July 14, 2026

Ms. Gemela N. McClendon
Executive Director
Philadelphia Gas Commission
1515 Arch Street, 9th Floor
Philadelphia, PA 19102

RE: Exceptions to PGW FY 2027 Operating Budget Recommended Decision

The Public Advocate submits this letter setting forth its exceptions to the July 10, 2026, Recommended Decision in the matter of PGW's FY 2027 Operating Budget.

FEED and Environmental Studies

The Hearing Examiners failed to make a recommendation regarding PGW's proposed $4 million budget to conduct two Front End Engineering and Design (FEED) studies regarding replacement of the liquefier at PGW's Richmond LNG facility. The Public Advocate submitted that the Commission should deny PGW spending authority, or, in the alternative, limit PGW's budget to $2 million (the cost of a single FEED study). Likewise, the Hearing Examiners fail to make a recommendation regarding PGW's proposal to omit $1 million for an Environmental Impact Study (EIS) or the Public Advocate's proposal to make such expenditure conditional in order to ensure that PGW's consultant is appropriately tasked with producing the work product the Commission desires.

For both budget items, the Hearing Examiners state that the order for PGW to undertake the studies came from the Commission and they consider it inappropriate for the Hearing Examiners to recommend the Commission modify or reject the proposals.[1] The Hearing Examiners note the Commission could provide further clarification or modify its prior order if it so desires. The unusual manner in which these two Operating Budget items were identified, in a Commission order on PGW's Capital Budget, does not justify failing to fully and fairly evaluate the proposed expenditures and consider the Public Advocate's position on them. After all, the Commission's determination must be based on and supported by the record of this Operating Budget proceeding. Accordingly, this proceeding, not PGW's FY 2027 Capital Budget proceeding, is the appropriate context in which to evaluate the merits of the combined $5 million in spending proposed.

The Public Advocate maintains the positions taken in its Main Brief:

[1] R.D. at 11, 12.

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Philadelphia, PA 19102-2505
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North Philadelphia Law Center
1410 West Erie Ave.
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- The EIS will help inform the Commission and others regarding a decision of whether or not to approve PGW's Richmond LNG project. Accordingly, FEED expenditures are premature and should not be approved.[2]
- It remains unclear how PGW's liquefier replacement project could align with the City's carbon neutrality goals, suggesting the project ultimately will not advance to completion. Expenditure on FEED studies represents a potential waste of customer funds.[3]
- PGW's surprise disclosure that it wants to conduct two separate $2 million FEED studies demonstrates bad faith and lack of transparency and indicates PGW does not take the Operating Budget review seriously.[4]
- If the Commission nonetheless desires that PGW conduct a FEED study, it should limit expenditure to $2 million for a single FEED study.[5]
- The Commission could pursue the EIS on its own, pursuant to its power and authority set forth in Section VI.5 of the Management Agreement/Ordinance.[6]
- If approved in PGW's budget, the EIS should be funded on a conditional basis so that the Commission can ensure that PGW's scope of work and proposal for the EIS is sufficiently detailed and satisfactorily aligns with the Commission's goals.[7]

<u>Information Services</u>

The Hearing Examiners share the Public Advocate's concerns with the lack of substantive information provided to support PGW's proposed $8.315 million in the Information Services (IS) department for services, equipment and software solutions. However, they do not endorse the Public Advocate's approach to this issue, recommending additional reporting rather than conditional funding.[8]

The Public Advocate maintains that the Commission should approve conditional funding for the proposed $8.315 million identified in IS. At this time, despite multiple opportunities to explain how PGW determined the $8.315 million at issue, PGW has provided nothing of substance. The Commission should not approve immediate spending authority in the absence of budget substantiation. Based on the record of this Operating Budget proceeding, the Commission has no information which could reasonably be used to determine whether the proposed $8.315 million is the correct amount for PGW's IS needs.

Accordingly, although the Public Advocate appreciates the Hearing Examiners' recommendation that PGW provide quarterly reporting, together with invoices, purchase orders, subscription renewals and expenditures related to systems and consultants, the Public Advocate

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[2] PA M.B. at 4.
[3] PA M.B. at 7.
[4] PA M.B. at 6.
[5] PA M.B. at 7.
[6] PA M.B. at 6.
[7] PA M.B. at 10.
[8] R.D. at 20.

submits that such documentation should be provided as a condition to the release of spending authority.

Special Legal

The Hearing Examiners again recommend that no adjustment be made to PGW's Special Legal budget, despite PGW having excessive spending authority in this area for more than 25 consecutive years. The Hearing Examiners rely on the Commission's past refusal to adopt the Public Advocate's recommendations to curtail PGW's repeated and unnecessary inclusion of funds in the Special Legal budget far beyond what PGW actually needs.[9] It is past time for the Commission to address the obvious placeholder-based approach PGW uses to develop its Special Legal budget.

