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December 8, 2015

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

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 for electronic filing please find Philadelphia Gas Works' ("PGW") Reply Brief with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

A handwritten signature in cursive script that reads "Deanne M. O'Dell".

Deanne M. O'Dell  
DMO/lww  
Enclosure

cc: Hon. Christopher Pell w/enc.  
Hon. Marta Guhl w/enc.  
Cert. of Service w/enc.

## CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PGW's Reply Brief upon the parties and persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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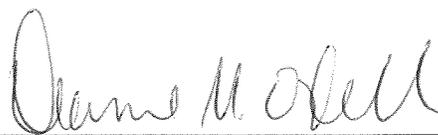
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Deanne M. O'Dell, Esq.

Date: December 8, 2015

**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 :

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**REPLY BRIEF OF  
PHILADELPHIA GAS WORKS**

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## Table of Contents

|   |            |
|---|------------|
| <b>TABLE OF AUTHORITIES</b> .....   | <b>III</b> |
| <b>I. INTRODUCTION</b> .....  | <b>1</b>   |
| <b>II. LEGAL STANDARDS</b> .....  | <b>5</b>   |
| <b>III. CONTINUATION OF DSM PLAN</b> .....  | <b>6</b>   |
| A.    PGW PROPOSAL TO CONTINUE DSM.....   | 6          |
| B.    COST BENEFIT ANALYSIS .....   | 7          |
| C.    PROPOSED PROGRAM TERM.....  | 8          |
| <b>IV. PROPOSED NON-LIURP PROGRAMS</b> .....  | <b>9</b>   |
| A.    PROPOSED NON-LIURP PROGRAMS .....   | 9          |
| B.    PROPOSED NEW DSM PILOT PROGRAM – EFFICIENT-FUEL SWITCHING .....   | 10         |
| 1. <i>There Is No Requirement That PGW Must Focus Only On Natural Gas Reductions</i> .....  | 11         |
| 2. <i>PGW's Proposed Reporting Does Not Support OCA View That Efficient Fuel-Switching Program Is Not Appropriately Included In DSM Plan</i> .....  | 13         |
| 3. <i>PGW's Proposal Is Different From PGW's Other Non-DSM Programs</i> .....   | 14         |
| 4. <i>There Is No Support For Redirecting The Proposed Budget For Efficient Fuel-Switching To CRP Home Comfort</i> .....  | 14         |
| C.    PGW ON-BILL REPAYMENT PROGRAM PROPOSAL.....   | 15         |
| D.    OCA CONFIRMED LOW-INCOME OUTREACH PROPOSAL .....  | 18         |
| <b>V. DSM COST RECOVERY MECHANISMS</b> .....  | <b>20</b>  |
| <b>VI. PGW PROPOSED TWO NEW COST ELEMENTS FOR ECRS</b> .....  | <b>22</b>  |
| A.    CONSERVATION ADJUSTMENT MECHANISM (“CAM”) .....   | 23         |
| 1. <i>PGW Has Supported Its Need For CAM</i> .....  | 24         |
| 2. <i>There Are No Legal Prohibitions Against Implementing CAM</i> .....  | 32         |
| 3. <i>Sound Policy Supports Approving CAM For PGW</i> .....   | 34         |
| 4. <i>PGW's CAM Is Well-Designed And Reasonably Tailored To Achieve Its Intended Purpose</i> .....  | 36         |
| B.    PERFORMANCE INCENTIVES .....  | 38         |
| 1. <i>PGW's PI Is No Different In Concept To Current Rules Regarding Capacity Release And Off-System Sales</i> 38   | 38         |
| 2. <i>PI Will Benefit Customers</i> .....   | 39         |
| 3. <i>A Rate Case Does Not Present a Suitable Opportunity To Address PI</i> .....   | 41         |
| 4. <i>Section 523 of the Code is not Applicable to PGW's Performance Incentive Proposal</i> .....   | 41         |
| 5. <i>PGW Is Not Prohibited From Receiving A PI Based On Its Status As A Municipal Utility And It Does Not Financially Benefit From Its DSM Programs</i> .....  | 42         |
| 6. <i>Nothing Prohibits Performance Incentives for LIURP Programs</i> .....   | 47         |
| <b>VII. DSM II BUDGET</b> .....   | <b>48</b>  |
| A.    PROPOSED BUDGETS (NON-LIURP PROGRAMS).....  | 48         |
| B.    PGW PROPOSED BUDGET FOR CRP HOME COMFORT PROGRAM (LIURP).....   | 51         |
| 1. <i>OSBA's Analysis Of CRP Home Comfort Is Not The Reason Why PGW Is Proposing A More Conservative And Prudent CRP Home Comfort Budget</i> .....  | 52         |
| 2. <i>Proposals For A Substantially Higher CRP Home Comfort Budget Without Addressing The Financial Realities Of Unrecovered Costs Are Not Legally Required, Not Realistically Sustainable And Would Be Detrimental For All Of PGW's Ratepayers</i> ..... | 54         |
| <b>VIII. CRP HOME COMFORT PROGRAM (LIURP)</b> .....   | <b>64</b>  |
| A.    CONTINUATION OF CRP HOME COMFORT AS PGW'S LIURP WITHIN DSM II PORTFOLIO.....  | 64         |
| B.    CRP HOME COMFORT PROGRAM ELIGIBILITY CRITERIA .....   | 65         |
| C.    PGW PROPOSED NEW LOW-INCOME MULTIFAMILY (“LIME”) PROGRAM.....   | 69         |
| 1. <i>The PGW/I&amp;E Stipulation Reasonably Addresses Concerns About Designating Eligible Properties</i> 70  | 70         |
| 2. <i>The PGW/I&amp;E Stipulation Reasonably Addresses Concerns About How To Recover The Costs Of The LIME Program</i> .....  | 71         |
| 3. <i>PGW's Proposal Already Includes Offering Comprehensive Program Measures</i> .....   | 72         |

