

COMMONWEALTH OF PENNSYLVANIA



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December 8, 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 Reply 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
Assistant Consumer Advocate
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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

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

REPLY BRIEF
OF THE OFFICE OF CONSUMER ADVOCATE

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Dated: December 8, 2015

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I. INTRODUCTION AND STATEMENT OF THE CASE

On November 19, 2015, Main Briefs were filed in this matter. The OCA submits this Reply Brief in response to arguments made by Philadelphia Gas Works (PGW or Company) and by the Office of Small Business Advocate (OSBA).¹

PGW proposed to include a Conservation Adjustment Mechanism (CAM) and Performance Incentives (PI) in its Phase II Plan, and to significantly reduce the Low Income Usage Reduction Program (LIURP) budget. As explained below, the OCA opposes the Company's proposal to include a CAM and PI and to reduce the LIURP budget from \$7.6 million to \$3.1 million. Prior to providing its responses on the key issues raised by PGW and OSBA in their Main Briefs, the OCA wishes to highlight several important issues in this introductory section.

In its Phase I Plan Petition, PGW stated that the "DSM Plan is one of four (4) specific PGW commitments the Company made in the Extraordinary Rate Proceeding to help reduce the Company's future need for rate relief and to mitigate the effect of the extraordinary rate increase on its customers."² Two of the stated Phase I Plan goals were to "(i) reduce customer bills... [and] (iv) potentially improve PGW's finances by decreasing cash flow requirements."³ The Phase I Plan did produce significant savings and benefits for customers that were able to participate in these programs. PGW stated that "since inception through June 2014, the DSM I portfolio reduced natural gas consumption by nearly 260 BBTus (252,427 MCF), performed over

¹ It is not the purpose of this Reply Brief to respond to all of the arguments contained in the Main Briefs of the other Parties. The OCA will limit its Reply Brief to those issues requiring clarification or further discussion. The absence of an OCA reply to specific arguments contained in the Company's and other Parties' Main Briefs should not be considered acquiescence to a specific argument or position. The OCA respectfully refers the reader to its Main Brief for a full discussion of these issues.

² Philadelphia Gas Works' Petition for Approval of Energy Conservation and Demand-Side Management Plan, Docket Nos. R-2008-2073938, P-2009-2097639, Petition at 1 (April 20, 2009) (Phase I Petition).

³ Phase I Petition at ¶ 5.

7,000 retrofits, issued over 1,600 rebates, and completed 27 commercial projects which have resulted in a present value of total resource net benefits of \$5.7 million in 2014 dollars.”⁴ As PGW predicted in its Phase I Petition, the success of the Phase I plan apparently has helped to “improve PGW’s finances by decreasing cash flow requirements.”⁵

PGW proposed to continue these positive efforts in the Phase II Plan programs. The Phase II Plan, as a whole, passed the Total Resource Cost (TRC) test and the gas utility cost test (UCT).⁶ PGW projected that the Phase II Plan TRC net benefits will be \$10.8 million (present worth) for the “Base Plan” scenario and \$15.2 million (present worth) for the “Expanded Plan” scenario.⁷ From the gas utility administrator perspective (the UCT test),⁸ each of the Phase II Plan programs passed with benefit-cost ratios of 1.50 and above, including the whole DSM portfolio which means that PGW would receive a \$1.70 benefit for every \$1.00 invested.⁹ With such a substantial benefit to PGW, a municipal utility, there is no reason for PGW to scale back the programs it has proposed, or to threaten to lower the spending levels if it does not get a CAM or PI. Accordingly, the Phase II Plan should be approved, as modified by the OCA’s recommendations to maintain the existing LIURP budget and eliminate the CAM and PI.

⁴ PGW M.B. at 17.

⁵ Phase I Petition at ¶ 5; see OSBA St. 1 at 11-12 (PGW is financially sound. PGW has earned \$242 million over the past five years and has achieved a return of 100% over its equity base over this period.)

⁶ With the exception of the Home Rebates program (with a TRC of 0.95), all of the Phase II Plan programs have a TRC in excess of 1.0. OCA St. 1 at 8. Under the TRC test, if the TRC is greater than 1.0, the ratepayer benefits (both participants and non-participating customers). OCA St. 1 at 7; see also, OCA St. 1-S at 11.

⁷ OCA M.B. at 29. PGW proposed two budget scenarios: (1) a “Base Plan” of \$22.72 million without a Conservation Adjustment Mechanism (CAM) or Performance Incentives (PI) and (2) an “Expanded Plan” of \$32.2 million if the CAM and PI are approved. OCA M.B. at 2-3; OCA St. 1 at 29; PGW St. 3 at Exh. TML-4 at 70.

⁸ The UCT test is the Gas Program Administrator test. It is one of two tests that PGW applied to test for cost-effectiveness. The primary test used to calculate cost-effectiveness is the TRC test. PGW St. 3 at Exh. TML-4 at 48. Under the UCT, if the UCT shows a benefit cost ratio above 1.0, the utility benefits 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 7-8; see also, OCA St. 1-S at 11.

⁹ OCA St. 1 at 8-9, Exh. GCC-2.

PGW fails to acknowledge the positive impact that the Phase I Plan had on its earnings and operations. PGW's history and its current financial condition, however, are telling. Consider that PGW's 2009 base rate case settlement included a base rate stay out for two years.¹⁰ Further, under the settlement, after those two years PGW was free to file a petition to seek lost revenue recovery due to the effects of its Phase I Plan.¹¹ PGW, however, has not filed a base rate case since 2010, nor did the Company file a petition for Phase I Plan lost revenues, even though it was free to take either of these actions for at least the last three years.¹² The record in this matter is clear that PGW needs neither a CAM nor a PI mechanism in order to maintain its financial integrity.

Not only is the CAM unnecessary, PGW's CAM proposal constitutes impermissible single issue ratemaking.¹³ PGW's rates are established on a cash-flow basis. The cash-flow ratemaking mechanism is complex and involves the integration of eight factors to determine just and reasonable rates for PGW.¹⁴ PGW, however, focuses solely on lost revenues without regard for the totality of its financial situation. The OCA submits that isolating only one element, lost revenues, would result in impermissible single issue ratemaking and would result in rates that are not just and reasonable under Section 1301.¹⁵

¹⁰ Pa. PUC v. PGW, Docket Nos. R-2009-2139884, P-2009-2097639, Order at 48-52 (July 29, 2010)(2009 Base Rate Order).

¹¹ Pa. PUC v. PGW, Docket Nos. R-2009-2139884, P-20009-2097639, Settlement at ¶ 24(g) (2009 Base Rate Settlement).

¹² As OSBA witness Knecht testified, PGW had no reason to file a rate case (and still does not) as PGW has been able to materially reduce its long-term debt and to increase its equity over the Phase I Plan period. OSBA St. 1 at 10-12; OSBA St. 1-S at 2. PGW's revenues have totaled \$188 million, and PGW has been able to make its \$18 million annual payments to the City of Philadelphia. *Id.*

¹³ See, Popowsky v. Pa. PUC, 13 A.3d 583, at 593 (Pa. Cmwlth. 2011)(Newtown); Pennsylvania Industrial Energy Coalition v. Pa. PUC, 653 A.2d 1336, at 1350 (Pa. Cmwlth. 1995), *aff'd per curiam*, 670 A. 2d 1152 (Pa. 1996)(PIEC); see also, Equitable Gas Co., 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).

¹⁴ See, Application of PGW Cash Flow Ratemaking Method- Final Statement of Policy, 52 Pa. Code §§ 69.2701-69.2703.

¹⁵ 66 Pa. C.S. § 1301.

PGW has also requested to drastically reduce its LIURP budget by \$4.5 million per year from the current \$7.6 million per year to approximately \$3.1 million per year.¹⁶ PGW's LIURP program is statutorily-mandated to be "appropriately funded and available" to meet the needs of the service territory.¹⁷ PGW's annual reports indicate that PGW spends at or near 100% of its LIURP budget every year.¹⁸ The OCA submits no reduction in the LIURP budget is warranted based on the demonstrated need in PGW's service territory

The OCA recommends that PGW's Phase II Plan be approved with the OCA's proposed modifications. The OCA respectfully requests that 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 OSBA's proposals to re-design the CRP program or to modify the existing CRP cost allocation methodology should not be adopted.

II. PROCEDURAL HISTORY- No Reply is necessary.

III. LEGAL STANDARDS

PGW has the burden of proof in this case.¹⁹ The record evidence is clear that PGW does not need a CAM or PI and has not supported the need for a reduced LIURP budget. PGW has failed to carry its burden on these issues.

IV. CONTINUATION OF DSM PLAN

- A. Summary Of Briefing Party's Position.-No Reply is necessary.
- B. PGW Proposal To Continue DSM.

The OCA addressed PGW's proposal to continue the Phase II DSM Plan on pages 11 to 13 of its Main Brief.²⁰ The OCA supports continuation of the Phase II Plan with certain modifications discussed below.

¹⁶ PGW St. 1-RJ at 1-2; OCA M.B. at 63-72.

¹⁷ 66 Pa. C.S. § 2203(8).

¹⁸ OCA St. 2 at 7.

¹⁹ See, OCA M.B. at 7-8.

- C. Cost Benefit Analysis.-No Reply is necessary.
- D. Proposed Program Term.

