

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Philadelphia Gas Works for	:	
Approval of Demand-Side Management	:	
Plan for FY 2016-2020	:	
	:	P-2014-2459362
Philadelphia Gas Works Universal Service	:	
and Energy Conservation Plan for 2014-2016,	:	
52 Pa.Code § 62.4 – Request for Waivers	:	

**RECOMMENDED DECISION**

Before  
F. Joseph Brady  
Administrative Law Judge

**INTRODUCTION**

This Decision recommends the Commission approve the Joint Petition for Settlement (Settlement or Joint Petition) dated March 2, 2021, filed in this matter by Philadelphia Gas Works (PGW), the Office of Consumer Advocate (OCA), and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA). Additionally, the Office of Small Business Advocate (OSBA), the Philadelphia Industrial and Commercial Gas Users Group (PICGUG), and the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN) do not oppose the Settlement.<sup>1</sup>

This Recommended Decision approves the Settlement without modification because it is in the public interest and is supported by substantial evidence. The Joint Petitioners request that the Commission approve the Settlement on or before the Commission’s June 17,

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<sup>1</sup> See Joint Petition at 1.

2021 public meeting.<sup>2</sup> Upon final Commission Order, PGW proposes to submit a Revised EnergySense Demand Side Management Portfolio Implementation Plan, Fiscal Years 2021-2023 in compliance with the Commission's final order.

### HISTORY OF THE PROCEEDING

On May 7, 2020, Philadelphia Gas Works (PGW or Respondent) filed its Implementation Plan which details the program budgets and implementation of PGW's EnergySense Demand-Side Management (DSM) Portfolio from September 1, 2020 to August 31, 2023. This filing was made in accordance with the Commission's November 1, 2016 Final Order in this docket (Docket No. P-2014-2459362) approving PGW's DSM Phase II Plan for Fiscal Years 2016 through 2020, including the provision authorizing the continuation of PGW's DSM programming beyond FY 2020 through ongoing triennial update filings.

Within the 2021-2023 Implementation Plan, PGW proposes to continue four of the existing five DSM programs: (1) Residential Equipment Rebates Program; (2) Commercial Equipment Rates Program; (3) Residential Constructions Grant Program; and (4) the online Smart Thermostat Marketplace Program.

On June 5, 2020, the OCA, through its counsel, filed a Notice of Intervention and Public Statement. The OCA filed a corresponding Notice of Appearance on September 1, 2020.

On September 1, 2020, the OSBA, through its counsel, filed a Notice of Intervention, Public Statement, and Notice of Appearance.

On September 2, 2020, CAUSE-PA, through its counsel, filed a Petition to Intervene.

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<sup>2</sup> PGW makes this request to permit it sufficient time to put all plan modifications into effect in fiscal year (FY) 2022, which begins in September 2021, as required by the Settlement. PGW seeks certainty on these items by mid-June so that it can issue a Request for Proposals ("RFP") to implement the low-income smart thermostat program, and to incorporate the agreed-to increased rebate incentives to low-income customers into its website and marketing materials. *Id.*

On September 2, 2020, TURN, through its counsel, filed a Petition to Intervene.

On September 9, 2020, PICGUG, through its counsel, filed a Petition to Intervene.

On September 9, 2020, in accordance with a Prehearing Conference Order dated September 2, 2020, PGW, OCA, OSBA, PICGUG, TURN, and CAUSE-PA submitted prehearing memoranda.

A prehearing conference was held on September 10, 2020. Counsel for PGW, OCA, OSBA, PICGUG, TURN, and CAUSE-PA participated.

On December 28, 2020, Prehearing Order No. 1 was issued memorializing the matters decided and agreed upon by the parties attending the September 10, 2020 Prehearing Conference.

On October 23, 2020, PGW provided direct testimony and accompanying exhibits in support of its DSM Implementation Plan.<sup>3</sup>

On December 22, 2020, CAUSE-PA filed direct testimony and accompanying exhibits. No other parties submitted direct testimony.