|     |  |    |
|-----|--|----|
| 4.  | <i>Including LIME Within The CRP Home Comfort Program Budget Is Consistent With The Commission's USECP 2014-2016 Order</i> .....   | 73 |
| D.  | CHAPTER 58 WAIVER REQUESTS .....   | 74 |
| 1.  | <i>52 Pa Code § 58.4(a) (Minimum Funding Requirements and Public Notice)</i> .....   | 75 |
| 2.  | <i>52 Pa Code § 58.10 (Prioritization Based On Arrearages and Income)</i> .....  | 77 |
| 3.  | <i>52 Pa Code § 58.14 (Inter-Utility Coordination)</i> .....   | 82 |
| E.  | DE FACTO ELECTRIC HEATING PROPOSAL.....  | 84 |
| 1.  | <i>PGW's LIURP Does Not Impact A CRP Customer's Financial Responsibilities</i> .....   | 84 |
| 2.  | <i>Impact Of Proposal Will Force PGW To Incur Even More Unrecovered Costs Due To Implementation And Increased Arrearages</i> ..... | 88 |
| 3.  | <i>PECO's De Facto Program Does Not Provide Support For Adopting This Proposal For PGW</i> .....                                   | 90 |
| F.  | RESTORE SERVICE PROGRAM.....   | 91 |
| IX. | <b>OTHER ISSUES – RESTRUCTURING CRP TO INCLUDE USAGE SIGNAL</b> .....  | 94 |
| X.  | <b>CONCLUSION</b> .....  | 94 |

**ATTACHMENT A – STIPULATION BETWEEN PGW AND I&E**

**TABLE OF AUTHORITIES**

Cases

*Brockway Glass Co. v. Pa. Pub. Util. Comm'n*,  
437 A.2d 1067 (Pa.Cmwlt. 1981).....5

*Pennsylvania Inds. Energy Coalition v. Pennsylvania Pub. Util. Comm'n*,  
653 A.2d 1336 (Pa. Commw. Ct. 1995).....32, 33

Administrative

*Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards for the Participation of Demand Side Management Resources - Technical Reference Manual Update*, Docket No. M-00051865, Final Order entered June 8, 2010 (2010 TRM).....35

*In Re: Multifamily Housing Stakeholder Meeting*, Docket No. M-2014-2424864, Secretarial Letter dated November 18, 2015 .....70, 73

*In the Matter of the Application of Montana-Dakota Utilities Company to Implement Changes to the Conservation Program Tracking Mechanism Rate 90*, Public Service Commission of the State of Montana Docket No. D2015.3.29, Order 7405 (entered May 6, 2015) .....24

*Investigation Into Demand Side Mgt. by Electric Utilities Unif. Cost Recovery Mechanism*, Docket No. I-900005, Final Order entered December 13, 1993 .....35

*Pa PUC v. Equitable Gas Company*, Docket No. R-00050272, Opinion and Order entered September 9, 2005 .....39