The OCA addressed the proposed Program Term on page 13 of its Main Brief. PGW, however, discussed two transition processes for the first time in its Main Brief: (1) to implement CRP Home Comfort and the non-LIURP programs if the Base Plan scenario is approved; and (2) to implement CRP Home Comfort program if the remaining non-LIURP programs are discontinued.²¹ The OCA does not oppose the Company's transition process to implement the CRP Home Comfort and non-LIURP programs if the Company's Base Plan scenario is approved. The OCA does not support PGW's proposed transition process to implement the CRP Home Comfort program if the remaining non-LIURP programs are discontinued.

If only the CRP Home Comfort program continues, PGW proposed the "CRP Home Comfort program would continue as currently designed for the interim period, subject to the decision on the regulatory waivers requested in this proceeding."²² Then, the Company would file an amendment to its current USECP Plan to propose a budget through December 2016 and would request an expedited decision.²³

The LIURP budget issue is ripe for the Commission's review in this proceeding, and any subsequent proceeding would simply duplicate the arguments made by the parties in this proceeding. PGW is statutorily-mandated to continue its LIURP²⁴, and the budget should be established based on the record created here. The OCA agrees that there may be a need for a subsequent proceeding to address operational or programmatic changes which may impact the

²⁰ OCA M.B. at 11-13.

²¹ PGW M.B. at 28-31.

²² This proposal is subject to the Commission's determination regarding PGW's requested Chapter 58 waivers. PGW M.B. at 31.

²³ Id.

²⁴ 66 Pa. C.S. § 2203(8).

operation of the LIURP program if it is moved back under the USECP umbrella, but this should not impact the budget.

V. PROPOSED NON-LIURP PROGRAMS

- A. Summary Of Briefing Party's Position- No Reply is necessary.
- B. Non-LIURP Programs.
 - 1. Residential Equipment Rebates. – No Reply is necessary.
 - 2. Efficient Construction Grants. – No Reply is necessary.
 - 3. Efficient Building Grants. – No Reply is necessary.
 - 4. Commercial Equipment Rebates. – No Reply is necessary.
 - 5. Home Rebates Program.

The OCA addressed this issue at page 16 of its Main Brief. The Company proposed to phase out its Home Rebates program under the “Base Plan.”²⁵ PGW would continue the program if an On-Bill Repayment Program (OBR)²⁶ and CAM are approved for the “Expanded Plan.”²⁷ The OCA included the Home Rebates program in its recommended budget, but the OCA does not support continuing the program through an OBR option.²⁸ As discussed below, PGW’s proposed OBR program is undefined, undocumented, unsupported and should not be approved. Moreover, there are significant legal issues, consumer protection issues, fairness issues, and rate implications that must be considered before a determination about whether an OBR should be implemented can be made.

C. Proposed New Pilot Program – Efficient Fuel Switching.

PGW proposed to implement a new Efficient Fuel Switching and Micro CHP program (Fuel Switching).²⁹ The OCA opposed inclusion of the Fuel Switching program as a part of PGW’s Phase II DSM Plan because the program would operate as a load growth program rather

²⁵ PGW St. 3 at Exh. TML-4 at 20-21.

²⁶ See, OCA M.B. at 22-28.

²⁷ PGW St. 2-R at 21.

²⁸ OCA St. 1 at 31.

²⁹ PGW St. 3 at Exh. TML-4 at 2.

than a DSM program. The Fuel Switching and Micro CHP programs do not reduce existing natural gas usage, and should not be treated the same as DSM.³⁰

In its Main Brief, PGW equated its programs with the fuel switching programs that are part of the electric Energy Efficiency and Conservation (EE&C) plans.³¹ PGW argued that the program is “not designed specifically for load growth but to offer a holistic approach to assist end users to efficiently manage their overall energy load and to conserve energy.”³² The OCA disagrees.

The way that PGW has designed its proposed Fuel Switching program, the program would act as a load growth program for PGW and would not reduce natural gas usage. On the electric side, fuel switching has been considered to be an energy efficiency program because the fuel switching, in that case, moves electric usage off of the electric grid as that usage is replaced with natural gas.³³ Here, PGW proposed instead to grow its own load by switching electric, propane and oil customers to natural gas. OCA witness Crandall testified:

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).³⁴

³⁰ OCA M.B. at 17-21.

³¹ PGW M.B. at 39-40. PGW cites to 42 U.S.C. § 7411(d) and argues that Micro-CHPs are a way that states can meet the goals of Section 111(d) of the Environmental Protection Agency’s Clean Air Act (Clean Power Plan). PGW M.B. at 39, citing 42 U.S.C. § 7411(d). The OCA submits that the Clean Power Plan is not the subject of this proceeding. As the OCA stated in its Main Brief, PGW may propose a Fuel Switching/Micro CHP program plan outside of the context of the Phase II Plan. OCA St. 1 at 27. PGW should not be granted the special surcharge mechanism cost recovery for a program not related to energy efficiency for PGW natural gas usage. OCA M.B. at 17-19; OCA St. 1-S at 6.

³² PGW M.B. at 40.

³³ OCA M.B. at 17.

³⁴ OCA St. 1-S at 6.

PGW cited to UGI Electric's voluntary energy efficiency program as an example of approval for a voluntary fuel switching program.³⁵ PGW argued that "the Commission has already determined that fuel switching resulting in cost-effective net energy savings is appropriately included within demand-side management plans for electric utilities and there is no reason to deviate from that determination in this proceeding."³⁶ PGW, however, mischaracterizes the UGI Electric program.

Contrary to PGW's arguments, the UGI Electric program is the opposite of the PGW program. Instead of shifting load to itself, UGI is shifting load to natural gas and propane companies. UGI Electric's Home Energy Efficiency Incentives Program offers "rebate incentives for residential (including low-income) customers to replace their electric water heaters, space heating systems and clothes dryers with gas and propane appliances."³⁷

The OCA submits that PGW's 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 toward the CRP Home Comfort budget.

D. PGW On-Bill Repayment Program Proposal

PGW proposed that the Commission authorize a process for stakeholders to develop an On-Bill Repayment (OBR) program for the residential and non-residential market to support the comprehensive retrofit program, EnergySense Home Rebates.³⁸ Under the proposed program,

³⁵ Petition of UGI Utilities, Inc.- Electric Division for Approval of its Energy Efficiency and Conservation Plan, Docket No. M-2010-2210316, Order (October 19, 2011)(UGI Order). The OCA notes that UGI Electric is not required to implement its energy efficiency program under Act 129 because Act 129 only applies to companies with more than 100,000 customers. 66 Pa. C.S. § 2806.1.

³⁶ PGW M.B. at 40, citing UGI Order.

³⁷ UGI Order at 24 (emphasis added).

³⁸ OCA St. 2 at 63-64; OCA M.B. at 22-28.

PGW would partner with a third-party lender to provide financing to qualified PGW customers for energy efficiency products.³⁹ The OCA recommends that PGW's proposed OBR not be adopted for residential customers.⁴⁰ If the Company develops an OBR program for non-residential customers, the OBR should not include any residential customer component to the program.⁴¹

The OCA submits that PGW's proposal is problematic, as OCA witness Colton testified:

The problem with PGW's approach in Mr. Gold's Rebuttal Testimony is that PGW seeks Commission approval, *in this proceeding*, to have *some type* of residential OBR program based on no showing at all. Mr. Gold is quite up-front with the fact that PGW is now asking the PUC to determine *whether* there should be an OBR. PGW asks the PUC to affirmatively decide the "whether" question based on no documentation at all. Mr. Gold states: "PGW's proposal is designed to address these realities within the context of stakeholder discussions, *with a resulting filing proposing a program...*" (PGW Statement 2-R, at 22). (emphasis added). PGW's process does not contemplate, or allow for a conclusion that no residential program is appropriate.⁴²

PGW's proposed OBR program is undefined, undocumented, unsupported and should not be approved. As discussed in the OCA's Main Brief, there are significant legal issues, consumer protection issues, fairness issues, and rate implications that must be considered before a determination about whether an OBR should be implemented can be made.⁴³ For example, PGW has not considered critical implementation costs in its proposal including: (1) the information technology changes required to integrate on-bill repayment into billing processes and nonpayment responses of PGW; (2) the costs of creating business processes for the origination of OBR financing transactions; (3) the monthly servicing costs of OBR transactions; (4) the costs of

³⁹ OCA St. 2 at 63-64.

⁴⁰ The OCA does not address the non-residential customer component to the Company's proposal.

⁴¹ *Id.* at 63.

⁴² OCA St. 2-S at 27-28.

⁴³ *See*, OCA M.B. at 22-28.

modifying voice response systems and web access to enable OBR transactions; (5) the cost of packaging OBR transactions for the secondary market and the interaction with purchasers within the secondary market; (6) the cost of developing and implementing dispute resolution procedures; (7) the costs of on-going oversight and management of the contractor network for quality control and to prevent or respond to mis-and/or malfeasance; and (8) the costs, if any, of providing credit enhancements and/or interest rate buy-downs.^{44 45}

CAUSE-PA and TURN *et al.* also oppose implementation of an OBR. CAUSE-PA M.B. at 13; TURN *et al.* M.B. at 6. In its Main Brief, CAUSE-PA stated:

CAUSE-PA is particularly concerned with the risk such an endeavor would place on economically vulnerable households if such a path were pursued, including the potential for termination, loss of access to universal services, or inability to restore service due to nonpayment of nonessential charges. The Commission should reject this PGW proposal, as it creates greater risks than benefits and lacks specificity. CAUSE-PA further urges rejection of this proposal because it is contingent upon CAM approval, and does not define the “critical criteria” PGW would use in its decision making.⁴⁶

In its Main Brief, TURN *et al.* stated:

PGW has failed to provide any details on its potential OBR offerings and whether PGW intends to seek authorization from the Commission to terminate service in situations where a customer falls behind on payment of OBR charges. PGW’s witness Elliott Gold testified that this question, and other important questions about the potential harm that OBR would cause PGW’s residential customers, should be resolved in the context of PGW’s proposed stakeholder discussions. (PGW St. No. 2-R at 20: 12-23). PGW’s approach fails to adequately safeguard the rights of PGW’s residential customers. Further, even if PGW provided assurances that OBR will not be linked to termination of service, TURN *et al.*

⁴⁴ OCA M.B. at 27-28; OCA St. 2 at 68; OCA St. 2-S at 28.