The Public Advocate maintains that each of the bases set forth in its Main Brief justify and substantiate the need for an adjustment in this area. Rather than reiterate them, the Public Advocate submits that the Hearing Examiners made two errors of logic in recommending PGW's Special Legal budget remain untouched. First, they point to PGW's over-spending for one area of legal expense while incurring zero expenditure in other areas to support PGW's budget and justify disregarding the historical spending trend.[10] The Public Advocate's analysis and calculated adjustment take into account all of PGW's actual Special Legal expenditures – areas in which PGW had little or no spending and areas where PGW had spending in excess of what it budgeted. For the Hearing Examiners' position to be sound, PGW's overspending would have to cancel out its underspending. That has never happened.

Second, the fact that PGW has overspent its projections for some Special Legal expenses demonstrates that an adjustment would not "hamstring" PGW in responding to legal matters.[11] The Hearing Examiners suggest PGW needs "dedicated spending authority" to respond to legal matters beyond its control,[12] but there is no way in which Operating Budget funds are dedicated to Special Legal matters or any other category of expense. Furthermore, PGW's actual spending demonstrates the extent to which PGW has needed to respond to unexpected legal matters. The wide margin between what PGW includes in its Special Legal budget and its actual expenditures reveals that PGW's budget is simply not data-driven nor realistic.

The Commission should approve the adjustment recommended by the Public Advocate. To do otherwise would continue in place the repeated and unnecessary authorization of funds for Special Legal representation that simply will not take place. Disregarding PGW's actual, historical expenditures, as the Recommended Decision would do, will continue to promote PGW's placeholder-based budget, a practice the Commission should not condone.

[9] R.D. at 23.
[10] R.D. at 23.
[11] R.D. at 23.
[12] R.D. at 24.

Furthermore, the Commission should require PGW to reform its budgeting practices in this area. The Special Legal budget should be based on actual expenditures for Special Legal matters in prior years, subject to identified matters in which representation will be needed in the budget year, and a single contingency amount. The Public Advocate recommends such contingency be set at an amount not to exceed 25% of average historical expenditures.

Lobbying Expenses

The Hearing Examiners again recommend that the Commission approve PGW's proposed $100,000 budget for Government Relations (lobbying). The Public Advocate maintains the positions set forth in its Main Brief, primary among which is that PGW's lobbying expenses are not operating expenses which PGW is allowed to include in rates.

Without reiterating all of the bases supporting the Public Advocate's adjustment,[13] the Public Advocate specifically disagrees with the Hearing Examiners' contention that approving PGW's use of operating funds to pay lobbying expenses does not undermine the PUC's rate determination.[14] In setting PGW's rates, the PUC found that lobbying expenses were not appropriate operating expenses. By allowing PGW to spend ratepayer funds on lobbying expenses, the Commission would directly permit ratepayer funds to be used for a purpose the PUC found inappropriate. That allowing PGW to include $100,000 in the Operating Budget is not forbidden by the Management Agreement/Ordinance is irrelevant.[15] Again, disallowing PGW's lobbying expenses would ensure that $100,000 in operating revenues received from PGW's customers are not diverted for purposes the PUC disallowed. Approving the Public Advocate's adjustment would align the Commission with the PUC, for the benefit of PGW's customers.

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[13] The Hearing Examiners claim PGW was not involved in lobbying for state natural gas legislation (Senate Bill 275) and that PGW's then Vice President of Regulatory and Legislative Affairs merely provided a comment on a definition in the draft legislation. R.D. at 28. This is contradicted by that former Vice President's sworn statement to the Office of Open Records (OOR):

> In connection with Senate Bill 275, I worked with several Legislative, Government, and Public Affairs representatives of Natural Gas Utilities that are also members of EAP to strategize regarding proposed amendments to the legislation and draft proposed legislative language for the Bill.
>
> The identity of the individuals with whom I worked, what we discussed, the language we drafted, and the documents which we consulted were all part of and reflect PGW's competitive strategy with respect to proposed legislative language for Senate Bill 275.

PGW also utilized the services of outside counsel, Eckert Seamans, to assist PGW with providing input on SB 275. OOR's findings indicate PGW's lobbying regarding SB 275 was more extensive than the Hearing Examiners describe. See, e.g., Spatz v. PGW, OOR Docket AP 2021-0718, Final Determination at 21-22, available at: https://www.openrecords.pa.gov/Appeals/DocketGetFile.cfm?id=76747.

[14] R.D. at 29.

[15] R.D. at 29.

For the foregoing reasons, the Public Advocate submits that the Commission should grant the Public Advocate's exceptions and enter an order adjusting PGW's FY 2027 Operating Budget accordingly.

Sincerely,

/s/ Robert W. Ballenger
Robert W. Ballenger

For the Public Advocate