*Pa. Pub. Util. Comm'n v. Duquesne Light Company*, Docket Nos. R-2013-2372129, et al. (Opinion and Order entered April 23, 2014).....5

*Pa. PUC v. PGW*, Docket No. R-2008-2073938. Order entered December 19, 2008 .....27, 45

*PAPUC v. PGW*, R-2009-139884, Docket No. P-2009-2097639, Joint Petition for Settlement (May 12, 2010) .....57

*PAPUC v. Philadelphia Gas Works*, Docket No. R-2015-2465656, Recommended Decision dated June 5, 2015, adopted by Order entered July 8, 2015) .....38

*PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4*, Docket M-2012-2290911, Recommended Decision dated June 11, 2015 .....89, 90, 94

*PECO Petition for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan*, Docket No. M-2015-2515691 .....82

*Pennsylvania Pub. Util. Comm'n v. Aqua Pennsylvania, Inc.*,  
Docket No. R-00072711 (Commission Opinion and Order entered July 17, 2008) .....5

|   |            |
|---|------------|
| <i>Pennsylvania Public Utility Commission v. Philadelphia Gas Works,</i><br>Docket No. R-00061931, Opinion and Order entered September 28, 2007 .....   | 21         |
| <i>Pennsylvania Public Utility Commission, et. al v. UGI Central Penn Gas, Inc.,</i><br>Docket No. R-2010-2214415, et. al., Opinion and Order entered August 19, 2011 .....   | 33         |
| <i>Petition Of Philadelphia Gas Works For Waiver Of Provisions Of Act 11 To Increase<br/>The Distribution System Improvement Charge Cap And To Permit Levelization<br/>Of DSIC Charges,</i> Docket P-2015-2501500 .....   | 3          |
| <i>Petition of UGI Utilities, Inc.- Electric Division for Approval of its Energy Efficiency<br/>and Conservation Plan,</i> Docket No. M-2010-2210316, Opinion and Order entered<br>October 19, 2011 and Continuation Order entered May 19, 2015 .....   | 12         |
| <i>Philadelphia Gas Works Universal Service and Energy Conservation Plan 2014-2016,</i><br>dated June 1, 2013 as updated September 22, 2014, Docket No. M-2013-2366301 .....  | 53         |
| <i>Philadelphia Gas Works' revised Petition For Approval of Energy Conservation and<br/>Demand Side Management Plan,</i> Docket Nos. R-2009-2139884, P-2009-2097639,<br>Opinion and Order entered July 29, 2010 at 3 (“ <i>DSM I Final Order</i> ”) .....   | 27         |
| <i>Residential Low Income Usage Reduction Programs,</i> Docket No. L-00960118,<br>Final Rulemaking Order adopted August 28, 1997, 28 Pa.B. 25 .....   | 83         |
| <i>UGI Utilities, Inc.- Gas Division, UGI Utilities, Inc.-Electric Division, UGI Penn<br/>Natural Gas, Inc., and UGI Central Penn Gas, Inc., Universal Service and Energy<br/>Conservation Plan for 2014-2017 Submitted in Compliance with<br/>52 Pa. Code § 54.74 and § 62.4,</i> Docket No. M-2013-2371824, Final Order<br>entered January 15, 2015 ..... | 56, 58, 60 |

Statutes

|                          |            |
|--------------------------|------------|
| 1 Pa. C.S. § 1921 .....  | 11         |
| 66 Pa. C. S. § 523 ..... | 42         |
| 66 Pa. C.S. § 1307 ..... | 23, 32     |
| 66 Pa. C.S. § 1318 ..... | 39         |
| 66 Pa. C.S. § 1319 ..... | passim     |
| 66 Pa. C.S. § 1922 ..... | 11         |
| 66 Pa. C.S. § 2203 ..... | 55         |
| 66 Pa.C.S. § 2212 .....  | 30, 31, 44 |
| 66 Pa. C.S. § 2806 ..... | 5, 11      |
| 66 Pa.C.S. § 2806 .....  | passim     |

Regulations

52 Pa. Code §§ 56.1-56.191 .....88  
52 Pa. Code § 58.15.....53  
52 Pa. Code § 58.4.....passim  
52 Pa. Code § 69.265.....78, 90