⁴⁵ In its Main Brief, PGW referenced the On-Bill Financing Working Group (OBFWG) conducted by the Commission and referenced two potential models identified in the report as support for its position. PGW M.B. at 41. PGW fails to reference the subsequent Phase III Implementation Order regarding On-Bill Financing and Repayment. Energy Efficiency and Conservation Program, Docket No. M-2014-2424864, Implementation Order at 80-84 (June 19, 2015) (Phase III Implementation Order). In that matter, the Commission specifically identified potential problems with an On-Bill Financing mechanism and only recommended submission of a mechanism if an EDC and its stakeholders believe a pilot program may be of some benefit. The residential and low-income advocates in this proceeding agree that such a program should not be approved.

⁴⁶ CAUSE-PA M.B. at 13.

seriously question the wisdom of authorizing loans for low and moderate income customers.⁴⁷

PGW has failed to demonstrate 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 the substantial costs of an OBR and maintain its residential programs as a cost-effective undertaking.⁴⁸ 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 recommended that PGW develop and file specific plans to market its non-LIURP energy efficiency programs to confirmed low-income customers.⁴⁹ OCA witness Colton found that a customer's low-income status has been a substantial barrier to investment in energy efficiency measures, even if the measures are otherwise cost-effective.⁵⁰

PGW argued that the OCA's underlying rationale, that confirmed low-income customers are not participating in PGW's DSM, is not correct.⁵¹ PGW argued that confirmed low-income customers account for 5% of the total DSM participants.⁵² PGW witness Gold and OCA witness Colton agree that only 145 low-income customers participated in the non-LIURP DSM programs.⁵³

In its Main Brief, PGW argued that the 145 low-income customers should be viewed as a portion of the total of 2,807 Phase I Plan participants. PGW then calculates 5% of all customers

⁴⁷ TURN *et al.* M.B. at 6.

⁴⁸ OCA M.B. at 22-28; OCA St. 2 at 69; OCA St. 2-S at 29.

⁴⁹ See, OCA M.B. at 28-31; OCA St. 2 at 58-63.

⁵⁰ OCA St. 2-S at 19-20; OCA M.B. at 28-31.

⁵¹ PGW M.B. at 28.

⁵² *Id.*

⁵³ PGW St. 2-R at 11; OCA St. 2 at 59.

participating in the program are low-income customers.⁵⁴ OCA witness Colton, however, examined the larger population of 155,000 confirmed low-income customers, and of these 155,000 customers, only 145 customers across all programs over 4 years, or 0.09%, have participated in the non-LIURP programs. The OCA submits that 145 low-income customers out of a pool of 155,000 confirmed low-income customers is not significant participation by low-income customers in the residential non-LIURP programs. Even if you use the 5% number preferred by PGW, this still does not represent significant low-income customer participation. PGW's customer base is approximately 31% low-income (155,000 confirmed low income customers out of approximately 500,000 PGW customers).

PGW further argued that it engages in DSM marketing that targets all potential customers, including confirmed low-income customers.^{55 56} The OCA submits that marketing to all customers is different than marketing to confirmed low-income customers. OCA witness Colton testified:

Mr. Gold's rebuttal mis-uses the data presented in my Schedule RDC-4 along with the accompanying discussion (OCA Statement 2, at 44). My testimony was not that low-income investment in energy efficiency was non-existent. 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.⁵⁷

⁵⁴ PGW M.B. at 28.

⁵⁵ PGW M.B. at 28.

⁵⁶ In PGW witness Gold's testimony, however, Mr. Gold testifies that low-income tenants cannot be expected to invest in energy efficiency without participating in LIURP. PGW St. 2-R at 12. PGW also acknowledged in discovery responses that it has not previously attempted to market its residential programs to non-CRP confirmed low-income customers, including homeowners. See, OCA St. 2 at 60-61.

⁵⁷ OCA St. 2-S at 20.

The OCA submits that contrary to PGW's arguments, confirmed low-income customers represent a significant, untapped portion of the population in Philadelphia.⁵⁸ The OCA recommended that the Company direct a concentrated marketing effort towards the non-CRP confirmed low-income customers as recommended by OCA witness Colton.

VI. DSM COST RECOVERY MECHANISMS

- A. Summary Of Briefing Party's Position.- No Reply is necessary.
- B. Recovery Through Universal Service Charge ("USC") and Efficiency Cost Recovery Surcharge ("ECRS").- No Reply is necessary.⁵⁹

VII. PGW PROPOSED TWO NEW COST ELEMENTS FOR ECRS

- A. Summary Of Briefing Party's Position.- No Reply is necessary.
- B. Conservation Adjustment Mechanism ("CAM").

1. Overview.

PGW proposed to implement a CAM to recover PGW's lost revenues for its Phase II Plan, including its LIURP program. PGW's arguments regarding the need for a CAM are inconsistent with the evidence presented in this proceeding and inconsistent with the law. The OCA, I&E, OSBA, PICGUG, CAUSE-PA, and TURN *et al.* agree that the Company should not be permitted to recover lost revenues through the CAM mechanism.⁶⁰ In particular, the OCA, I&E, CAUSE-PA and TURN *et al.* oppose the inclusion of a CAM for its statutorily-mandated LIURP program.

2. The record evidence does not support the need for a CAM.

The record here does not establish any financial harm to PGW related to its Phase II Plan or any financial harm due to the Phase I Plan. PGW's Phase I Plan resulted from PGW's 2008

⁵⁸ OCA St. 2 at 61-63; OCA M.B. at 29-31.

⁵⁹ The OSBA addressed arguments regarding the cost-effectiveness and cost allocation of the CRP Home Comfort Program in Section VI(B). OSBA M.B. at 12-13. The OCA has addressed these issues in Section X of its Main and Reply Briefs.

⁶⁰ OCA M.B. at 32-61; I&E M.B. at 6-10; OSBA M.B. at 6-9, 15-16; PICGUG M.B. at 5-6; CAUSE-PA M.B. at 16-17; TURN *et al.* M.B. at 8-9.

emergency base rate proceeding. The stated purpose of the Phase I Plan was to drive down the Company's internal operating costs and to help ratepayers reduce their bills due to the impact of the emergency base rate increase.⁶¹ The Phase I Plan has achieved that objective. The Phase I Plan produced significant savings and benefits for both customers and the Company.

Similarly, PGW's Phase II Plan programs, with the OCA's recommended modifications, will provide significant savings and benefits for PGW and its customers. With the exception of the Home Rebates program (with a TRC of 0.95), all of the Phase II Plan programs have a TRC in excess of 1.0.⁶² PGW projects that the Phase II Plan TRC net benefits will be \$10.8 million (present worth) for the "Base Plan" scenario and \$15.2 million (present worth) for the "Expanded Plan" scenario.^{63 64}

From the gas utility administrator perspective (the UCT test),⁶⁵ each of the Phase II Plan programs passed with benefit-cost ratios of 1.50 and above, including the whole DSM portfolio. OCA witness Crandall testified:

[f]rom 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.⁶⁶

⁶¹ In its Phase I Plan Petition, PGW stated that the "DSM Plan is one of four (4) specific PGW commitments the Company made in the Extraordinary Rate Proceeding to help reduce the Company's future need for rate relief and to mitigate the effect of the extraordinary rate increase on its customers." Phase I Petition at 1. Two of the stated Phase I Plan goals were to "(i) reduce customer bills...[and] (iv) potentially improve PGW's finances by decreasing cash flow requirements." Phase I Petition at ¶ 5.

⁶² OCA St. 1 at 8.

⁶³ OCA M.B. at 29.

⁶⁴ PGW proposed two budget scenarios: (1) a "Base Plan" of \$22.72 million without a Conservation Adjustment Mechanism (CAM) or Performance Incentives (PI) and (2) an "Expanded Plan" of \$32.2 million if the CAM and PI are approved. OCA M.B. at 2-3; OCA St. 1 at 29; PGW St. 3 at Exh. TML-4 at 70.

⁶⁵ If the UCT test shows a benefit above 1.0, the utility benefits 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 11-12i.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 11-12.

⁶⁶ OCA St. 1 at 8, Exh. GCC-2; see, PGW St. 3 at Exh. TML-4 at 30, Table 22.

The record evidence in this proceeding and PGW's recent history all show that: (1) PGW suffered no financial harm from its Phase I Plan; (2) PGW's Phase II Plan, as modified, will provide substantial benefits and savings for PGW and its customers; (3) PGW's current financial situation is sound; and (4) PGW has no need for a CAM to engage in DSM.

PGW, as a municipally-owned utility, is different from an investor-owned utility. As a municipally-owned utility, PGW should be operating in a manner that is in the best interests of its ratepayers. OCA witness Crandall testified:

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 utility 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.⁶⁷

The OCA submits that the best course of action for PGW's ratepayers is for the Company to implement the Phase II Plan without a CAM.

