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February 23, 2010

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
2<sup>nd</sup> Floor, 7 North  
400 North Street  
Harrisburg, PA 17120

Filed by Federal Express

**Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works**  
**Docket No. R-2009-2139884; P-2009-2097639**

Dear Secretary McNulty:

On behalf of Tenant Union Representative Network (TURN) and Action Alliance of Senior Citizens of Greater Philadelphia (collectively "TURN et al."), enclosed please find an original and three (3) copies of a Pre-Hearing Conference Memorandum in the above-captioned matter.

Copies of this filing have been sent this date to the parties listed on the Certificate of Service by First Class U.S. Mail, postage prepaid and by e-mail..

Very truly yours,

Philip A. Bertocci, Esquire  
Thu B. Tran, Esquire

Attorneys for TURN et al.

cc: Honorable Charles E. Rainey, Jr.  
Certificate of Service

Enclosures

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Pennsylvania Public Utility  
Commission

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:

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

v.

:  
:

R-2009-2139884

Philadelphia Gas Works

Philadelphia Gas Works' Revised Petition  
for Approval of Energy Conservation and  
Demand Side Management Plan

:  
:  
:

P-2009-2097639

**Pre-Hearing Memorandum of Tenant Union Representative Network  
and Action and Alliance of Senior Citizens of Greater Philadelphia**

The Tenant Union Representative Network (TURN) and Action Alliance of Senior Citizens of Greater Philadelphia (hereinafter "TURN et al."), through counsel, hereby submit this Pre-Hearing Memorandum in the above-captioned matter.

**I. Procedural History.**

This is a Base Rate Increase Case which has been consolidated by Commission Order with review of the Philadelphia Gas Works (PGW) Revised Petition for Approval of Energy Conservation and Demand-Side Management ("DSM") Plan.

On April 20, 2009, PGW submitted its Revised Petition for Approval of Energy Conservation and Demand-Side Management ("DSM") Plan.

On December 19, 2009, PGW filed Supplement No. 36 to Tariff Gas – Pa. P.U.C. No. 2 to become effective February 6, 2010, containing proposed changes in rates, rules and regulations calculated to produce \$102.5 million in additional revenues above what had been previously authorized by the Commission. This Tariff filing asked that the Commission allow PGW to make permanent the temporary emergency \$60 million rate increase granted on December 19, 2008 in response to PGW’s credit-related short term liquidity challenges associated with the nationwide financial crisis. In addition, this Tariff filing sought changes in rates, rules and regulations calculated to produce \$42.5 million in additional annual revenues.

On January 7, 2010, the Office of Small Business Advocate (OSBA) filed a Formal Complaint in opposition to PGW’s Base Rate Increase.

On January 15, 2010, TURN et al. filed a Formal Complaint in opposition to PGW’s Base Rate Increase.

On January 19, 2010, the Office of Consumer Advocate (OCA) filed a Formal Complaint in opposition to PGW’s Base Rate Increase.

On February 2, 2010, the Philadelphia Housing Authority filed a Formal Complaint in opposition to PGW’s Base Rate Increase.

On February 12, 2010, the Philadelphia Industrial and Commercial Gas Users Group (PICGUG) filed a Formal Complaint in opposition to PGW’s Base Rate Increase.

On February 12, 2010, the Honorable Charles E. Rainey, Jr., Administrative Law

Judge, issued a Prehearing Conference Order which set forth an agenda for a Prehearing Conference to be held on March 2, 2010.

Between January 28, 2010 and February 19, 2010, according to the dockets in this case, various individuals filed Protests concerning the proposed Base Rate Increase.

