

PENNSYLVANIA UTILITY LAW PROJECT

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JANUARY 12, 2015

VIA ELECTRONIC FILING (E-FILING)

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

RE:

**Petition of Philadelphia Gas Works for
Approval of its Phase II Demand Side
Management Plan : Docket No. P-2014-2459362**

**Petition of Philadelphia Gas Works for
Approval of Demand-Side Management : Docket No. P-2009-2097639
Plan for FY 2016-2020**

**Philadelphia Gas Works Universal Service and Docket No. M-2013-2366301
Energy Conservation Plan for 2014-2016
Submitted in Compliance with
52 Pa. Code § 62.4 – Request for Waivers**

Dear Secretary Chiavetta:

Please accept for filing the Petition to Intervene, Answer and Certificate of Service of CAUSE-PA in the above referenced proceedings.

All parties have received a copy of the Petition to Intervene and Answer via first class or electronic mail. A Certificate of Service is attached.

Please feel free to contact me directly should you have any questions.

Very truly yours,


Harry S. Geller, Esq.

Enclosure
cc: Certificate of Service

BEFORE THE PENNSYLVANIA PUBLIC UTILITIES COMMISSION

**Petition of Philadelphia Gas Works for
Approval of its Phase II Demand Side
Management Plan**

: Docket No. P-2014-2459362

**Petition of Philadelphia Gas Works for
Approval of Demand-Side Management :
Plan for FY 2016-2020**

Docket No. P-2009-2097639

**Philadelphia Gas Works Universal Service
and Energy Conservation Plan for 2014-2016 :
Submitted in Compliance with
52 Pa. Code § 62.4 – Request for Waivers**

Docket No. M-2013-2366301

CERTIFICATE OF SERVICE

I hereby certify that I, Harry S. Geller, have this day, January 12, 2015, served copies of **Petition to Intervene and Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) Regarding Philadelphia Gas Works DSM II Plan** upon the following parties in the above captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54 in the manner and upon the persons listed below.

VIA EMAIL or FIRST CLASS MAIL

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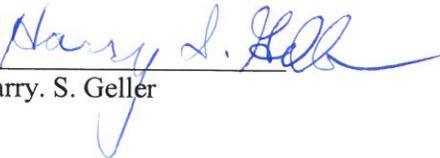
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January 12, 2015


Harry. S. Geller

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Philadelphia Gas Works for
Approval of its Phase II Demand Side
Management Plan : Docket No. P-2014-2459362

Petition of Philadelphia Gas Works for
Approval of Demand-Side Management
Plan for FY 2016-2020 : Docket No. P-2009-2097639

Philadelphia Gas Works Universal Service and
Energy Conservation Plan for 2014-2016
Submitted in Compliance with
52 Pa. Code § 62.4 – Request for Waivers : Docket No. M-2013-2366301

**Petition to Intervene and Answer
of the Coalition for Affordable Utility Services
and Energy Efficiency in Pennsylvania**

Pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (“PUC” or “Commission”), 52 Pa. Code §§ 5.61-5.76, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), through its counsel at the Pennsylvania Utility Law Project, hereby files this Petition to Intervene and Answer to the Petition, filed December 23, 2014, by the Philadelphia Gas Works (“PGW”) for Approval of its Phase II Demand Side Management Plan (“DSM II Plan” or “Plan”), and in support, states as follows:

1. On December 23, 2014 PGW filed the above captioned Petition in regard to its DSM II Plan.
2. In its Petition, PGW proposed January 12, 2015, as the date for filing of Answers/Intervention (Petition at 6.)
3. CAUSE-PA is filing this Petition to Intervene and Answer consistent with the

scheduled proposed by PGW as well as the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (“PUC” or “Commission”), 52 Pa. Code §§ 5.61-5.76

Petition to Intervene

4. Eligibility to intervene in Commission proceedings is governed by 52 Pa. Code § 5.72. This section provides, in relevant part, that “[a] petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought.” 52 Pa. Code § 5.72(a).

5. Section 5.72 further provides that the right or interest may be one “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.” 52 Pa. Code. § 5.72(a)(2).