As OSBA witness Mr. Knecht explained, PGW is financially sound. Mr. Knecht testified:

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 [the Phase I Plan]. 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 of 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 performance and growth in book equity, a full cash flow requirement in base rates proceeding may suggest that a rate decrease is in order.⁶⁸

⁶⁷ OCA St. 1 at 6.

⁶⁸ OSBA St. 1 at 11-12.

PGW's arguments that it will be financially harmed without a CAM are inconsistent with the facts.⁶⁹ The facts demonstrate that PGW has not been financially harmed by Phase I of the Plan. PGW has not filed for a rate increase in five years, this after a decade of filing five successive cases.⁷⁰ As a municipally-owned utility, PGW should be pursuing the course of action that is in the best interest of ratepayers and that is to implement the Phase II Plan without a CAM. The facts demonstrate that PGW is financially sound enough to continue the Phase II Plan without the need for a CAM. According to the TRC test and the Gas Program Administrator (UCT) test, PGW should implement the Phase II Plan without the need for a CAM because the Phase II Plan is already in the best interests of PGW ratepayers, program participants, and PGW.

3. PGW's cited legal authority does not support implementation of a CAM.

PGW argues that there are no legal impediments to approval of the CAM, and that the CAM is permissible under Section 1307 and 1319 of the Public Utility Code.^{71 72} PGW's assertions here are incorrect.

PGW argued that the costs of a DSM program include "direct cost of program delivery as well as the reduced margin resulting from reduced delivery charges to the DSM induced conservation."⁷³ PGW cites to the UGI Order for the premise that the Commission has stated its "strong preference that the costs for any [DSM] plan be recovered through a reconcilable

⁶⁹ Consider that, the stay-out in PGW's last base rate settlement was only for two years. 2009 Base Rate Order at 48-52. Accordingly, PGW could have filed a base rate case at any time during the last three years. Pa. PUC v. PGW, Docket Nos. R-2009-2139884, P-20009-2097639, Settlement at ¶ 24(g) (2009 Base Rate Settlement). Under the 2009 base rate settlement, PGW could file a petition to request lost revenues after the two year stay out period. For years three, four and five of the Phase I Plan, PGW could have filed for a distribution base rate increase or to recover lost revenues, but PGW apparently had no financial need to take either of these actions.

⁷⁰ Pa. PUC v. PGW, Docket No. R-00005654, Order (November 22, 2000)(extraordinary rate relief/interim rate increase); Pa. PUC v. PGW, Docket No. R-00006042, Order (October 4, 2001); Pa. PUC v. PGW, Docket No. R-00061931, Order (September 28, 2007); Pa. PUC v. PGW, Docket No. R-2008-2073938, Order (December 19, 2008)(Emergency Base Rate Order); 2009 Base Rate Order.

⁷¹ 66 Pa. C.S. §§ 1307, 1319.

⁷² PGW M.B. at 49.

⁷³ PGW M.B. at 45.

rider.”⁷⁴ ⁷⁵ While the OCA agrees that consistent with Act 129 either a reconcilable rider or base rates are the appropriate cost recovery mechanism for an EE&C Plan, the OCA does not agree that lost revenues are one of the costs that may be recovered through a reconcilable surcharge or that the UGI Order supports cost recovery for lost revenues. The Commission specifically did not allow the lost revenue cost recovery in UGI’s EE&C rider.⁷⁶ The Commission stated:

In the *DSM Order*, the Commission declined to allow for the recovery of lost revenues through a surcharge, and instead permitted the utilities to create a “balancing account” for lost revenue that would be treated as a regulatory asset in a base rate proceeding. The Commission found that lost revenues are much more difficult to measure than DSM program costs, and determined that lost revenue should be based on actual program results that are verified through the ratemaking process. *DSM Order* at 33...

In the Commonwealth Court’s review of the DSM Order, the Court determined that it was “too speculative” to determine whether a “reliable” calculation of lost revenue could be created, and concluded that the matter was not ripe for review.⁷⁷

In its Main Brief, I&E addressed the underlying Order that the Commission relied upon in the UGI Order, the Commission’s Investigation into Demand Side Management by Electric Utilities Order as follows:⁷⁸

The fact of the matter is that whether the utility in question is gas or electric, DSM costs are much more easily calculated than lost revenues. Therefore, it seems clear that the Commission has already determined that a base rate proceeding is the proper forum to recover lost revenues. PGW claims it would be “unfair and illogical” to not recognize the negative effects of the program on the Company. The argument presented by PGW is nothing more than a diversion allowing the Company to attempt to circumvent the base rate process despite the fact that the Commission has already stated that the proper forum in which to recover lost revenues for companies that are required to implement a DSM is a base rate proceeding. The voluntary nature of PGW’s DSM program does not

⁷⁴

Id.

⁷⁵

See, UGI Order.

⁷⁶

UGI Order at 22-23.

⁷⁷

UGI Order at 22-23; see also, I&E M.B. at 8, citing the same Investigation into Demand Side Mgt. by Electric Utilities Unif. Cost Recovery Mechanism, Docket No. I-9000005, Order at 37 (December 13, 1993)(DSM Order) (citations omitted).

⁷⁸

See, DSM Order at 37.

distinguish it in such a way that it should be exempt from the Commission's stated resolution of this issue.⁷⁹

PGW argues that Section 1307 and 1319 provide the legal authority for the proposed CAM mechanism.⁸⁰ In the UGI Order, however, UGI made a similar argument as to lost revenues and the Commission concluded that lost distribution revenues were not a cost recoverable for the development, management, financing or operation of UGI's program under Section 1319(a) of the Public Utility Code or Act 129. The Commission Order there provided:

As discussed *supra*, UGI avers that Section 1319(a) provides all of the legal authority necessary for the Commission to approve recovery of lost revenues as part of the voluntary EE&C Plan. However, we concur with IECPA that lost distribution revenues are not "costs" associated with development, management, financing or operation of UGI's program and are not recoverable under Section 1319(a). In addition, the General Assembly made a distinction in Act 129 between the recovery of "costs" and "decreased revenues". 66 Pa. C.S. § 2806.1(k)(2). The General Assembly's distinction between "costs" and "decreased revenues" in Act 129 confirms that the term "costs" in Section 1319(a) does not include lost revenue.⁸¹

PGW argues that since it is not subject to Act 129, and that it is not an investor-owned utility like UGI, it should be treated differently because the dollars that PGW receives from customers are costs used to fund the Company's operating expenses.⁸² The fact that PGW is a municipally-owned utility, however, does not change the underlying ratemaking issue presented in the UGI Order. The Commission did not allow lost revenues because the imprecision of the calculation of lost revenues is not suitable for a dollar-for-dollar recovery mechanism.⁸³

The OCA submits that PGW's proposed CAM is not supported under the law. Both the Commission and the Commonwealth Court⁸⁴ have ruled on the issue of cost recovery for lost

⁷⁹ I&E M.B. at 8-9 (footnotes omitted).

⁸⁰ PGW M.B. at 49.

⁸¹ UGI Order at 23.

⁸² PGW M.B. at 50.

⁸³ UGI Order at 23.

⁸⁴ See, Newtown at 593; PIEC at 1350; Equitable Order.

revenues and determined that lost revenues should be recovered through the traditional ratemaking process. Otherwise, the Company's proposal would constitute impermissible single issue ratemaking.

C. Performance Incentives.

In addition to the CAM mechanism, PGW proposed to implement a Performance Incentive Model to encourage more investment in energy efficiency programs.⁸⁵ The OCA, I&E, OSBA, PICGUG, CAUSE-PA, and TURN *et al.* oppose PGW's proposal to recover Performance Incentives.⁸⁶ In particular, the OCA, I&E, CAUSE-PA and TURN *et al.* oppose the inclusion of PI for its statutorily-mandated LIURP program. Moreover, Section 523 of the Public Utility Code prohibits Performance Incentive cost recovery outside of a base rate proceeding.⁸⁷

PGW argued that the request for Performance Incentives is consistent with Sections 1307 and 1319 of the Public Utility Code and also cites to the PIEC case for support.⁸⁸ The Commonwealth Court did hold in the PIEC case that Sections 1307 and 1319 may be interpreted to allow a surcharge mechanism to be used to recover the costs of a DSM program.⁸⁹ However, the PIEC case does not support PGW's request to recover the Performance Incentives outside of a base rate proceeding. The Commonwealth Court stated in PIEC that "Section 523 of the Code does not permit the recovery of incentives outside of a base rate case."⁹⁰ In its Main Brief, I&E provided the relevant rule of law on this issue, as follows:

⁸⁵ A detailed description of the Company's proposed Performance Incentive Model is provided at pages 54 to 56 of the OCA's Main Brief. See also, PGW St. 3 at Exh. TML-4 at 40, 68-70.

⁸⁶ OCA M.B. at 32-61; I&E M.B. at 6-10; OSBA M.B. at 6-9, 15-16; PICGUG M.B. at 5-6; CAUSE-PA M.B. at 16-17; TURN *et al.* M.B. at 8-9.

⁸⁷ 66 Pa. C.S. § 523.

⁸⁸ Pennsylvania Industrial Energy Coalition v. Pa. PUC, 653 A.2d 1336, 1349 (Pa. Commw. Ct. 1995), *aff'd*, 542 Pa. 307, 670 A.2d 1152 (Pa. 1996) (PIEC); 66 Pa. C.S. §§ 1307, 1319.