On January 21, 2021, PGW filed rebuttal testimony. No other parties submitted rebuttal testimony.

On February 4, 2021, CAUSE-PA filed surrebuttal testimony. No other parties submitted surrebuttal testimony.

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<sup>3</sup> Originally, PGW provided the direct testimony to the parties and me via email only. On March 29, 2021, PGW corrected this administrative error by filing the direct testimony with the Secretary.

The active parties engaged in settlement discussions to try to achieve a settlement of some or all of the issues in this case. As a result of these negotiations, the Joint Petitioners were able to reach the full Settlement set forth herein.

On March 2, 2021, a Joint Petition for Settlement (Joint Petition or Settlement) was filed and served. Signatories to the Joint Petition include PGW, OCA and CAUSE-PA (collectively, Settling Parties or Joint Petitioners). Each of the Settling Parties provided a Statement in Support of the Joint Petition.

Also, on March 2, 2021, the Settling Parties filed a Stipulation for Admission of Testimony and Exhibits (Stipulation). The Settling Parties stipulated to the authenticity of the statements and exhibits listed in the Stipulation, waived the opportunity to conduct cross-examination and requested that the statements and exhibits be admitted into the record.

The record in this proceeding consists of the transcript of the prehearing conference and PGW's filing. Further, the Joint Petition, with its appendices, the Stipulation, statements and exhibits will be admitted into the record through this Recommended Decision.

### **TERMS AND CONDITIONS OF THE SETTLEMENT PETITION**

The principal terms and conditions of the proposed Settlement, contained in Section II, Paragraphs 11-19 of the Settlement, are in verbatim as follows:<sup>4</sup>

11. The Joint Petitioners hereby respectfully request that PGW's Implementation Plan for Fiscal Years 2021-2023 be approved as filed with the following modifications:

12. PGW will convene a stakeholder meeting to allow stakeholders to discuss implementation concerns related to the COVID-19 pandemic.

13. PGW will provide self-identified low-income customers with a smart thermostat at no cost, with the program starting on or

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<sup>4</sup> For ease of reference, the original paragraph numbering has been retained as in the Joint Petition.

before six months after entry of a PUC Order approving this settlement, as follows:

(a) PGW will select a vendor(s) to provide and install smart thermostats to low-income customers at no cost. The vendor(s) would be required to qualify program participants for income and program eligibility, and perform outreach to underserved populations, including those for whom English is not the primary language where possible. The vendor will also be required to provide education regarding how to use the smart thermostat and how to achieve savings using the smart thermostat at the time of installation. PGW will select a vendor(s) that is able to provide the most thermostats to low-income customers for the budget allocated.

(b) PGW will allocate an annual budget of at least \$60,000 per year (i.e. 12-month period) for the program, which would be subtracted from the Residential Equipment Rebate Program within the existing overall budget cap (\$2,115,934 for FY2021-2023). PGW expects the program to serve between 363 to 600 customers, depending on the cost of the thermostats and whether the units are installed by the vendor or customer. The table below shows two realistic scenarios:

<b>Thermostat Cost</b>	<b>Installation &amp; Admin. Cost</b>	<b>Participation</b>	<b>Total Budget</b>
\$100	\$0	600	\$60,000
\$100	\$65	363	\$60,000

(c) PGW will report on participation in its low-income smart thermostat program in its Annual Reports filed in this docket.

14. Incentive spending for the Commercial Equipment Rebate (“CER”) Program shall be below 55% of the Total Resource Cost (“TRC”) for the FY2021 to FY2023 period. PGW will report on this statistic in the FY2023 Annual Report.

15. PGW will continue to endeavor to provide DSM plan benefits in the Commercial Equipment Rebate Program to small business customers that are reasonably commensurate to small businesses’ share of GS-Commercial Class load. PGW will provide separate reporting on actual small business participation in the Commercial Equipment Rebate Program with respect to the

number of participants, annual savings, incentive payments, customer costs, and TRC costs/benefits. Pursuant to PGW’s tariff, a “small business” is “a person, sole proprietorship, partnership, corporation, association or other business whose annual gas consumption does not exceed 300 Mcf.”