6. Even though Section 5.72 speaks of the rights of a “person” to intervene, the Commonwealth Court has consistently stated that “an association may have standing as a representative of its members . . . as long as an organization has at least one member who has or will suffer a direct, immediate, and substantial injury to an interest as a result of the challenged action, [i.e., is aggrieved, the organization] has standing.” *Energy Cons. Council of Pa. v. Pa. P.U. C.*, 995 A.2d 465, 476 (Pa. Commw. 2010) (alteration in original) (citing *Tripps Park v. Pa. P.U. C.*, 415 A.2d 967 (Pa. Commw. 1980) and *Parents United for Better Schools v. School District of Philadelphia*, 646 A.2d 689 (Pa. Commw. 1994)).

7. CAUSE-PA is an unincorporated association of low-income individuals that advocates on behalf of its members to enable consumers of limited economic means to connect to and maintain affordable water, electric, heating and telecommunication services.

8. CAUSE-PA membership is open to moderate- and low-income individuals residing in the Commonwealth of Pennsylvania who are committed to the goal of helping low-income families maintain affordable access to utility services and achieve economic independence and family well-being.

9. CAUSE-PA is located, c/o the Pennsylvania Legal Aid Network, at 118 Locust Street, Harrisburg, PA 17101.

10. CAUSE-PA has interests in the impact that the proposed Phase II Demand Side Management Plan (DSM) has on moderate- and low-income residential customers. These interests are not adequately represented by other participants.

11. At least six members of CAUSE-PA are customers of PGW and will be directly affected by the outcome of this proceeding.¹

12. Because at least one member of CAUSE-PA has or will suffer a direct, immediate, and substantial injury to an interest as a result of this proceeding, CAUSE-PA has standing to intervene. *See Energy Cons. Council of Pa.*, 995 A.2d at 476.

13. CAUSE-PA is represented in this proceeding by:

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Elizabeth R. Marx, Esquire
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14. Counsel for CAUSE-PA consents to the service of documents by electronic mail to pulp@palegalaid.net, as provided in 52 Pa. Code § 1.54(b)(3).

¹.Ms. Sonia Brookins, Ms. Robin Evans, Ms. Marjorie Jackson, Mr. .Leodus Jones, Ms. Marsha Mathis, and Jahala McLendon are members of CAUSE-PA and customers of PGW.

Answer

15. CAUSE-PA has preliminarily reviewed PGW's Petition and extensive Plan and has identified a number of issues presented by the filing which potentially affect its members. CAUSE-PA anticipates that additional issues may arise as a more comprehensive review of the Petition and Plan is undertaken and as stakeholder collaborative meetings are convened. CAUSE-PA intends to participate in the stakeholder collaborative and, if necessary, comment on the collaborative report issued by PGW. Furthermore, if this matter is assigned to the Office of Administrative Law Judge, CAUSE-PA anticipates that additional issues may arise as discovery is conducted and testimony is provided and reviewed. However, preliminary issues identified by CAUSE-PA include:

a. CAUSE-PA is concerned that the procedural schedule proposed by PGW provides insufficient time for analysis by interested parties and the Commission. In its Petition, PGW asserts that it is in the public interest that all the proposed elements of its Plan are approved by the Commission as soon as possible. To that end, PGW proposes an extremely aggressive schedule which encompasses stakeholder collaborative meetings to commence by January 16th, 2015, a collaborative report by PGW with recommendations by March 6, 2015, and comments to the PUC regarding the report to be submitted by other parties by March 21, 2015. PGW requests a Commission Order by April 9, 2015. CAUSE-PA welcomes the opportunity to meet with PGW and other stakeholders in one or more collaborative meetings. However, the Plan is detailed and extensive. It encompasses significant data regarding the implementation of the proposed programs, projected energy savings, and costs. In addition, PGW is requesting waiver of 6 separate sections of Chapter 58 (Plan, Appendix A.) Setting forth a procedural schedule which provides interested parties 15 days to respond to PGW's collaborative report and the Commission to issue its order only 15 days following receipt of those comments appears to be

overly ambitious and may compromise the ability of the Commission to provide a deliberative and thorough review. CAUSE-PA submits that a more extended procedural schedule, rather than the abbreviated and expedited process proposed by PGW, is in order and should be set forth by the Commission.

