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November 19, 2015

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Petition of Philadelphia Gas Works for
Approval of Demand-Side Management
Plan for FY 2016-2020
and
Philadelphia Gas Works Universal Service
and Energy Conservation Plan for 2014-
2016 52 Pa. Code § 62.4 – Request for
Waivers
Docket No. P-2014-2459362

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Main Brief, in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Christy M. Appleby".

Christy M. Appleby
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Enclosures

cc: Honorable Christopher P. Pell, ALJ
Honorable Marta Guhl, ALJ

200612

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PETITION OF PHILADELPHIA GAS WORKS :
FOR APPROVAL OF DEMAND SIDE :
MANAGEMENT PLAN FOR FY 2016-2020 :

AND :

Docket No. P-2014-2459362

PHILADELPHIA GAS WORKS UNIVERSAL :
SERVICE AND ENERGY CONSERVATION :
PLAN FOR 2014-2016, 52 PA. CODE §62.4- :
REQUEST FOR WAIVERS :

MAIN BRIEF
OF THE OFFICE OF CONSUMER ADVOCATE

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I. INTRODUCTION AND STATEMENT OF THE CASE

On December 23, 2014, Philadelphia Gas Works (PGW) filed a “Petition of Philadelphia Gas Works for Approval of Demand Side Management Plan for FY 2016-2020 and Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2014-2016, 52 Pa. Code § 62.4 – Request for Waivers.” (Phase II Plan). PGW proposed a Phase II Plan for a five year period, with triennial plans to be submitted for future periods. PGW St. 1 at 6. Phase I of PGW’s Demand Side Management (DSM) Plan was approved for an initial five-year period that was set to expire on August 31, 2015 as part of the settlement of PGW’s last base rate proceeding.¹

As a general matter, the Office of Consumer Advocate (OCA) supports the continuation of PGW’s DSM efforts. As detailed throughout this Main Brief, however, several of the program elements contained in PGW’s Phase II Plan require modifications and adjustments in order to provide the best outcomes for its ratepayers. Specifically, PGW’s proposed drastic budget cuts for its Phase II Plan are unnecessary and should not be approved. In addition, PGW’s proposals for a Conservation Adjustment Mechanism (CAM) and Performance Incentive (PI) must be rejected outright.

In its Phase II Plan, PGW proposed to continue four of its existing non-Low Income Usage Reduction Programs (LIURP) as follows: (1) Residential Equipment Rebates; (2) Efficient Construction Grants; (3) Efficient Building Grants; and (4) Commercial Equipment Rebates. PGW St. 3 at Exh. TML-4 at 20. PGW also has a fifth non-LIURP program, Home Rebates, which PGW proposed to phase out unless certain cost recovery is approved. *Id.* at 20.

¹ See, Pa. PUC v. PGW, Docket Nos. R-2009-2139884, P-2009-2097639 (July 29, 2010) (July 29, 2010 Order). On May 7, 2015, the Commission approved a “Bridge Plan” to extend the sunset date of the Phase I Plan until August 31, 2016, or the effective date of a Phase II Plan, whichever is earlier. Petition of Philadelphia Gas Works for Approval of Demand-Side Management for FY 2016-2020; and Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2014-2016 52 Pa. Code § 62.4- Request for Waivers, Docket No. P-2014-2459362 (May 7, 2015)(Bridge Plan Order).

The OCA supports continuation of all five of these non-LIURP programs in the Phase II Plan, without the need for any new cost-recovery mechanisms as proposed by PGW. OCA St. 1 at 31.

Included in its Phase II Plan are two new programs: (1) Fuel Switching and Micro-CHP program (Fuel Switching); and, (2) On-Bill Repayment Program (OBR). The OCA does not support inclusion of the Fuel Switching program in the Phase II Plan as a DSM measure through the surcharge. The Fuel Switching program is not a load management program, but instead is a load growth program that should not be considered as a part of a DSM portfolio. The OCA recommends that the proposed \$2.29 million Fuel Switching budget should be directed towards the CRP Home Comfort budget.

As to the OBR Program, PGW proposed that the Commission authorize a process for stakeholders to develop an OBR program for residential and non-residential customers in order to support continuation of the Home Rebates Program. The OCA submits that PGW's current Home Rebates Program should continue at its current funding levels, but the proposed OBR should not be approved as it is unnecessary for the implementation of PGW's DSM programs. Alternatively, if the Company develops an OBR program for non-residential customers, the OBR should not include any residential customer component to the program. OCA St. 2 at 63.

PGW proposed a five-year "Base Plan" budget of \$22.72 million for its Phase II Plan. OCA St. 1 at 29; see also, PGW St. 3 at 27. PGW also proposed to implement a Conservation Adjustment Mechanism (CAM) to recover lost revenues due to implementation of DSM programs, including lost revenues for its LIURP program. In addition to the CAM mechanism, PGW proposed to implement a Performance Incentive Model (PI) to encourage PGW to achieve more investment in energy efficiency programs. PGW St. 3 at Exh. TML-4 at 70. If both the CAM and PI are approved, PGW proposed a "Phase II Expanded DSM" budget of \$32.2 million.

PGW St. 3 at 27. PGW proposed that the CAM and PI would be recovered through the ECRS for all non-LIURP programs and be recovered through the USC for the LIURP programs.

The OCA opposes the implementation of a CAM and PI for PGW. As evidenced by Act 129 of 2008 (Act 129), it is the public policy of the Commonwealth to not allow a utility to implement a surcharge mechanism for recovery of lost revenues due to the implementation of DSM programs.² With respect to LIURP, PGW should not be permitted to recover lost revenues or PI for a program that the Company is mandated by Section 2203(8) of the Natural Gas Choice and Competition Act to do.³ Section 2203(8) does not include any mechanism for recovery of either lost revenues or PI, and without such explicit authority, PGW should not be permitted to recover either.⁴

Further, even PGW's "Expanded" budget of \$32.2 million is a drastic cut in resources from what the company is currently spending. This substantial reduction in spending for DSM programs is unnecessary and not in the best interests of PGW's customers. The OCA's recommended budget for PGW's Phase II Plan for the five year period is \$56.2 million, much closer to the amount of resources that PGW is currently spending on these activities without the inclusion of the CAM or PI. OCA St. 1 at 31. As part of the OCA's recommended budget, the LIURP program budget should be maintained at existing levels of \$7.6 million annually for the entirety of the Phase II Plan. The OCA further recommends that the LIURP budget include a specific set-aside so that up to 20% of the total budget is available for, and targeted toward, confirmed low-income customers who are not CRP participants. OCA St. 2 at 50. PGW's

² See 66 Pa. C.S. § 2806.1(k).

³ 66 Pa. C.S. § 2203(8).

⁴ Id.

existing program is directed exclusively to low-income customers who participate in the Company's CRP program. Id. at 42.

PGW proposed to recover the costs of its non-LIURP programs through its existing Efficiency Cost Recovery Surcharge (ECRS) and for the LIURP programs through the Universal Service Charge (USC). The OCA does not oppose this method of recovery, but does not agree that the costs of the new Low-Income Multifamily (LIME) Program are universal service costs that should be recovered in the USC. Rather, these costs should be recovered in the ECRS and allocated to the appropriate customer class.

In its last order addressing PGW's Universal Service and Energy Conservation Plan, the Commission directed that PGW examine the efficacy of continuing to include the LIURP program in PGW's DSM Plan.⁵⁶ In its Phase II Plan, PGW proposed to continue to include the Customer Responsibility Program (CRP) Home Comfort within the DSM II Portfolio. The OCA does not object to continuing to include PGW's LIURP within the DSM II Portfolio.

As part of its filing, PGW requested waivers of the following Chapter 58 sections: (1) 58.4; (2) 58.5; (3) 58.9; (4) 58.10; (5) 58.11; (6) 58.14(c)(1); and 58.16. The OCA does not oppose the proposed waivers for Sections 58.5, 58.9, 58.11, and 58.16. The OCA submits, however, that the waivers of Sections 58.4, 58.10 and 58.14 of the Commission's regulations should be denied.

The OCA recommends that the Phase II Plan should be approved, modified in accordance with the OCA's recommendations. The Plan, as modified, will provide significant benefits to PGW's customers. As such, continuation of the Plan as modified by the OCA is reasonable.

⁵ PGW Universal Service and Energy Conservation Plan for 2014-2016 Submitted in Compliance with 52 Pa. Code § 62.4, Docket No. M-2013-2366301 at 74 (Aug. 22, 2014) (August 22 Order).

⁶ August 22 Order at 74.

II. PROCEDURAL HISTORY

On July 29, 2010, the Commission approved a five-year Demand Side Management Plan (Phase I Plan) for PGW that would end on August 31, 2015. The Phase I Plan was part of the settlement of PGW's base rate proceeding at Docket Nos. R-2009-2139884 and P-2009-2097639. As part of the Phase I Plan, PGW replaced the Conservation Works Program, PGW's previous LIURP, with the Enhanced Low Income Retrofit Program (ELIRP).⁷ PGW also moved the LIURP program from the Universal Service and Energy Conservation Plan to its Demand Side Management Plan. Id.

On December 23, 2014, PGW filed a Petition of Philadelphia Gas Works for Approval of Demand Side Management Plan for FY 2016-2020 (Phase II Plan) and Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2014-2016, 52 Pa. Code § 62.4 – Request for Waivers. On January 12, 2015, the OCA filed a Notice of Intervention and an Answer to PGW's Phase II Plan petition, the Bureau of Investigation and Enforcement (I&E) filed an Answer, and the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (collectively, TURN) jointly filed a Petition to Intervene. On January 13, 2015, the Office of Small Business Advocate (OSBA) filed a Notice of Intervention and Public Statement and the Philadelphia Industrial and Commercial Gas Users Group (PICGUG) filed a Petition to Intervene. On January 16, 2015, the Clean Air Council (CAC) filed a Petition to Intervene.

The filing was assigned to Administrative Law Judges (ALJs) Christopher P. Pell and Marta Guhl. On February 5, 2015, ALJs Pell and Guhl issued a Prehearing Conference Notice scheduling a Prehearing Conference for February 17, 2015. On February 17, 2015, the

⁷ See, PGW Universal Service and Energy Conservation Plan for 2014-2016 Submitted in Compliance with 52 Pa. Code § 62.4, Docket No. M-2013-2366301 at 6 (Aug. 22, 2014) (August 22 Order). In the instant filing, PGW has renamed the ELIRP program as the CRP Home Comfort Program.

Prehearing Conference was held. On February 19, 2015, ALJs Pell and Guhl issued a Prehearing Order scheduling hearings for August 11-14, 2015.

On April 10, 2015, PGW filed its Petition of Philadelphia Gas Works to Extend Demand Side Management Plan (Bridge Plan) and requested a limited extension of the Phase I Plan until August 31, 2016, or the effective date of a Phase II Plan, whichever was earlier. Subsequently, the Commission issued an Order approving the proposed Bridge Plan.⁸

On May 4, 2015, PGW submitted the Direct Testimony of Denise Adamucci, Elliott Gold, Theodore Love, and Paul L. Chernick.

On May 19, 2015, ALJs Pell and Guhl issued a second Prehearing Order rescheduling the hearings for August 18-20, 2015, and August 25, 2015.

On June 23, 2015, the OCA submitted the Direct Testimony of Geoffrey C. Crandall⁹ and Roger D. Colton;¹⁰ CAUSE-PA submitted the Direct Testimony of Mitchell Miller; OSBA submitted the Direct Testimony of Robert D. Knecht; and I&E submitted the Direct Testimony of Rachel Maurer.

On July 21, 2015, PGW submitted the Rebuttal Testimony of Denise Adamucci, Elliott Gold, Theodore Love, and Paul L. Chernick; the OCA submitted the Rebuttal Testimony of Roger D. Colton; CAC submitted the Rebuttal Testimony of Matthew Walker; CAUSE-PA

⁸ See, Bridge Plan Order.

⁹ Mr. Crandall is a principal and Vice President of MSB Energy Associates of Middleton, WI. Mr. Crandall specializes in residential and low-income issues and the impact of energy efficiency and utility restructuring on customers. He has over 35 years of experience in utility regulatory issues, including energy efficiency, conservation and load management resource program design and implementation, resource planning, restructuring, mergers, purchase power, gas cost recovery, planning analysis and related issues. Mr. Crandall has provided expert testimony before more than a dozen public utility regulatory bodies throughout the United States, including this Commission, and before the United States Congress on several occasions. OCA St. 1 at 1-2, Exh. GCC-1.

¹⁰ Roger D. Colton is a principal in the firm of Fisher Sheehan & Colton, Public Finance and General Economics. Mr. Colton provides technical assistance to a variety of public utilities, state agencies and consumer organizations on rate and customer service issues for telephone, water/sewer, natural gas and electric utilities. Mr. Colton's work focuses on low-income energy issues, and he has testified and published extensively in this area. OCA St. 2 at 1-3, Appendix A.

submitted the Rebuttal Testimony of Mitchell Miller; and, OSBA submitted the Rebuttal Testimony of Robert D. Knecht.

On August 5, 2015, PGW submitted the Surrebuttal Testimony of Denise Adamucci, Elliott Gold, and Theodore Love; the OCA submitted the Surrebuttal Testimony of Geoffrey C. Crandall and Roger D. Colton; I&E submitted the Surrebuttal Testimony of Rachel Maurer; OSBA submitted the Surrebuttal Testimony of Robert D. Knecht; and CAUSE-PA submitted the Surrebuttal Testimony of Mitchell Miller. On October 20, 2015, PGW submitted the Supplemental Testimony of Theodore Love.

On August 11, 2015, ALJs Pell and Guhl issued a third Prehearing Order indicating that, due to settlement negotiations, the hearings would be rescheduled for October 27-30, 2015. On October 22, 2015, PGW submitted the Rejoinder Testimony of Denise Adamucci. The parties mutually agreed to the waiver of cross-examination of all witnesses. A telephonic hearing was held on October 28, 2015, at which time the testimonies and stipulated exhibits were entered into the record. The other hearing dates were canceled. The OCA submits this Main Brief in accord with the schedule established by ALJs Pell and Guhl.

III. LEGAL STANDARDS

A. Burden Of Proof.

Under Section 332 of the Public Utility Code, the proponent of a rule or order in any Commission proceeding has the burden of proof.¹¹ As the party seeking the Commission's approval to implement its proposed Phase II Plan, PGW has the burden of proof in the instant case.

¹¹ 66 Pa. C.S. § 332.

PGW bears the burden of proof to establish that the costs of its proposed Phase II DSM Plan and the proposed ECRS and USC are just, reasonable and prudent. As set forth in Section 315(a) of the Public Utility Code:

Reasonableness of rates- In any proceeding upon the motion of the Commission, involving any proposed or existing rate of any public utility, or in any proceedings upon the complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.¹²

“It is well-established that the evidence adduced by a utility to meet this burden must be substantial.”¹³ Thus, a utility has an affirmative burden to produce enough evidence to establish the justness and reasonableness of every component of its request, and in order to persuade the finder-of-fact, there must be substantial evidence that each component of its request is in fact just and reasonable.¹⁴ The OCA submits that PGW must affirmatively demonstrate the reasonableness of every element of its claims and demonstrate that any resulting rates are just, reasonable, and in the public interest.

B. Applicable Legal Standards.

PGW has proposed a voluntary Phase II Plan. However, even though the program is voluntary, the Company’s program still must meet its other statutory requirements. PGW’s Phase II must meet the requirements of 66 Pa. C.S. Sections 1301 and 1501 in order to be approved.¹⁵ Section 1301 requires that “[e]very rate made, demanded or received by any public

¹² 66 Pa. C.S. § 315(a).

¹³ Lower Frederick Twp. v. Pa. PUC, 409 A. 2d 505, 507 (1980); see also, Burleson v. Pa. PUC, 461 A. 2d 1234, 1236 (Pa. 1983).

¹⁴ See e.g.; Sharon Steel Corp. v. Pa. PUC, 468 A.2d 860, 862 (1978); Johnstown v. Pa. PUC, 133 A.2d 246, 250 (Pa. Super. 1957).

¹⁵ 66 Pa. C.S. §§ 1301, 1501.

utility, or by two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission.”¹⁶ Section 1501 requires:

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service and facilities shall be in conformity with the regulations and orders of the commission...¹⁷

Act 129 can provide important guidance in considering the issues even though it refers to the requirements for electric distribution utilities in Pennsylvania. As to lost revenue recovery, for example, Act 129 states that, while electric distribution companies may utilize an automatic adjustment clause between base rate cases to recover the costs of energy efficiency and demand response programs, such costs may not include “decreased revenues of an electric distribution company due to reduced energy consumption or changes in energy demand.”¹⁸ Under Act 129, such decreased revenues may only be reflected “in revenue and sales data used to calculate rates in a distribution-base rate proceeding” under Section 1308.¹⁹ A similar prohibition for automatic recovery of decreased revenues between base rate cases is included in the “smart meter” provision of Act 129.²⁰ Act 129 also does not provide for performance incentives but utilizes a penalty structure for non-compliance with the statutory standards.²¹

PGW is also mandated by the Natural Gas Choice and Competition Act to maintain a cost-effective LIURP to assist confirmed low-income customers in maintaining their service and

¹⁶ 66 Pa. C.S. § 1301.

¹⁷ 66 Pa. C.S. § 1501.

¹⁸ 66 Pa. C.S. § 2806.1(k)(2).

¹⁹ 66 Pa. C.S. § 2806.1(k)(3).

²⁰ 66 Pa. C.S. § 2807(f)(4).

²¹ 66 Pa. C.S. § 2806.1(f).

reducing their energy usage.²² Section 2203(8) requires that the LIURP program must be “adequately funded and available throughout its service territory” according to the needs of its service territory.²³ Section 2202 of the Natural Gas Choice and Competition Act defines a universal service program as programs for “low-income retail gas customers.”²⁴

In order to be approved, PGW’s Phase II Plan must meet the requirements of 66 Pa. C.S. Section 1301 to provide “just and reasonable” rates and to provide safe and adequate service to customers pursuant to 66 Pa. C.S. 1501.²⁵ PGW’s Phase II Plan must adhere to the policies set forth by the General Assembly and the Commission.

IV. CONTINUATION OF DSM PLAN

A. Summary Of Briefing Party’s Position.

The OCA recommends that PGW’s proposed Phase II Plan, as modified by the OCA’s recommendations, be approved for the proposed 2016-2020 term. As discussed in the testimony of PGW witness Love, the Phase I program has reduced natural gas consumption by nearly 260 BBtus since its inception. PGW St. 3 at 5. PGW has performed approximately 7,000 retrofits, 1,600 rebates and completed 27 commercial projects. Id. For Phase I, the Company estimates “present value of total resource net benefits of \$5.7 million in today’s dollars.” Id.

The OCA supports the implementation of the Phase II Plan, as modified by the OCA’s recommendations in this Main Brief and the testimonies of its witnesses. Specifically, the OCA recommends that:

- (1) PGW should be directed to adopt the OCA’s recommended budget for the Phase II Plan of \$56.2 million including PGW’s LIURP program, CRP Home Comfort

²² 66 Pa. C.S. § 2203(8).

²³ Id.

²⁴ Id.

²⁵ 66 Pa. C.S. § 1301, 1501.

(5 year budget of \$38 million), and the non-LIURP programs: Home Rebates, Residential Equipment Rebates, Efficient Building Grants, Commercial Equipment Rebates, and Efficient Construction Grants (5 year budget of \$18.2 million);²⁶

- (2) PGW's current LIURP budget of \$7.6 million should be maintained;
- (3) PGW's current Home Rebates Program should continue at its current funding levels of \$3.82 million, but the proposed On-Bill Repayment program (OBR) should not be approved;
- (4) PGW should be directed to include a specific set-aside so that up to 20% of the total LIURP budget is available for, and targeted toward, confirmed low-income customers who are not CRP participants;
- (5) PGW should be directed to conduct outreach that is directed towards non-CRP confirmed low-income customers as to the availability of PGW's other residential customer DSM programs;
- (6) PGW's proposed Fuel Switching and Micro-CHP program (Fuel Switching) should not be implemented in this proceeding;
- (7) PGW should not be permitted to recover the costs of the proposed Low Income Multifamily Efficiency Program (LIME) through the Universal Service Charge (USC), but PGW should develop and recover the costs through the USC of a LIME program for individually-metered multi-family low-income properties;
- (8) PGW should not be permitted to implement the proposed Conservation Adjustment Mechanism (CAM) and the Performance Incentives (PI);
- (9) PGW's requested waivers of Sections 58.4, 58.10 and 58.14 of the Public Utility Code should be denied.

B. PGW Proposal To Continue DSM.

As part of the settlement of PGW's last base rate proceeding, Phase I of PGW's DSM program was approved for a voluntary five-year term that was set to expire on August 31,

²⁶ The OCA has adopted the Company's "Expanded Plan" of \$32.2 million without the CAM or Performance Incentives and included an incremental \$24.04 million over five years to maintain the LIURP budget at \$7.6 million per year. OCA St. 1 at 31.