⁸⁹ Id.

⁹⁰ PGW M.B. at 55, citing PIEC at 1353.

It has been established that Section 523 of the Public Utility Code does not permit recovery of incentives of this nature outside of a base rate proceeding. While Section 523 of the Code does permit the establishment of both incentive and penalty adjustments for conservation programs it has been established that:

Section 523 only applies to the adjustments being made when rates are determined and based on a utility's claimed cost of service. The section permits incentive adjustments for effective conservation programs and penalty adjustments for the failure to encourage conservation only within a base rate case.⁹¹

The current matter is not a base rate case. Accordingly, PGW's arguments are without merit.

PGW also argued that the Company should be permitted to recover Performance Incentives because other jurisdictions allow for the recovery of Performance Incentives for energy efficiency programs.⁹² The key difference is that Section 523 does not permit Pennsylvania utilities to collect performance incentives outside of a base rate proceeding.⁹³ Moreover, the utilities cited by PGW in other jurisdictions are all investor-owned utilities ("except for Arkansas, which lists all electric and gas utilities, but in Arkansas municipal utilities are not regulated.")⁹⁴ The business case for a publicly owned utility and an investor-owned utility are very different. PGW's interest as a publicly owned municipal utility should be to do what is in the best interests of its ratepayers.⁹⁵ In particular, PGW should not be granted an incentive in order to "adequately fund" its statutorily-mandated LIURP program.

Similarly, PGW should not need a financial incentive to do what is in the best interests of its ratepayers, as 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

⁹¹ I&E M.B. at 12-13 (emphasis added); see, 66 Pa. C.S. § 523; PIEC at 1353.

⁹² PGW M.B. at 56-57.

⁹³ 66 Pa. C.S. § 523.

⁹⁴ OCA M.B. at 57-58, citing OCA St. 1 at 19-20.

⁹⁵ OCA St. 1 at 7; OCA M.B. at 58-59.

and to take steps necessary to reasonably cover the fixed costs when sales are declining, since there are no competing shareholder profits to balance.⁹⁶

Moreover, PGW has the ability to recover the costs of any “disincentive” of lost revenues through traditional ratemaking as discussed in I&E’s Main Brief:

Furthermore, a performance incentive to meet and achieve energy efficiency goals or to produce the most amount of energy efficiency possible is unnecessary. The argument that lost revenues serve as a disincentive to produce more energy efficiency and, therefore, PGW should be awarded [sic] for its efforts amounts to, as with the CAM, is [sic] an attempt to circumvent the Commission’s base rate case process. Therefore, there is no disincentive to PGW to maximize its energy efficiency because the Commission has already addressed the issue of recovery of lost margin. Because PGW has already been provided with a way to address its lost revenue, no actual disincentive to promoting energy efficiency actually exists. As can clearly be seen, the PI benefits only PGW and not its ratepayers.⁹⁷

Section 523 of the Public Utility requires that Performance Incentives may only be recovered within a base rate proceeding.⁹⁸ PGW’s proposal is contrary to the requirements of the law, and it is also contrary to the interests of its ratepayers. The OCA submits that the PI would result in more costs being paid for the DSM programs without any resulting benefit. The PI is only designed to benefit PGW. Therefore, the OCA submits that the proposal for the PI should be denied.

VIII. DSM II BUDGET

- A. Summary Of Briefing Party’s Position.- No Reply is necessary.
- B. PGW Proposed Budget For CRP Home Comfort Program (LIURP).
 - 1. Overview.

⁹⁶ OCA St. 1 at 20. Under the UCT, PGW would benefit \$1.70 for every \$1.00 invested in the proposed DSM portfolio. OCA St. 1 at 8-9, Exh. GCC-2.

⁹⁷ I&E M.B. at 12.

⁹⁸ 66 Pa. C.S. § 523; PIEC at 1353.

PGW has proposed a \$3.1 million LIURP annual budget which is a decrease from the current annual budget level.^{99 100} Under Section 2203(8) of the Public Utility Code, PGW is required to maintain an “appropriately funded and available program.”¹⁰¹ The LIURP budget must be based upon the need in the service territory. The record evidence presented in this case demonstrates the significant need in PGW’s service territory and that PGW’s proposed \$3.1 million budget will not meet those needs. The OCA, CAUSE-PA and TURN *et al.* recommend that PGW’s LIURP budget be maintained at the historic levels of \$7.6 million per year to meet the identified needs in PGW’s service territory.¹⁰²

2. PGW must maintain its current LIURP budget funding level of \$7.6 million to meet the needs of its service territory.

PGW argued that the proposed revised budget of approximately \$3.1 million per year will ensure that the Company’s program is “appropriately funded” and “significantly exceeds the regulatory requirement that LIURP programs shall be at least .2% of a utility’s jurisdictional revenues.”¹⁰³ PGW stated that the \$7.6 million budget proposed by OCA, CAUSE-PA and TURN *et al.* to “increase the CRP Home Comfort budget” is not sustainable and would “be detrimental for all of PGW’s ratepayers as PGW is not an investor-owned utility.” PGW M.B. at 63.¹⁰⁴

⁹⁹ The OCA notes that its Main Brief description of the CRP Home Comfort Budget erroneously did not update the budget levels identified in PGW witness Adamucci’s Rejoinder testimony to \$3.1 million per year without the CAM, or \$15.9 million over the five year program. OCA M.B. at 63.

¹⁰⁰ PGW St. 3 at Exh. TML-4 at 87, Table 50.

¹⁰¹ 66 Pa. C.S. § 2203(8).

¹⁰² OCA M.B. at 63-72; CAUSE-PA M.B. at 18-20; TURN *et al.* M.B. at 11-12.

¹⁰³ PGW M.B. at 63.

¹⁰⁴ The OCA submits that PGW’s characterization of the OCA’s budget recommendation as an *increase* is not accurate. PGW has maintained the same \$7.6 million expenditure level in its 2014-2016 USECP from 2014 through 2016. PGW’s annual 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.

PGW also argued that since the proposed budget is 0.45% of PGW's forecasted revenue, and that this is consistent with the statewide average, the proposed budget level is appropriate. The standard, however, is that the programs be "appropriately funded and available in each natural gas distribution service territory."¹⁰⁵ As discussed in OCA witness Colton's testimony, there is still a significant need in PGW's service territory.¹⁰⁶ In its Main Brief, CAUSE-PA supported this recommendation:

Universal Service program component budgets are driven by the need within each service territory and the funding necessary to meet those needs. PGW serves a specific and unique service territory with significantly intractable poverty. LIURP budgets are based on the needs of each specific service territory and the history and current level of service provided within each territory program...PGW must contend with the reality of its population, and the Philadelphia reality is that PGW's current annual LIURP budget of approximately \$7.6 million permits it to serve only 2,108 of its approximately 70,000 customers per year. (OCA Stmt. No. 2 at 8).¹⁰⁷

PGW's LIURP program is a statutorily-mandated program that must be appropriately funded and available to meet the need in the service territory. The record demonstrates a substantial need, and PGW provided no adequate support for such a significant budget reduction in LIURP.

3. PGW's LIURP is cost-effective and benefits ratepayers.

In its Main Brief, OSBA recommends that if the costs of the CRP program continue to be collected from all firm service customers, the CRP Home Comfort program budget should continue at a relatively modest level.¹⁰⁸ OSBA argued that the spending for energy conservation measures over the past 15 years has resulted in virtually no reduction in load and characterizes its

¹⁰⁵ 66 Pa. C.S. § 2203(8).

¹⁰⁶ See, OCA M.B. at 63-72. OCA St. 2 at 6-10; OCA St. 2-S at 12-16.

¹⁰⁷ CAUSE-PA M.B. at 21-22.

¹⁰⁸ OSBA M.B. at 17.

testimony regarding the CRP Home Comfort spending as “unrebutted.”¹⁰⁹ OCA witness Colton appropriately addressed this testimony in the OCA’s Rebuttal and Surrebuttal Testimony.¹¹⁰

The premise of the OSBA’s recommendation is flawed. Mr. Knecht’s testimony is based on the erroneous premise that the CRP Home Comfort program is not cost-effective.¹¹¹ His assumption is that since the LIURP participant must be a CRP participant, the LIURP investments will generate no benefits in terms of reduced bills or improved payments.¹¹² As discussed above, the program has been cost-effective and provides benefits to CRP participants, ratepayers, and PGW.¹¹³

OCA witness Colton found that PGW’s CRP participants showed an overall decrease in their average consumption.¹¹⁴ OCA witness Colton found that:

[e]ven without taking into account the reduced CRP subsidies generated by LIURP, the PGW LIURP program generated a disproportionately high share of PGW’s total usage reduction program benefits. According to the Company’s 5-Year DSM Plan, while from its inception through June 2014, LIURP represented 74% of total PGW DSM expenditures, during that same time period, LIURP generated 79% of the total present value benefits.¹¹⁵

OCA witness Colton also found that ratepayers would actually pay more if PGW’s drastically reduced budget were approved. He testified:

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 \$54,631,742 (2014\$).(TURN-I-1). In contrast, the reduced LIURP budget proposed by PGW in this proceeding is estimated to result in a 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

¹⁰⁹

Id.

¹¹⁰

See, OCA St. 2-R at 1-9; OCA St. 2-S at 29-32; OCA M.B. at 84-85.

