PENNSYLVANIA

PUBLIC UTILITY COMMISSION

Harrisburg, PA 17105-3265

Public Meeting held May 7, 2015

Commissioners Present:

Robert F. Powelson, Chairman

John F. Coleman, Jr., Vice Chairman

James H. Cawley

Pamela A. Witmer

Gladys M. Brown

Philadelphia Gas Work’s Revised Petition P-2009-2097639

For Approval of Energy Conservation and

Demand Side Management Plan

Pennsylvania Public Utility Commission R-2009-2139884

v.

Philadelphia Gas Works

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition of Philadelphia Gas Works (PGW or the Company) to Extend Demand Side Management Plan (Petition) filed on April 10, 2015, relative to the above-captioned proceedings. On April 14, 2015, the Commission issued a Secretarial Letter explaining that the Petition will be considered a petition to rescind or amend a prior order and that Answers to the Petition must be received by the Commission on or before Monday April 20, 2015. No Answers have been received by the Commission.

**Background**

On July 29, 2010, the Commission issued an Order approving a settlement at the above-referenced docket numbers (the *July 2010 Order*), which included the creation of a five-year Demand Side Management Plan (DSM Phase I Plan). The DSM Phase I Plan provided for the implementation of six separate energy efficiency programs in PGW’s service territory beginning on September 1, 2010, and expiring on August 31, 2015.

On December 23, 2014, PGW filed a Petition at Docket No. P-2014-2459362 seeking approval of a Phase II DSM Plan. That petition served as a request to institute Phase II of PGW’s initial five-year DSM Plan beginning on September 1, 2015, and ending on August 31, 2020. Numerous parties filed Answers to the Petition, Petitions to Intervene and Notices of Intervention and, as such, the petition for the Phase II DSM Plan was assigned to the Office of Administrative Law Judge. According to Prehearing Order Number 1, issued February 19, 2015, hearings in that matter are scheduled for August 11- 14, 2015, with Main Briefs due on September 4, 2015.

**History of the Proceeding**

On April 10, 2015, PGW filed the instant Petition to extend its DSM Phase I Plan. In the Petition, PGW alleged that the DSM Phase I programs will “go dark” on September 1, 2015, before the expected completion of the litigation regarding the Phase II DSM Plan. As a result, PGW requested that the Commission extend the DSM Phase I Plan from September 1, 2015, until the earlier of: (1) August 31, 2016, or (2) the effective date of a Phase II compliance plan filed in response to a final Commission Order at Docket Number P-2014-2459362. Petition at 1.

PGW further stated that it was authorized to represent that the following parties to the Phase II proceeding at P-2014-2459362 do not oppose the request: the Office of Consumer Advocate; the Bureau of Investigation and Enforcement; the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania; the Tenant Union Representative Network and the Action Alliance of Senior Citizens of Greater Philadelphia; the Philadelphia Industrial and Commercial Gas Users Group; and the Clean Air Council. PGW noted that while the Office of Small Business Advocate did not oppose the concept of a DSM Bridge Plan, it continued to review the proposed program budgets in the petition and reserved the right to comment. Petition at 5.

Additionally, PGW requested that the Commission enter an order on the Petition on or before May 19, 2015. In order to accommodate this request, PGW further requested that the Commission direct that Answers to the Petition be due by April 20, 2015.

Finally, PGW requested that any and all waivers of Chapter 58 as necessary to permit the CRP Home Comfort program to satisfy these regulatory requirements be continued during the DSM Bridge Plan period. Petition at 15.

In response to that request, the Commission, on April 14, 2015, issued a Secretarial Letter explaining that the Petition would be considered a petition to rescind or amend the *July 2010 Order*, pursuant to 66 Pa. C.S. § 703(g) and 52 Pa. Code § 5.572(d). The Commission further directed that any Answers to the Petition shall be received on or before the close of business on Monday April 20, 2015. No Answers to the Petition have been received by the Commission.

**Discussion**

By the instant Petition, PGW seeks approval of a limited extension of its current Phase I DSM Plan for an interim period (DSM Bridge Plan) from September 1, 2015, through either: (1) August 31, 2016; or, (2) upon the effective date of a Phase II compliance plan filed in response to a final Commission Order at Docket Number P‑2014-2459362, whichever is earlier. PGW states that it has proposed to continue current DSM programs as part of its Phase II DSM Plan, but a decision from the Commission will not occur in time to ensure a seamless transition from the Phase I DSM Plan to the Phase II DSM Plan. As such, PGW avers that without approval of the DSM Bridge Plan, the programs of Phase I will terminate on September 1, 2015. PGA opines that if this were to occur it would need to start informing its business partners and consumers by June 1, 2015, to wind down the programs and to provide ample notice. Petition at 1-2.