Other Authorities

PGW Universal Service Program Impact Evaluation Final Report .....87

## **I. INTRODUCTION**

Philadelphia Gas Works (“PGW” of the “Company”) is a municipally owned natural gas distribution company (“NGDC”) and is the only utility distributing natural gas within the city of Philadelphia to approximately 500,000 customers. PGW, which is the only utility in Pennsylvania regulated by the Commission on a cash-flow basis, is particularly dependent on revenues from its ratepayers to have the funds needed to maintain safe and adequate service because PGW does not earn any return on its used and useful rate base in its rates (it does not even have a rate base). For over five years now, PGW has been providing energy efficiency and conservation benefits to customers of all General Service classes through the various programs of its demand-side (“DSM”) plan. One of these programs includes the provision of home weatherization services to residential low-income customer through PGW’s low income usage reduction program (“LIURP” which is known as “CRP Home Comfort”) as required by 52 Pa. Code §§ 58.1-58.18.

PGW believes that all elements of its proposed DSM Plan – including the proposal to add a fuel switching load management program – are consistent with the clear policy of the Commonwealth to be on the forefront of energy efficiency and greenhouse gas reduction initiatives. PGW’s DSM Plan has successfully and cost-effectively delivered substantial natural gas savings to customers by utilizing the same proven strategies employed by the nation’s most successful natural gas energy efficiency programs. With the exception of LIURP, all of the other programs of the DSM plan are offered on a voluntary basis as an enhancement to PGW’s core services to provide customers an opportunity to reduce their energy usage and, therefore, reduce their bills. In addition, the LIURP was voluntarily provided at an enhanced spend for the first five years of the DSM.

There is one strong disincentive to offering a voluntary conservation program – the fact that a successful DSM program results in less sales revenues flowing back to PGW. With less sales revenues flowing back to PGW, there are less dollars available to cover operating expenses and capital construction, such as pipeline main replacement. Therefore, in order to keep offering this service enhancement, PGW must ensure that its DSM Plan (including LIURP): (1) is reasonably designed to achieve results, i.e., is worth the effort; (2) is cost-effective, i.e. customers are receiving value for their investment; and, (3) does not result in significant unrecovered costs that negatively impact PGW’s cash flow. Importantly, PGW must balance all of these considerations in the design of its DSM Plan. This balancing also informs PGW’s decision to continue to offer these voluntary DSM programs and an enhanced LIURP spend in the future. Unreasonably weighting one of these factors – for example, requiring PGW to spend 81% more for its entire DSM Plan <sup>1</sup> or implementing a substantially larger budget for LIURP<sup>2</sup> – while also vehemently opposing another factor, i.e. denying PGW a real opportunity to address the negative financial impact of such a large budget on the rest of its operations is unfair and bad policy.

Given all the other obligations facing PGW, including the need to modernize its network by replacing miles of antiquated cast iron main, it would be unreasonable, untenable and not in the public interest to impose the kinds of costly changes demanded by OCA/CAUSE-PA/TURN

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<sup>1</sup> PGW proposes to spend \$31,492,765 for its entire DSM Plan over five years if its proposed CAM is not authorized. In contrast, the Office of Consumer Advocate (“OCA”) recommends that PGW be directed to spend \$59,535,062 over five years while also opposing PGW’s proposal to recover unrecovered costs (i.e. the CAM).

<sup>2</sup> Although they do not offer actual budget numbers, both the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) and the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (collectively, “TURN”) support some undefined maximum amount of LIURP weatherization services in addition to implementing other new no-fee programs designed to address low income consumer who had service terminated.

especially if the Commission declined to adopt PGW's proposal for recognizing the lost revenue effects of engaging in DSM – its conservation adjustment mechanism (“CAM”). CAM is particularly appropriate in this instance; PGW is not seeking CAM in a vacuum, it has implemented a robust, cost-effective DSM that provides a net positive financial impact for its customers and benefits to the environment. CAM will remove the financial disincentive confronting PGW and could allow it to offer larger programs – thereby providing even greater cost-effective benefits to customers.

The positions of the parties need to be considered in this broader context. PGW believes that continuing its DSM program, albeit at more modest levels, is reasonable. Doing so, however, must recognize that PGW also needs to ask its customers for further help to accelerate the replacement of its antiquated cast iron main distribution system which PGW is seeking through an increase to its Distribution System Improvement Charge (“DSIC”).<sup>3</sup> PGW's proposal here carefully balances the benefits of a reasonable DSM program while still maintaining the ability to fund the replacement of antiquated cast iron mains. To do this, any DSM program needs to keep the Company financially sound so that it can continue to make its system safer and more reliable.