¹¹¹

See, OCA St. 2 at 11 (LIURP had a benefit-cost ratio of 1.26 and provided \$5,429,804 in net benefits to ratepayers.); OCA St. 2-R at 8 (LIURP reduces CRP subsidies.); OCA St. 2-R at RDC-1R (regarding the impact of LIURP on an affordable bill.)

¹¹²

OSBA St. 2 at 1-2.

¹¹³

OCA St. 2-S at 30.

¹¹⁴

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

¹¹⁵

OCA St. 2 at 11-12.

higher distribution bills if the LIURP budget proposed in the 5-Year DSM Plan is approved.¹¹⁶

The record evidence demonstrates that LIURP is cost-effective. The program has proven to provide both significant savings to CRP customers, to other ratepayers, and to PGW. Accordingly, OSBA's arguments on this issue are without merit.

4. PGW has not met the requirements for Section 58.4(c).

Section 58.4(c) of the Commission's regulations requires that in order to change its LIURP funding levels, PGW must calculate its need based upon four factors including (1) number of eligible customers; (2) expected participation rates; (3) the total expense of providing usage reduction services; and (4) a plan for providing program services.¹¹⁷ PGW argues that the Commission has the discretion to establish a different funding level upon either a petition from the utility or a review for the need for program services and addressing program costs in rates.¹¹⁸ In its Main Brief, PGW argued that the Company has in fact demonstrated the required factors throughout its filing. PGW stated that: (1) 35,000 CRP customers would be eligible for CRP Home Comfort under the usage requirements; (2) 3,216 customers is the expected customer participation rate based on historical participation; (3) \$15,945,846 is the expected total expense in nominal dollars; and (4) the figures represent the spending and numbers of customers over the next five years.¹¹⁹

The key component that PGW has missed is that the LIURP funding levels are based on the need in the service territory. In order to change the funding levels, the OCA submits that PGW must demonstrate through these factors that the need has changed or decreased. OCA

¹¹⁶ OCA St. 2 at 12-13. The LIURP program is extremely successful in comparison to the other Phase I Plan programs. For example, over the lifetime of the program, LIURP has saved 5,221,745 mmBtus compared to the 5-Year DSM lifetime benefits of 1,276,439 mmBtus. OCA St. 2 at 12; OCA M.B. at 69.

¹¹⁷ 52 Pa. Code § 58.4.

¹¹⁸ 52 Pa. Code § 58.4.

¹¹⁹ PGW M.B. at 66-67. PGW cites to the four factors identified in Section 58.4(c). 52 Pa. Code § 58.4(c).

witness Colton testified that the need is increasing in the service territory, and that each of these factors demonstrates the increased need for LIURP.¹²⁰ The OCA submits that PGW's arguments here are in error.

5. Conclusion.

LIURP is a cost-effective program which provides a significant benefit to both CRP participants, PGW and to the ratepayers who pay the costs of the program. PGW has not met the requirements of Section 58.4 of the Public Utility Code for a reduction in its LIURP budget. The OCA submits that PGW has not demonstrated that the need for the LIURP program has decreased, and therefore, PGW's budget of \$7.6 million should not be reduced.

IX. CRP HOME COMFORT PROGRAM (LIURP)

- A. Continuation Of CRP Home Comfort As PGW's LIURP Within DSM II Portfolio.-No Reply is necessary.
- 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.¹²¹ PGW's existing LIURP program is directed exclusively to CRP participants.¹²² PGW's current structure excludes a substantial portion of the confirmed low-income customer population. Without external assistance, most confirmed low-income customers are not able to invest in energy efficiency measures.¹²³ PGW opposed the recommendation of OCA to expand the eligibility requirements.¹²⁴

¹²⁰ See, OCA St. 2-S at 14; OCA M.B. at 66-67.

¹²¹ OCA M.B. at 72-74; OCA St. 2 at 50.

¹²² OCA St. 2 at 42.

¹²³ OCA St. 2 at 42-43.

¹²⁴ PGW M.B. at 70-71.

PGW argued that identifying confirmed low-income customers is administratively complex.¹²⁵ The OCA has used the Commission's regulations which define "confirmed low-income residential account" as "accounts where [the natural gas distribution company] has obtained information that would reasonably place the customer in a low-income designation."¹²⁶ Confirmed low-income customers are by definition customers that PGW would reasonably place in a low-income designation, and PGW has a record of that since it reports this information to the Commission.¹²⁷ As identified in the August 22 Order, PGW has a process in place to evaluate whether based on the customer's income, arrearage and usage, the customer should remain in CRP.¹²⁸ Since PGW already has the requisite data, the program should not be administratively complex or burdensome.

PGW also argued that the OCA recommends treating premises and that this is a misinterpretation of regulatory intent that subverts the purpose of LIURP from a utility customer program to a premise-focused housing stabilization program.¹²⁹ The OCA submits that PGW mischaracterizes the OCA's proposal. OCA witness Colton testified:

Mr. Gold's assertion that I propose "an investment in rental housing stock that is likely, but not assuredly, low-income housing stock" (PGW Statement 2-R, at 6) is without any basis. My proposal simply opens LIURP up to those customers who do not establish their LIURP eligibility because of their CRP participant status, but who are otherwise low-income.¹³⁰

The fact is, without external energy efficiency assistance, many confirmed low-income customers are not able to invest in energy efficiency measures. OCA witness Colton testified:

The purpose of LIURP is to serve as a program that will help low-income PGW customers maintain their home energy service and help such customers manage

¹²⁵ PGW M.B. at 70-71.

¹²⁶ 52 Pa. Code § 62.2.

¹²⁷ 52 Pa. Code § 62.5(xiii).

¹²⁸ PGW Universal Service and Energy Conservation Plan for 2014-2016 Submitted in Compliance with 52 Pa. Code § 62.4, Docket No. M-2013-2366301, Order at 69 (August 22, 2014) (August 22 Order).

¹²⁹ PGW M.B. at 72.

¹³⁰ OCA St. 2-S at 18.

their home energy usage. Those two purposes are not adequately served by a program that serves exclusively CRP participants. CRP non-participants comprise more than half of PGW's total confirmed low-income population.¹³¹

PGW also argued that inclusion of non-CRP, confirmed low-income customers will dilute the eligible population and diminish the outcomes in reducing the CRP subsidy paid by all other PGW firm service customers.¹³² The OCA submits that expanding eligibility will not dilute the total population and harm the cost-effectiveness of the program. OCA witness Colton testified that:

[c]reating a set-aside for high use low-income CRP non-participants would enhance, not impede, the opportunity to achieve the "greatest and most cost-effective opportunities for gas savings." As the Commission has noted, opportunities for the greatest and most cost-effective reduction in gas usage is driven primarily by the level of the customer's usage. Whether the customer is *also* a participant in CRP is irrelevant to that level of usage. The only impact of the set-aside is that LIURP would generate somewhat fewer reductions in CRP subsidies. But, as I discuss elsewhere, the reduction of CRP subsidies is not the exclusive purpose of LIURP.¹³³

The Commission has found value in expanding LIURP eligibility to other low-income customers, or "special needs customers," up to 200% of the FPL.¹³⁴ The Commission's regulations do not require that a customer be enrolled in the low-income program, such as CRP, in order to receive LIURP assistance. Section 58.2 defines an eligible customer as "a low income [defined as a customer with an income at or below 150% of the FPL] or special needs customer who is a residential space heating customer, or residential water heating customer, or a residential high use electric baseload customer of a covered utility."¹³⁵

¹³¹ OCA St. 2 at 50 (footnote omitted).

¹³² PGW M.B. at 70-71.

¹³³ OCA St. 2-S at 19.

¹³⁴ A special needs customer is defined as "a customer having an arrearage with the covered utility and whose household income is at or below 200% of the Federal poverty guidelines." 52 Pa. Code § 58.2.

¹³⁵ 52 Pa. Code § 58.2.

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 toward, 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. The OCA has presented substantial, credible evidence on this record to show why its proposal should be adopted.

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

PGW proposed a new Low-Income Multifamily (LIME) program pursuant to the Commission’s directive in its August 22 Order.¹³⁶ The Company has proposed to include both master-metered¹³⁷ and tenant-metered buildings in its proposal. PGW proposed that the LIME program costs for both will be recovered through the Universal Service Charge (USC).

The OCA opposed PGW’s LIME program as it is currently structured.¹³⁸ The two key concerns that the OCA has are: (1) the manner in which the housing is designated as low-income and (2) how the costs are recovered.¹³⁹ The OCA recommended 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 the Commission’s regulations.¹⁴⁰

In its Main Brief, the Company stated that the LIME program will target low-income multifamily buildings with at least 50 percent of residents at or below 150% of the FPL and the

¹³⁶ PGW Universal Service and Energy Conservation Plan for 2014-2016, Submitted in Compliance with 52 Pa. Code § 62.4, Docket No. M-2013-2366301, Order (August 22, 2014) (August 22 Order).

¹³⁷ In master-metered buildings, the owner of the building, not the low-income customer, is the customer of record and is classified as a commercial account.

¹³⁸ OSBA witness Knecht stated that he agreed with OCA witness Colton that program costs for multi-family residences with centralized metering who take service under PGW’s Commercial tariff should be recovered solely from the commercial customer class. OSBA St. 2-S at 3; OSBA M.B. at 13, fn. 24.

¹³⁹ OCA M.B. at 74-75.