- b. The Company proposes to continue five DSM programs:
 - i. CRP Home Comfort (formerly known as ELIRP),
 - ii. Residential Equipment Rebate Program,
 - iii. Efficient Buildings Grant Program,
 - iv. Commercial Equipment Rebate Program, and
 - v. Efficient Construction grants.

CAUSE-PA will participate in the collaborative process- and in any further process, should an issue regarding these programs be referred to the Office of Administrative Law Judge- to determine the potential benefits and costs of each of these programs, including those proposed and or modified by PGW during the collaborative process.

- c. PGW is further requesting that the Commission approve a Cost Adjustment Mechanism”CAM” and Realized Performance Incentives.

CAUSE-PA will participate in the collaborative process - and in any further process should any issue regarding these proposals be referred to the Office of Administrative Law Judge- to determine the potential benefits and costs of each of these proposals, including those proposed and or modified by PGW during the collaborative process.

d. Additionally, PGW requests waiver of six Sections of Chapter 58:

- i. 52 Pa Code §58.4,
- ii. 52 Pa Code §58.5,
- iii. 52 Pa Code §58.10,
- iv. 52 Pa Code §58.11,
- v. 52 Pa Code §58.14, and
- vi. 52 Pa Code §58.16.

CAUSE-PA believes that waivers of regulations should not take place without thorough analysis and review. An expedited and abbreviated process to review these regulatory waiver requests is not in the public interest. This is particularly the case when the purpose of the Chapter is to create establish fair, effective and efficient energy usage reduction programs for PGW's low-income and to assist those customers conserve energy and reduce residential energy bills.²

CAUSE-PA will participate in the collaborative process - and in any further process should any issue regarding these waiver requests be referred to the Office of Administrative Law Judge- to determine the potential benefits and potential negative affects which these proposed waivers may have on PGW's economically vulnerable customers.

² **§ 58.1. Purpose.** This chapter requires covered utilities to establish fair, effective and efficient energy usage reduction programs for their low income customers. The programs are intended to assist low income customers conserve energy and reduce residential energy bills. The reduction in energy bills should decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs. The programs are also intended to reduce the residential demand for electricity and gas and the peak demand for electricity so as to reduce costs related to the purchase of fuel or of power and concomitantly reduce demand which could lead to the need to construct new generating capacity. The programs should also result in improved health, safety and comfort levels for program recipients.

e. PGW is proposing a new low income multifamily program.

CAUSE- PA, supports the development and extension of energy efficiency measures and services to multifamily housing serving low-income residents, and will participate in the collaborative- and in any further process should any issue regarding the low-income multifamily program be referred to the Office of Administrative Law Judge. However, CAUSE-PA is particularly concerned that PGW holds open the possibility and asserts it would be willing to consider an “on-bill payment program.” Discussions and workgroups within the Act 129 context have highlighted that on-bill payment poses significant dangers to residential customers regarding economic burden and loss of service, is contrary to Pennsylvania statutes and regulations, and has not been shown to be good public policy.

CAUSE-PA therefore asserts that each of these matters, as presented within the Petition and Plan, and any proposed modifications presented by the interested stakeholders or intervening parties, must be thoroughly reviewed through the collaborative process and through referral to the Office of Administrative Law Judge for evidentiary hearing, in order to ensure that the PGW’s low-income customers are not harmed and the programs are in the public interest.

WHEREFORE, CAUSE-PA respectfully request that the Public Utility Commission:

- (1) enter an order granting CAUSE-PA full status as an intervener in this proceeding with active party status; and
- (2) extend the proposed procedural schedule to provide sufficient time for party comments to the PGW collaborative report, evidentiary hearings, and Commission review and deliberation;

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA



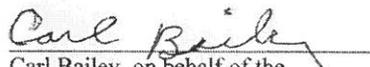
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January 9, 2015

VERIFICATION

I, **Carl Bailey**, a member of the Executive Committee of the Coalition for Affordable Utility Services and Energy Efficiency ("CAUSE-PA"), on behalf of CAUSE-PA, hereby state that the facts contained in the foregoing pleading are true and correct to the best of my knowledge, information and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 10 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: January 9, 2015


Carl Bailey, on behalf of the
Executive Committee of the Coalition for
Affordable Utility Services and Energy
Efficiency in Pennsylvania (CAUSE-PA)