2015.²⁷ On December 23, 2014, PGW filed the instant Petition for a five-year Phase II Plan to operate from 2016-2020 and requested to continue the CRP Home Comfort program in the DSM program portfolio in Phase II. On May 7, 2015, the Commission issued an Order approving a “Bridge Plan” to extend the sunset date of the Phase I Plan until August 31, 2016, or the effective date of a Phase II Plan, whichever is earlier.²⁸

PGW proposed a total five year “Base Plan” budget of \$22.7 million, or approximately \$4.5 million per year. *Id.* at 66. If awarded the Conservation Adjustment Mechanism (CAM) for lost revenues and the Performance Incentives (PI), PGW proposed an “Expanded Plan” with a five year budget of \$32.2 million. *Id.* at 66.

PGW proposed to continue five of its six “EnergySense” programs in Phase II as part of its “Base Plan”: (1) the CRP Home Comfort Program (LIURP); (2) Residential Equipment Rebates; (3) Efficient Building Grants; (4) Commercial Equipment Rebates; and (5) Efficient Building Grants. PGW St. 3 at Exh. TML-4 at 20. PGW also has a sixth, Home Rebates program that provides “incentives to customers and contractors that perform comprehensive natural gas energy efficiency retrofits.” *Id.* at 121. PGW proposed to phase out and eventually eliminate its Home Rebates program in its Phase II Plan under its “Base Plan”.²⁹ *Id.* at 20. Under its “Expanded Plan,” PGW would retain the Home Rebates program with a budget of \$3.83 million over the five-year program. *Id.* at 20-21; OCA St. 1 at 31.

²⁷ Pa. PUC v. PGW, Docket Nos. R-2009-2139884, P-2009-2097639 (July 29, 2010) (July 29, 2010 Order).

²⁸ See, Bridge Plan Order.

²⁹ PGW proposed to phase out the Home Rebates program for two reasons under its Base Plan. First, PGW avers that the focus for the DSM program is on end of life replacement measures to influence equipment purchases and facility design decisions that are already taking place. PGW St. 3 at Exh. TML-4 at 20-21. Second, the program has higher overhead requirements, and therefore, requires that the program be done on a larger scale in order to achieve cost-effectiveness. *Id.*

As part of the CRP Home Comfort Program, PGW plans to implement a multifamily pilot program to serve low-income multifamily homes. PGW St. 3 and Exh. TML-4 at 2. PGW also proposed to implement a Fuel Switching and Micro-CHP program (Fuel Switching) to switch electric, oil, or propane heating customers to natural gas heating. OCA St. 1 at 24. Finally, PGW proposed the addition of an On-Bill Repayment Program (OBR) for residential and non-residential customers. PGW St. 3 at Exh. TML-4 at 3. PGW plans to recover the Phase II Plan costs through its existing ECRS and through the USC.

The OCA recommends that PGW's Phase II Plan be approved, subject to the modifications discussed herein.

C. Cost Benefit Analysis.

The OCA accepts the Company's cost benefit analysis of the Phase II Plan. OCA St. 1 at 4. The OCA recommends approval of the OCA's Recommended Budget. The OCA recommends approval of the "Expanded Plan" five year budget of \$32.2 million, with the OCA's incremental additional five year LIURP budget of \$24.04 million,³⁰ and without inclusion of the CAM or Performance Incentives. The "Expanded Plan" will produce TRC net benefits in excess of \$15 million. Id. at 31.

D. Proposed Program Term.

PGW proposed a five-year program term for Phase II from 2016 through 2020. PGW St. 1 at 6. PGW proposed that the program would continue beyond 2020 with triennial filings. Id. The OCA agrees with the Company's proposed program term.

³⁰ The OCA's recommended budget for PGW's Phase II Plan is identical to PGW's "Expanded Plan" budget proposal in all respects but one. PGW proposed a five-year spend of \$13.96 million for its CRP Home Comfort (LIURP). The OCA's budget for LIURP is \$38 million, which correlates to the actual amounts that PGW has been spending on LIURP throughout Phase I.

V. PROPOSED NON-LIURP PROGRAMS

A. Summary Of Briefing Party's Position.

The OCA supports continuation of PGW's four non-LIURP programs: (1) Residential Equipment Rebates; (2) Efficient Construction Grants; (3) Efficient Building Grants; and (4) Commercial Equipment Rebates. See, OCA St. 1 at 31. PGW has proposed to phase-out its fifth non-LIURP program, the Home Rebates program. PGW St. 3 at Exh. TML-4 at 3, 20-21. The OCA supports continuation of the Home Rebate program. See, OCA St. 1 at 31. The OCA, however, does not support the Company's proposal to include an OBR component for residential customers.

The OCA does not recommend approval of PGW's proposed Fuel Switching and CHP programs as part of the DSM program. The Fuel Switching program is not a load management program, but instead is a load growth program that should not be considered as a part of a DSM portfolio. The program costs should not be collected through the energy efficiency program surcharge, the Efficiency Cost Recovery Surcharge (ECRS). The OCA recommends that the proposed Fuel Switching program should not be authorized in this docket, and the \$2.29 million budget should be directed towards the CRP Home Comfort budget.

PGW also proposed that the Commission authorize a process for external stakeholders to develop an OBR program, through a stakeholder collaborative, for the residential and non-residential markets in order to support the Home Rebates Program. The OCA submits that PGW's proposed OBR program should be denied. Alternatively, if the Company develops an OBR program for non-residential customers, the OBR should not include any residential customer component to the program.

The OCA submits that PGW's proposed OBR program is undefined, undocumented, and unsupported. PGW has failed to make any demonstration that a residential OBR program is necessary, proper, or consistent with its residential DSM offerings. The OCA submits that an OBR will add substantial, on-going costs to the Phase II Plan which will negatively impact the overall cost-effectiveness of the Phase II Plan. OCA St. 2 at 67-70.

Additionally as to non-LIURP program elements, the OCA recommends that the Company develop an outreach plan to be directed towards non-CRP, confirmed low-income PGW customers.

B. Proposed Non-LIURP Programs.

1. Residential Equipment Rebates.

The Residential Equipment Rebates program will provide "prescriptive heating equipment rebates targeting the end of life replacement market for residential and commercial customers." PGW St. 3 at Exh. TML-4 at 20. The OCA supports continuation of the program at the "Expanded Plan" levels of \$4.17 million over five years. OCA St. 1 at 31.

2. Efficient Construction Grants.

The Efficient Building Grants program will provide "comprehensive project grants for new and rehabilitated commercial and multifamily buildings, and single family homes." PGW St. 3 at Exh. TML-4 at 20. The OCA supports continuation of the program at the "Expanded Plan" levels of \$1.08 million over five years. OCA St. 1 at 31. The "Base Plan" and "Expanded Plan" cost levels are identical for the Efficient Construction Grants program. Id.

3. Efficient Building Grants.

The Efficient Building Grants program will provide "prescriptive heating and cooking equipment rebates targeting the end of life replacement market for commercial and industrial

customers.” PGW St. 3 at Exh. TML-4 at 20. The OCA supports continuation of the program at the “Expanded Plan” levels of \$1.99 million over five years. OCA St. 1 at 31.

4. Commercial Equipment Rebates.

The Commercial Equipment Rebates program will provide “comprehensive project grants for existing commercial and multifamily buildings.” PGW St. 3 at Exh. TML-4 at 20. The OCA supports continuation of the program at the “Expanded Plan” levels of \$2.63 million over five years. OCA St. 1 at 31.

5. Home Rebates Program.

The Home Rebates program provides “incentives to customers and contractors that perform comprehensive natural gas energy efficiency retrofits.” PGW St. 3 at Exh. TML-4 at 121. Such measures would include air sealing, insulation, and heating system replacements for residential customer homes. *Id.* PGW proposed to phase out its Home Rebates program under its “Base Plan.” *Id.* at 20-21. Under its “Expanded Plan,” PGW proposed to “reincorporate” the program with a budget of \$3.83 million over the five-year program if the Company receives “appropriate” cost recoveries through an OBR. PGW St. 3 at Exh. TML-4 at 3, 20-21.

PGW provided testimony to retain the Home Rebates program, with an OBR component, because the Commission’s On-Bill Financing Working Group suggested that “layering on-bill financing with rebates would be an effective way to include measures with higher up-front costs that would result in longer payback periods.” PGW St. 2-R at 21. PGW witness Gold testified that the “OBR is contingent upon approval of the CAM.” PGW St. 2-R at 20. The OCA notes that the Home Rebates program is included in the OCA’s recommended budget, but the OCA does not support continuing the program through an OBR option. OCA St. 1 at 31.

C. Proposed New Pilot Program – Efficient Fuel Switching.

1. PGW's proposed Fuel Switching Program is a load growth program and not a DSM program.

As part of its DSM program, PGW proposed to implement a new Efficient Fuel Switching and Micro CHP program. PGW St. 3 at Exh. TML-4 at 2. For its Fuel Switching Program, PGW proposed to switch electric, oil, or propane heating customers to natural gas heating. Under the Micro-CHP program, PGW will “offer new prescriptive incentives for customers to invest in micro-combined heat and power (CHP) applications that provide onsite generation of electricity and heat for hot water or space heating.” *Id.* PGW proposed to report and track the programs separate from the DSM programs. The OCA recommends that the Fuel Switching program not be included as a DSM program and that the \$2.29 million dollar budget be redirected to the CRP Home Comfort Plan. PGW can provide a Fuel Switching program, which is a load growth program, outside of its DSM program and the special cost recovery afforded DSM programs.

PGW categorizes the Fuel Switching program as a DSM program and justifies the characterization based on the argument that the program passes the fuels TRC test and would result in a net reduction in the customer's primary energy use. The OCA disagrees with PGW's characterization of the program. The way that PGW has designed its proposed Fuel Switching program, the program would act as a load growth program for PGW and not reduce existing natural gas usage. On the electric side, fuel switching has been considered to be an energy efficiency program because fuel switching, in that case, moves electric usage off of the electric grid to natural gas. Here, PGW proposed instead to grow its own load by switching electric, propane and oil customers to natural gas.

The purpose of energy efficiency should be to reduce the utility's own energy demand and consumption. The General Assembly has specifically defined energy efficiency for electric utilities, which provides guidance in the consideration of PGW's proposed program here.

Section 2806.1 states:

The commission shall, by January 15, 2009, adopt an energy efficiency and conservation program to require electric distribution companies to adopt and implement cost-effective energy efficiency and conservation plans to reduce energy demand and consumption within the service territory...³¹

The Public Utility Code also defines "program measures" in the electric utility context for LIURP as "measures designed to reduce energy consumption."³² PGW's proposal does not fit either of these definitions as it does not reduce natural gas demand within PGW's service territory. This program is designed to increase that demand.

PGW proposed to recover the costs of the program through its established energy efficiency program funding mechanism, the ECRS. OCA St. 1 at 29. Although PGW proposed to recover the costs of the program through the ECRS, PGW does not propose to include the results of the program with its energy savings. *Id.* OCA witness Crandall testified:

PGW expects that the Efficient Fuel Switching Load Management program (if successful) would increase new gas sales. It does not want to mix those results in with the energy saved by the Phase II DSM Plan activities. PGW is seeking authorization to have its ratepayers fund load promotion activities in this Demand Side Management Plan filing to collect funding through the Energy Conservation Recovery Surcharge (ECRS) mechanism to ensure cost recovery. The Efficient Fuel Switching Load Management plan should be funded (if at all) through a mechanism designed to recover costs of programs, which increase gas consumption, not a mechanism for programs designed to reduce natural gas consumption.

OCA St. 1 at 29.

³¹ 66 Pa. C.S. 2806.1(a).

³² 52 Pa. Code § 58.2.

PGW witness Gold argues that that the program is designed to aid customers in accomplishing more efficient use for their overall energy loads. PGW St. 2-R at 33. OCA witness Crandall explained the flaw in this assertion:

In the plan filing, PGW indicated that it expects this program to result in an increase in natural gas consumption. This activity would be different in nature than other proposed DSM programs included in the Plan which is why, in part, that PGW is proposing to track and report results separate and apart from the DSM programs (should the pilot be authorized by the Commission).

OCA St. 1-S at 6. The purpose of PGW's DSM program should be to reduce its own natural gas load. The proposed Fuel Switching program has no place within PGW's Phase II DSM program as it grows usage, not reduces usage. If it cannot offer savings towards the energy efficiency standards, then it should not be included within PGW's DSM program and cost recovery.

2. PGW should address the inefficiencies in its existing load growth program.

PGW should focus its DSM efforts on addressing the inefficiencies of its natural gas usage by customers. PGW currently has an existing load growth program that provides incentives to customers who switch to natural gas for water heating and space heating needs, but even that program does not adequately address efficiency. OCA St. 1 at 25, Exh. GCC-5, GCC-6. The proposed pilot program would expand PGW's existing load promotion and load building program for water heaters. OCA witness Crandall described the current water heater program:

Oil, electric, and propane fueled water heaters are eligible for replacement for up to \$500 for Power Vent, Direct Vent or Condensing natural gas water heater systems. Standard tank conversions are eligible for a \$200 rebate. The eligibility criteria is [sic] described in the application forms and does not require minimum energy efficiency for standard storage natural gas water heaters. The eligibility does not require that the water heaters be Energy Star certified. The example that PGW has chosen to use on their website describing the customer savings potential from the fuel conversion program (See OCA Exhibit-___(GCC-6) for a standard storage tank natural gas water heater is based on a sixty percent efficient standard replacement water heater. Sixty percent is less efficient than Energy Star certified natural gas water heaters (in the same category). The fuel conversion incentives,

rebates and marketing are the responsibility of the Philadelphia Gas Works Marketing Department.

OCA St. 1 at 25; see also, OCA St. 1 at Exh. GCC-5, GCC-6.

PGW's existing water heater conversion program does not address opportunities to promote the most efficient load growth. PGW has lost an opportunity for energy efficiency by rewarding customers with an incentive for purchasing a relatively inefficient water heater. Mr. Crandall testified that this will institutionalize for the life of the water heaters the energy inefficiency inherent in the supported equipment. OCA St. 1 at 25-26. The Technical Resource Manual (TRM) for Act 129 related programs for Electric Utilities requires that gas water heaters included in the fuel switching measure must be Energy Star certified. If they are not, then the savings are not counted. Id. at 26. The OCA recommends that the Company adopt a similar policy for its existing water heater conversion program, whether or not cost recovery is provided as part of this DSM Plan. Id. at 26, Exh. GCC-7.

In addition to the current water heater program, PGW has an existing fuel conversions program for oil to natural gas space heating. As with the water heater program, the same lost opportunity exists for the fuel conversion program because PGW does not offer incentives for energy efficient equipment for fuel conversions from oil to natural gas space heating. See, OCA St. 1 at 26-27, Exh. GCC-8.

PGW should focus its efforts on addressing inefficiencies within its existing load growth programs. If PGW does not address inefficiencies when load comes onto the system, PGW will be institutionalizing inefficiencies for the life of the equipment. PGW should develop an energy efficiency policy to offer incentives for its two current fuel conversion programs for water and space heating.

3. Conclusion.

Instead of investing in load growth programs, the DSM program goals would be better met by directing the proposed budget of \$2.29 million budget towards the CRP Home Comfort Program. OCA witness Crandall testified:

PGW has proposed a significant reduction in the low-income programs in the DSM plan, which has been addressed by Roger Colton in this docket. As OCA witness Colton explained in his testimony the most recent evaluation for the Home Comfort program determined it had accomplished a TRC value of 1.26:1 (benefit to cost ratio).

OCA St. 1 at 27. OCA witness Crandall compared the benefits of the Micro Combined Heat and Power Program to the CRP Home Comfort Program and found that significantly more savings could be achieved with the same dollars directed towards the CRP Home Comfort program. Mr. Crandall stated:

The net benefit for this example resulted in a negative benefit with the program [the Micro Combined Heat and Power program] failing the TRC test with a 0.57. PGW witness Theodore Love (on page 31 of his Direct Testimony) indicated that by including the recognition of a number of variables PGW estimated the TRC value of the Efficient Fuel Switching Load Management program to be approximately 1.16:1. When comparing the energy efficiency viability of a Micro Combined Heat and Power Program to the CRP Home Comfort Program, it is apparent that the CRP Home Comfort Program is (in the example developed by the Fuel Switching Working Group) more than twice as beneficial (1.26 compared to 0.57). CRP Home Comfort also compared favorably (1.26:1) to the PGW projected TRC of 1.16:1 for the proposed Efficient Fuel Switching Load Management Program. As was explained in the Direct Testimony of OCA witness Colton, the CRP Home Comfort Program is designed to address the energy efficiency opportunities in the housing occupied by low-income customers needs and can be expected to produce reliable, proven energy savings.

OCA St. 1 at 28, Exh. GCC-9.

The Fuel Switching program is solely designed as a load growth program and does not meet the requirements for a DSM program. The OCA recommends that the proposed Efficient Fuel Switching Load Management/Micro CHP program should not be authorized in this docket, and the \$2.29 million budget should be directed instead towards the CRP Home Comfort budget.

D. PGW On-Bill Repayment Program Proposal.

1. Introduction.

PGW proposed that the Commission authorize a process for stakeholders to develop an On-Bill Repayment Program (OBR) for the residential and non-residential market to support the comprehensive retrofit program, EnergySense Home Rebates.³³ OCA St. 2 at 63-64. Under the proposed program, PGW would partner with a third-party lender to provide financing to qualified PGW customers for energy efficiency products. Id. The Company avers that the proposed OBR model structure, as opposed to an On-Bill Financing type model,³⁴ is necessary due to PGW's municipal ownerships and the limitations on PGW regarding lending activities. Id.

The OCA is only addressing this issue with respect to residential customers and does not address the non-residential market component of the Company's proposal. The OCA recommends that PGW's proposed OBR program not be adopted. If the Company develops an OBR program for non-residential customers, the OBR should not include any residential customer component to the program. Id. at 63.

CAUSE-PA similarly recommends that there are too many outstanding questions for such a program to be approved in this filing. CAUSE-PA St. 1 at 21-22. Mr. Miller provides an accurate summary of the many "ifs" and questions that the Company has not appropriately considered. CAUSE-PA witness Miller testified:

[f]urther, it is important to point out that Mr. Gold's testimony regarding the possibility of PGW pursuing OBR is predicated on a number of hypothetical "ifs" with unknown parameters. For example, Mr. Gold states that the possibility of

³³ PGW proposes in its "Base Plan" to phase out the Home Rebates program. PGW would propose to "reincorporate" the Home Rebates program under its "Expanded Plan" if provided with "appropriate" cost recoveries such as an OBR. PGW St. 3 at Exh. TML-4 at 3, 20-21.

³⁴ On-Bill Financing refers to a model where the utility is serving as the lender.

the company going forward with an OBR is predicated only “If the CAM is approved”, and only “so long as all critical PGW criteria are met.” (PGW St. 2 at 7:3-9. There is no revelation regarding what PGW would propose if the CAM were denied or permitted at a lesser level than proposed. More importantly, there is no revelation regarding what are the critical criteria that PGW would require in order to implement a final model proposed by a working group. Thus, the Commission should deny PGW’s efforts in this regard and not permit PGW to pursue any OBR pilot option until the company clarifies, through a separate petition, after the “ifs” are resolved, what its critical criteria would be and under what contingencies it proposed to go forward. This would allow a full vetting of a contentious issue when it is ripe for disposition.

CAUSE-PA St. 1 at 21-22. The OCA agrees with CAUSE-PA that PGW has not presented sufficient evidence in this proceeding to support approval of an OBR.

PGW argues that the OBR proposal cannot be criticized because the Company has only requested a working group to address this issue. PGW St. 2-R at 22. PGW, however, requests that this proceeding support an OBR program and that the stakeholder collaborative work out the details “with a resulting filing proposing a program.” PGW St. 2-R at 22; OCA St. 2-S at 29. PGW seeks to direct this program towards “customers who are too well-off for LIURP but not wealthy enough to pay up-front out of pocket for participating in major DSM retrofits.” PGW St. 2-R at 22. PGW is seeking Commission pre-approval in this proceeding to have some type of residential OBR program, but PGW has failed to make any showing that the OBR is necessary, will improve participation, or will provide any benefit to residential customers.

The OCA submits that On-Bill Repayment programs are complicated and present a variety of issues that must be resolved prior to a decision regarding such a program’s implementation. An OBR is not the type of program for which the details can just be worked out in the future, as PGW has proposed here. As OCA witness Colton discussed in his testimony, there are significant legal issues, consumer protection issues, fairness issues, and rate implications that have not even been considered or discussed. Those issues must be resolved

prior to any determination on the merits of an On-Bill Repayment program. PGW's process "does not contemplate, or allow for, a conclusion that no residential program is appropriate." OCA St. 1-S at 27. PGW's proposed OBR program is undefined, undocumented, and unsupported. OCA witness Colton opposed the program for the following reasons: (1) the proposed "bill neutrality" is not possible; (2) the bill neutrality would conflict with the stated goal of achieving deep retrofits; (3) there would be a conflict between the consumer protections provided for a residential utility consumer and the consumer protections provided for an OBR participant; and (4) PGW's filing does not show the benefits of the program and the cost of the program. OCA St. 2 at 64-70.

2. PGW's proposed OBR cannot provide bill neutrality.

PGW's proposal is premised on the idea of "bill neutrality" for the customer participating in the OBR. Id. at 64-66. As OCA witness Colton found, such bill neutrality is not realistically achievable. Id. Mr. Colton defined bill neutrality as follows:

[b]ill neutrality means that the dollar amount by which the customer's bill will increase due to the need to repay the financed amount for usage reduction will be more than offset by the dollar amount by which the customer's bill will decrease because of the usage reduction associated with the energy efficiency investment. On-bill repayment assumes the ability of the residential customer to use the bill reduction generated by the efficiency investment to pay the bill increase associated with the financed amount.