16. Total utility spending for the Commercial Equipment Rebate Program for the cumulative FY2021 to FY2023 period shall not exceed the budget shown in Table 1 of the DSM Implementation Plan (\$1,059,734) by more than 15%.

17. PGW will provide increased incentive to low-income customers who have been enrolled in PGW’s Customer Responsibility Program (“CRP”) within the last year, have received a Utility Emergency Services Fund (“UESF”) grant within the last year, or have received a LIHEAP grant and assigned it to PGW within the last year, including for nonprofits and affordable housing agencies installing these units in the homes of low-income customers. This incentive tier will be added in September 2021. PGW will not perform income verification as part of its Residential Equipment Rebate (“RER”) Program.

PGW will award this incentive tier for the first 400 pieces of equipment to be approved per fiscal year. PGW will report on low-income rebate participation in its Annual Reports filed in this docket.

<b>Equipment</b>	<b>Incentive</b>	<b>Incentive - CRP &amp; LIHEAP Customers</b>	<b>Incremental Cost</b>	<b>Market Rate – Rebate as % of Incremental Cost</b>	<b>Low-income – Rebate as % of Incremental Cost</b>
Residential Furnace – Initial Unit	\$350	\$700	\$718	49%	98%
Residential Furnace – Additional Unit	\$250	\$250	\$718	35%	35%
Residential Boiler – Initial Unit	\$900	\$1,225	\$1,234	73%	99%
Residential Boiler – Additional Unit	\$700	\$700	\$1,234	57%	57%
Combi Boiler – First Unit	\$1,500	\$1,800	\$3,014	50%	60%
Combi Boiler – Additional Unit	\$900	\$900	\$3,014	30%	30%
Tankless Water Heater	\$350	\$625	\$627	56%	100%

18. In its Annual Reports, PGW agrees to report on the following data points regarding the low-income smart thermostat program and the enhanced rebate programs:

- a. The number of self-installed thermostats;
- b. The number of vendor-installed thermostats;
- c. The number of enhanced rebates provided for each piece of equipment; and
- d. The housing agencies with which PGW coordinated and the number of measures coordinated.

19. At least three (3) months in advance of filing an extension of its current DSM plan, a revised DSM plan, or a new DSM or energy efficiency and conservation plan, PGW will host a collaborative meeting with interested parties to review participation rates and discuss changes to its DSM low-income programming. All parties agree to engage in communications in good faith.

- a. As part of the collaborative meeting, PGW will informally provide the zip code for each customer who receives a measure through the smart thermostat or enhanced rebate program.

## DISCUSSION

### A. Applicable Law

PGW, OCA and CAUSE-PA have agreed to a settlement that resolves all of the issues in this proceeding. Each of the Joint Petitioners has provided statements in support of the Settlement which explain why the Settlement is in the public interest. The OSBA, PICGUG, and TURN do not oppose the Settlement.

It is the policy of the Commission to encourage settlements. 52 Pa. Code § 5.231. Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. A settlement, which allows the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and reply exceptions, together with the briefs and reply briefs necessitated by any appeal of the

Commission's decision, yields significant expense savings for the company's customers. That is one reason why settlements are encouraged by long-standing Commission policy.

In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Opinion and Order entered October 4, 2004); *Pa. Pub. Util. Comm'n v. C S Water and Sewer Assoc.*, 74 Pa. PUC 767 (1991). The Joint Petition will be examined in accordance with the above principles.

