suspension Order did not consider the Petition for Waiver.

The Commission's Bureau of Investigation and Enforcement (BIE) filed a Notice of Appearance. Three formal complaints have been filed: The Office of Consumer Advocate (OCA); the Office of Small Business Advocate (OSBA); and the Philadelphia Industrial and Commercial Gas Users Group (PICGUG).

The matter was assigned to the Office of Administrative Law Judge (OALJ), Administrative Law Judges Darlene Heep and Marta Guhl, to schedule such hearings as necessary to develop a record in this proceeding.

A Telephonic Prehearing Conference was held on Tuesday, May 5, 2020, at which time multiple issues were address. A Prehearing Order was issued which granted the Petitions to Intervene, and Petition for Waiver.

On May 14, 2020, a Telephonic Public Input Hearings Notice was issued which indicated that telephonic public input hearings were scheduled for June 2 and 3, 2020, at 1:00 p.m. and 6:00 p.m. each day.

On June 2 and 3, 2020, the telephonic public input hearings were held as scheduled. Members of the public and legislators provided testimony regarding the pending PGW filing.

On June 2, 2020, Meenal Ravel offered testimony at the 1:00 p.m. public input hearing and then submitted her statement as an exhibit on the same date. On June 3, 2020, State Senator Sharif Street offered testimony on behalf of his constituents at the 1:00 p.m. public input hearing and submitted his statement as an exhibit on the same date.

Via electronic mail dated June 8, 2020, we provided the exhibits to the parties and indicated that any objections to the exhibits have to be submitted by June 15, 2020. As of this date, no party has submitted an objection to the exhibits. Based on the fact that no party has objected to the public input hearing exhibits and they are relevant to the proceedings, the exhibits were entered into the record.

On June 9, 2020, PGW filed objections to interrogatories of Environmental Stakeholders. On June 12, 2020, Environmental Stakeholders filed a Motion to Dismiss the objections of PGW.

PGW specifically objected to interrogatories seeking information regarding PGW's EnergySense Program, other energy efficiency programs and environmental concerns, objecting that these matters were addressed in the PGW Demand Side Management (DSM) Implementation Plan and the Universal Service and Energy Conservation Plan (USECP) proceedings and that the Commission does not have jurisdiction over certain environmental claims. The Environmental Stakeholders responded that the interrogatories and responses are relevant to whether the rate sought in the instant proceeding is just and reasonable.

Non-company parties submitted direct testimony on June 15, 2020.

A hearing on the Environmental Stakeholders' Motion to Dismiss PGW objections was held on June 25, 2020. Rulings on the objections and motion were made on the record of the hearing. PGW objections to interrogatories regarding electrification as alternatives to proposed infrastructure work included in rate calculations were sustained. All other objections were overruled.

On June 24, 2020, PGW filed a Motion *in Limine* Regarding the Testimony Submitted by Environmental Stakeholders. On June 25, 2020, PGW filed a Motion *in Limine* Regarding Testimony Submitted by the Office of Consumer Advocate Regarding Universal Service Programs (OCA Motion) and a Motion *in Limine* Regarding Testimony Submitted by TURN, *et al.* Regarding Universal Service Programs (TURN Motion).

On June 30, 2020, OCA filed an Answer to the OCA Motion; CAUSE-PA filed an Answer in Opposition to PGW's TURN Motion; TURN filed an Answer to the TURN Motion; and Environmental Stakeholders filed an Answer in Opposition to Philadelphia Gas Works' Motion *in Limine*.¹

¹ The OCA Motion and TURN Motion are addressed together in a separate Order.

This order addresses PGW's Motion *in Limine* pertaining to testimony submitted by Environmental Stakeholders.

DISCUSSION

PGW seeks to exclude from this proceeding portions of the direct testimony of Ezra D. Hausman, Sierra Club² Statement No. 1. PGW describes its concerns as follows:

In the Contested Portions, the Environmental Stakeholders make recommendations based on goals established by Governor Wolf in Executive Order Number 2019-01 and the Philadelphia City Council in City Council Resolution No. 190728 regarding eliminating greenhouse gas emissions in the Commonwealth and the City of Philadelphia, requiring the use of renewable energy and ordering PGW to present a plan to transition away from the sale and distribution of natural gas in favor of "electrification." While the environmental concerns raised in SC St. No. 1 are important, they are not relevant to this base rate case and are outside the Commission's jurisdiction. As such, the Contested Portions of SC St. No. 1 should not be admitted to the record or otherwise considered in this proceeding.