It is, therefore, ironic that in this proceeding OCA et. al., are demanding that PGW impose massively greater charges on its customers in order to finance a 81% increase in DSM funding over PGW's reasoned and balanced proposal while just a few weeks ago OCA was complaining that PGW ratepayers should not have to bear an increase in its DSIC by 1.7%, or

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<sup>3</sup> Petition Of Philadelphia Gas Works For Waiver Of Provisions Of Act 11 To Increase The Distribution System Improvement Charge Cap And To Permit Levelization Of DSIC Charges, Docket P-2015-2501500, Petition filed September 1, 2015 and still pending.

just \$1.65 per month for a residential heating customer.<sup>4</sup> This is in part why PGW needs to reserve the right to withdraw the voluntary programs of its DSM if the Commission were adopt the unreasonable budget demands of the other parties. Such a decision would have to be considered in light of what is in the best interests of the Company and its customers taking all of these issues into consideration. PGW sincerely hopes that the Commission will recognize the rational, reasonable middle ground that PGW has offered here and adopt the Company's carefully crafted plan.

With the exception of the Clean Air Council ("CAC"), the remaining parties – the Bureau of Investigation and Enforcement ("I&E"), the Office of Small Business Advocate ("OSBA"), and the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG") – essentially focus their advocacy on opposing PGW's proposal for a CAM and a Performance Incentive Plan. These two mechanisms would work together to remove a disincentive and provide a positive incentive (respectively) for PGW and permit it to expand its energy efficiency and conservation budgets, producing real additional customer benefits. In the interest of providing context about how approval of the CAM could positively impact the offerings of the DSM Plan, PGW placed on the record budgets and programmatic details (most significantly maintaining the Home Rebates program) for an "expanded" scenario that would be viable if PGW's proposal for full cost recovery is approved.

None of the arguments raised by these parties in opposition to the CAM and the PI are supported by the law or the record and certainly do not require the Commission to deny PGW's proposals. In fact, PGW's unique status as a cash flow regulated municipal utility, offers the

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<sup>4</sup> *Id.*, PGW Main Brief dated November 13, 2015 at

Commission the legal and policy flexibility to authorize these mechanisms. By doing so, the Commission could gain valuable experience about how such policies work in practice while allowing PGW's time-tested and well-developed DSM program to continue to evolve to provide maximum benefits to all of its customers and the environment.

For all the reasons explained below (and as set forth in PGW's main brief which is incorporated fully herein), PGW submits that its customers would be best served by full approval of all PGW's proposals in this proceeding – including its proposed CAM and PI mechanisms – as such result would lead to the implementation of a more robust DSM Plan.

## **II. LEGAL STANDARDS**

The legal standards as set forth in PGW's main brief are incorporated herein.<sup>5</sup> However, when considering the proposals offered by other parties which were not included in the original filing (such as budget revisions, programmatic changes and new programs), PGW reiterates that these parties are required to present some evidence or analysis demonstrating the reasonableness of their proposals and bear the burden of going forward with evidence that their proposals should be adopted.<sup>6</sup>

Also worth reiterating for purposes of this reply brief is that while electric distribution companies are specifically required by law to implement cost-effective energy efficiency and conservation plans to reduce energy demand and consumption within their service territories,<sup>7</sup> no such mandate exists for natural gas distribution companies ("NGDCs"), like PGW. While PGW

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<sup>5</sup> PGW Main Brief at 11-14.

<sup>6</sup> See *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067 (Pa.Cmwlt. 1981); *Pa. Pub. Util. Comm'n v. Duquesne Light Company*, Docket Nos. R-2013-2372129, et al. (Opinion and Order entered April 23, 2014); *Pennsylvania Pub. Util. Comm'n v. Aqua Pennsylvania, Inc.*, Docket No. R-00072711 (Commission Opinion and Order entered July 17, 2008).

<sup>7</sup> 66 Pa.C.S. § 2806.1(a)(referred to as "Act 129").

has taken Act 129 precedents into consideration in the development of its DSM, there are no statutory, regulatory or other legislative policy requirements that require PGW to offer the non-LIURP programs of its DSM Plan and PGW's decision to continue these programs is voluntary. Importantly, the continued inclusion of PGW's LIURP in the DSM Plan (which PGW supports) does not transform PGW's voluntarily offered DSM Plan programs into something that is required by statute or regulation.