The Joint Petitioners' position is that the proposed Settlement provides a fair, just and reasonable resolution of this matter, is supported by the record, and is in the public interest. I agree. The Settlement terms appear to be a fair and reasonable resolution of the various issues, and appropriately balance the interests of PGW, its customers, and the public. The fact that no party opposes the Settlement is significant. The parties, and the counsel representing them, are to be commended for their outstanding efforts and diligence in this proceeding. Therefore, it is recommended that the Joint Petition be approved without modification by the Commission as expeditiously as possible. This conclusion is based on my analysis of the following key terms of the Settlement and accompanying statements in support.

B. Analysis

PGW originally filed for approval of its initial DSM on March 26, 2009 which was in effect from September 1, 2010 through August 31, 2015. The DSM has been continuously operating since that time. PGW is a natural gas distribution company; therefore, PGW's DSM is a voluntary program. *See Petition of Philadelphia Gas Works for Approval of Demand Side Management Plan for FY 2016-2020*, Docket No. P-2014-2459362 (Tentative Opinion and Order entered Aug. 4, 2016), at 70. On May 7, 2020, PGW filed its DSM Implementation Plan for Fiscal Years 2021-2023. The Implementation Plan described program budgets and implementation details that PGW will follow to implement its EnergySense DSM Portfolio from September 1, 2020 to August 31, 2023. This filing was made in accordance with the Commission's November 1, 2016 Final Order in this docket (Docket No. P-2014-2459362)



approving PGW's DSM Phase II Plan for Fiscal Years 2016 through 2020, including the provision authorizing the continuation of PGW's DSM programming beyond FY 2020 through ongoing triennial update filings. The Implementation Plan became effective as of September 1, 2020.

According to the Joint Petitioners, the Settlement achieves a reasonable and beneficial result while curtailing the costs of litigation in avoiding evidentiary hearings, briefing, and, expending further time by the Commission and the parties. The Joint Petitioners arrived at the Settlement terms after extensive review of discovery by the statutory advocates and engaging in in-depth discussions. They state that the Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. The Settling Parties advocate that the proposed Settlement is just, reasonable, in the public interest and should be approved without modification.

The individual parties that make up the Joint Petitioners offer further arguments of why the Settlement is in the public interest in their statements of support attached to the Joint Petition. These reasons are provided in the analysis below.

1. Implementation Plan for Fiscal Years 2021-2023

In its Statement in Support, PGW points out that the DSM Program's approved overall budget for FY 2021 to FY 2023 is approximately \$7.1 million but is projected to result in a net benefit of \$11.4 million with a benefit-cost ratio of 2.10, which indicates that the Program will provide significant benefits in excess of the costs to PGW customers.<sup>5</sup> PGW also highlights that the program is also projected to provide natural gas savings of 169,517 MMBtu in FY 2021-2023, and lifetime natural gas savings of nearly three million MMBtu over the life of the measures installed as part of the program.<sup>6</sup> PGW notes that these measures will result in savings

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<sup>5</sup> See PGW Rev. Stmt. A, p. 6.

<sup>6</sup> *Id.*

to electricity and water usage as well, providing reasonable benefits to both participating customers and PGW's customers as a whole.<sup>7</sup>

I agree with PGW that by supporting the deployment of high efficiency natural gas equipment, the program provides PGW customers with reductions in natural gas usage and associated costs, and also supports conservation and load management efforts in Philadelphia. Further, the DSM Program makes high efficiency natural gas equipment more accessible to customers by reducing up-front costs of installing this equipment, and thereby helps reduce customer bills, reduce carbon emissions, and improve load management. As a result, I find that approval of the Implementation Plan and the Settlement will result in continued financial and customer satisfaction benefits for PGW's customers, while providing economic and environmental benefits for PGW ratepayers, which is in the public interest.

## 2. Low-Income Programming

As part of the Settlement, PGW has agreed to provide additional benefits specific to low-income customers in order to achieve savings under the DSM Program. Specifically, these benefits will provide free smart thermostats to low-income customers, as well as increased incentive rebates for low-income customers installing certain energy efficient equipment in their homes. The Settlement also provides for additional reporting on low-income participation in these programs as part of PGW's Annual Reports regarding the DSM Program.