Id. at 64. OCA witness Colton stated that customer bills cannot be reduced to the extent necessary to off-set the increased OBR payment and to achieve "bill neutrality." Id. OCA witness Colton created an example to demonstrate that PGW's proposed OBR would not result in "bill neutrality":

[c]onsider, for example, the fact that PGW's 2011 LIURP Evaluation reported that the total program cost for a complete treatment under LIURP reached \$3,762. (2011 LIURP Evaluation, at 2). Escalated to 2015 dollars (using the BLS inflation calculator), these costs would reach roughly \$4,000. Assuming a

repayment period of 10 years (120 months), an annual interest rate of six percent (6%/year; 0.5%/month), the amount needed to service that debt (not including any fees) would be \$44.41/month. The average residential PGW bill, however, is just \$1,013 per year (2013), or \$84 per month. The debt service, in other words, would be 53% of the average bill. In contrast, average LIURP usage reductions (not bill reductions) reached 15.6%. To achieve greater reductions, of course, would drive the program cost even higher.

OCA St. 2 at 65-66 (footnotes omitted). The realistic level of achievable savings would not be able to provide “bill neutrality” for the customer.

Bill neutrality is also at odds with achieving the deep retrofits that PGW articulates is one of its residential DSM program objectives. *Id.* at 66-67. While deep retrofits may generate greater savings, Mr. Colton testified that they cannot generate sufficient savings to achieve bill neutrality. He explained that “[t]he deeper (and more expensive) the retrofit, the larger the savings that must be realized by the consumer in order to have savings ‘pay’ for the efficiency investment.” *Id.* at 66. Further, the longer associated repayment terms for “deeper” retrofits would be at odds with the risks imposed on the financier. *Id.* Mr. Colton explained:

[b]ecause of these increased risks, the financing for such investments will need to involve either higher financing costs (making it even more difficult to justify the investment based on bill neutrality) or more stringent creditworthiness requirements (or both). Higher risks arise both because longer repayment terms impose a greater risk of nonpayment at some time during that repayment period, and because the longer a repayment term extends, the greater the risk that the occupants of the unit that has been treated will change.

OCA St. 2 at 66-67.

3. The operation of an OBR is potentially at odds with necessary consumer protections to maintain customer service.

The issue of consumer protection is critically important when considering an OBR. There is a conflict between the consumer protections afforded a residential utility customer and the consumer protections sought for an OBR energy efficiency program. The goal of the

financier is to reduce the risk of nonpayment of funds. That goal is directly at odds with protection of the residential customer's service. OCA witness Colton testified:

[a]n OBR regime seeks business processes that reduce the risk of nonpayment of funds extended for efficiency investments. In reducing that risk of nonpayment of OBR obligations, however, basic residential utility service could be placed in jeopardy. Moreover, given PGW's expansive poverty population, the choices that customers make to forego basic necessities in order to maintain fundamentally necessary utility service are inherently at odds with processes that seek to reduce the risk of nonpayment.

OCA St. 2 at 67. The OCA submits that this conflict in consumer protections must be resolved prior to the approval of any OBR program.

CAUSE-PA witness Miller asked that similar questions be answered prior to any approval of an OBR:

[f]or instance, would PGW be permitted to terminate service if its bills were paid but the financing charges were not paid? How are under what circumstances would consumers negotiate a payment plan when they have fallen behind on both their utility and loan payments? How are partial utility payments applied? Would LIHEAP funds be permitted to be used to pay energy efficiency loan charges? What are the rules regarding resumption of service after a disconnection for non-payment and what happens to the efficiency loan arrearage? Does the obligation follow the customer or the meter?

CAUSE-PA St. 1 at 21.

In its proposal, PGW has not addressed critical issues regarding how the operation of OBR program will impact essential consumer protections provided under Section 1501 and the Public Utility Code.³⁵ PGW is seeking in this case to get a pre-approval from the Commission for an OBR mechanism. PGW St. 2-R at 22; OCA St. 2-S at 29. The OCA submits the concept of implementing an OBR should not be approved without full understanding of how the proposal will impact customers' ability to maintain service. These details go toward the fundamental

³⁵ 66 Pa. C.S. § 1501.

question of whether an OBR should be approved, and without them, PGW has failed to meet its burden for approval of an OBR mechanism.

4. PGW has not quantified the costs of an OBR or the impact of an OBR on cost-effectiveness of the energy efficiency measures to be financed through the OBR.

PGW has not quantified the costs to ratepayers for the development of an OBR nor has calculated the impact of those costs on the overall cost-effectiveness of the proposed energy efficiency measures to be financed through the OBR. The costs to residential ratepayers of such a program could be substantial. OCA witness Colton identified potential categories of costs that PGW has not quantified including: (1) information technology changes required; (2) the costs of creating business processes; (3) the monthly servicing costs of OBR transactions; (4) the costs of modifying voice response systems and web access processes to enable OBR transactions; (5) the cost of packaging OBR transactions for the secondary market; (6) the cost of developing and implementing dispute resolution procedures; (7) the cost of on-going oversight and management of the contractor network for quality control; and (8) the costs, if any, of providing credit enhancements and/or interest rate buy-downs. OCA St. 2 at 68; OCA St. 2-S at 28.

As to credit enhancements and/or interest rate buy-downs and the packaging of financing transactions on the secondary market, OCA witness Colton explained:

Within the context of an on-bill repayment scheme, PGW would not provide money and hold the financial transactions. One critical element of any OBR regime is the packaging of the financing transactions for sale on the secondary market. One cost that thus needs to be accounted for in any assessment of program costs is the over-collateralization of the loan pool to be sold in the secondary market. When loans such as these are packaged and sold, they are not sold at face value. Instead, loans are sold at a percentage of face value. One cost that PGW should thus quantify is the lost revenue attributable to the percentage discount that can be expected to occur in the sale of the loan pool.

OCA St. 2 at 69; see also, OCA St. 2-S at 28.

Another cost element that may be at odds with Pennsylvania utility regulation is the impact of uncollectibles for the OBR amounts. OCA witness Colton testified:

[u]npaid OBR payments are often included within the write-off of overall utility bills. The inclusion of unpaid OBR payments as a utility uncollectible will, of course, directly increase the cost of service to all utility ratepayers. It would be inappropriate to include energy efficiency financing dollars in utility uncollectible recoveries simply because the financier sought to piggyback its bill collection on utility bills. A Pennsylvania utility should not be allowed to sell its billing and collection processes to the extent that the lack of success for the sold financing product will be viewed as a part of the utility's overall cost of service. To the extent that PGW's proposed third-party financiers must bear their own uncollectibles, these write-offs will be a cost to the program.

OCA St. 2 at 69.

5. Conclusion.

PGW's existing DSM Plan provides a more successful pathway to residential energy efficiency investments and has not been shown to require the proposed OBR program for success. PGW has failed to make any demonstration that a residential OBR program is consistent with, let alone needed to enhance, its residential DSM offerings. Moreover, PGW has made no demonstration that its existing residential efficiency programs can absorb substantial (and ongoing) costs of an OBR and maintain its residential programs as a cost-effective undertaking. *Id.*; OCA St. 2-S at 29. The OCA recommends that the Company's proposal to seek "pre-approval" for the implementation of an OBR be denied.

E. OCA Confirmed Low-Income Customer Outreach Proposal.

The OCA recommends that PGW develop and file specific plans to market its non-LIURP energy efficiency programs to confirmed low-income customers. OCA St. 2 at 58-63. The OCA submits that low-income homeowners, in particular, would potentially benefit from the outreach proposal. OCA St. 2 at 61. There is no structural reason that should impede confirmed low-income customers from participating in non-LIURP DSM programs. Confirmed low-

income customers should have the same eligibility to participate in non-LIURP DSM programs as any other residential customers. A customer's low-income status has been a substantial barrier to investment in energy efficiency measures, even if they are otherwise cost-effective. PGW reported that only 145 confirmed low-income customers participated in a non-LIURP DSM program in the past 4 years. OCA St. 2 at 59. For the years 2011-2013, PGW had an annual average number of more than 155,000 confirmed low-income customers. Id. Yet, PGW's penetration rate of non-LIURP activities within the confirmed low-income population was only 0.09%. OCA witness Colton testified:

[w]hen the Company was asked to describe how it marketed non-LIURP residential DSM to confirmed low-income customers, the Company indicated that it made no special effort to reach the confirmed low-income population. (OCA-V-13)

OCA St. 2 at 60-61. Mr. Colton determined that "there is no research or experience that would support the proposition that it is reasonable to expect a virtually 100% exclusion of low-income customers." Id. at 61.

PGW witness Gold argues that low-income tenants cannot be expected to invest in energy efficiency without participating in LIURP. PGW St. 2-R at 12. PGW witness Gold apparently misunderstood OCA witness Colton's recommendation in this proceeding. OCA St. 2-S at 19-20; see also, PGW St. 2-R at 12. OCA witness Colton identified a concern that PGW has excluded high use, low-income customers. OCA witness Colton testified:

My testimony demonstrated that low-income status was a substantial barrier to investment in energy efficiency measures, even if cost-effective. However, for PGW to exclude high use low-income *homeowners* from receiving targeted non-LIURP energy efficiency marketing because low-income *tenants* would not be responsive to such marketing is unreasonable. The result of Mr. Gold's reasoning would be to exclude confirmed low-income customers who are not CRP participants from participating in LIURP (since LIURP requires CRP participation), while at the same time refusing to market non-LIURP DSM programs to these same confirmed low-income customers.

OCA St. 2-S at 20. Mr. Colton has proposed a concentrated marketing effort towards homeowners because confirmed low-income homeowners represent a significant, untapped portion of the population of Philadelphia.

OCA witness Colton recommended utilizing PGW's existing data to identify the confirmed low-income customers and to create a work plan to market the non-LIURP residential energy efficient programs directly to them. OCA St. 2 at 63. Mr. Colton testified regarding the number of potential untapped, eligible low-income homeowners in Philadelphia:

[i]n the City of Philadelphia, in 2013, there were 22,823 homeowners with income at or below Federal Poverty Level (let alone, at or below 150% of Poverty Level). (American Community Survey, Table C17019, 3-year data: 2013). While 61,000 of the 303,000 owner-occupied units in Philadelphia were occupied by households with income less than \$20,000, an additional nearly 94,000 owner-occupied units were occupied by households with income more than \$20,000 but less than \$50,000. Even if, solely for the sake of analysis, one were to set aside the renter population in its entirety, in other words, there would be close to 100,000 homeowners with incomes less than \$50,000 but more than \$20,000 who would have the financial wherewithal to participate in a PGW DSM program (and the likely incentive, as a homeowner, to do so at least in some proportion to their incidence in the overall population).

Id. at 61.

In order to identify customers in this population, OCA witness Colton suggested that PGW derive lessons of potential areas of outreach from existing data:

We know from that BCS report[annual universal service report on universal service and collections performance] that, in 2013 (the last year for which data is now available), PGW had 37,883 low-income payment agreements. We know that PGW had 65,690 LIHEAP recipients. We know that PGW had 1,184 hardship fund recipients. One South Carolina utility mined its "high bill complaints" as a source of potential participants in its energy efficiency program. While there would obviously be some degree of overlap between those programs, and while PGW would want to screen participants for usage and other indicators that its DSM program could cost-effectively reduce consumption, that population of confirmed low-income customers would serve as a good foundation for specific Company outreach to confirmed low-income customers that are not also CAP recipients.

Id. at 62.

The population of non-CRP confirmed low-income customers, in particular homeowners, represents a significant untapped group that may otherwise benefit from the residential customer programs. Low-income status becomes a substantial barrier to investment in energy efficiency measures, even if they are cost-effective. Non-CRP confirmed low-income customers, including homeowners, are essentially excluded from any opportunities to receive energy efficiency measures because they do not participate in CRP and PGW does not market its other residential customer programs to them.

PGW has not previously attempted to market its residential programs to non-CRP confirmed low-income customers, including homeowners. The OCA submits that non-CRP confirmed low-income customers may benefit from participation in PGW's residential DSM programs. The OCA recommends that the Company develop an outreach plan to be directed towards non-CRP confirmed low-income customers, in particular confirmed low-income homeowners, in order to address this gap.

VI. DSM COST RECOVERY MECHANISMS

A. Summary of Briefing Party's Position.

The OCA does not generally oppose PGW's proposed cost recovery for its DSM programs through the USC and the ECRS. The OCA, however, addressed its concerns with PGW's proposal to recover the costs of the Fuel Switching program as a DSM program utilizing the ECRS in Section V (B). The Fuel Switching program should not be recovered as a DSM program through the ECRS. The OCA also discusses its concerns with the Company's proposal to recover the lost revenues and Performance Incentives through the ECRS in Sections VII (B) and (C) below. Further, the OCA discusses in Section IX (C) the OCA's concerns regarding the

cost recovery for PGW's proposed multifamily energy efficiency program, LIME, through the USC.

B. Recovery Through Universal Service Charge (USC) And Efficiency Cost Recovery Surcharge (ECRS).

PGW proposed to recover the costs of its non-LIURP DSM programs through its ECRS. PGW proposed to recover the costs of its LIURP program, the CRP Home Comfort Program, and LIME through its USC. The OCA agrees that it is appropriate to recover the costs of the DSM program through the ECRS and the universal service programs through the USC. The OCA's specific concerns with cost recovery or cost allocation of a particular program are discussed in detail in the specific sections addressing the issue.

VII. PGW PROPOSED TWO NEW COST ELEMENTS FOR ECRS

A. Summary Of Briefing Party's Position.

PGW proposed to implement a Conservation Adjustment Mechanism (CAM) to recover lost revenues and a mechanism to recover Performance Incentives (PI). PGW proposed to implement a CAM to recover PGW's lost revenues for its DSM programs, including its statutorily-mandated LIURP program. The General Assembly has prohibited the recovery of lost revenues for electric utilities that are required to implement energy efficiency measures, and PGW should not be permitted to recover lost revenues either.³⁶ As discussed below, PGW's proposal for a CAM would constitute single-issue ratemaking in violation of Section 1301.³⁷

In addition to the CAM mechanism, PGW proposed to implement a Performance Incentive Model to encourage PGW to achieve more investment in energy efficiency programs. PGW St. 3 at Exh. TML-4 at 70. PGW proposed that the maximum incentive pool be calculated

³⁶ 66 Pa. C.S. § 2806.1(k)(2).

³⁷ 66 Pa. C.S. § 1301.

as 10% of the proposed annual budget. Id. at 71. The maximum incentive would be \$2.1 million over the Phase II five-year period with an incentive pool of 75% if the maximum targets are met. Id. PGW proposed that “the performance incentive maximum of 10% should include the CRP Home Comfort Program in the budget that it is applied to.” OCA St. 2 at 20.

The CAM and PI would be recovered through the ECRS for all non-LIURP programs and be recovered through the USC for the LIURP programs. The OCA opposes the implementation of either a CAM or PI in any manner. With respect to LIURP, PGW should not be permitted to recover lost revenues or PI for a program that the Company is mandated by Section 2203(8) of the Natural Gas Choice and Competition Act to do.³⁸ Section 2203(8) does not include any mechanism for recovery of either lost revenues or PI, and without such explicit authority, PGW should not be permitted to recover either.³⁹ Inclusion of the CAM or Performance Incentives would result in rates that are not “just and reasonable” and are not consistent with 66 Pa. C.S. Section 1301.⁴⁰

B. Conservation Adjustment Mechanism (“CAM”).

1. Overview.

PGW proposed to implement a CAM to recover PGW’s lost revenues for its DSM programs, including its LIURP program. The CAM would “create and establish a new tracking mechanism that forecasts, quantifies and makes adjustments for revenue impacts and lost margins attributable to PGW energy efficiency programs.” OCA St. 1 at 4. PGW proposed that its CAM “will recover the cost of reduced delivery charges resulting from all DSM activities, including the CRP Home Comfort Program.” OCA St. 2 at 19. If PGW is awarded the CAM

³⁸ 66 Pa. C.S. § 2203(8).

³⁹ Id.

⁴⁰ 66 Pa. C.S. § 1301.

and PI, PGW proposed to expand its “base” budget from \$22.7 million to \$32.2 million over the five year program, including an increase from \$10.15 million to \$13.96 million for the LIURP program. PGW St. 3 at Exh. TML-4 at 66. PGW proposed to recover the costs of its CAM through the ECRS.

The OCA submits that PGW’s request for a CAM should be denied. I&E witness Maurer and OSBA witness Knecht also opposed the Company’s proposal to implement a CAM. I&E St. 1 at 2-5; OSBA St. 1 at 8-12. As discussed below, PGW’s proposed CAM would constitute improper single issue ratemaking and would not result in rates that are just and reasonable for ratepayers.⁴¹

OCA witness Crandall identified a number of reasons why the CAM should be rejected: (1) the CAM is not needed since other traditional regulatory options exist to align costs, sales and revenues; (2) the Company’s arguments are inconsistent with the Company’s own analysis; (3) the CAM is vulnerable to inaccuracies; (4) the CAM is in effect a single issues rate case, which isolates one factor affecting the Company’s financial consideration without consideration of the Company’s financial condition as a whole; and (5) the lost margins are not program costs and should not be recovered through the ECRS. OCA St. 1 at 4-5.⁴²

⁴¹ 66 Pa. C.S. § 1301.

⁴² PGW references in its Plan where CAMs or similar mechanisms have been adopted. PGW St. 3 at Exh. TML-4 at 57. One of the states that PGW references is Montana. *Id.* The OCA notes that in October of 2015, the Montana Public Service Commission relied upon very similar reasoning as presented by OCA witness Crandall to eliminate the lost revenue mechanism for NorthWestern Corporation. In the Matter of the Lost Revenue Adjustment Mechanism of NorthWestern Energy, 2015 Mont. PUC LEXIS 95 (October 15, 2015) (Northwestern). In that case, the Company had a lost revenue mechanism for both generation supply and demand side management/energy efficiency activities. Northwestern at *1-*2. The Commission relied upon five similar reasons for the elimination of NorthWestern’s lost revenue mechanism: (1) that it was not consistent with the matching principle to match “revenues, expenses, operating assets and customer loads” to the time period when rates are set which constitutes single-issue ratemaking; (2) the uncertainty of DSM estimated savings and the accumulation of lost revenues based upon those estimates; (3) that cost-effective efficiency resources would continue to be acquired with or without the lost revenue mechanism; (4) that lost revenues are indirect lost opportunity costs; and (5) that the lost revenue mechanism does not eliminate the throughput incentive because it only adjusts rates for volumes of energy saved. *Id.* at *17-22. The Commission found that the mechanism may actually create “a perverse incentive to maximize

Further, Act 129 does not permit the recovery of lost revenues for electric utilities, and PGW's program should not be treated differently.⁴³ Act 129, although not specifically applicable to PGW, has an impact on this proceeding and provides a policy foundation for the implementation of energy efficiency programs in Pennsylvania. The Phase II Plan is in the best interests of ratepayers and should be pursued whether or not it is accompanied by a CAM.

2. A CAM is not necessary because traditional regulatory options exist to align costs, sales and revenues.

PGW has operated Phase I of its program since 2010 without a CAM.⁴⁴ PGW filed its last base rate proceeding nearly five years ago when the Phase I Plan was first adopted, despite the fact that the budget for the Phase I was a substantially higher budget of \$63.7 million.⁴⁵ OCA St. 1 at 30. PGW has not made any showing that a CAM is necessary or appropriate. PGW's DSM program is a voluntary program that is designed to provide energy efficiency measures to residential and commercial customers. Electric distribution companies provide similar energy efficiency measures under the mandatory Act 129 programs without the need for a lost revenue mechanism.⁴⁶ Other traditional regulatory options are available, as identified by the General Assembly in Act 129, to align costs, sales and revenues.⁴⁷

both the estimates of savings attributable to utility efforts and actual sales volumes, because both reward the utility with revenues. Id. at *22.

⁴³ 66 Pa. C.S. § 2806.1(k)(2).

⁴⁴ The OCA notes that in PGW's original filing for its Phase I Plan, PGW did propose to include lost margins. In the Settlement of the Company's base rate proceeding, the parties agreed that the Company would not make a claim for lost revenues for the two year stay out period. July 29, 2010 Order at 12.

⁴⁵ June 29, 2010 Order at 12, 20-23.

⁴⁶ 66 Pa. C.S. § 2806.1(k)(2).

⁴⁷ 66 Pa. C.S. § 2806.1(k)(3).

The General Assembly has explicitly rejected recovery of lost revenues in the automatic adjustment mechanisms such as the ECRS or the USC for the mandatory electric distribution company programs.⁴⁸ Act 129 specifically prohibits the recovery of lost revenues in the electric distribution surcharge mechanism:

(2) Except as set forth in paragraph (3), decreased revenues of an electric distribution company due to reduced energy consumption or changes in energy demand shall not be a recoverable cost under a reconcilable automatic adjustment clause.