¹⁴⁰ OCA St. 2 at 41.

top third tier for usage.¹⁴¹ PGW’s primary eligibility criteria is that the property must qualify as publicly subsidized housing through either Low Income Housing Tax Credits (LIHTC) or Section 8 Housing that “require certain income thresholds for residents that the property owner must verify and ensure are maintained.”¹⁴²

The problem, however, with using LIHTC or Section 8 housing is that those “low-income” qualifications do not meet the requirements for PGW’s LIURP. OCA witness Colton testified regarding the problem with this identification:

This multiplicity of programs that fall within the general rubric of “Section 8” is important to a review of PGW’s LIME proposal. These programs do not all have identical income eligibility requirements. The problem with PGW’s proposal to draw its LIME properties from properties drawn from Section 8 (and related HUD programs) is that HUD programs define “low-income” differently than energy programs such as LIURP do. For purposes of most “Section 8” programs, income eligibility is set at HUD’s “low-income” level (i.e., at or below 80% of area median income, AMI). Even when HUD targets households that are “very low income,” that definition is defined as being at or below 50% of area median income (“AMI”). LIHTC developments also use 50% of AMI for their income eligibility. A comparison of “very low-income” and “low-income” for Philadelphia to 150% of the Federal Poverty Level is set forth below:¹⁴³

2015 Federal Poverty Level (FPL) and 2015 HUD Area Median Income (AMI) Limits (Philadelphia)					
By Household Size					
	1-person	2-person	3-person	4-person	5-person
150% FPL	\$17,655	\$23,895	\$30,135	\$36,375	\$42,615
50% AMI	\$28,400	\$32,450	\$36,500	\$40,550	\$43,800
80% AMI	\$45,450	\$51,950	\$58,450	\$64,900	\$70,100

PGW does not acknowledge or address the income qualification differences between PGW’s LIURP program and the federal programs.¹⁴⁴

¹⁴¹ PGW M.B. at 74.

¹⁴² *Id.*

¹⁴³ OCA St. 2-S at 23. OCA witness Colton has a strong familiarity with income eligibility for these programs because Mr. Colton chairs a national working group of housing and energy efficiency service providers that address the ways to structure utility benefits provided through the U.S. Department of Housing and Urban Development (HUD). *Id.*

¹⁴⁴ The Commission has noted this difference with respect to the Act 129 programs. The Commission stated in its Phase II Implementation Order that:

PGW also argued that the Commission recognized that multifamily accounts include commercial ratepayers in its August 22 Order directing a LIME but indicated that cost recovery was appropriate since PGW recovers costs for its LIURP program, in part, from all firm service ratepayers.¹⁴⁵ The OCA discussed the statutory problem with PGW's proposed cost allocation.¹⁴⁶ The Company's proposal to include cost recovery for commercial master-metered multifamily buildings through the USC instead of its energy efficiency surcharge is contrary to Section 2202 of the Public Utility Code.¹⁴⁷ A universal service program and universal service cost recovery must be consistent with the Public Utility Code. Section 2202 defines universal service program 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 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.¹⁴⁸

Under the statute, only those costs which help low-income residential customers of PGW to maintain service may be recovered through the USC.¹⁴⁹ A multi-family master-metered program is not designed to help low-income residential customers of PGW to maintain service. Cost

We acknowledge, however, that while the majority of affordable housing financed by PHFA is low-income, federal and state definitions for low-income are defined by occupants being at or below 60% of the area median income. As such, in order for EDCs to claim savings within the low-income sector, the EDCs must demonstrate that the savings come from occupants that meet the definition of low-income as we define it in Section A.5.b. of this Implementation Order.

Energy Efficiency and Conservation Program, Docket Nos. M-2012-2289411, M-2008-2079887, Order at 49-50 (August 3, 2012) (Phase II Implementation Order). The Phase II Implementation Order defined low-income for purposes of meeting the low-income customer target as below 150% of the Federal Poverty Level. Id. at 53-58.

¹⁴⁵ PGW M.B. at 74-75.

¹⁴⁶ See, OCA M.B. at 76-79.

¹⁴⁷ 66 Pa. C.S. § 2202.

¹⁴⁸ Id.

¹⁴⁹ Id.

recovery for master-metered customers should be through the energy efficiency surcharge and not through the universal service surcharge.

The OCA supports the development of a program for multi-family housing. The OCA recommends that such a program be directed to tenant-metered multi-family housing where at least 75% of the occupants are considered low-income. With a program structured toward providing a direct benefit to PGW low-income residential customers, the costs, at least in part, could be recovered through the USC. The remainder of any additional costs and costs for the master-metered multi-family program should be collected through the Efficiency Cost Recovery Surcharge (ECRS) from the appropriate customer class.

D. Chapter 58 Waiver Requests.

1. Overview.

PGW has requested waivers of 52 Pa. Code Sections 58.4(a), 58.5, 58.9, 58.10, 58.11, 58.14, 58.16, and 58.18 of the Commission's regulations.¹⁵⁰ The OCA does not oppose the waivers of Sections 58.9, 58.11, 58.16, and 58.18.¹⁵¹ As discussed at pages 79 to 84 of the OCA's Main Brief, the OCA opposes the proposed waivers of Sections 58.4(a), 58.10, and 58.14.¹⁵² The OCA does not oppose the proposed waiver of Section 58.5 for the reasons discussed below.¹⁵³

2. Waiver of Section 58.4(a).

The OCA opposes the Company's proposed waiver of Section 58.4(a), which specifically requires providing public notice prior to any reductions in LIURP funding. OCA M.B. at 80-

¹⁵⁰ 52 Pa. Code §§ 58.4(a), 58.5, 58.9, 58.10, 58.11, 58.16, 58.18

¹⁵¹ OCA M.B. at 79-80; see 52 Pa. Code §§ 58.9, 58.16, 58.18.

¹⁵² OCA M.B. at 79-84; OCA St. 2 at 51-56; 52 Pa. Code §§ 58.4(a), 58.10, and 58.14.

¹⁵³ 52 Pa. Code § 58.5.

82.¹⁵⁴ PGW argues that since there is no budget approved for PGW's LIURP program beyond the DSM Bridge Plan that there is no "reduction in program funding" contemplated here that would require public notice and opportunity to be heard.¹⁵⁵ PGW's purely semantic argument on this issue stands in stark contrast to the letter and spirit of the law.

PGW has a statutory mandate to operate its LIURP program.¹⁵⁶ PGW has proposed that its LIURP budget be reduced by 75% from 2015 to 2016.¹⁵⁷ The public has a need and an interest to provide comment on such reductions in the program funding. Notice and opportunity to be heard is a fundamental principle of the law and should not be waived.

The OCA agrees with the concerns identified by CAUSE-PA and TURN regarding the proposed reduction in funding and the proposed waiver of Section 58.4(a). In its Main Brief, CAUSE-PA provided:

CAUSE-PA respectfully asserts that the factual and legal situation in this proceeding requires the conclusion that the requirements contained with 58.4(a) are particularly necessary in this proceeding. PGW proposes a dramatic reduction in LIURP funding that if approved would eviscerate its current LIURP program. This is a monumental change in program services that certainly calls for the need for public notice and opportunity for input. There is absolutely no showing that evolving standards of efficiency have rendered the need for public notice and opportunity for public comment "obsolete."¹⁵⁸

TURN *et al.* also opposed the proposed waiver of Section 58.4(a). As TURN *et al.* provided in its Main Brief:

The regulation addresses a proposed funding reduction. Presumably, the rationale for providing public notice and an opportunity for public input is for the public to weigh in before funding is reduced and when public commentary may be of consequence to the determination of the outcome.¹⁵⁹

¹⁵⁴ 52 Pa. Code § 58.4(a).

¹⁵⁵ PGW M.B. at 79-80.

¹⁵⁶ 66 Pa. C.S. § 2203(8).

¹⁵⁷ OCA M.B. at 80-82; OCA St. 2 at 52; see also, TURN M.B. at 15-16; CAUSE-PA M.B. at 25-28.

¹⁵⁸ CAUSE-PA M.B. at 28.

¹⁵⁹ TURN *et al.* M.B. at 15-16.

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.

3. Waiver of Section 58.5.

In its Main Brief, PGW raised a question regarding whether the OCA opposes the Company's request to waive Section 58.5.¹⁶⁰ PGW cited to the OCA's discussion of the impact of a budget reduction on the administrative costs.¹⁶¹

The OCA does not specifically oppose the Company's proposed waiver of Section 58.5 of the Commission's regulations, if the existing CRP Home Comfort budget of \$7.6 million is maintained. OCA witness Colton's testimony, however, identified a concern with the impact that the proposed LIURP budget reduction would have on what are already high administrative expenses in excess of the levels provided for under Section 58.5.¹⁶²

As Mr. Colton testified, PGW was able to support its administrative expenses, even though they were in excess of 20% of the budget, because of the successful process used to reallocate the LIURP budget between conservation providers based on "high performance."^{163 164} PGW's proposed drastic budget reduction in this case, however, would have the opposite effect on the administrative costs of the LIURP program and would increase, not minimize, the administrative dollars as a percentage of program costs.¹⁶⁵ The OCA agreed with the Company's current use of a "high performance" reallocation of its LIURP budget for its conservation service

¹⁶⁰ 52 Pa. Code § 58.5 ("not more than 15% of a covered utility's annual budget for its usage reduction program may be spent on administrative costs.")

¹⁶¹ PGW M.B. at 79, citing OCA St. 2 at 16-18.

¹⁶² OCA St. 2 at 16-18.

¹⁶³ OCA St. 2 at 17.