### a. Low-Income Smart Thermostats

PGW's original Implementation Plan offers rebate-discounted ENERGY STAR certified smart thermostats to eligible PGW customers, including residential (regardless of household income) and commercial customers.<sup>8</sup> The Implementation Plan projected that the program would incentivize the installation of 6,625 thermostats in the FY 2021 to FY 2023

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<sup>7</sup> *Id.*

<sup>8</sup> Implementation Plan at 23. Low-income customers are eligible to receive the discounted smart thermostats as part of the original Implementation Plan.

period (or 2,072 to 2,277 thermostats per year). Overall, PGW projects that the Smart Thermostat program will reduce energy use and costs to customers in the program by approximately 6.4% to 11.5% compared to manual or conventional programmable thermostats.<sup>9</sup>

However, OCA and CAUSE-PA pointed out that under the original Implementation Plan, low-income customers would pay the costs of the program, but not be given meaningful access to the proposed DSM programs.<sup>10</sup> Under the Settlement, PGW will provide low-income customers with a smart thermostat at no cost.<sup>11</sup> According to PGW, this means approximately 14% to 21% of the smart thermostats provided each year under the program will be specifically allocated to be provided for free to low-income customers.<sup>12</sup> This is on top of any low-income customer participation in the rebate-discounted program. As noted above, smart thermostats are projected to provide savings of 6.4% to 11.5% of heating costs, which can be expected to be particularly impactful for this group of customers.

Additionally, the Settlement will provide for the installation of the Smart Thermostats for low-income customers and education about how to achieve the savings at the time of the installation.<sup>13</sup> The Joint Petitioners note that the installation of the Smart Thermostats by the contractor will ensure that the Smart Thermostats are properly installed if the customer does not have sufficient knowledge to self-install, and will provide low-income customers with the knowledge to be able to effectively use the Smart Thermostats to achieve the most savings.<sup>14</sup>

I agree with the Joint Petitioners that these Settlement terms provide additional benefits for low-income customers by providing free smart thermostats, which will help manage

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<sup>9</sup> Implementation Plan, Appendix D, Technical Reference Manual at 6.

<sup>10</sup> See OCA Rev. Stmt. B, p. 3; CAUSE-PA Rev. Stmt. C, p. 3.

<sup>11</sup> See Joint Petition at ¶ 13.

<sup>12</sup> See PGW Rev. Stmt. A, p. 6.

<sup>13</sup> See Joint Petition at ¶ 13(a).

<sup>14</sup> See OCA Rev. Stmt. B, p. 5.

their gas usage and decrease their bills, particularly during the heating season. Reduced energy usage lowers costs for both the low-income consumers and those who pay for the costs of the low-income programs. Thus, I find these Settlement terms are in the public interest and should be approved without modification.

b. Increased Equipment Rebate Incentives for Low-Income Customers

The Settlement also provides for low-income customers to be provided with higher rebate incentives to replace certain equipment in their homes with more efficient units.<sup>15</sup> PGW states that providing 400 increased incentives to low-income customers per year will result in approximately 39% of rebates being awarded in FY 2022 and FY 2023 as increased incentive rebates to low-income customers under this program, in addition to low-income participants in the original program.<sup>16</sup> PGW also states that the average customer is projected to save \$250 on heating costs annually from the purchase of high efficiency equipment.<sup>17</sup>

The OCA notes that the enhanced low-income discounts under the Residential Equipment program will allow low-income customers a greater opportunity to share in the estimated FY21-FY23 annual savings of 50,297 MMBtus and lifetime savings of 1,039,838 MMBtus for the program.<sup>18</sup>

CAUSE-PA drew attention to the fact that without enhanced incentive levels, PGW's standard residential equipment rebate program would otherwise be inaccessible to low-income consumers.<sup>19</sup> They noted that standard residential efficiency rebate levels are designed to cover only a portion of the incremental cost between a less efficient equipment model and an

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<sup>15</sup> See Joint Petition at ¶ 17.