(3) Decreased revenue and reduced energy consumption may be reflected in revenue and sales data used to calculate rates in a distribution-base rate proceeding filed by an electric distribution company under section 1308 (relating to voluntary changes in rates).⁴⁹

As OCA witness Crandall described “even though Act 129 does not require compliance by gas utilities, it has a profound impact and provides a significant policy foundation for the extensive energy efficiency programs that are being implemented now throughout Pennsylvania.” OCA St. 1 at 6-7.

Section 2806.1(k)(3) of Act 129 provides for electric utilities to recover decreased sales and revenues through its distribution base rate proceedings.⁵⁰ PGW also has the option of pursuing cost recovery for declining sales through a rate proceeding or other traditional regulatory options to align costs, sales and revenues. OCA St. 1 at 4. OCA witness Crandall stated:

[t]he Company’s concerns over lost margins presented here, is self-imposed and avoidable because the Company would have the option to file for a general rate case more frequently than every five years, should conditions justify such an application. Over five years, the lost margins, i.e., the contributions to fixed costs that are not recovered because sales volumes are lower than were used to set the

⁴⁸ 66 Pa. C.S. § 2806.1(k)(2).

⁴⁹ 66 Pa. C.S. § 2806.1(k)(2),(3).

⁵⁰ 66 Pa. C.S. § 2806.1(k)(3).

general rates, may build up (if not offset by other factors), especially if customers embrace the DSM programs and implement energy efficiency improvements. Depending on the totality of circumstances e.g., sales, growth, other factors, PGW may chose [sic] to address lost margins by filing a general rate case (if needed) to maintain the financial health of the utility.

OCA St. 1 at 6; OCA St. 1-S at 10. OCA witness Crandall recommended that PGW pursue a course of action involving traditional regulatory options because regulatory options are in the best interests of both the customers and the Company. OCA St. 1 at 6. After five years and \$44 million of actual program expenditures, PGW has not needed to file for a base rate increase. OCA St. 1 at 30. Traditional regulatory options have not harmed PGW even though it has had a Phase I Plan for the last five years.

OSBA witness Knecht also argued that the CAM is not necessary for PGW. OSBA witness Knecht testified:

At this time, I do not agree that raising rates now to avoid or defer a future base rates case is an advantage for ratepayers. Unlike other Pennsylvania NGDCs, PGW is regulated on a cash flow basis. In the Company's last base rates case, the Company's rate submission was based substantially on the need to repair a highly leveraged balance sheet, despite the fact that PGW's rates far exceeded those at other Pennsylvania NGDCs.

To a material extent, PGW has succeeded in achieving that goal. Despite its stated concerns in this proceeding relating to financial losses from successful conservation programs, PGW agrees to have made significant progress in improving its books equity position...

As shown [in Table IEC-1], PGW has generally been able to materially reduce its long term debt and increase its equity over this period. In addition, PGW's revenues over expenses totaled some \$188 million over this period, and in 2012 began making annual \$18 million payments to its shareholder. Thus, in total, PGW has earned \$242 million over the past five years. In effect, PGW has achieved a return to 100 percent of its equity base over this period. Moreover, despite the purported negative effects of its DSM program, PGW's net returns in 2013 and 2014 (\$61 and \$67 million respectively) were higher than that in any of the previous three years.

In light of the recent strong income performance and growth in book equity, a full cash flow requirements analysis in base rates proceeding may suggest that a rate decrease is in order.

OSBA St. 1 at 10-12.

OCA witness Crandall testified that PGW, as a municipal-owned utility, has an obligation to maintain the interests of its ratepayers. Id. Mr. Crandall stated:

PGW ought to pursue a course of action that would be in the best interest of customers and the Company. An investor-owned utility, where management has a fiduciary responsibility to its shareholders to earn profits, would likely compete with the customers (ratepayers) best interests. However, that method of operation is inappropriate for a municipal utility – where the ratepayers and community are the owners.

OCA St. 1 at 6. I&E witness Maurer agreed with Mr. Crandall that the appropriate place to address lost revenues is through base rates. I&E St. 1 at 4-5.

Act 129 did not allow for the recovery of lost revenues for electric distribution companies' mandatory energy efficiency programs, and PGW should not be permitted to recover lost revenues for its voluntary energy efficiency program. As Act 129 identified, lost revenue recovery is not necessary because other traditional regulatory options, such as distribution base rate proceedings exist to align costs, sales and revenues.⁵¹ The traditional regulatory options have done this for PGW under its Phase I Plan. Despite the ability to file a base rate proceeding for the last three years under the Settlement of its last case and \$44 million spent under Phase I, PGW has not needed to do so. Further, as discussed below, the OCA submits that the CAM, in effect, would operate as single-issue ratemaking and would not result in rates which are "just and reasonable" as required by Section 1301.⁵² The OCA submits that PGW has not made any demonstration that such a CAM is necessary for Phase II of its Plan.

⁵¹ 66 Pa. C.S. 2806.1(k)(2),(3).

⁵² 66 Pa. C.S. § 1301.

3. The Company's arguments in support of CAM are inconsistent with the analysis presented by the Company.

OCA witness Crandall stated that the Company's arguments in support of the CAM are inconsistent with the analysis that the Company presented in its filing. OCA St. 1 at 7; OCA St. 1-S at 11-13. PGW argues that a gas utility has a greater need for lost revenues than an electric utility. OCA St. 1 at 7, citing Petition of PGW for Phase II DSM Plan. OCA witness Crandall described PGW's analysis in support of a CAM, as follows:

In the "Petition of Philadelphia Gas Works for Phase II Demand Side Management Plan" (December 23, 2014), the Company states that lost margins are even more important for gas utilities than electric utilities because:

- ii. Almost all electric utilities have demand-related infrastructure expansion projects planned over the relatively near term. When conservation reduces peak loads EDCs can mitigate the effect of those lost sales by deferring some demand-related costs between rate cases. PGW, like many gas utilities serving older urban areas, has little or no planned load-growth-related infrastructure investment to defer. PGW hence has no opportunity to reduce demand-related costs to offset lost contribution to fixed costs.
- iii. Electric utilities have some categories of equipment that wear out faster when loaded more heavily in their safe operating range. In contrast, gas utilities (sic EDCs) have little equipment that wears out as a function of usage, so the lost contribution to fixed cost from energy-efficiency programs is to offset [sic] by reductions in load-related equipment failure.

OCA St. 1 at 7. OCA witness Crandall testified that both of these reasons effectively mean that there are fewer costs avoided or deferred to off-set the lost margins from the sales decline. Id.

OCA witness Crandall, however, explained why this assumption is incorrect as applied to the current matter. PGW would benefit from the program without the CAM or Performance Incentives, as Mr. Crandall testified that:

According to Table 22, page 30 of PGW's Phase II: Five Year Implementation Plan," revised April 16, 2015 each of PGW's proposed DSM programs passed the TRC (except Home Rebates with a TRC of 0.95). The portfolio, as whole, passed

the TRC test. From the gas utility perspective, each of PGW's proposed DSM programs handily passed with benefit-cost ratios of 1.50 and above, as did the overall portfolio. The proposed overall portfolio, from the gas utility perspective, would result in a present value benefit of \$32.3 million at a present value cost of \$19.1 million. PGW would receive a net benefit of \$13.2 million without consideration of either CAM or performance incentives. Thus PGW, by its own calculations, would benefit \$1.70 for every \$1.00 it invested in its proposed DSM portfolio.

According to Tables 38 and 39, PGW expects its proposed Phase II DSM programs to result in a lost margin amounting to approximately \$2.3 million (present worth), which it proposed to recover through CAM. If the Commission grants PGW's CAM request, PGW's benefit from the proposed Phase II DSM program would increase to \$34.6 million, or a \$1.82 benefit for every \$1.00 PGW invested in the program. Ratepayer benefits, however, would decrease as they would now absorb the costs of the CAM.

OCA St. 1 at 8-9, Exh. GCC-2.

The OCA submits that the facts do not support PGW's conclusion that without the CAM, the Company will be financially harmed. OCA St. 1 at 9. The CAM would provide a mechanism for PGW to recover more revenue at less risk, while allowing PGW to put off general base rate proceedings. Id.

4. The design of CAM is flawed and is vulnerable to inaccuracies and miscalculation.

The design of PGW's proposed CAM is flawed. The CAM can be vulnerable to errors or miscalculations because it is "based on estimated values of the amount of energy savings attributable to the DSM program and the forecasted sales." OCA St. 1 at 9. PGW states that it would forecast its conservation adjustments for each customer class by multiplying the class's delivery charge by the projected ccf savings for the class and dividing by the forecasted sales to the class. PGW St. 3 at Exh. TML-4 at 57. The estimates used present an opportunity for error.

OCA witness Crandall testified:

[t]he proposed CAM may create an incentive for the utility to overestimate the amount of savings from its programs, and underestimate the sales volumes. The

higher the savings estimate and the lower the sales forecast, the more money PGW would collect under its proposed CAM. If a CAM were to be authorized by the Commission, it would be very important that the estimates, predictions and forecasts be based on publicly available, open information and precise data that can be fully reconciled. Changes in rates should be based upon known and measurable information.

OCA St. 1 at 9-10.

There are a number of ways that PGW could overstate savings estimates, such as to assume that there are no free riders in the program. OCA St. 1 at 10. OCA witness Crandall explained:

[t]he zero free rider assumption increases the savings associated with the program, even though the savings may have occurred naturally and may already have been embedded in the sales volumes used to set the general rates.

OCA St. 1 at 10.

The CAM reconciliation process would not adjust for over-collections that may occur as a result of PGW's forecasts of energy savings and sales. OCA St. 1 at 10. There are at least two problems with this concept: (1) the sales forecast would not be reconciled; and, (2) the Net to Gross (NTG) ratio to the ccf reduction per unit is not adequately reconciled over the life of the plan.

First, the reconciliation process would not reconcile the sales forecast. OCA witness Crandall explained:

The initial CAM rate calculation divides the estimated lost margin by customer class by the forecasted sales volume for that class next year. Underestimating the sales volume will increase the CAM rate for the next year, and thus the CAM revenues collected. The CAM reconciliation only considers the difference between the tracked and projected energy savings from the previous year, not the CAM revenues actually collected. Thus deviations in lost margins from the deviations in projected savings are somewhat reconciled, but the deviations in the revenues collected resulting from deviations between the forecasted and actual sales volumes are not reconciled. The CAM reconciliation rate is derived by dividing the reconciliation amount by the sales forecast for the next period, with

no attempt to reconcile differences from sales forecast to calculate the CAM rate from the prior period.

OCA St. 1 at 11. The CAM does not reconcile for deviations in sales volumes caused by factors other than predicted savings from DSM programs, such as the impact of load building programs or colder than normal weather. OCA St. 1-S at 14. PGW's proposal is to recover lost margins associated with energy efficiency programs "independent of whether sales were as high as or higher than those upon which the Commission based rates to recover fixed costs." *Id.* at 14-15.

Second, the reconciliation does not adequately address the impact of the NTG ratio on the ccf reduction per unit installed. OCA witness Crandall testified:

Many utilities adjust their DSM programs savings by applying a net-to-gross (NTG) factor to their calculated energy efficiency savings. NTG typically accounts for both the free riders and spillover effects. PGW indicates that it will use an estimated NTG ratio in its calculation of the projected ccf savings by customer class. For the Phase II DSM program filing, PGW states, "the net-to-gross ratio for each program is currently assumed to be 1.0. This estimate will be updated as data become available through the third-party evaluations." ("Phase II: Five-Year Implementation Plan," revised April 16, 2015, page 58).

Based on my experience, PGW's assumption that the NTG ratio is 1.0 for this plan is likely to overstate the savings and ultimately the revenues collected through such a mechanism. See OCA Exhibit___(GCC-3). Also, even if the NTG is adjusted in the future, it remains an estimated factor.

OCA St. 1 at 10.

OCA witness Crandall explained the impact of this calculation on the reconciliation process:

PGW will estimate the weather-normalized ccf reduction per unit installed based on the mix of type and size of units installed being different from the mix being forecast. It will also apply the "estimated net-to-gross ratio for the measure, as specified in the implementation plan". ("Phase II: Five-Year Implementation Plan," revised April 16, 2015, page 59, emphasis added) The Implementation Plan for Phase II, for which PGW seeks approval, specifies the NTG ratio as 1.0. It is not clear how often the approved NTG ratio would be modified, who would pay for the additional Evaluation, Measurement and Verification (EMV) analyses (given the constrained EMV budget), who would modify it or when the NTG

modifications would be applied. For example, if there is an annual CAM reconciliation, and during the fourth year of implementation, the NTG ratio was formally changed, it might at the earliest be approved for the fifth implementation year. The CAM for the first four implementation years would not be reconciled.

OCA St. 1 at 12-13. As these two examples demonstrate, the CAM reconciliation process does not fully protect ratepayers against over collections of revenues and would be vulnerable to inaccuracies.

Prior to Act 129, the Commission prohibited lost revenue recovery for electric utilities because of the speculative nature of the estimates for lost revenues. The Commission stated:

Lost revenues are, by their nature, much more difficult to measure than DSM program costs. Therefore, we feel it necessary to require that these costs be recovered through a base rate proceeding so that they are based on actual program results, as verified through the ratemaking process.⁵³

The OCA submits that the use of estimates in the calculation of the CAM is flawed and vulnerable to error. The reconciliation process would then compound the error because it would not allow for these estimates to ever be corrected based on the sales forecast or the Net to Gross ratio. A base rate proceeding would eliminate the need to use such estimates.

5. The CAM would in effect operate as a single-issue rate case.

The CAM would in effect operate as a single-issue rate case and isolate one factor impacting the Company's financial condition without consideration of the Company's financial condition as a whole. OCA St. 1 at 13-15. Typically, in a general base rate proceeding, the Commission will determine an overall revenue requirement and set rates to give the Company an opportunity to recover the established revenue requirement. Single-issue ratemaking only adjusts rates for one factor and can lead to the Company collecting excess revenues and reduced scrutiny. The general rule for expense items is that if the item in question is normally considered

⁵³ Investigation into Demand Side Management by Electric Utilities Uniform Cost Recovery Mechanism, Docket No. I-900005, 1993 Pa. PUC LEXIS 165 at *36-37 (November 10, 1993); see also, I&E St. 1 at 4.

in a base rate case, then singling that item out for recovery outside of a base rate case is prohibited.⁵⁴

The CAM is essentially a single-issue rate case because it focuses only on increasing revenues to adjust for lost contributions to fixed costs due to the energy efficiency programs. OCA St. 1 at 14. The underlying premise of the CAM is that PGW will suffer financially if customers reduce their natural gas usage. *Id.* This premise, however, is flawed. OCA witness Crandall testified:

It ignores the fact that PGW is now operating and is proposing an additional program to increase gas energy consumption at the same time it is proposing energy efficiency programs to reduce gas energy consumption. It does not take into consideration an adjustment/offset to the effect of reduced sales on lost margins against the increased sales that would occur under PGW's fuel substitution program or under higher than forecasted sales that could occur for a variety of reasons.

OCA St. 1 at 14; see also, OCA St. 1-S at 15-16.

The flawed assumption is that any reduction in gas sales will also reduce the sales volume to below the level that was set forth in the general base rate proceeding. OCA witness Crandall testified:

By using the CAM mechanism, PGW isolates the estimated effects of its energy efficiency programs on sales volumes to trigger revenue increases without considering: i) the effect of its fuel switching program that will build gas load; ii) the effect of higher than expected loads due to colder than normal winter weather; iii) the higher than expected loads due to an economic upturn; or iv) the higher than expected loads due to any other reason. As can be seen in Exhibit OCA-____(GCC-4), the response to discovery question OCA-Crandall-26, PGW does not consider any of these growth factors that may offset the load reductions related to energy efficiency.

⁵⁴ Popowsky v. Pa. PUC, 13 A.3d 583, at 593 (Pa. Cmwlth. 2011) (Newtown); Pennsylvania Industrial Energy Coalition v. Pa. P.U.C., 653 A.2d 1336, at 1350 (Pa. Cmwlth. 1995), *aff'd per curiam*, 670 A.2d 1152 (Pa. 1996) (PIEC).

OCA St. 1 at 14-15. The CAM does not consider the overall financial health of the utility or the Company's capital needs. Id. at 15.

PGW witness Chernick and PGW witness Adamucci argue that the CAM is not single-issue ratemaking. PGW St. 1-R at 7; PGW St. 4-R at 8-9. In response, OCA witness Crandall testified:

I disagree. It is in fact a rate adjustment done ostensibly to recover lost margins on fixed costs due to sales reductions due to energy efficiency programs. It is based solely on sales reductions due to energy efficiency (the single issue) and will recover those "lost" margins irrespective of the overall sales volumes and whether those result in over collection of fixed costs. It is based on a single issue (reduced sales due to energy efficiency programs) irrespective of all other factors considered in setting a revenue requirement. The CAM does not look back to the overall financial health of the utility, or factors other than asserted sales reductions from energy efficiency programs, to set rates.

OCA St. 1-S at 16.

The basis of the CAM is that the lost revenues will harm the Company financially. This assumption is flawed. The evaluation isolates actual sales from whether they have dropped below those set in the Company's last base rate proceeding and whether the Company has actually experienced a financial harm. The OCA submits that isolation of one factor, lost revenues, in the CAM effectively operates as a single-issue rate proceeding.

National Fuel Gas Distribution Corporation (NFG) and Equitable Gas Company (Equitable) have both previously presented methodologies to the Commission to recover in rates the impact of decreases in usage levels and have not been successful. In 2006, NFG's request to implement a ratemaking methodology, the Enhanced Energy Efficiency Rider, to address the impact of energy conservation measures was voluntarily withdrawn after it resulted in the filing of 1267 formal complaints, and prompted the testimony of 168 public input hearing witnesses.⁵⁵

⁵⁵ Pa. PUC v. National Fuel Gas Distribution Company, Docket No. R-00061403, Recommended Decision at 2-3, 43 (Oct. 31, 2006).

Moreover, in a strikingly similar situation, the Commission has previously determined that adjusting customer billing to account for lost natural gas distribution revenues outside of a base rate proceeding constitutes single issue ratemaking.⁵⁶ Equitable requested cost recovery for lost revenues due to an increase in the Btu content of its natural gas supply.⁵⁷ Equitable stated that the Company experienced fluctuations in the heat content (Btu) for its natural gas supplies from local Appalachian Gas and Marcellus Shale Gas purchases due to the Commission's emphasis on purchasing locally produced natural gas.⁵⁸ As the Commission summarized, "the higher the Btu content, the less gas a customer needs to produce the same heating result."⁵⁹ The Company argued that the lower volume use reduced the Company's revenues below what was established in the Company's last base rate proceeding.⁶⁰ Equitable requested to adjust its customer billings to account for the difference in this single element of its revenues.⁶¹

The OCA, I&E and OSBA argued that the Company's proposal constituted improper single-issue ratemaking.⁶² The ALJ agreed with the statutory advocates and determined that:

Here Equitable seeks to extract one component which ostensibly affects revenue, i.e. the heat content of gas without considering other factors which affect the revenue such as customer usage, where the customers tap into the gas line, customer conservation, number of customers, and weather conditions that might affect revenues. This is classic, but prohibitive, single issue ratemaking. "Single

⁵⁶ Equitable Gas Company, LLC Request for Approval of Supplement No. 79 to Tariff Gas Pa. P.U.C. No. 22, Supplement No. 80 to Tariff Gas Pa. P.U.C. No. 22 and Supplement No. 81 to Tariff Gas Pa. P.U.C. No. 22, Docket No. R-2012-2304727, Order (December 20, 2012)(Equitable Order).

⁵⁷ Equitable Order at 7.

⁵⁸ Id. at 6-7.

⁵⁹ Id. at 7.

⁶⁰ Id. at 6-7.

⁶¹ Id. at 6.

⁶² Id. at 10.

issue ratemaking is prohibited if it impacts on a matter considered in a base rate case. Philadelphia Electric Company v. Pennsylvania Public Utility Commission, 93 Pa. Commw. 410, 502 A.2d 722-727-728 (Pa. Cmwlth. 1985).” Popowsky v. Pennsylvania Public Utility Commission, 869 A.2d 1144, 1153 (Pa. Commw. 2005).⁶³

The Commission adopted the ALJ’s determination and concluded “[t]here is no question that Equitable has sought to change a single determinant, the increased Btu content resulting in reduced throughput, to adjust delivery charge revenues.”⁶⁴ The Commission disallowed the proposed Btu adjustments.⁶⁵

As in the Equitable Order, PGW has proposed to collect lost revenues for reduced consumption levels. PGW is proposing to extract one component impacting revenue, without considering other factors that may impact revenue. The only real difference between Equitable’s proposal and PGW’s proposal is that PGW’s reduced consumption would be reduced through energy efficiency initiatives and Equitable’s reduced consumption levels were due to the composition of its natural gas product. The OCA submits that PGW’s proposal to recover lost revenues through the CAM also constitutes impermissible single issue ratemaking.

6. Lost Margins are not program costs and should not be recovered through the ECRS.

The CAM costs should not be recovered through the ECRS because lost margins from sales reductions due to energy efficiency are not DSM program costs. OCA witness Crandall testified:

They are fixed costs for the existing infrastructure of the utility that may not be collected under certain circumstances, independent of the existence of DSM. They are also fixed costs for the existing infrastructure of the utility that may be

⁶³ Equitable Gas Company, LLC Request for Approval of Supplement No. 79 to Tariff Gas Pa. P.U.C. No. 22, Supplement No. 80 to Tariff Gas Pa. P.U.C. No. 22 and Supplement No. 81 to Tariff Gas Pa. P.U.C. No. 22, Docket No. R-2012-2304727, Recommended Decision at 10 (November 2, 2012).