¹⁶⁴ The Commission's Tentative Order identified the high level of administrative expenses to be an area of concern in PGW's most recent Universal Service and Energy Conservation proceeding. Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2014-2016 Submitted in Compliance with 52 Pa. Code § 62.4, Docket No. M-2013-2366301, Tentative Order at 24 (April 3, 2014).

¹⁶⁵ OCA St. 2 at 16-17.

providers because the process improved overall performance. The Company indicated, however, with its reduced budget that the Company would no longer be using this existing process.¹⁶⁶

The OCA does not oppose a waiver of Section 58.5, if the Commission approves the OCA's recommendation of maintaining the existing LIURP budget at \$7.6 million. Alternatively, if PGW's significantly reduced budget is approved, its excessive administrative costs present a concern for the effectiveness of the program.

4. Waiver of Section 58.10(a).

PGW proposed to waive Section 58.10(a) regarding prioritization for LIURP treatments.¹⁶⁷ Prioritization for LIURP program services is determined first by the customers with the largest usage and greatest opportunities for bill reductions.¹⁶⁸ 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.¹⁶⁹ Finally, all other things being equal, those customers whose incomes place them "farthest below the maximum eligibility should be prioritized."¹⁷⁰

PGW argued that it seeks the waiver because the Company targets customers from the "highest usage CRP customers."¹⁷¹ PGW argued that since PGW's program is a Percentage of Income Payment Plan (PIPP), LIURP participation does not impact the CRP customer's pre-program arrearages or the asked-to-pay amount and "makes no sense."¹⁷² PGW also argued that such prioritization would lead to negative impacts.¹⁷³

¹⁶⁶ OCA St. 2 at 18.

¹⁶⁷ 52 Pa. Code § 58.10(a).

¹⁶⁸ 52 Pa. Code § 58.10(a)(1).

¹⁶⁹ 52 Pa. Code § 58.10(a)(2).

¹⁷⁰ 52 Pa. Code § 58.10(a)(3).

¹⁷¹ PGW St. 1 at 9-10; OCA St. 2 at 53.

¹⁷² PGW M.B. at 80.

¹⁷³ Id.

The OCA opposes the Company's request for waiver of the prioritization for LIURP treatments.¹⁷⁴ The OCA submits that PGW's PIPP design should not impact the prioritization for LIURP and would not negatively impact the program. Most of the other electric and natural gas companies in Pennsylvania operate a form of a PIPP and comply with Section 58.10(a) of the Commission's regulations. OCA witness Colton testified:

The Commission has repeatedly made clear in its review of gas and electric universal service programs that establishing eligibility for LIURP is a different task than prioritizing investments within the eligible population. While high energy usage relates to the eligibility for LIURP programs, it is entirely appropriate to use arrearages and income deficits to prioritize amongst customers who are equally eligible.¹⁷⁵

Moreover, as CAUSE-PA notes, the Commission has already weighed in on this issue and stated "[a]lthough the PGW ELIRP program is operating within the DSM portfolio of programs, the selection method for customers should not change from what it would be if ELIRP were part of PGW's USECP."¹⁷⁶ The OCA submits that PGW's request for waiver of Section 58.10(a) should be denied.

5. Waiver of Section 58.14(c).

The OCA opposes the Company's proposed waiver of Section 58.14(c) of the Commission's regulations.¹⁷⁷ Section 58.14(c) provides that a "covered gas utility shall address usage of electricity provided by a covered utility through the provision of electric usage reduction."¹⁷⁸ PGW argues that the regulation is directed towards the "provision of education, efficient light bulbs, installation of electric water heaters and hot water pipe insulation and

¹⁷⁴ OCA M.B. at 82-83; see also, OCA St. 2 at 53-54.

¹⁷⁵ OCA St. 2 at 53.

¹⁷⁶ August 22 Order at 55; CAUSE-PA M.B. at 29.

¹⁷⁷ OCA M.B. at 83-84; OCA St. 2 at 54-56; see, 52 Pa. Code § 58.14(c).

¹⁷⁸ Id.

devices to reduce the flow of hot water” and not towards de facto space heating.¹⁷⁹ PGW argues that because of the complexity involved with intra-utility coordination and in light of PECO’s Act 129 activities that PGW does not propose to address any issues regarding electricity usage.¹⁸⁰ The OCA submits that just because PGW is not addressing or identifying this issue does not mean that the Section should be waived.

To the extent that there are opportunities to coordinate with PECO’s LIURP or Act 129 programs, the OCA submits that it makes sense to do so. Coordination provides PGW’s conservation service provider with the opportunity to coordinate efforts and to address potentially dangerous instances where the customer is using de facto space heating. While PGW is correct that the regulation does not specifically identify de facto space heating situations, the OCA’s concern is that if the Section is waived, PGW will not have any need to identify or to address inter-utility coordination efforts. The OCA submits that PGW’s request to waive Section 58.14(c) should be denied.

- E. De Facto Electric Heating Proposal- No Reply is necessary.
- F. Restore Service Program- No Reply is necessary.

X. OTHER ISSUES

In its Main Brief, OSBA argued that the Commission must determine first whether the CRP Home Comfort program benefits only CRP customers or whether substantial other benefits are provided to other non-CRP residential customers.¹⁸¹ The OSBA argued that if the Commission determines that “non-CRP customers are substantial beneficiaries of the CRP Home

¹⁷⁹ PGW M.B. at 80.

¹⁸⁰ *Id.* at 80-81.

¹⁸¹ OSBA M.B. at 6-8, 12-14.

Comfort Program, then the OSBA respectfully submits that the costs for the program should be recovered solely from the Residential class.”¹⁸²

The OCA submits that the OSBA’s arguments on this issue lack evidentiary support and are not only beyond the scope of the recommendations of its witness in this proceeding, but that the cost allocation for the entire CRP program is beyond the intended scope of this DSM proceeding.

The only CRP cost allocation issue Mr. Knecht argued in the proceeding was whether the costs for the OCA’s proposed 20% set-aside for non-CRP participants should be allocated to all customers. Mr. Knecht argued that LIURP is designed to reduce the cross-subsidy burden required of non-CRP customers, and therefore, Mr. Colton’s proposal would not provide a benefit to all firm service customers.¹⁸³ Mr. Knecht testified:

However, if the Commission does adopt this approach, I recommend that the costs for such a program not be recovered in the USC, but rather should be recovered from the Residential Efficiency Cost Recovery Surcharge. Unlike conservation savings from CRP customers which can potentially serve to reduce the USC charges for all firm service customers, the benefits of Mr. Colton’s program would be limited solely to residential customers. Thus, the costs for such a program should not be included in the USC, and should be recovered like any other DSM program targeted at regular service customers.¹⁸⁴

Mr. Knecht never argued that the costs of the entire CRP program should be allocated only to residential customers.¹⁸⁵

Regarding the cost allocation for the 20% set-aside proposal by OCA witness Colton, the OSBA unreasonably seeks to limit the scope of the LIURP program and the scope of the Company’s universal service rider. OCA witness Colton testified:

¹⁸²

Id.

¹⁸³

OSBA St. 2 at 2.

¹⁸⁴

OSBA St. 3 at 4-5 (emphasis added).

¹⁸⁵

The OCA notes that OSBA addressed this issue in Section VI(B) and VIII(C) of its Main Brief.

The objective of PGW's LIURP program is not only to reduce the subsidies that are paid to CRP participants in the form of a CAP credit. As BCS has stated: "the primary goals of LIURP are to assist low-income residential customers to conserve energy and reduce their energy bills." (emphasis added). The fact that the LIURP program also reduces the CRP subsidy is an additional important impact of LIURP investments, but it is not the only goal.¹⁸⁶

As OCA witness Colton stated, under Mr. Knecht's theory, "LIURP would be primarily targeted to CRP participants in the lowest income tiers because those customers accumulate the greatest magnitude of CRP credits."¹⁸⁷ The OCA submits that Mr. Knecht's approach to LIURP ignores the many purposes and benefits that can be achieved with LIURP. *Id.* The confirmed low-income customers that the OCA references in its proposal are customers who are otherwise qualified for CRP and may not be currently enrolled in the program. The Commission's regulations do not require that a customer be enrolled in customer assistance program in order to be eligible for LIURP weatherization services.

PGW has historically been permitted to recover the costs of its CRP program, including its LIURP program, from all firm service customers. Historic CRP program cost allocation for all firm service customers was not changed as a part of PGW's last base rate proceeding Settlement and should not be amended here.¹⁸⁸ The Commission has maintained PGW's historic CRP cost allocation since PGW came under the jurisdiction of the Commission in 2000. The OCA's proposal regarding how to allocate 20% of the budget should not be used as a reason to amend cost recovery for the CRP program in general.

¹⁸⁶ OCA St. 2-S at 30.

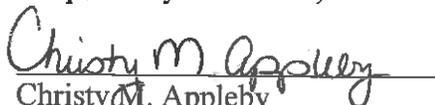
¹⁸⁷ OCA St. 2-S at 32.

¹⁸⁸ See, Base Rate Order; August 22 Order at 57.

XI. CONCLUSION

For the reasons set forth in this Reply Brief, and those contained in the Office of Consumer Advocate's Main Brief, the Office of Consumer Advocate respectfully requests that PGW's Phase II Plan be approved with the OCA's proposed modifications. The OCA respectfully requests that 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: December 8, 2015
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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 Reply 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 8th day of December 2015.

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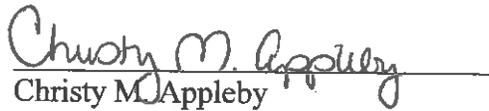
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