PGW Motion *in Limine* at 3. PGW avers that the contested testimony addresses methane leaks and also states that PGW has not adequately considered electrification and energy efficiency as alternatives to the infrastructure expenditures proposed in this rate case considered by PGW relative to the proposed rate increase, that the Commission should order the company to prepare a Climate Business Plan environmental goals established by the Governor and the Philadelphia City Council and that PGW should cease replacing pipelines and consider non-gas alternatives, including electrification. It is PGW's position the Commission lacks jurisdiction over environmental issues as well as directing the company to prepare a Climate Business Plan. PGW further states that at issue in these proceedings are the services and operations of PGW, not whether PGW should change its services and operations to electrification or evaluate such an alternative.

In its Answer to the Motion *in Limine*, the Environmental Stakeholders contend that environmental issues should be considered in a rate case. The Environmental Stakeholders

² Sierra Club is a part of the Environmental Stakeholders in this proceeding.

aver that PGW has presented environmental issues in seeking a rate increase and that the presentation of such issues should not be prohibited here. The company referenced PGW 2017 Rate Case, Vol. II, *Direct Testimony of Gregory Stunder* at 3, No. R-2017-2586783 (Feb. 2017), a previous matter wherein the witness referenced climate change and warmer temperatures, and concomitant lower gas usage, as a reason for a rate increase. The Environmental Stakeholders also contend that whether PGW has considered environmental issues, such as methane leaks and such greenhouse gases, and planning with respect to the Governor and City Council goals is the subject of the contested testimony so as to avoid investing in what will soon become stranded assets.

As stated in the Suspension Order of April 16, 2020, these proceedings are to investigate and consider the lawfulness, justness, and reasonableness of the proposed rates, rules, and regulations as well as the lawfulness, justness, and reasonableness of the Philadelphia Gas Works' existing rates, rules, and regulations. Any evidence that is not irrelevant, immaterial or unduly repetitious should be considered. 66 Pa. C.S. § 332(b); 52 Pa. Code § 5.401(a).

These proceedings are not the place to determine whether PGW should change its business model to electrification. Therefore, any direct testimony from Dr. Hausman pertaining to that will be stricken from his testimony and will not be considered in this proceeding.

However, while the weight of such evidence will be determined after the hearing, environmental considerations, including methane and other leaks that may exist in the infrastructure, are relevant to determining whether the rates increase sought by PGW for infrastructure work is just and reasonable. Additionally, whether the proposed rate increase and associated infrastructure work present a risk of stranded assets given regional environmental planning issues are also relevant to the reasonableness of the proposed rates, rules and regulations.

ORDER

THEREFORE

IT IS ORDERED

1. That the Philadelphia Gas Works' Motion *in Limine* regarding the Direct Testimony of Ezra D. Hausman, Ph.D., submitted by Environmental Stakeholders is granted in part and denied in part.

2. That the Philadelphia Gas Works' Motion *in Limine* regarding the Direct Testimony of Ezra D. Hausman, Ph.D. submitted by Environmental Stakeholders with respect to testimony regarding electrification is granted.

3. That the portions of the Direct Testimony of Ezra D. Hausman, Ph.D. stricken from the testimony are as follows:

Page 3 Line 16 – “and electrification”

Page 4 Line 6 – “and electrification”

Page 12 Line 18 – “such as electrification”

Page 28 Line 13 – “and electrification”

Page 28 Line 22 – “and electrification”

4. That the Philadelphia Gas Works' Motion *in Limine* Regarding the Direct Testimony of Ezra D. Hausman, Ph.D. submitted by Environmental Stakeholders is denied as to the remaining portions of the direct testimony cited by the Philadelphia Gas Works in its Motion *in Limine*.

Date: July 7, 2020

_____/s/
Darlene Heep
Administrative Law Judge

_____/s/
Marta Guhl
Administrative Law Judge

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