⁶⁴ Equitable Order at 16.

⁶⁵ Id.

collected, without CAM, even in the presence of aggressive DSM programs. They are costs that the Commission previously permitted the utility to collect, but did not guarantee their collection. They are unrelated to the cost and operation of the DSM program, though any efforts to reduce the wasteful use of natural gas may make it more difficult for the utility to fully recover its fixed costs. The ECRS should be used exclusively for recovering DSM program costs.

OCA St. 1 at 15.

Contrary to PGW witness Chernick's arguments, the issue of lost margins is not a program cost. PGW St. 3-R at 10. The ECRS is intended to allow for the recovery of DSM program costs. The CAM is not a DSM program cost. It is a mechanism to recover the fixed infrastructure costs associated with gas utility service. As OCA witness Crandall testified, "just because the recovery of infrastructure costs is affected by DSM does not make it a DSM cost." OCA St. 1-S at 16. As such, the OCA submits that it is not appropriate to recover these costs through the ECRS.

7. PGW should not be allowed to recover a CAM for its statutorily-mandated obligation to operate a LIURP program.

PGW also proposed to recover the CAM for its statutorily-mandated LIURP program. PGW has proposed a "Base Plan" budget of \$22.7 million and an "Expanded Plan" budget of \$32.2 million for its Phase II Plan if the Company is awarded a CAM and Performance Incentives. OCA St. 1 at 31. A significant portion of these budgets (\$10.15 million under the "Base Plan" and \$13.96 million under the "Expanded Plan") are related to PGW's LIURP program. Id.

The OCA submits that it is inappropriate to recover lost revenue margins for PGW's LIURP program. PGW is statutorily mandated to implement a LIURP program and has an extensive LIURP program now funded at \$7.6 million.⁶⁶ Neither the statute nor the Commission

⁶⁶ 66 Pa. C.S. § 2804(8).

regulations provide any mechanism for the recovery of lost revenues associated with LIURP. No other public utility in Pennsylvania is able to recover lost revenues for its LIURP program. While the OCA does not support the implementation of a CAM for DSM programs, it is particularly inappropriate for PGW's LIURP program. OCA witness Colton explained that "[a]s a statutorily-mandated universal service program, LIURP is not a traditional DSM program. LIURP stands on an independent basis and offers unique benefits to PGW." OCA St. 2 at 19.

The Natural Gas Choice and Competition Act defines universal service and energy conservation as:

Policies, practices and services that help residential low-income retail gas customers and other residential retail gas customers experiencing temporary emergencies, as defined by the commission, to maintain natural gas supply and distribution services. The term includes retail gas customer assistance programs, termination of service protections and consumer protection policies and services that help residential low-income customers and other residential customers experiencing temporary emergencies to reduce or manage energy consumption in a cost-effective manner, such as the low-income usage reduction programs and consumer education.⁶⁷

By definition, low-income usage reduction programs are designed to help residential low-income customers to reduce or manage their energy consumption in a cost-effective manner. A CAM does not further this purpose.

While LIURP is designed to reduce CRP customer consumption (and thereby would decrease revenues), LIURP also *increases* revenues. LIURP helps to decrease customer payment delinquencies which impacts uncollectible accounts expense, collection costs and arrearage carrying costs. The Commission's regulations at Section 58.1 of the Public Utility recognize some of the revenue-increasing aspects to LIURP.⁶⁸ Section 58.1 provides:

⁶⁷ 66 Pa. C.S. § 2202 (emphasis added).

⁶⁸ 52 Pa. Code § 58.1.

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 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.⁶⁹

As Section 58.1 describes, LIURP is not really a DSM program but rather a universal service program. Unlike other DSM programs, the purpose of the program is to help low-income customers to improve affordability, to maintain service, and to manage their energy bills. OCA St. 2 at 20.

LIURP investments differ from traditional residential energy efficiency investments because in addition to reducing load for the individual customer, LIURP also has the effect of *preserving* the load of the low-income customer for the utility. *Id.* at 21. With reduced usage, the low-income customer is better able to maintain service, is less likely to be terminated, and is less likely to be forced to move due to high energy bills. LIURP contributes to PGW's cost recovery because it helps to improve payment patterns, and therefore, helps to prevent disconnection of service. OCA witness Colton explained:

A 2011 study by the U.S. Department of Energy concluded that "low-income families who receive weatherization have lower rates of default on their utility bills and require less emergency heating assistance. Emergency heating assistance is provided only in response to the potential disconnection of service. A reduced demand for emergency heating assistance, in other words, documents a reduced exposure to the disconnection of service for nonpayment.

OCA St. 2 at 21.

⁶⁹ *Id.*

Another frequent impact of unaffordable home energy is the forced mobility of households. OCA witness Colton testified:

One study of Head Start families in Missouri, that I performed, found that 40% of all Head Start families were “frequently mobile.” Of these frequently mobile households, 50% cited unaffordable home energy bills as being an important factor in their most recent move. Similarly, Skumatz reported survey data indicating that 16% of weatherization program participants indicated that weatherization activities “yes, definitely” helped them to avoid having to move to another home.

Id. at 22 (footnotes omitted). Any calculation of reduced sales would have to be offset with the extent to which sales levels are preserved over what they would have been without LIURP. Id. at 23.

While PGW argues that it seeks to recover revenues that are no longer available to help pay the fixed costs of the system because of usage reductions, those assumed billings would not necessarily otherwise be available to help pay the fixed costs. OCA witness Colton divides the group into three sets of dollars that are otherwise unavailable to PGW: (1) dollars that would be available but for the fact that the usage was not billed through usage reduction; (2) dollars that would be available but for the fact that the delivery charges were not paid and remain in arrears; and (3) dollars that would be available but for the fact that the delivery charges were written off as uncollectible. OCA St. 2 at 24. The overlap between the three sets of dollars represents dollars of margin that would not be “lost” to PGW because of LIURP. Id. This overlap of dollars would be substantial for low-income customers. Id. OCA witness Colton testified the uncollectible rate for confirmed low-income customers is 24.8% and the percentage of revenue in arrears for confirmed low-income customers is 6.9%. CRP participants, the population from which LIURP is drawn, are drawn from this confirmed low-income population. Id.

PGW witness Chernick argues that the only impact of LIURP is to reduce the bill credits provided through CRP, but that is not correct. PGW St. 4-R at 17-18. Weatherization measures have a demonstrated impact on the payment behaviors of CRP participants. OCA witness Colton testified:

PGW addressed the impact of LIURP weatherization treatment on payment patterns in the Company's LIURP evaluations in 2006, 2008 and 2011. (OCA-IV-7).

- In the 2011 LIURP Evaluation, PGW found that while the *number* of annual payments stayed the same pre- and post-treatment (at 12 payments per year), the *dollars* of customer payments increased by \$105 (in contrast to an increased asked-to-pay amount of \$34). (2011 Evaluation, at 18).
- In the 2008 LIURP Evaluation, PGW reported that “customer payment increased by an average of \$80 for participants while declining by an average of \$59 for the comparison group, yielding a net of \$139 increase in customer payments.” (2008 Evaluation, at 17).
- In the 2006 LIURP Evaluation, PGW reported that “customer payment increased by an average of \$10 for participants, while declining by an average of \$95 for the comparison group, yielding a net \$105 increase in customer payments.” (2006 Evaluation, at 18).

OCA St. 2 at 29. OCA witness Colton also relied upon a 2009 Penn State Study⁷⁰ that found:

“of those households with energy bill arrearages, 40 percent reduced their arrearage following weatherization services.” Penn State’s findings are particularly applicable to PGW as a gas utility. PSU’s long-term study found “thirty-seven percent of electric industry households reduce their arrearage, compared to 54.4 percent for the gas industry.” (PSU, 42). This reduction in arrears is significant. Penn State’s study of LIURP reported that “nearly 88 percent of the LIURP households in the study data have an arrearage on their energy bill at some point during the pre- and post-periods. Because LIURP only collects this information at four points in the LIURP process, it is possible that this percentage is even higher.” (PSU, 22).

Id. at 25-26.

⁷⁰ The OCA notes that the Penn State study was conducted on behalf of the Commission, and PGW was a participant in the study. OCA St. 2 at 25.

As has been shown in the LIURP Evaluations, weatherization measures improve payment behaviors. Through that improved payment behavior, the 2009 PSU Study shows that LIURP investments result in substantial reductions in arrearages for treated customers. The loss of revenue that PGW identifies would be accompanied by a reduction in expenses between rate cases that will off-set the lost margins. OCA St. 2 at 25. The CAM would not reflect these reductions in arrearages for CRP customers.

PGW's LIURP program is directed towards the highest users, and as such, those participants would generate the greatest benefit to the Company that will off-set the need to collect lost margins or incentives. See, OCA St. 2 at 28-30.

8. Conclusion.

The OCA submits that PGW's request for a CAM must be denied. As discussed above, PGW has not made any demonstration that a CAM is necessary. The basis of the CAM is that the energy efficiency measures that the Company makes through the energy efficiency programs will cause the Company financial harm. As is discussed above, PGW has not been financially harmed by its existing Phase I Plan, and in fact, the Phase I program was designed as a measure to improve PGW's financial situation. Moreover, traditional regulatory options exist which can align the costs, sales and revenues. PGW, however, has not filed for a base rate increase in five years after having filed five base rate cases, including two emergency base rate proceedings, between 2000 and 2010. Further, the Company's proposal would constitute single issue ratemaking by isolating out the single factor of lost revenues without considering other expenses and revenues that may impact the Company's revenue requirement. Finally, the Company cannot recover lost revenues for its statutorily-mandated LIURP program.⁷¹ Neither the statute

⁷¹ 66 Pa. C.S. § 2203(8).

nor the Commission's regulations provide that a Company may recover lost revenues for its LIURP program.

C. Performance Incentives.

1. Overview.

In addition to the CAM mechanism, PGW proposed to implement a Performance Incentive Model to encourage PGW to achieve more investment in energy efficiency programs. PGW states that the Performance Incentive model is designed to operate as a sharing of benefits between the customers and the utility. PGW St. 3 at Exh. TML-4 at 40. PGW states that its proposed model contains four major components: (1) total cap; (2) minimum threshold to trigger incentives; (3) individual program targets to trigger incentives; and, (4) a "scaled design" to encourage achievement of goals. PGW St. 3 at Exh. TML-4 at 68, 70.

The first component establishes the total amount of money that the Company can be awarded as an incentive. Id. at 41. PGW has calculated a maximum incentive pool of \$2.1 million (\$2.271 million in nominal terms) over the Phase II five-year period. Id. at 68; PGW St. 3 at 22. The maximum incentive is 10% of the Company's Base Plan budget of \$22.7 million. OCA St. 1 at 31. PGW also proposed that "the performance incentive maximum of 10% should include the CRP Home Comfort Program in the budget that it is applied to." OCA St. 2 at 20.

The second component establishes a minimum performance threshold so that ratepayers only pay incentives if the minimum threshold is met. PGW St. 3 at Exh. TML-4 at 42. In order to receive an incentive, the Company would need to achieve a threshold of 70% of the performance target. Id. at 64; PGW St. 3 at 23. If the Company achieves 70% of the performance target, then the Company is eligible to receive 75% of the maximum incentive amount (or \$1.7 million in nominal terms). PGW St. 3 at Exh. TML-4 at 68, Table 48; see also,

PGW St. 3 at 23. If the Company achieves 120% of the performance target, the Company is eligible to receive 100% of the maximum incentive amount (or \$2.271 million in nominal terms).

Id.

The third component establishes the individual performance targets to encourage “natural gas savings, total resource benefits, distribution of participation among programs and groups of customers, and depth of savings.” Id. The maximum incentive includes two separate performance targets for: (1) natural gas savings and (2) net TRC resource benefits. The first Performance Target is projected lifetime gas savings. The maximum incentive pool for projected lifetime gas savings for FY16-20 is \$1,135,958. PGW St. 3 at Exh. TML-4 at 69, Table 49. The second Performance Target is net TRC resource benefits. The maximum incentive pool for net TRC resource benefits is \$1,135,958. PGW St. 3 at Exh. TML-4 at 69, Table 49. The two targets combined comprise the maximum incentive amount in nominal dollars of \$2,271,917. Id.

The fourth component establishes the methodology for calculating the incentives for the performance targets. Id. PGW proposed that the maximum incentive pool be calculated as 10% of the proposed annual budget. Id., Table 48.

The PI is a cost addition to PGW’s program costs. OCA St. 1 at 21. The PI is similar to the cost of utility administration of the program. Id. The OCA recommends that PGW’s proposal for Performance Incentives be denied. I&E witness Maurer and OSBA witness Knecht also opposed the proposal for Performance Incentives. I&E St. 1 at 6-8; OSBA St. 1 at 12-13.

As to Performance Incentives, the OCA highlights two separate issues. The first, as addressed by OCA witness Crandall, is whether Performance Incentives should be awarded for any DSM program implemented by PGW. OCA witness Crandall recommended that the Commission reject the proposed PI testifying that:

a) The PI is not needed because energy efficiency services encourage customers to reduce the wasteful use of natural gas which is in the best interests of its ratepayers and PGW is not an investor owned utility (IOU)

b) The PI adds to the costs of PGW's DSM programs without corresponding benefits.

OCA St. 1 at 17.

The second issue, as addressed by OCA witness Colton, is whether Performance Incentives should be applied to the CRP Home Comfort Program, PGW's LIURP program. OCA witness Colton testified that PGW should not be permitted to collect an "incentive" to undertake a task that is a mandatory obligation.

2. Performance Incentives for all programs.

The OCA does not support Performance Incentives for PGW. Performance Incentives, in general, have been utilized to reward exemplary performance in the implementation of cost-effective energy efficiency programs for investor-owned utilities (IOUs) based on the argument that it is not otherwise in the IOUs interest to implement measures to reduce the wasteful use of energy. OCA St. 1 at 17. Performance Incentives are not needed for PGW because PGW, as a municipal, publicly owned utility, does not have the same profit motive that IOUs have. The OCA submits that the evidence also demonstrates that PGW does not need a PI to properly implement its programs.

OCA witness Crandall described the purpose of a PI Model, as follows:

The reason for employing a PI is to create a very specific, targeted and unique financial reward to motivate utility managers of investor owned utilities to place a high priority on energy efficiency programs. Since utility managers of investor-owned utilities have a fiduciary responsibility to the owners of their companies to earn a profit, it is theorized that there may be a clash between the interests of the ratepayers and the owners of a utility. Performance incentive mechanisms have been adopted by some regulatory bodies to encourage IOU's to adopt aggressive energy efficiency programs to reduce the wasteful use of energy.

OCA St. 1 at 17. Another option to incent an IOU to adopt aggressive energy efficiency programs is a penalty structure. This penalty model is what has been used in Act 129 for the electric distribution companies. Id. at 18.

PGW argues that the Company has no direct monetary incentive to produce these voluntary DSM programs. PGW St. 3 at 25. This is simply incorrect and belies the entire purpose of initiating these programs in 2010. The proposal to implement DSM was established in order to improve the Company's overall financial health. PGW filed five base rate cases between 2000 and 2010, including two emergency base rate proceedings.⁷² In the 2009 Emergency Base Rate Order filing, PGW stated "barring a financial crisis, PGW will file a comprehensive conservation and energy efficiency plan with the Commission immediately after ruling on this Petition. The plan will be designed to help residential and commercial customers achieve usage reductions to further reduce their natural gas bills."⁷³ The Company filed the Phase I Plan with its general base rate case in 2010. PGW implemented the energy efficiency programs to improve its financial condition and to reduce gas purchases in order to lower the Company's Cash Working Capital. Moreover, PGW is a municipal, publicly-owned utility. The OCA submits that as a publicly-owned utility, PGW should not need a direct monetary incentive to do what is in the best interests of its ratepayers since there are no competing shareholder interests to balance.

PGW witness Love cites to an American Council for Energy-Efficient Economy (ACEEE) report titled "Carrots for Utilities: Providing Financial Returns for Utility Investments in Energy Efficiency" for the premise that other utilities have been authorized to include

⁷² Pa. PUC v. PGW, Docket No. R-2008-2073938, Order at 48-52 (December 19, 2008) (approving \$60 million emergency base rate relief) (Emergency Base Rate Order).

⁷³ Emergency Base Rate Order at 11.

Performance Incentives. PGW St. 3 at 24-25. However, Mr. Love misses the key difference between PGW and the cited utilities. The key difference is that all but one of the utilities listed are investor-owned, “except for Arkansas, which lists all electric and gas utilities, but in Arkansas municipal utilities are not regulated.” OCA St. 1 at 19.

PGW also argues that there is a strong disincentive for energy efficiency because fixed costs are not recovered when sales are reduced from the program and that is the reason that the Company proposed to step down its activities from Phase I programs. PGW St. 3 at 25. However, as discussed above regarding the CAM, the traditional regulatory option of filing a general base rate proceeding would address this issue. OCA St. 1 at 20. OCA witness Crandall testified:

Doing what is in the best interests of its customers should be all the incentive necessary for a publicly owned municipal utility to implement energy efficiency and to take the steps necessary to reasonably cover the fixed costs when sales are declining, since there are no competing shareholder profit interests to balance.

Id. It is again important to note that PGW has completed its Phase I programs without Performance Incentives, without a CAM and without a base rate proceeding.

PGW argues that the PI is a separate mechanism to encourage greater results by establishing a business case for PGW to pursue energy efficiency measures. PGW St. 3 at 25. The OCA submits that the business case for a publicly owned municipal utility should be to do what is in the best interests of ratepayers. If the TRC ratio is greater than 1.0, ratepayers (both participants and non-participants) will benefit from the Plan. OCA St. 1 at 7. If the Gas Program administrator cost test shows a benefit-cost ratio above 1.0, the Company will benefit from the DSM programs, “i.e. that the utility cost avoidance due to the program is greater than the utility cost associated with the program.” OCA St. 1 at 8; see also, OCA St. 1-S at 11. Both

of these tests have a benefit-cost ratio of greater than 1.0 for PGW's Phase II Plan. OCA witness Crandall testified:

According to Table 22, page 30 of PGW's "Phase II: Five-Year Implementation Plan," revised April 16, 2015 each of PGW's proposed DSM programs passed the TRC (except Home Rebates with a TRC of 0.95). The portfolio, as a whole, passed the TRC test. From the gas utility perspective, each of PGW's proposed DSM programs handily passed with benefit-cost ratios of 1.50 and above, as did the overall portfolio. The proposed overall portfolio, from the gas utility perspective, would result in a present value benefit of \$32.3 million at a present value cost of \$19.1 million. PGW would receive a net benefit of \$13.2 million without consideration of either CAM or performance incentives. Thus, PGW, by its own calculations, would benefit \$1.70 for every \$1.00 it invested in its proposed DSM portfolio. Implementing its proposed portfolio without CAM is not a losing proposition for PGW. See OCA Exhibit - ___ (GCC-2). In addition to these benefits, as OCA witness Roger Colton explains in his Direct testimony, other benefits including lower bad debt write offs, reduced carrying costs on arrearages, fewer notices and customer calls, fewer shutoffs and reconnections for delinquencies, lower collection, and other benefits are attributable to energy efficiency programs in low-income housing units.

OCA St. 1 at 8, Exh. GCC-2.

Overall, the Performance Incentives are neither necessary nor in the best interests of ratepayers. OCA witness Crandall further analyzed the impact of the PI on the cost-effectiveness of the Phase II Plan. Mr. Crandall determined that PGW's benefits, from the gas utility perspective, would be increased with a PI, but that ratepayers' interests would be harmed if a PI were implemented. OCA witness Crandall found that a PI would "slightly reduce the cost effectiveness of PGW's DSM programs and increase *PGW's* benefits." OCA St. 1 at 22 (emphasis added).

The OCA submits that the PI would result in more costs being paid for the DSM programs without any resulting benefit, and indeed with a reduction in benefits. The PI would only benefit PGW. Therefore, the OCA submits that the proposal for PI be denied.

3. Performance Incentives for the LIURP program.

PGW also proposed to implement a PI for its LIURP program. The OCA submits that it is particularly inappropriate to allow Performance Incentives to be recovered for the LIURP program. The same legal reasons identified in Section VII (B) above regarding application of the CAM to the LIURP program apply to the Performance Incentives.

OCA witness Colton testified that it is particularly inappropriate to allow Performance Incentives to be recovered for the LIURP program as LIURP is a mandatory universal service program. OCA witness Colton testified:

Even if there were no DSM program portfolio, PGW would be required to maintain a LIURP initiative that is “reasonably available” in the Company’s service territory and is “adequate” to meet the needs of its low-income customers. PGW should not be permitted to collect an “incentive” to undertake a task that it would have a mandatory obligation to undertake even in the absence of the “incentive.”

OCA St. 2 at 21.

OCA witness Colton identified several other reasons why the CAM should not apply to LIURP programs. The same reasons apply to the PI: (1) LIURP investments preserve load and will contribute to the Company’s recovery of margin; (2) the calculation of lost margins assumes that 100% of the delivery charges billed to customers treated with LIURP would be paid in the absence of weatherization treatment and that is not accurate for low-income customers; and (3) LIURP investments result in a substantial reduction in arrearages by treated customers and improves bill payment patterns. OCA St. 2 at 20-31.