## **II. ANTICIPATED ISSUES.**

As set forth in TURN et al.'s Formal Complaint, a preliminary review of PGW's filing indicates the need for Commission investigation into many issues, including but not limited to:

1. The reasonableness of PGW's customer service, including but not limited to:
  - (a) whether PGW's customer service, including but not limited to the low level of performance of the call center, requires rejection of the requested increase in rates;
  - (b) whether PGW's excessive concentration on termination of service as a collection method coupled with its harsh payment agreement requirements are reasonable, given that they have resulted in the deprivation of winter heating service to approximately 8,400 customers in 2009-2010, including at least 3,600 low income customers with household income below 150%FPL;
  - (c) whether PGW's universal service programs are under enrolled in light of the number of PGW's low income customers;
  - (d) whether PGW's proposed Tariff contains amendments to its customer service regulations which eliminate existing customer protections and/or are not consistent with the Public Utility Code and Chapter 56.
2. The justness and reasonableness of the rates requested in light of the

constitutionally based statutory requirement that rates be just and reasonable, including but not limited to:

- (a) whether the requested rate relief unfairly requires customers to pay through rates to reduce a level of long term debt which was incurred through mismanagement by PGW's owner, the City of Philadelphia;
- (b) whether PGW's plan would place an undue burden of debt reduction on customers, while failing to include a commitment by PGW's owner, the City of Philadelphia, to renounce its right to receive an \$18 million annual payment authorized by City ordinance;
- (c) whether the increase in rates that is requested is in excess of what is necessary in order for PGW to meet its bond covenants;
- (d) whether PGW's proposed Other Post-Employment Benefits proposal would inequitably require current customers to fund post-employment costs that are speculative in amount and will be only experienced in the future;
- (e) whether PGW inappropriately proposes to require customers to fund its short term borrowing needs, rather than utilize a substantial Tax Exempt Commercial Paper program authorized under state and local law, contrary to sound and customary business practices;
- (f) whether PGW's DSM Program would inequitably require PGW customers to refund to PGW via a surcharge the benefits that might result from the conservation measures that they have introduced in their residences.

3. The lack of evidentiary support for PGW's alleged revenue requirement,

including but not limited to:

- (a) whether PGW's operating costs are excessive, and whether the increase appropriately accounts for cost savings arising from ratepayer funded cost reduction programs;
- (b) whether PGW's test year data is based on the FY2010 compliance operating budget approved by the Philadelphia Gas Commission and the

Philadelphia Facilities Management Corporation.

TURN et al. reserve the right to address additional issues, as well as respond to issues raised by other parties in this proceeding.

**III. Witnesses.**

TURN et al. will sponsor the testimony of Harry S. Geller, Esquire, Executive Director of the Pennsylvania Utility Law Project (PULP) in this proceeding. Mr. Geller's information is as follows:

Harry S. Geller, Esquire  
Pennsylvania Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101-1414  
Telephone: 717-232-2719  
Fax: 711-233-4088  
[hgellerpulp@palegalaid.net](mailto:hgellerpulp@palegalaid.net)

Mr. Geller will provide testimony on customer service issues, including the issues set forth in Section II.1 above. TURN et al. request that Mr. Geller be added to the service list in this proceeding.

TURN et al. intend to participate in this proceeding through the propounding of discovery, submission of testimony, cross-examination of other parties' witnesses, and the submission of briefs, exceptions and reply exceptions, if necessary.

**IV. Discovery Rules and Procedural Schedule.**

TURN et al. will cooperate with other parties to establish appropriate discovery rules and an appropriate procedural schedule.

**V. Public Input Hearings.**

TURN et al. recommend that at least three public input hearings be scheduled. It is critical that notice of the time and place of such hearings be widely publicized at least two weeks in advance of the meetings to enable interested members of the public to learn of the input hearings and arrange to attend.

**VI. Settlement.**

TURN et al. anticipate participation in settlement discussions concerning this matter.

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February 23, 2010

Respectfully submitted,

*Philip A. Bertocci*

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Attorneys for TURN et al.

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**Pennsylvania Public Utility Commission v. PGW, Docket No. R-2009-2139884**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing Prehearing Conference Memorandum of TURN et al. upon the participants listed below in accordance with the requirements of § 1.54 (relating to service by a participant).

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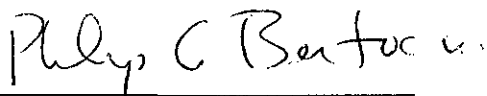
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Dated: February 23, 2010

  
Philip A. Bertocci, Esquire

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