<sup>16</sup> See PGW Rev. Stmt. A, p. 11.

<sup>17</sup> *Id.*

<sup>18</sup> See OCA Rev. Stmt. B, p. 6.

<sup>19</sup> See CAUSE-PA Rev. Stmt. C, p. 6.

efficient equipment model, and “rely on customers being able to contribute to the cost of the efficiency measures.”<sup>20</sup> This creates an issue because low-income consumers most often lack the discretionary income to afford the upfront cost of basic heating equipment, let alone the incremental cost of purchasing a more efficient model.<sup>21</sup>

CAUSE-PA also pointed out that the Settlement provides that enhanced rebates will be made available to nonprofits and affordable housing agencies that are installing heating or water heating equipment in low-income homes.<sup>22</sup> They further explain that low-income consumers most often lack the resources necessary to purchase basic heating equipment on their own. If their furnace or hot water heater breaks, low-income households often either go without service for a period of time or turn to social service providers for help.<sup>23</sup> Therefore, by providing enhanced efficiency rebates to nonprofit and affordable housing agencies that are installing this type of equipment in low-income homes, the Settlement will help to leverage scarce resources across the City of Philadelphia to increase the level of efficiency achieved for some of the city’s many low-income households.<sup>24</sup>

I agree with the Joint Petitioners that these Settlement terms can be expected to make this high efficiency equipment more accessible to low-income customers and will help participants reduce their natural gas usage and thus reduce their bills. Thus, I find these Settlement terms are in the public interest and should be approved without modification.

c. Annual Reports

As part of the Settlement, PGW will provide reporting on participation in the low-income thermostat program and low-income equipment rebates as part of its Annual Reports,

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at p. 7.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

including a variety of specific data points.<sup>25</sup> Three months prior to filing any extension, revision, or new DSM Plan, PGW will hold a collaborative to discuss participation rates in these programs and potential modifications, as well as provide additional data regarding customer participation.<sup>26</sup> Further, PGW will also convene a stakeholder meeting to discuss implementation concerns related to the COVID-19 pandemic.<sup>27</sup> PGW commits to holding this stakeholder meeting within 30 days of receiving a final Order in this proceeding.<sup>28</sup>

The OCA notes that this additional reporting will help to inform the future stakeholder collaborative and provide the parties the opportunity to use the information provided in the evaluation of the Smart Thermostat program, in particular, to be able to provide informed input regarding the next DSM Plan.<sup>29</sup>

CAUSE-PA states that this is a critical provision of the Settlement, in that it will allow for check-points to assess whether PGW is successfully reaching low-income consumers and will inform the need for additional reforms to PGW's low-income program offerings if it were to propose a Phase IV DSM Plan for FY 2024 and beyond.<sup>30</sup>

I agree with the Joint Petitioners that these Settlement terms will allow the interested parties and the Commission to gain additional understanding of how PGW's low-income programs are being implemented, identify the customers who have received benefits, the amount of benefits they have received, and inform programs in the future. Thus, I find these Settlement terms are in the public interest and should be approved without modification.

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<sup>25</sup> See Joint Petition at ¶¶ 13(c); 17; 18.

<sup>26</sup> See Joint Petition at ¶ 19.

<sup>27</sup> See Joint Petition at ¶ 12.

<sup>28</sup> See PGW Rev. Stmt. A, p. 12.

<sup>29</sup> See OCA Rev. Stmt. B, pp. 7-8.

<sup>30</sup> See CAUSE-PA Rev. Stmt. C, p. 7.