No other Pennsylvania utility recovers a Performance Incentive for its LIURP expenditures. LIURP is a universal service program, and PGW is required under 66 Pa. C.S. Section 2203(8) to ensure that the program is “adequately funded and available throughout its service territory” according to the needs of its service territory.⁷⁴ In PGW’s most recent USECP,

⁷⁴ 66 Pa. C.S. § 2804(8).

PGW did not raise any need for a Performance Incentive when the Company identified a proposed budget of \$7.6 million for its LIURP, and the Commission did not suggest that the Company should propose one.⁷⁵

VIII. DSM II BUDGET

A. Summary Of Briefing Party's Position.

With the exception of the CRP Home Comfort budget, the OCA recommends adoption of the Company's Expanded Plan budgets without the CAM and Performance Incentives included. OCA St. 1 at 31. The OCA recommends that PGW's LIURP budget be maintained at historic levels of \$7.6 million per year to meet the need levels in PGW's service territory, and as discussed in Section VII (C), PGW should not be permitted to recover a CAM or Performance Incentives for its LIURP program.

B. Proposed Budgets (Non-LIURP Programs).

PGW proposed in Phase II a five-year "Base Plan" budget of \$22.72 million for the five year Plan. OCA St. 1 at 29; see also, PGW St. 3 at 27. The "Base Plan" excludes CAM and PI. With the CAM and PI, PGW proposed a "Phase II Expanded DSM" budget that is approximately \$9.5 million higher than the "base" plan, totaling \$32.2 million for the five year Plan. Id. The "Expanded DSM" budget is a 42% increase in the budget over the "base" budget and an increase in natural gas savings of approximately 47%. OCA St. 1 at 30.

The OCA recommends a budget of \$56.2 million for the five year Plan. This budget would adopt the Expanded DSM budget as a starting point and make three key modifications. First, there should be no inclusion of costs for CAM or PI in the budgets. Second, the \$2.29

⁷⁵ See, August 22 Order.

million for the Fuel Switching program should be redirected to the CRP Home Comfort budget.⁷⁶

Third, the CRP Home Comfort budget should remain at its current funding level of \$7.6 million per year for a total of \$38 million for the five year Plan.

The following table presents the Company's budget and the OCA's budget:

Program/Portfolio (Millions \$)	Base Plan	Expanded Plan	OCA Recommendations
CRP HOME COMFORT (LIURP)	\$10.15	\$13.96	\$38
Residential Equipment Rebates	\$3.8	\$4.17	\$4.17
Efficient Building Grants	\$1.99	\$1.99	\$1.99
Commercial Equipment Rebates	\$1.763	\$2.63	\$2.63
Efficient Building ⁷⁷ Grants	\$1.02	\$1.08	\$1.08
Home Rebates	\$0.213	\$3.82	\$3.82
Portfolio Wide Costs	\$3.784	\$4.53	\$4.53
Five-Year Total	\$22.7	\$32.2	\$56.2

OCA St. 1 at 31. OCA witness Crandall testified:

Other than the CRP Home Comfort Program, I am recommending that PGW's budgeted amounts for all other programs in its Expanded Plan be adopted even without the CAM and PI.

PGW's Expanded Plan portfolio scenario is estimated to produce TRC net benefits in excess of fifteen million dollars. This represents over a forty percent increase in net benefits over the base plan portfolio...

⁷⁶ The Fuel Switching budgets are embedded within "the full portfolio-wide budget tables." PGW St. 3 at Exh. TML-4 at 2.

⁷⁷ The OCA notes that this budget was erroneously listed as the Efficient Building Grants. It should have been labeled as the Efficient Construction Grants.

The allocation and level of spending recommended by the OCA would provide significant benefits, as the TRC net benefits show, and would provide considerably more benefits on the system as are described by OCA witness Colton in his Direct Testimony.

OCA St. 1 at 31-32

The OCA's proposed Recommended Budget provides significant TRC benefits, and as a total package including the CRP Home Comfort budget of \$7.6 million, the OCA's Recommended Budget provides even more benefits to the system. See, OCA St. 1 at 31-32. The OCA Recommended budget would still be less than the Phase I budget of \$63.7 million for the period of 2011 through 2015.

C. PGW Proposed Budget For CRP Home Comfort Program (LIURP).

PGW proposed a \$5.6 million LIURP budget decrease, or a 75% reduction, from the current budget level of \$7.6 million to \$2.0 million in 2016; \$2.075 million in 2017; \$2.0 million in 2018; and \$2.0 million in 2020. PGW St. 3 at Exh. TML-4 at 87, Table 50; OCA St. 2 at 5. PGW's *total five-year* spending would reach \$10.155 million under the Base Plan. Under the Expanded Plan, PGW proposed to increase the budget to \$2.5 million per year, or a total of \$13,963,376 over the five-year program, if allowed to recover the CAM and PI. Id. at 63, 66. The costs of the LIURP program are recovered through the USC. The OCA recommends that PGW's LIURP budget be maintained at historic levels of \$7.6 million per year to meet the needs in PGW's service territory. CAUSE-PA also agrees that the CRP Home Comfort budget should not be reduced from \$7.6 million to \$2 million. CAUSE-PA St. 1 at 7-12.

PGW argues that reduction of the LIURP is justified because it is still above the 0.2% of jurisdictional revenues provided for in Section 58.4(a) of the Public Utility Code. PGW St. 1-R at 20-23. PGW's argument that it is only required to meet the minimum requirements for LIURP

is incorrect and contrary to the Commission's statements regarding PGW's program and the Commission's holdings in other USECP cases.

Section 58.4(a) states:

Annual funding for a covered natural gas utility's usage reduction program shall be *at least* .2% of a covered utility's jurisdictional revenues. Covered gas utilities shall submit annual program budgets to the Commission. A covered gas utility will continue to fund its usage reduction program at this level until the Commission acts upon a petition from the utility for a different funding level, or until the Commission reviews the need for program services and revises the funding level through a Commission order that addresses the recovery of program costs in utility rates. Proposed funding revisions that would involve a reduction in program funding shall include public notice found acceptable by the Commission's Bureau of Consumer Services, and the opportunity for public input from affected persons or entities.⁷⁸

The Commission has previously held that the standard is not a minimum of 0.2% but the needs of the service territory. In the recent UGI Universal Services and Energy Conservation proceeding, the Commission stated that "the 0.2% of 'jurisdictional revenues' is a starting point or floor for LIURP budgets, rather than a ceiling."⁷⁹ As one example, UGI Gas had been funding its program at 0.2% of jurisdictional revenues. After review of this practice, the Commission ordered the Company to address issues with the Needs Assessment for LIURP and the resultant budget for LIURP.⁸⁰

Importantly, Section 2203(8) of the Natural Gas Choice and Competition Act requires that universal service programs, including the usage reduction program, must be "appropriately

⁷⁸ 52 Pa. Code § 58.4(a) (emphasis added).

⁷⁹ UGI Utilities, Inc. –Gas Division, UGI Utilities, Inc.- Electric Division, UGI Penn Natural Gas, Inc., and UGI Central Penn Gas, Inc., Universal Service and Energy Conservation Plan for 2014-2017 Submitted in Compliance with 52 Pa. Code § 54.74 and § 62.4, Docket No. M-2013-2371824, at 70 (January 15, 2015) (UGI USECP Order).

⁸⁰ UGI USECP Order at 70.

funded and available in each natural gas distribution service territory.”⁸¹ OCA witness Colton testified:

The Commission has made clear from LIURP’s inception that what PGW refers to as the “regulatory minimum” is not the touchstone of appropriate investment in low-income usage reduction. Under the statute, LIURP programs are to be “appropriately funded and available.” Compliance with this mandate is to be assessed in light of a “needs assessment” to be periodically prepared by the utility and filed with the Commission in the Company’s triennial universal service proceeding. The Commission has previously found that such a needs assessment is necessary to ensure that programs are adequately directed to meet the greatest need in the community for affordable energy. Indeed, PGW could not identify a single utility (gas or electric), or a single year, in which the Commission had approved a LIURP budget at the “regulatory minimum” as being a program that is “appropriately funded and available.” (OCA-V-17).

OCA St. 2 at 13-14.

In order to reduce its budget, Section 58.4(a) of the Public Utility Code requires that the Company must file a petition with the factors identified in Section 58.4(c).⁸² Section 58.4(c) of the Public Utility Code provides that a revision to the LIURP funding levels must be computed based upon the following factors:

- (1) The number of eligible customers that could be provided cost-effective usage reduction services. The calculation shall take into consideration the number of customer dwellings that have already received, or are not otherwise in need of, usage reduction services.
- (2) Expected customer participation rates for eligible customers. Expected participation rates shall be based on historical participation rates when customers have been solicited through approved personal contact methods.
- (3) The total expense of providing usage reduction services, including costs of program measures, conservation education expenses and prorated expenses for program administration.

⁸¹ 66 Pa. C.S. § 2203(8).

⁸² 52 Pa. Code §§ 58.4(a), (c).

(4) A plan for providing program services within a reasonable period of time, with consideration given to the contractor capacity necessary for provision of services and the impact on utility rates.⁸³

Instead of filing the required factors, PGW has requested a waiver of Section 58.4.⁸⁴ The OCA objects to PGW's request to waive Section 58.4 of the Public Utility Code. OCA witness Colton reviewed each of the proposed factors and found:

- PGW has not shown, and cannot show, that “the number of eligible customers” that could be provided cost-effective usage reduction services has decreased. Indeed, the demonstration has been quite to the contrary. The need for services has been increasing. Moreover, the Company's own documents demonstrate that the cost-effectiveness of its LIURP services is trending upwards.
- PGW has not shown, and cannot show, that the number of customer dwellings that are “otherwise in need of, usage reduction services” is decreasing. Indeed, the demonstration has been that by program rule, PGW excludes more than half of all of its confirmed low-income customers from its LIURP program. Moreover, the demonstration has been that PGW systematically excludes individually-metered [and] master-metered housing units from its LIURP program. The number of units in need of usage reduction assistance is greater than PGW has faced in the past.
- PGW has not shown, and cannot show, that the “total expense of providing usage reduction services, including costs of program measures. . .and prorated expenses for program administration” benefits from a reduced budget. Indeed, the demonstration has been that program cost-effectiveness, the costs of program measures, and the prorated expenses for program administration all benefit from the existing LIURP budget as contrasted to the substantially reduced budget now proposed by PGW.
- PGW has not shown, and cannot show, that its contractor capacity is insufficient to manage its existing LIURP budget. Not only does PGW spend at or above its existing LIURP budget on an annual basis, but also the City of Philadelphia provided a substantial one-time appropriation that was seamlessly wrapped into the contractor capacity to deliver.

⁸³ Id.

⁸⁴ 52 Pa. Code § 58.4.

OCA St. 2-S at 14.

Further, PGW's proposal is contrary to the budget presented in PGW's most recent USECP. In its August 22 Order, the Commission noted "proposed budget levels for 2014-2016" as follows for LIURP: 2014: \$7,600,000; 2015: \$7,600,000; and 2016: \$7,600,000.⁸⁵ PGW's expenditures demonstrate that there is a significant need for the program. Additionally, PGW's annual DSM reports indicate that PGW spends at or near 100% of its LIURP budget every year. OCA St. 2 at 7. In 2014, the Company spent 104% of its total budget (\$7.898 million spending vs. \$7.600 million budget). Moreover, PGW spent 99% of its LIURP budget in 2013 (\$7.538 million spending vs. \$7.642 million budget) and 100% of its LIURP budget in 2012 (\$6.077 million spending vs. \$6.077 million budget). Id.

In its most recent USEC filing, PGW did not present any factors that reflected a reduced need for LIURP. PGW witness Adamucci argues that the LIURP budget approved in the past "was not based on a needs assessment" or a "determined level of need within the service territory." PGW St. 1-R at 21. OCA witness Colton testified:

Ms. Adamucci does not acknowledge that PGW presented a "needs assessment" in its most recent Universal Service and Energy Conservation Plan (June 1, 2013). In that Plan, PGW told the Commission that "assuming that all CRP customers are eligible for ELIRP leads to a substantial ELIRP needs assessment." (PGW USEC Plan: 2014-2014 at 8,14). Based on this filing, the Commission specifically asked PGW to provide enrollment and budget estimates for the 2015 and 2016 program years. (Tentative Order, Docket No. M-2013-2366301). In its response to that PUC directive, PGW stated: "Below is estimated enrollment and budget for [LIURP] for program fiscal years 2015 and 2016. This budget has been based on an expectation of a continuation of [LIURP] as currently approved at the DSM docket and as described in the most recent fiscal year 2014 Implementation Plan filed on May 7, 2013." ("Response of Philadelphia Gas Works Tentative Order Entered April 3, 2014 Regarding the Enhanced Low-Income Retrofit Program, at 11).

OCA St. 2-S at 12-13.

⁸⁵ August 22 Order at 69.

While PGW witness Adamucci argues that a needs assessment was not presented in the last proceeding, the OCA submits that the information provided to the Commission in its USECP filing in support of its \$7.6 million did include the necessary information. See, PGW St. 1-R at

21. OCA witness Colton testified:

In its most recent USEC Plan, PGW told the Commission that “as of March 2013, there were 71,151 customers enrolled in CRP... Assuming that all CRP customers are potentially eligible for [LIURP], the estimated number who still need treatment as of March 31, 2013 is 71,625, which is the difference between the number of customers currently enrolled in CRP and the number who received treatment in the prior two years. At an average cost \$2,229 per treatment, the estimated cost to serve these 71,625 customers is \$159,652,125.” (USEC Plan, at 8, 14). At the time of that USEC Plan, PGW stated that it “projects to treat approximately 2,000 homes per year between 2014 and August 2015.” (USEC Plan, at 14).

OCA St. 2 at 7. The Commission also directed that the Company develop a stakeholder group to increase its CRP outreach.⁸⁶ As OCA witness Colton described:

These efforts to expand CRP affect the Company’s LIURP initiative since LIURP participants are selected from the CRP participant population. A larger population would imply, also, a larger LIURP-eligible population.

OCA. St. 2 at 8. The proposed 75% reduction to the LIURP budget is inconsistent with the needs assessment presented in the Company’s most recent USECP proceeding.

Typically, a Company’s proposed LIURP budget is included as an element of its USECP Plan. In its most recent Plan, PGW gave no indication that it intended to decrease the budget by 75% in the future. PGW provided a budget estimate of \$7.6 million per year, sufficient to treat 2,108 homes.⁸⁷ Mr. Colton testified:

PGW told the Commission that placing LIURP in the DSM process “has worked well to provide a transparent and established process for all parties who participated in the DSM proceeding- as well as the Commission – to monitor the

⁸⁶ August 22 Order at 69.

⁸⁷ August 22 Order at 47.

approved DSM Plan and provide input and feedback regarding all the DSM programs, including [LIURP]...[LIURP] is an integral part of the DSM Plan – a plan that was developed with input and agreement of a number of stakeholders, and approved by the Commission. None of the parties has raised any concerns about the current process whereby [LIURP] is a part of the overall DSM program.” That LIURP plan that was developed “with the input and agreement of a number of stakeholders” and the plan that “none of the parties had raised any concerns about” certainly is not a plan that involves a 75% reduction in funding.

OCA St. 2 at 8-9 (footnotes omitted). In the USECP proceeding, PGW stated that the purpose of including LIURP in the DSM program was in order to gain administrative efficiencies and would otherwise cause customer confusion if removed.⁸⁸ OCA St. 2 at 10. PGW did not give any indication that it intended to reduce the LIURP budget by 75%.

The proposal to decrease the budget by 75% will result in a substantial curtailment of usage reduction programs for CRP participants. OCA witness Colton created a table which compares the year-by-year savings and lifetime savings using: (1) the actual LIURP expenditures identified in the Company’s 2014 program evaluation; (2) the \$7.6 million LIURP budget presented in the Company’s most recent USECP proceeding and (3) the LIURP budget in the Company’s proposed 5-Year DSM Plan. The table is as follows:

Gas savings (mmBtu)	FY 2014	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY2016 - 2020
2014: 1 st Year	71,917.9	---	---	---	---	---	---
2014: Lifetime	1,482,004.3	---	---	---	---	---	---
USEC: 1 st Year	---	54,418	53,164	52,113	50,902	49,713	260,309
USEC: Lifetime	---	1,092,866	1,066,842	1,045,692	1,020,535	995,811	5,221,745
5-Year DSM: 1 st Year	---	13,617	13,163	12,896	12,454	12,019	64,147
5-Year DSM: Lifetime	---	272,249	262,315	256,940	247,249	237,687	1,276,439

OCA St. 2 at 12.

The need for LIURP has only increased over time. OCA witness Colton testified:

⁸⁸ August 22 Order at 47.

For PGW, the rate of confirmed low-income service terminations for nonpayment has, with the exception of an uptick during the Great Recession of 2009, reached its highest point (11.90%) since 2006. The 2013 number of confirmed low-income disconnections for nonpayment (18,672) is 80% higher than the number of disconnections in 2005 (10,375). For PGW alone, the number of households entering the 2012/2013 winter heating season (the last year for which data is available) without heating service reached 7,742, a 45% increase over the 2004/2005 winter season.

Id. at 14-15, citing the 2009 Penn State University LIURP study.

PGW's LIURP has been determined to be a cost-effective program with increasing cost-effectiveness over time. OCA witness Colton testified:

The January 16, 2015 DSM Annual Report (FY2014 results) reported that LIURP had a benefit-cost ratio of 1.26. That was an increase from the benefit-cost ratio of 1.22 documented the prior year. It was an even greater increase over the benefit-cost ratio of 1.04 documented the prior year. In 2014, PGW's LIURP delivered \$5,429,804 in net benefits to ratepayers.

OCA St. 2 at 11. In the Company's 5-Year Plan, the Company represented that through June 2014, LIURP represented 74% of the total DSM expenditures and 79% of the total present benefits. OCA St. 2 at 12.

The Commission's August 22 Order identified the other benefits of the program for CRP customers:

PGW's ELIRP [LIURP] is designed to assist its CRP customers in reducing their energy usage and bills through cost-effective weatherization services and energy conservation education. A secondary goal of the program is to help reduce the overall long-term cost of the CRP program paid by all PGW customers.⁸⁹

As the August 22 Order identifies, one of the goals of LIURP is reduce the long-term cost of CRP as paid by all firm service customers.⁹⁰ LIURP is helping to achieve that goal. Mr. Colton testified:

⁸⁹ August 22 Order at 44.

⁹⁰ Id.

PGW reports that the total reduction in CRP subsidies paid by CRP non-participants resulting from LIURP investments in Phase I of the DSM Plan reached \$54,631,743 (2014\$). (TURN-I-1). In contrast, the reduced LIURP budget proposed by PGW in this proceeding is estimated to result in a reduced CRP subsidy of \$1.4 million. Exh. TML-4, at Table 6, OCA-V-2). Because of this reduction in the amount of reduced CRP subsidies, PGW ratepayers would pay higher distribution bills if the LIURP budget proposed in the 5-Year DSM Plan is approved.

OCA St. 2 at 12-13. CAUSE-PA witness Miller also identified the benefit provided to non-CRP customers who pay the costs of the program. He testified that “TURN discovery response I-1(a) reveals that PGW projects that the DSM I programs directed at CRP customers will reduce the CRP subsidy by more than \$54 million (PV 2014\$) over the lifetime of the measures.” CAUSE-PA St. 1 at 9.

Mr. Colton described how the proposed LIURP budget presented in the Phase II Plan will adversely impact PGW’s ability to control its administrative costs. One mechanism that PGW has used to control administrative costs has been to reallocate the LIURP budget between conservation service providers based on “high performance” evaluations. OCA witness Colton explained:

The Company reported in its annual report on 2014 results that “this approach of reserving funds to award mid-year to high performers is optimal.” PGW continued in its 2014 Annual Report to state that it “expects to continue the semi-annual evaluations and reallocations to motivate CSPs [conservation service providers] to continue improving performance.” (2014 Annual Report, 11). The Company has reported in the past that its LIURP CSPs have been plagued by “higher than anticipated CSP overhead costs.” 2013 Annual Report, at 8). The Company responded to these high overhead costs through its funding reallocation process. (Id.) It reported that “these CSP evaluations and funding reallocations will continue to assist PGW in improving [LIURP] performance...” (2013 Annual Report, at 8).

In contrast to this successful way to control administrative costs for LIURP, the entire LIURP budget proposed in the 5-Year DSM Plan is not substantially larger than the dollar amount which PGW has historically reserved to reallocate on the very process it found in its 2015 report on 2014 results to be “optimal.” PGW concedes that given its reduced budget sizes in its 5-Year DSM Plan, “PGW does

not expect to set-aside funds mid-year for allocation to the highest- performing CSP.” (OCA-V-41).

OCA St. 2 at 17-18.

LIURP is a cost-effective program which provides a significant benefit to both CRP participants and to the ratepayers who pay the costs of the program. The OCA submits that PGW has not demonstrated that the need for the LIURP program has decreased. PGW also has not met the requirements of Section 58.4 of the Public Utility Code for a reduction in its LIURP budget.⁹¹ For the reasons set forth above, the OCA recommends that PGW’s LIURP budget be maintained at \$7.6 million per year.