PGW submits that allowing the current Phase I DSM Programs to terminate prior to a final decision on Phase II would be premature and unnecessarily confusing for customers. PGW further submits that it would also have a negative effect on the continued participation of the Company’s business partners and contractors. PGW opines that approval of the DSM Bridge Plan will allow for the increasingly cost-effective continuation of programming pending further direction from the Commission regarding PGW’s proposed Phase II DSM Plan. PGW further states that the DSM Bridge Plan is only proposed as an interim plan and is not intended to prejudge or resolve any of the issues currently being litigated in the Company’s proposed Phase II DSM Plan. Petition at 2.

In the DSM Bridge Plan, PGW has proposed a program funding level of $10,692,464, which represents continuation of its Phase I DSM programs and, for most of the programs, is consistent with the Company’s proposed permanent program funding levels set forth in its Phase II DSM Plan Petition. PGW explains that there are two exceptions to this, one being that it is proposing a program budget for the CRP Home Comfort program consistent with the Fiscal Year 2015 budget. Second, PGW states that the proposed DSM Bridge Plan Portfolio-wide and Home Rebates program budgets are consistent with the “expanded plan” alternative set forth in the Company’s Phase II DSM Plan if it were to receive authority to implement its Conservation Adjustment Mechanism. Petition at 3.

In regard to PGW’s CRP Home Comfort program, which provides weatherization treatments to the highest usage customers in PGW’s Customer Assistance Program (CAP) consistent with the requirements of 52 Pa. Code §§ 58.1-58.18 (*i.e.*, the Commission’s Residential Low Income Usage Reduction Programs (LIURP) Regulations), PGW’s proposed DSM Bridge Plan would maintain the program funding level of Fiscal Year 2015, or at $7,570,000, in the interest of reaching a consensus among the parties regarding the instant Petition. PGW notes that approximately seventy percent of the total proposed spending for the DSM Bridge Plan is associated with the CRP Home Comfort Program. Petition at 4, 9.

PGW states that if the Commission rejects the Company’s proposed DSM Bridge Plan, then the Commission should approve the CRP Home Comfort program to ensure continuation of PGW’s LIURP Program. As such, PGW suggests that in the event the Commission rejects the DSM Bridge Plan, the Commission should issue an interim order that directs PGW to implement its CRP Home Comfort program at a program funding level to be determined after a comment period limited to this issue. PGW opines that if the Commission chooses this alternative path, the Commission would need to determine the appropriate program funding level for the CRP Home Comfort program that would be in place for the described interim period. According to PGW, this would insure that low income customers would continue to receive conservation assistance consistent with Commission Regulations. PGW requests that if the Commission pursues this alternative route, a final interim order regarding PGW’s CRP Home Comfort program needs to be issued on or before July 1, 2015, to provide sufficient time to enable the Company to implement it before September 1, 2015, which is when current Commission authorization for the program will terminate. Petition at 13‑14.

**Disposition**

Upon our review of the record in this proceeding and the applicable law, we find that the Petition filed by PGW to Extend Demand Side Management Plan is reasonable, appropriate under the circumstances, and in the public interest, and it should be approved. It is important to note that none of the affected parties in PGW’s Phase II DSM proceeding opposes this request and that no Answers in opposition to this request have been received by the Commission. Considering the success of PGW’s currently effective Phase I DSM Plan, we find that it would be detrimental to the future success of these programs, and to the current participants in these programs, to allow them to terminate pending the resolution of the litigation of PGW’s proposed Phase II DSM Plan. Accordingly, we shall approve PGW’s request for a limited extension of the current Phase I DSM plan for an interim period from September 1, 2015, through the earlier of: (1) August 31, 2016; or, (2) upon the effective date of a Phase II compliance plan filed in response to a final Commission Order at Docket Number P-2014-2459362.

As we have determined that PGW’s Petition should be approved, we further find that the Company’s alternative request to be moot. Additionally, we will not grant PGW’s request that “any and all current waivers of Chapter 58” necessary to permit the CRP Home Comfort program be continued during the DSM Bridge Plan. As we stated in our Order with regard to Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2014-2016, Docket No. M-2013-2366301 (Order entered August 22, 2014) (*August 2014 Order)*, PGW has not been granted any waiver, implicit or otherwise, to our LIURP regulations. *See August 2014 Order* at 52. Consequently, there are no current waivers to continue. We believe that the issue of waivers should be addressed in the context of the litigation with regard to PGW’s Phase II DSM Plan, not within this Petition for the limited extension of the Phase I DSM Plan.

**Conclusion**

In light of the above discussion, we shall grant PGW’s Petition to Extend Demand Side Management Plan, consistent with the discussion in this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition of the Philadelphia Gas Works to Extend Demand Side Management Plan is approved, consistent with this Opinion and Order.

2. That the Philadelphia Gas Works is permitted to implement the DSM Bridge Plan for an interim period effective September 1, 2015, through either: (1) August 31, 2016; or, (2) upon the effective date of a Phase II compliance plan filed in response to a final Commission Order at Docket Number P-2014-2459362, whichever is earlier.

3. That the Philadelphia Gas Works file an Implementation Plan for the DSM Bridge Plan within thirty days of entry of this Opinion and Order.

 **BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: May 7, 2015

ORDER ENTERED: May 7, 2015