### 3. Small Business Participation

The Settlement also includes terms related to small business participation in the DSM programming. PGW states that these terms address concerns raised by the OSBA, and seek to ensure that small business customers receive benefits from the DSM program that are commensurate with small business' funding of the programs, and to ensure that program budgets are appropriately limited and that costs do not outweigh the benefits of the programs.<sup>31</sup> PGW asserts that, through the Settlement it is committed to maintaining incentive spending for the Commercial Equipment Rebate ("CER") Program below 55% of the Total Resource Cost during FY 2021-2023, and will report on this in its FY 2023 Annual Report; PGW will work to provide CER benefits to small business customers that are reasonably commensurate to small businesses' share of the GS-Commercial Class load; the Annual Reports will provide data on small business participation in the CER Program; and total spending on the CER Program in FY 2021 to FY 2023 will not exceed its budget by more than 15%.<sup>32</sup>

I agree with the Joint Petitioners that these Settlement terms will help ensure that small businesses benefit from the DSM programming and that budgets for these programs are appropriately maintained. Additionally, reporting on total spending and small business participation rates will allow the interested parties to assess the success of these programs. Therefore, I find these Settlement terms are in the public interest and should be approved without modification.

#### C. Recommendation

The Settlement achieves substantive improvements to PGW's DSM to provide dedicated programming to low-income consumers. In addition, the Settlement also preserves the rights of the parties to further their original positions in future litigation. These improvements can be built upon between now and the end of PGW's proposed DSM in 2023.

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<sup>31</sup> See PGW Rev. Stmt. A, p. 12.

<sup>32</sup> *Id.*; see also Joint Petition at ¶¶ 14-16.

Furthermore, the Settlement represents an outcome that is preferable to the time, expense and uncertainty of litigation before the Commission and potentially, appellate courts, the reasonable costs of which may be borne by the ratepayers. Additionally, it is noted that statutory advocate, the OCA, is a Joint Petitioner and in full support of the Joint Settlement. When the statutory advocates fully support a settlement, it is strong evidence that the terms and conditions are just and reasonable and in the public interest. *See, Pa. Pub. Util. Comm'n v. T.W. Phillips Gas and Oil Co.*, Docket No. R-2010-2167797 (Final Order entered November 4, 2010), (holding that the support of OTS, which is the predecessor of I&E, the OCA and OSBA was evidence that the settlement was reasonable and in the public interest).

Based on the totality of the record, I find that the Joint Petitioners sustained their burden to prove by substantial evidence that the Settlement is in the public interest. Accordingly, I recommend the Settlement be approved without modification.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of, and the parties to, this proceeding. 66 Pa.C.S. § 2203(8).
2. PGW is a city natural gas distribution operation as defined in the Public Utility Code, 66 Pa.C.S. § 102.
3. 66 Pa.C.S. § 2806.1 (known as Act 129) requires electric utilities to implement cost-effective energy efficiency and conservation plans to reduce energy demand and consumption within their service territories, but no such mandate exists for natural gas utilities, like PGW.
4. There is no statutory, legislative, or policy mandate requiring natural gas utilities, like PGW, to offer demand-side management plans.



5. The policy of the Commission is to promote settlements. 52 Pa.Code §§ 5.231.

6. Despite the Commission policy to promote settlements, the Commission's determination to approve the proposed settlement is whether the proposed terms and conditions foster, promote and serve the public interest. *Pa. Pub. Util. Comm'n. v. PECO Energy Co.*, Docket No. R-2018-3000164 at 15 (Order entered Dec. 20, 2018).

7. The Joint Petition for Settlement submitted by PGW, the OCA and CAUSE-PA is just, reasonable and in the public interest.

### ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Settlement submitted by Philadelphia Gas Works, the Office of Consumer Advocate, and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania at Docket No. P-2014-2459362 be admitted into the record.

2. That the Stipulation, statements and exhibits submitted by Philadelphia Gas Works, the Office of Consumer Advocate, and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania at Docket No. P-2014-2459362 be admitted into the record; and

3. That the Joint Petition for Settlement submitted by Philadelphia Gas Works, the Office of Consumer Advocate, and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania at Docket No. P-2014-2459362 be approved, including all terms and conditions.

Date: March 31, 2021

\_\_\_\_\_/s/  
F. Joseph Brady  
Administrative Law Judge