IX. CRP HOME COMFORT PROGRAM (LIURP)

A. Continuation Of CRP Home Comfort As PGW’s LIURP Within DSM II Portfolio.

PGW proposed to continue to include the CRP Home Comfort within the DSM II Portfolio. The OCA does not object to continuing to include PGW’s LIURP within the DSM II Portfolio, provided that the program is not diminished by being included within the DSM II Portfolio. There are demonstrated cost efficiencies to maintaining the program in the DSM plan. See, OCA St. 1 at 10. However, the OCA submits that does not mean that the program funds should be decreased.

B. CRP Home Comfort Program Eligibility Criteria.

The OCA recommends that the LIURP budget include a specific set-aside so that up to 20% of the total budget is available for, and targeted toward, confirmed low-income customers who are not CRP participants. OCA St. 2 at 50. PGW’s existing program is directed exclusively to low-income customers who participate in the Company’s CRP program. Id. at 42. The OCA

⁹¹ 52 Pa. Code § 58.4.

proposed that the program be structured so that usage levels are within the top 30% to 50% of the target population eligible to participate. Id. at 50.

PGW witness Gold argues that the “there is much uncertainty with this data” for “confirmed low-income customers.” PGW St. 2-R at 4-5. “Confirmed low-income residential account” is defined in the Public Utility Code as “accounts where the [natural gas distribution company] has obtained information that would reasonably place the customer in a low-income designation.”⁹² The OCA recommends that if PGW cannot “reasonably place the customer in a low-income designation,” the Company should exclude those customers from its calculation of the confirmed low-income population. OCA St. 2-S at 17. But, that does not mean that the Company should not attempt to identify these customers.

PGW’s current policy to limit eligibility to CRP participants excludes a substantial portion of the confirmed low-income customer population in the Company’s service territory.

OCA witness Colton testified:

Since 2009, the number of confirmed low-income customers has remained relatively constant, at just short of 160,000.

CRP reaches only a fraction of these confirmed low-income customers. In 2013, CRP participation reached 68,458 low-income customers, only 44% of PGW’s confirmed low-income population. PGW’s current LIURP program, in other words, by design, excludes more than half of the customers that the Company knows to be low-income.

OCA St. 2 at 42-43. As Mr. Colton’s testimony points out, there is a significant unmet need for energy efficiency measures for the non-CRP low-income population within Philadelphia. Id. The opportunities for energy efficiency measures for low-income customers should be driven primarily by the customer’s usage levels and need.

⁹² 52 Pa. Code § 62.2.

Low-income customers often have a tendency to be more mobile which impedes the ability to realize a payback for energy efficiency investment. OCA witness Colton testified:

Census data demonstrates quite clearly that, compared to the proportion of the total population that changes residences each year, nearly twice as many low-income households move. As a result, even in those instances where a tenant may have the authority to invest in an energy efficiency measure, and assuming a financial ability to do so, the payback period required to justify such an investment would need to match the household's tenure. A low-income household, in other words, will not invest in a measure with a three-year payback if that household intends to move to a different dwelling in 24 months.

In Philadelphia, the median "year household moved in" for homeowners was 1996, while the median year in which a renter moved into his or her current home was in 2010. (American Community Survey, Table B25039). In Philadelphia, 24,603 homeowners (8.1%) had moved into their homes since 2010, while 134,534 tenants (48.8%) had. In contrast, 72,538 (23.9%) of homeowners had moved into their homes in 1970 or before, compared to 7,781 tenants (2.8%) who had. (American Community Survey, Table B25038).

OCA St. 2 at 49.

In order to address the identified unmet need, the OCA recommends that PGW include a specific set-aside so that up to 20% of the total LIURP budget is available for, and targeted towards, confirmed low-income customers that are not CRP participants. The OCA proposed that the program be structured so that usage levels are within the top 30% to 50% of the target population eligible to participate. *Id.* at 50.

C. PGW Proposed New Low-Income Multifamily ("LIME") Program.

1. Introduction.

PGW proposed a new Low-Income Multifamily (LIME) Program to address energy efficiency measures for multifamily homes in Philadelphia. PGW provided that the program "will target low-income multifamily buildings with at least 50 percent of residents at or below 150 percent of the Federal Poverty Level." PGW St. 3 at Exh. TML-4 at 92. PGW provided that the Company will primarily draw from publicly subsidized housing such as Low Income

Housing Tax Credits (LIHTC) or Section 8. Id. PGW argued that it is implementing this program pursuant to the directives of the Commission in its August 22 Order. PGW St. 2-R at 26-27.

The Commission did direct PGW to implement a multifamily component to its LIURP program.⁹³ However, the LIME, as defined by PGW, is not a universal service program, and the costs of the program should not be recovered through the USC. Rather, the cost should be collected through the ECRS and allocated to the appropriate class.

The OCA supports the development of a multi-family program. The OCA recommends that such a program be directed to tenant-metered multi-family housing with a significant percentage of low-income families. I&E witness Maurer recommends that the Company design a program that results in participants being primarily low-income families. I&E St. 1 at 12.

2. The LIME Program should serve tenant-metered low-income multi-family housing.

The OCA recommends that any LIME program which is treated as a universal service program should serve tenant-metered low-income multi-family housing units only, and should have at least 75% of its residents defined as low-income by PGW's LIURP program and in the Commission's regulations.⁹⁴ OCA St. 2 at 41. Such a program could be recovered, *in part*, through the USC. OCA witness Colton explained:

A building with less than 75% of its units occupied by low-income customers, should not receive 100% subsidized services. Under such circumstances, a proportionate cost-sharing arrangement should be implemented, with only the program's total net costs, net of the cost-sharing paid by the building owner, recovered through PGW's Universal Service Rider. For purposes of a low-income multi-family efficiency program, "multi-family" should be defined to include any building whose total number of residential dwelling units would

⁹³ August 22 Order at 74.

⁹⁴ As discussed in Section IX(C)(3) below, any portion of a program addressing master-metered multi-family properties should be recovered through the ECRS and allocated to the appropriate customer class.

disqualify the program from otherwise receiving service through PGW's CRP Home Comfort program. No building with residential units shall qualify for efficiency investments to be recovered as a universal service cost if the building has some portion of its space devoted to non-ancillary non-residential uses. This restriction is designed to exclude buildings, a majority of whose residential units might be occupied by low-income households, if the building is otherwise a mixed-use (i.e., residential/non-residential) property.

Id.

I&E witness Maurer identified the same concerns as OCA witness Colton. She testified:

Instead, ELIRP is an integral piece of a suite of programs that are designed to be an alternative to the traditional collections cycle for low-income customers and other ratepayers. Using USECP funding to weatherize homes that have as few as 50% of occupants meeting the low-income guideline, confiscates funding from low-income customers in need of weatherization. Some of the main goals of ELIRP programs are to reduce low-income bills, reduce payment problems, reduce the CRP subsidy, and reduce uncollectible expense. The use of USECP funding to weatherize homes that are not low-income harms these goals and shifts the concentration of benefits away from the low-income customers USECP funding is intended to serve.

I&E St. 1 at 10-11.

The multi-family program should be directed towards the tenant-metered properties where the low-income individual is the PGW customer. The purpose of the universal service program is to directly benefit low-income customers of PGW. Those properties should have at least 75% of the apartments occupied by low-income customers. Such a program could be considered a universal service program under Section 2203(8), and the costs could be recovered, *in part*, through the USC.

3. PGW cannot recover the costs of its proposed LIME program through the USC.

The Company's multifamily LIME proposal primarily includes in its target buildings those that are master-metered where the utility customer is the commercial landlord. While the OCA does not disagree that these commercially master-metered building should be included in a

program, the OCA disagrees with PGW's proposal to recover these commercial costs from primarily residential ratepayers through the USC rider. The USC rider is designed specifically for the cost recovery of PGW's universal service programs. The OCA submits the costs of LIME for commercial master-metered buildings are not a universal service program. OCA witness Colton testified:

I would define a universal service program consistent with Pennsylvania statutes, which provide that a natural gas universal service program includes "policies, practices and services that help residential low-income retail gas customers and other residential retail gas customers experiencing temporary emergencies, as defined by the commission, to maintain natural gas supply and distribution services. The term includes retail gas customer assistance programs, termination of service protections and consumer protections and policies and services that help residential low-income customers and other residential customers experiencing temporary emergencies to reduce or manage energy consumption in a cost-effective manner, such as the low-income usage reduction programs and consumer education."

As can be seen, in defining a "universal service program," which the General Assembly explicitly notes LIURP being a part of, the General Assembly specifically limited such programs to "residential low-income retail gas customers" or "residential low-income customers." Other "residential customers" can be served by a universal service program if those customers are "experiencing temporary emergencies." To be a "universal service" program, the program should be designed to "help residential low-income retail gas customers...to maintain natural gas supply and distribution services" or to "help residential low-income customers...to reduce or manage energy consumption in a cost-effective manner..." This definition of "universal service program" would be substantively appropriate whether or not set forth in Pennsylvania statutes.

OCA St. 2 at 33-34.⁹⁵ The universal service and energy costs referenced in Section 2203(8) are by definition to directly help residential customers maintain service. Under the statute, only those costs which will help residential customers to maintain service may be recovered through the USC. A commercial master-metered program is delivered to a commercial customer. The tenants are not residential customers of PGW.

⁹⁵ See, 66 Pa. C.S. §§ 2202, 2203(8).

PGW witness Gold argues that the Company proposed the program in response to the Commission's August 22 Order. PGW St. 2-R at 26-27. The OCA agrees that the Commission directed the Company to "develop an ELIRP program and budget for providing low-income multifamily customers with weatherization services."⁹⁶ The OCA does not agree, however, that the Commission intended to direct the Company to recover the costs from residential customers as a universal service program. It has been established by the Commission that only the customer class that receives the direct benefit of a program and can participate in the program should bear the costs of the program.⁹⁷

OCA witness Colton specifically asked in discovery whether any benefits would be provided to PGW residential low-income customers with the LIME program and PGW responded each time that there would be no direct benefit. OCA St. 2 at 34-35. OCA witness Colton testified:

When OCA asked how LIME would help residential low-income customers maintain their natural gas supply and distribution services, PGW could list no way LIME would provide such help. (OCA-V-32). When OCA asked how PGW would ensure that the bill reductions generated by LIME would be shared, in whole or in part, with low-income residents of the multi-family properties served, PGW could provide no such assurance. (OCA-V-10).

The Company's concession that LIME will have no direct benefit to low-income customers in helping them either to manage their bills or to manage their service provides further evidence that LIME, as currently structured, does not meet the definition of a "universal service" program. PGW explicitly acknowledges that "the LIME portion of the CRP Home Comfort program is not projected to impact the CRP Subsidy..." (OCA-V-11). If LIME were designed at all to reach multi-family residents who are tenant-metered, and who would thus either be helped with managing their energy usage or helped with maintaining their service, the program would reduce the CRP subsidy. The circumstances in which LIME

⁹⁶ August 22 Order at 74.

⁹⁷ See, Pa. P.U.C. v. Metropolitan Edison Company, et al., 2007 Pa. PUC LEXIS 5, Order at 282 (January 11, 2007), *aff'd* 960 A.2d 189 (September 10, 2008); Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms, 2006 Pa. PUC LEXIS 108, *53-54 (December 18, 2006).

would not “impact the CRP Subsidy” would be those in which the usage and bill reductions are not usage and bill reductions by and to CRP program participants.

OCA St. 2 at 34-35.

OCA witness Colton further explained the flaw in recovering master-metered commercial programs through the USC:

The cost of serving a master-metered building on a commercial rate with 49.99% of its residents being non-low-income will be considered a “universal service” cost under LIME, even if the building’s owner/operator pockets 100% of the bill reduction generated by the usage reduction. Indeed, the cost will be considered a “universal service” cost even if the building’s owner/operator pockets 100% of the bill reduction while at the same time raising rents to reflect the improved condition and comfort of the improved building. (OCA-V-8).

OCA St. 2 at 36.

4. Conclusion.

The OCA supports the development of a multi-family, tenant-metered low-income program. The OCA recommends that the program be directed toward properties where at least 75% of the occupants are considered low-income. With a program structured toward providing a direct benefit to low-income customers, the costs, at least in part, could be recovered through the USC. The remainder of any additional costs should be collected through the ECRS. The OCA also supports the development of master-metered program, but the costs of a master-metered program should be recovered through the ECRS and allocated to the appropriate customer class.

D. Chapter 58 Waiver Requests.

PGW has requested waivers of the following Chapter 58 sections: (1) 58.4 (relating to public notice of funding revisions); (2) 58.5 (relating to program funding); (3) 58.9 (relating to targeted mass mailings); (4) 58.10 (relating to prioritization for receipt of LIURP services); (5) 58.11 (relating to performance of an energy survey for installed program measures); (6) 58.14(c)(1) (“a covered gas utility shall address usage of electricity provided by a covered utility

through the provision of electric usage reduction”); and, 58.16 (relating to usage reduction program advisory panels). The OCA does not oppose the proposed waivers for Sections 58.5, 58.9, 58.11, and 58.16. The OCA submits, however, that the waivers of Sections 58.4, 58.10 and 58.14 of the Public Utility Code should be denied.

The Commission set forth the standard for PGW to request a waiver of the LIURP regulations in its August 22 Order.⁹⁸ The Commission stated:

Waivers of Commission regulations are not granted implicitly or of unlimited duration. Waivers are temporary and narrowly crafted. Further, the Commission expects utilities to report all program benefits and detriments over the temporary waiver period and to expressly request any renewal.⁹⁹

The OCA submits that PGW has not met the requirements for waiver of the identified LIURP regulations. The proposed waivers are not narrowly crafted and would have broad implications. Nor has PGW identified that such waivers would be temporary or that they would expressly request any renewal.

1. Waiver of 58.4(a).

PGW requests a waiver of Section 58.4(a). Section 58.4(a) provides: “[p]roposed funding revisions that would involve a reduction in program funding shall include public notice found acceptable by the Commission’s Bureau of Consumer Services, and the opportunity for public input from affected persons or entities.” PGW St. 1 at 8.¹⁰⁰ PGW argues that a waiver is appropriate because its LIURP funding would continue to be in excess of 0.2% of jurisdictional revenue, and since there is no currently-approved FY 2016-2020 DSM Plan, there would be “no reduction proposed.” Id.

⁹⁸ August 22 Order at 48.

⁹⁹ August 22 Order at 48, citing 52 Pa. Code § 5.43; Petition of Met-Ed for Waiver of 52 Pa. Code § 56.97, P-2013-2384967 (November 4, 2013).

¹⁰⁰ See, 52 Pa. Code § 58.4.

The OCA has addressed in Section VIII (C) why PGW must have a LIURP program in excess of the 0.2% of jurisdictional revenues identified in Section 58.4(a).¹⁰¹ Under Section 2203(8) of the statute, PGW is required to have an “appropriately funded and available” LIURP program.¹⁰² PGW is required to submit a LIURP investment plan that appropriately reflects the needs of the service territory, and the opportunity for public input is to be provided. In its August 22 Order, the Commission stated that “regardless of whether the [LIURP] program operates as part of PGW’s DSM portfolio or within PGW’s USECP, stakeholders are directed to ensure that BCS is provided with the requisite information and opportunity to conduct the appropriate regulatory review of [LIURP].”¹⁰³ OCA witness Colton testified:

Part of that “appropriate regulatory review” is the solicitation and consideration of stakeholder input. That opportunity for public input, particularly in light of PGW’s LIURP needs assessment (which PGW has not even introduced into evidence in this proceeding) is an ongoing task that would continue to be an essential part of any regulatory review of LIURP.

OCA St. 2 at 52.¹⁰⁴

PGW’s argument that no reduction in funding is proposed is not accurate. While the reduction in funding is from Phase I to Phase II Plans, PGW still proposed a 75% reduction for the LIURP program from 2015 to 2016. OCA witness Colton testified:

Moreover, in light of the 75% reduction in LIURP funding proposed by PGW, the assertion that since there is no currently-approved 5-Year DSM Plan, there is “thus no reduction in funding proposed for those years” is completely incorrect. The Company states that PGW’s CRP Home Comfort program “rebranded from the Enhanced Low Income Retrofit Program in Phase I has funding levels reduced and is designed to remain static in nominal terms, excluding evaluation costs.” (5-Year DSM Plan, December 2014, at 4). (emphasis added).

¹⁰¹ 52 Pa. Code § 58.4(a).

¹⁰² 66 Pa. C.S. § 2203(8).

¹⁰³ August 22 Order at 74.

¹⁰⁴ See, August 22 Order at 74.

OCA St. 2 at 52. The OCA submits that changing names of the program and Plan Phases does not change the fact that the LIURP budget will be significantly reduced for Phase II of the program.

For the reasons set forth above, the Company's request for a waiver of Section 58.4(a), which provides for public notice of any reduction in program funding, should be denied.

2. Waiver of 58.10(a).

PGW proposed to waive 52 Pa. Code Section 58.10(a) regarding prioritization for LIURP treatments.¹⁰⁵ Prioritization for LIURP program services is determined first by the customers with the largest usage and greatest opportunities for bill reductions.¹⁰⁶ Among those customers with the same standing, the LIURP regulations then prioritize those customers with the greatest arrearages, and in particular, the customers with the largest arrears in relation to the lowest percentage of income.¹⁰⁷ Finally, all other things being equal, those customers whose incomes place them "farthest below the maximum eligibility" should be prioritized.¹⁰⁸

PGW argues that it seeks the waiver because the Company targets customers "from the highest usage CRP customers." PGW St. 1 at 9-10; OCA St. 2 at 53. The Company states that "PGW does not prioritize selections based on the highest arrearage or for the lowest income customers..." PGW St. 1 at 9-10; OCA St. 2 at 53. OCA witness Colton testified that this approach is incorrect. He stated:

Even within the population served by CRP, which is a percentage of income-based program, the ability of CRP participants to maintain their payments is

¹⁰⁵ 52 Pa. Code § 58.10(a).

¹⁰⁶ 52 Pa. Code § 58.10(a)(1).

¹⁰⁷ 52 Pa. Code § 58.10(a)(2).

¹⁰⁸ 52 Pa. Code § 58.10(a)(3).

based, in part, on their pre-existing level of arrearages and on their income deficit. Whether or not prioritizing LIURP investments based on arrearages and income deficits helps the Company to achieve its DSM-related objectives, using such a prioritization within those customers who are equally eligible would help the Company meet its universal service objectives.

OCA St. 2 at 54. LIURP should still continue to be prioritized based on the LIURP regulations.

The OCA submits that PGW's request to waive Section 58.10 of the Public Utility Code should be denied.

3. Waiver of 58.14(c).

PGW proposed to waive 52 Pa. Code Section 58.14(c). Section 58.14 (c) requires that a "covered gas utility shall address usage of electricity provided by a covered utility through the provision of electric usage reduction."¹⁰⁹ PGW witness Adamucci argues that the Company does not address electric DSM treatments. PGW St. 1 at 10. The OCA submits that just because PGW is not addressing or identifying this issue does not mean that the Section should be waived.

OCA witness Colton testified:

Non-compliance with a regulatory requirement, standing alone, is no justification for granting a waiver of the requirement. In particular, as a natural gas utility, PGW can address the "usage of electricity" through LIURP investments directed toward the prevention of a need to use electricity as a de facto heating source. When natural gas systems are inoperable, or otherwise unavailable, because low-income customers do not have the resources to make repairs or replacements, those low-income customers frequently turn to portable space heaters as de facto primary heating sources. Not only is this use of de facto electric space heating extraordinarily expensive, but the use of portable electric space heating equipment is extremely dangerous as well.

OCA St. 2 at 55. Mr. Colton identified in his testimony that his National Fuel Funds Network study found that a significant number of fires nationwide that were started due to use of portable and fixed space heaters. They accounted for roughly two of every three home heating fires in 1998. Id.

¹⁰⁹ 52 Pa. Code § 58.14(c).

PGW argues that its LIURP is designed to address high gas users and not de facto heating situations. OCA St. 2 at 56, citing to the PGW response to TURN-I-8. PGW should examine de facto heating situations that result from the loss of gas service by PGW customers. If the waiver is granted, PGW will not need to address instances where the replacement of natural gas equipment would have a positive impact on de facto space heating. *Id.* at 56. PGW's request to waive Section 58.14(c) should be denied.

E. De Facto Electric Heating Proposal.

The OCA supports initiatives to address de facto space heating in PGW's service territory. The OCA does not oppose CAUSE-PA's De Facto Electric Heating Proposal. The OCA reserves the right to respond in Reply Brief.

F. Restore Service Program.

The OCA does not oppose CAUSE-PA's Restore Service Program. The OCA reserves the right to respond in Reply Brief.

IX. OTHER ISSUES

A. Price Signals Under The Customer Responsibility Program.

OSBA witness Robert Knecht testified regarding the usage of CRP participants and the need to make fundamental changes to the CRP. OSBA St. 1 at 3-12. He questioned the efficacy of the CRP programs and recommended that the program be re-designed to provide CRP customers with price signals. *Id.* Mr. Knecht, however, did not consider in his analysis several factors that impact a CRP participant's account. The OCA submits that Mr. Knecht has misunderstood the way that CRP participants use natural gas on average. Therefore, a CRP re-design is unnecessary.

PGW's CRP is a Percentage of Income Payment Program (PIPP). The CRP provides discounts to CRP participants and establishes affordability limits at 8% (for households with income at or below 50% of Federal Poverty Level (FPL)); 9% (for households with income between 51%-100% of FPL); and, 10% (for households with income between 101-150% of FPL). OCA St. 2-R at 1-2. PGW's CRP program is designed to include customers that exhibit higher consumption than customers on average. OCA St. 2-R at 1.

OCA witness Colton identified a number of factors which impact the consumption patterns of CRP participants. CRP "systematically excludes low-use customers from participating in CRP." *Id.* at 2. Since CRP is an income-based program, a customer is only eligible to participate in the program if the customer will benefit from the program, *i.e.*, their percentage of income level discount will provide the customer with a more affordable bill. Gas price decreases over the last 10 years have resulted in more customers being removed from CRP because their bills were affordable without the CRP assistance. This means that the participants remaining in CRP are inherently higher use customers than the average residential customer population. OCA witness Colton testified:

Schedule RDC-1R documents the impact of increasing income on the usage level of CRP customers...As can be seen, in order for a low-income PGW customer to qualify for CRP, that customer would have needed a gas bill in 2014 that is 23% higher than the gas bill that would have qualified the customer for assistance in 2005.

OCA St. 2-R at 3, Sch. RDC-1R.

OSBA witness Knecht erroneously concludes that consumption levels have not decreased over time, so therefore, the CRP program is not cost-effective. OCA witness Colton testified:

I conclude that the fact that PGW's CRP participants show an overall decrease in their average consumption demonstrates a remarkable success by PGW in controlling the usage of CRP participants. The fact that average CRP consumption has decreased in a time of increasing incomes and decreasing prices

demonstrates the effectiveness of usage reduction measures directed to PGW participants.

OCA St. 2-R at 6, Exh. RDC-1R.

Mr. Knecht has also failed to consider that PGW has recently made changes to its program to provide an incentive to CRP participants to conserve. In its most recent USECP proceeding, the Commission approved a proposal for CRP customers to encourage conservation.¹¹⁰ Under the proposal, CRP customers can obtain a \$100 bill credit on their account if usage is reduced by 10% over a two year period for customers who did not receive weatherization measures or by 20% over the two year period for customers who did receive weatherization measures.¹¹¹ PGW was also directed to develop a stakeholder group to track and to verify the effectiveness of the program.¹¹² OSBA witness Knecht does not address these changes to the program in his testimony.

For the reasons set forth above, the OCA recommends that no changes be made to the design of PGW's CRP at this time.

¹¹⁰ August 22 Order at 8.

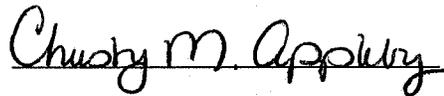
¹¹¹ Id.

¹¹² Id. at 44.

X. CONCLUSION

The Office of Consumer Advocate respectfully requests that PGW's Phase II program be approved with the modifications set forth above. The OCA respectfully requests the Company's requests for waivers of 52 Pa. Code Sections 58.4(a), 58.10(a), and 58.14(c) be denied. The OCA also recommends that the Office of Small Business Advocate's proposal to re-design the CRP program not be adopted.

Respectfully Submitted,



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DATE: November 19, 2015
214207

Appendix A. Proposed Findings Of Fact

A. Phase II Plan And Budget.

1. Phase I of PGW's DSM Plan will expire on August 31, 2016, or on the effective date of a Phase II Plan, whichever is earlier. Bridge Plan Order.
2. PGW proposed to continue its Phase II Plan for the five year term of 2016 through 2020. PGW St. 3 at 5.
3. PGW's Phase I program reduced natural gas consumption by nearly 260 BBTus since its inception. PGW St. 3 at 5.
4. PGW performed approximately 7,000 retrofits, 1,600 rebates and completed 27 commercial projects during Phase I of the Plan. PGW St. 3 at 5.
5. PGW proposed a Base Plan budget of \$22.7 million over five years and an Expanded Plan budget of \$32.2 million over five years, including the Conservation Adjustment Mechanism (CAM) and Performance Incentives (PI). OCA St. 1 at 29; see also, PGW St. 3 at 27.
6. The Phase II Base Plan projected TRC net benefits is \$10.8 million (present value). OCA St. 1 at 32.
7. PGW's Phase II Expanded Plan portfolio is estimated to produce TRC net benefits of \$15.2 million (present value) which represents a 40% increase in net benefits over the Base Plan. OCA St. 1 at 31-32.

B. CAM And Performance Incentives.

8. PGW proposed to implement a Conservation Adjustment Mechanism (CAM) to recover lost revenues due to implementation of DSM programs, including lost revenues for its LIURP program. PGW St. 3 at Exh. TML-4 at 66.
9. In addition to the CAM mechanism, PGW proposed to implement a Performance Incentives (PI) Model to encourage PGW to achieve more investment in energy efficiency programs. PGW St. 3 at Exh. TML-4 at 70.
10. PGW proposed that the maximum incentive pool be calculated as 10% of the proposed annual Base Plan budget. PGW St. 3 at Exh. TML-4 at 71.
11. The proposed maximum incentive would be a maximum of \$2.27 million (in nominal terms) over the Phase II Plan five year period if the Company achieves 120% of the performance target. PGW St. 3 at Exh. TML-4 at 68, Table 48.

12. In addition to incentives for its Phase II Plan, PGW also proposed that the “performance incentive maximum of 10% should include the CRP Home Comfort Program in the budget that it is applied to.” OCA St. 2 at 20.

C. Non-LIURP Programs.

13. PGW proposed to continue four of its existing non-Low Income Usage Reduction Programs (LIURP): (1) Residential Equipment Rebates; (2) Efficient Construction Grants; (3) Efficient Building Grants; and (4) Commercial Equipment Rebates. PGW St. 3 at Exh. TML-4 at 20.

14. The Residential Equipment Rebates program will provide “prescriptive heating equipment rebates targeting the end of life replacement market for residential and commercial customers.” PGW St. 3 at Exh. TML-4 at 20.

15. The Phase II Base Plan budget for the Residential Equipment Rebates program is \$3.8 million over five years. OCA St. 1 at 31.

16. The Phase II Expanded Plan budget for the Residential Equipment Rebates program is \$4.17 million over five years. OCA St. 1 at 31.

17. The OCA’s Recommended budget for the Residential Equipment Rebates program is \$4.17 million over five years. OCA St. 1 at 31.

18. The Efficient Construction Grants program will provide “comprehensive project grants for new and rehabilitated commercial and multifamily buildings, and single family homes.” PGW St. 3 at Exh. TML-4 at 20.

19. The Phase II Base Plan budget for the Efficient Construction Grants program is \$1.99 million over five years. OCA St. 1 at 31.

20. The Phase II Expanded Plan budget for the Efficient Building Grants program is \$1.99 million over five years. OCA St. 1 at 31.

21. The OCA Recommended budget for the Efficient Building Grants program is \$1.99 million over five years. OCA St. 1 at 31.

22. The Efficient Building Grants program will provide “prescriptive heating and cooking equipment rebates targeting the end of life replacement market for commercial and industrial customers.” PGW St. 3 at Exh. TML-4 at 20.

23. The Phase II Base Plan budget for the Efficient Building Grants program is \$1.02 million over five years. OCA St. 1 at 31.

24. The Phase II Expanded Plan budget for the Efficient Building Grants program is \$1.08 million over five years. OCA St. 1 at 31.
25. The OCA Recommended budget for the Efficient Building Grants program is \$1.08 million over five years. OCA St. 1 at 31.
26. The Commercial Equipment Rebates program will provide “comprehensive project grants for existing commercial and multifamily buildings.” PGW St. 3 at Exh. TML-4 at 20.
27. The Phase II Base Plan budget for the Commercial Equipment Rebates program is \$1.763 million over five years. OCA St. 1 at 31.
28. The Phase II Expanded Plan budget for the Commercial Equipment Rebates program is \$2.63 million over five years. OCA St. 1 at 31.
29. The OCA Recommended Budget for the Commercial Equipment Rebates program is \$2.63 million over five years. OCA St. 1 at 31.
30. PGW also proposed a fifth, non-LIURP program, Home Rebates, which PGW proposes to phase out unless certain cost recovery through an On-Bill Repayment (OBR) program is approved. PGW St. 3 at Exh. TML-4 at 20.
31. The Home Rebates program provides “incentives to customers and contractors that perform comprehensive natural gas energy efficiency retrofits.” PGW St. 3 at Exh. TML-4 at 121.
32. Under its Phase II Expanded Plan, PGW proposed to “reincorporate” the program with a \$3.83 million budget for the five year period if the Company receives cost recoveries through an OBR. PGW St. 3 at Exh. TML-4 at 20-21.

D. Fuel Switching And Micro-CHP Program.

33. PGW proposed a new Fuel Switching and Micro-CHP program (Fuel Switching). PGW St. 3 at Exh. TML-4 at 2.
34. For its Fuel Switching Program, PGW proposed to switch electric, oil or propane heating customers to natural gas heating. PGW St. 3 at Exh. TML-4 at 2.
35. Under the Micro-CHP program, PGW will “offer new prescriptive incentives for customers to invest in micro-combined heat and power (CHP) applications that provide onsite generation of electricity and heat for hot water or space heating.” PGW St. 3 at Exh. TML-4 at 2.
36. The proposed Fuel Switching program is a load growth program. OCA St. 1 at 29.

37. PGW proposed to recover the costs of the Fuel Switching program through its established energy efficiency program funding mechanism, the ECRS. OCA St. 1 at 29.

E. On-Bill Repayment Program.

38. PGW proposed a new On-Bill Repayment (OBR) Program for the Home Rebates Program. OCA St. 1 at 64.

39. PGW proposed that the Commission authorize a process for stakeholders to develop an OBR for the residential market to support the comprehensive retrofit program, EnergySense Home Rebates. OCA St. 1 at 64.

40. Under the proposed program, PGW would partner with a third-party lender to provide financing to qualified PGW customers for energy efficiency products. OCA St. 1 at 64.

F. LIURP.

41. As part of the OCA's Recommended Budget, the OCA proposed that the LIURP budget be maintained at existing levels of \$7.6 million annually for the entirety of the Phase II Plan to meet the needs in PGW's service territory. OCA St. 2 at 42.

42. The OCA proposed that PGW develop and file specific plans to market its non-LIURP energy efficiency programs to confirmed low-income customers. OCA St. 2 at 58-63.

43. PGW reported that only 145 confirmed low-income customers participated in a non-LIURP DSM program in the past 4 years. OCA St. 2 at 59.

44. For the years 2011-2013, PGW had an annual average number of more than 155,000 confirmed low-income customers. OCA St. 2 at 59.

45. PGW's penetration rate of non-LIURP activities within the confirmed low-income population was only 0.09%. OCA St. 2 at 60-61.

46. PGW proposed to recover the costs of its non-LIURP DSM programs through its ECRS. OCA St. 1 at 31.

47. PGW proposed to recover the costs of its LIURP Program, CRP Home Comfort, and the LIME program through its Universal Service Charge (USC). OCA St. 2 at 5, 34-35.

48. The CRP Home Comfort Program is PGW's statutorily-mandated LIURP program. OCA St. 2 at 5.

49. Under the Phase II Base Plan, PGW proposed a \$5.6 million decrease to its LIURP budget, or a 75% reduction, from the current budget level of \$7.6 million to \$2.0 million in 2016; \$2.075 million in 2017; \$2.0 million in 2018; and \$2.0 million in 2020. PGW St. 3 at Exh. TML-4 at 87, Table 50; OCA St. 2 at 5.

50. PGW's total five year LIURP spending would reach \$10.155 million under the Phase II Base Plan. PGW St. 3 at Exh. TML-4 at 87, Table 50.
51. Under the Phase II Expanded Plan, PGW proposed to increase the budget to \$2.5 million per year, or a total of \$13,963,376 over the five-year program, if allowed to recover the CAM and PI. OCA St. 2 at 63, 66.
52. PGW's annual reports indicated that PGW spends at or near 100% of its current LIURP budget every year. OCA St. 2 at 7.
53. In 2014, the Company spent 104% of its total budget (\$7.898 million spending vs. \$7.600 million budget). OCA St. 2 at 7.
54. PGW spent 99% of its LIURP budget in 2013 (\$7.538 million spending vs. \$7.642 million budget) and 100% of its LIURP budget in 2012 (\$6.077 million spending vs. \$6.077 million budget). OCA St. 2 at 7.
55. Assuming that all CRP customers are potentially eligible for LIURP, the estimated number of customers who still needed treatment as of March 31, 2013 was 71,625 (the difference between the numbers of customers currently enrolled in CRP and the number who received treatment in the prior two years). OCA St. 2 at 7.
56. PGW's budget estimate of \$7.6 million per year was sufficient to treat 2,108 homes. August 22 Order at 69.
57. The January 16, 2015 DSM Annual Report (FY2014 results) reported that LIURP had a benefit-cost ratio of 1.26. OCA St. 2 at 11.
58. The benefit-cost ratio increased in FY2014 to 1.26 from the prior year benefit-cost ratio of 1.22(FY2013). OCA St. 2 at 11.
59. The benefit-cost ratio in FY2012 was 1.04. OCA St. 2 at 11.
60. In 2014, PGW's LIURP delivered \$5,429,804 in net benefits to ratepayers. OCA St. 2 at 11.
61. In the Company's 5-Year Phase I Plan Report, the Company represented that through June 2014, LIURP represented 74% of the total DSM expenditures and 79% of the total present benefits. OCA St. 2 at 12.
62. PGW projected that the DSM I programs directed at CRP customers will reduce the CRP subsidy by more than \$54 million (PV 2014\$) over the lifetime of the measures." CAUSE-PA St. 1 at 9.

63. PGW proposed to continue to include the CRP Home Comfort Program within the Phase II Plan. OCA St. 2 at 10.
64. In the USECP proceeding, PGW stated that the purpose of including LIURP in the DSM program was in order to gain administrative efficiencies and that removing LIURP from the DSM program would cause customer confusion. OCA St. 2 at 10, citing August 22 Order at 47.
65. PGW's existing LIURP program is directed exclusively to low-income customers who participate in the Company's CRP program. OCA St. 2 at 42.
66. In 2013, CRP participation reached 68,458 low-income customers, only 44% of PGW's confirmed low-income customer population. OCA St. 2 at 42-43.
67. PGW proposed a new Low-Income Multifamily (LIME) Program to address energy efficiency measures for multifamily homes in Philadelphia. PGW St. 3 at Exh. TML-4 at 92.
68. PGW provided that the program "will target low-income multifamily buildings with at least 50 percent of residents at or below 150 percent of the Federal Poverty Level." PGW St. 3 at Exh. TML-4 at 92.
69. PGW proposed to draw potential projects from publicly subsidized housing such as Low Income Housing Tax Credits (LIHTC) or Section 8. PGW St. 3 at Exh. TML-4 at 92.
70. The Commission directed PGW to implement a multifamily component to its LIURP program. August 22 Order at 74.
71. PGW provided in response to OCA discovery that there would be no direct benefit of the program for PGW residential low-income customers. OCA St. 2 at 34-35.
72. PGW's LIURP must provide a direct benefit to residential low-income natural gas customers. OCA St. 2 at 33-34.
73. PGW has not proposed any cost-sharing mechanism with properties that are non-residential, master-metered. OCA St. 2 at 35.
74. PGW has identified that the selection criteria for the properties will be based only on income status of the residents not billed for gas service and building usage criteria. OCA St. 2 at 35-36.
75. PGW's CRP is a Percentage of Income Payment Program (PIPP). OCA St. 2-R at 1.
76. The CRP provides discounts to CRP participants and establishes affordability limits at 8% (for households with income at or below 50% of the Federal Poverty Level (FPL)); 9% (for households with income between 51%-100% of FPL); and, 10% (for households with income between 101-150% of FPL). OCA St. 2 at 1-2.

77. The CRP is designed to include customers that exhibit higher consumption than customers on average. OCA St. 2 at 1.

78. In its most recent USECP proceeding, the Commission approved a proposal for CRP customers to encourage conservation. August 22 Order at 8.

79. CRP customers can obtain a \$100 bill credit on their account if usage reduces by 10% over a two year time period for customers who did not receive weatherization measures, or by 20% over the two year period for customers who did receive weatherization. August 22 Order at 8.

80. PGW was directed to develop a stakeholder group to track and to verify the effectiveness of the conservation program. OCA St. 2 at 44.

Appendix B. Proposed Conclusions of Law

1. Section 2806.1(k)(2) does not allow lost revenue recovery through a reconcilable automatic adjustment clause for the mandatory electric distribution company Energy Efficiency and Energy Conservation (EE&C) programs.¹¹³
2. Other traditional regulatory options are available, as identified by the General Assembly in Act 129, to align costs, sales and revenues.¹¹⁴
3. PGW has failed to support its claims for a CAM or Performance Incentives.
4. The CAM would operate as a single-issue rate case.¹¹⁵
5. The Natural Gas Choice and Competition Act does not provide any mechanism for the recovery of lost revenues or Performance Incentives for operation of the statutorily-mandated LIURP program.¹¹⁶
6. PGW cannot recover lost revenues or performance incentives for a program that is statutorily-mandated.
7. PGW is mandated by the Natural Gas Choice and Competition Act to maintain a cost-effective LIURP to assist confirmed low-income customers in maintaining their service and reducing their energy usage.¹¹⁷
8. PGW's LIURP program must be "adequately funded and available throughout its service territory" according to the needs of its service territory.¹¹⁸
9. PGW has not met the requirements of Section 58.4 for a reduction to its LIURP budget.¹¹⁹
10. PGW has failed to meet its burden of proof to demonstrate that its LIME program meets the requirements of a universal service program to be recovered under the USC.

¹¹³ 66 Pa. C.S. § 2806.1(k)(2).

¹¹⁴ 66 Pa. C.S. § 2806.1(k)(3).

¹¹⁵ See, Newtown at 593; PIEC at 1350; Equitable Order at 7.

¹¹⁶ 66 Pa. C.S. § 2201, *et seq.*

¹¹⁷ 66 Pa. C.S. § 2203(8).

¹¹⁸ Id.

¹¹⁹ 52 Pa. Code §§ 58.4(a),(c).

11. A universal service and energy conservation program must be directly aimed at providing a benefit to residential low income natural gas customers.¹²⁰

12. The LIURP regulations require PGW to examine and to address, as necessary, with the electric distribution company de facto space heating situations where replacement of the natural gas equipment would have a positive impact on de facto space heating.¹²¹

13. PGW has failed to meet its burden of proof under the law for an On-Bill Repayment program.

14. PGW has failed to provide reasonable or compelling arguments as to why its requested waivers of the Commission's regulations should be granted.

¹²⁰ 66 Pa. C.S. § 2202.

¹²¹ 52 Pa. Code § 58.14(c).

Appendix C. Proposed Ordering Paragraphs

IT IS HEREBY ORDERED THAT:

1. The Phase II Plan is approved for five years from 2016-2020 as modified herein.
2. The OCA's Recommended Budget of \$56.2 million for the Phase II Plan is approved.
3. PGW is not permitted to recover lost revenues through its proposed Conservation Adjustment Mechanism (CAM).
4. PGW is not permitted to recover lost revenues for its statutorily-mandated Low Income Usage Reduction Program (LIURP).
5. PGW is not permitted to implement the proposed Performance Incentives mechanism.
6. PGW is not permitted to recover incentives through the Performance Incentives mechanisms for operating the statutorily-mandated LIURP.
7. PGW's proposal to implement a Fuel Switching and Micro-CHP (Fuel Switching) program as part of its DSM Plan is denied.
8. The proposed Fuel Switching budget of \$2.29 million be directed toward the CRP Home Comfort (LIURP) budget.
9. PGW's proposal to implement an On-Bill Repayment Program (OBR) is denied.
10. PGW is directed to conduct outreach that is directed towards non-CRP confirmed low-income customers as to the availability of PGW's other residential DSM programs.
11. PGW is directed to include a specific set-aside so that up to 20% of the total LIURP budget is available for, and targeted toward, confirmed low-income customers who are not CRP participants.
12. PGW may continue to operate its LIURP program under the Phase II Plan.
13. PGW is not permitted to recover the costs of the proposed Low Income Multifamily Efficiency (LIME) Program through the Universal Service Charge (USC).
14. PGW shall fund its CRP Program at the existing budget levels of \$7.6 million per year.
15. PGW's requested waivers of Sections 58.4, 58.10, and 58.14 of the Commission's regulations are denied.
16. PGW shall not make any changes to the design of PGW's CRP at this time.

CERTIFICATE OF SERVICE

Petition of Philadelphia Gas Works :
For Approval of Demand-Side Management :
Plan For FY 2016-2020 :
: Docket No. P-2014-2459362
Philadelphia Gas Works Universal Service :
And Energy Conservation Plan :
For 2014-2016, 52 Pa. Code § 62.4- :
Request for Waivers :

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Main Brief, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 19th day of November 2015.

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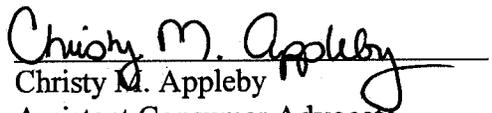
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