### **III. CONTINUATION OF DSM PLAN**

#### **A. PGW PROPOSAL TO CONTINUE DSM**

PGW proposes to continue its DSM Plan, with proposed modifications in programming as well as budgets depending on the outcome of this proceeding.<sup>8</sup> Parties either take no position regarding continuing the DSM Plan or support continuation of the DSM Plan but contingent on their proposed modifications (which are discussed further in the appropriate sections below). OSBA recognizes that the Commission has made the preliminary determination that PGW's DSM programs are a success and takes no exception to continuing the program for non-CRP customers.<sup>9</sup>

PICGUG supports PGW's proposed new tool for commercial customers to provide improved online access to usage data, combined with a platform for automatically uploading usage data to the EPA Portfolio Manager system, to facilitate convenient ongoing tracking toward conservation goals.<sup>10</sup> PICGUG, however, recommends that the Commission "condition approval" of this tool upon compliance with PGW's on-the-record representations that building

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<sup>8</sup> PGW Main Brief at 14-24.

<sup>9</sup> OSBA Main Brief at 10.

<sup>10</sup> PICGUG at 6-7; PGW Main Brief at 24; PGW St. 2 at 11; PGW Exh. TML-4

owners and PGW customers will be able to approve the transfer of this information regarding their accounts into the EPA Portfolio Manager tool through PGW's website.<sup>11</sup> PICGUG's underlying concern is that customer data should not be released without customer authorization.<sup>12</sup> PGW is fully addressing this concern and, moreover, the concept of ensuring that customer data is not released is already embodied in the Commission's policies and regulations. Thus, implementation of this tool – as proposed by PGW – fully addresses PICGUG's concern, is consistent with Commission requirements and there is no need for additional revision or additional review of the tool by the Commission beyond the Commission's approval here.

**B. COST BENEFIT ANALYSIS**

Only OSBA raised concerns regarding PGW's proposal to include the benefits of demand reduction induced price effect ("DRIPE") and the internalized cost of carbon methodology into its cost benefit analysis of its DSM Plan going forward.<sup>13</sup> While OSBA did not detail its concerns in its main brief (based on a mistaken assumption that the Company withdrew its proposal),<sup>14</sup> both of PGW's proposals are reasonable and appropriate.

DRIPE is a benefit to Pennsylvania utility customers resulting from the DSM Plan's natural gas conservation and the impact of reduced consumption on both the market price of natural gas in North America and the market price of transportation to deliver gas to the city

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<sup>11</sup> PICGUG Exh. No. 1 at 4.

<sup>12</sup> PICGUG Main Brief at 7.

<sup>13</sup> PGW Main Brief at 25-28.

<sup>14</sup> OSBA Main Brief at 10. PGW has never indicated on-the-record or in any other discussions with parties that it was withdrawing these proposals.

gate.<sup>15</sup> The impacts are marginal, given the size of PGW's DSM and reduction in gas consumption (\$0.05 reduction on PGW gas supply bills per Dth saved) but, in the aggregate, provide appreciable additional benefits. The inclusion of DRIPE more properly values the benefits of the program that are occurring, therefore, allowing more of it to occur at cost-effective levels. The inclusion of DRIPE here need not set a precedent for future electric cases.<sup>16</sup>

Similarly, PGW's proposal to use the internalized cost of carbon methodology would rely on a forecast of the level of carbon tax or a forecast of the value at which carbon allowance will trade in its screening.<sup>17</sup> As such, PGW is not measuring the benefit to the entire world but rather the internalized benefit to PGW's customers of not paying the forecast carbon tax or allowance price.<sup>18</sup> Including these two avoided cost components within the primary avoided costs and TRC calculations going forward is consistent with industry precedent and will provide a more reasonable evaluation of the costs and benefits of its DSM Plan to enable additional work.<sup>19</sup>

### **C. PROPOSED PROGRAM TERM**

No party opposed and OCA specifically agreed<sup>20</sup> with PGW's proposal that (subject to the Commission's approval and contingent on the Company's decision to continue the non-LIURP DSM programs based on the final determination of this proceeding),<sup>21</sup> its DSM programming would be authorized to continue beyond FY 2020. If the DSM Plan is continued:

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<sup>15</sup> PGW Main Brief at 26; PGW St. 4 at 11-12; PGW Exh. TML-4 at 27, 49-50.

<sup>16</sup> PGW Main Brief at 26; PGW St. 4-R at 19.

<sup>17</sup> PGW Main Brief at 27; PGW St. St. 4-R at 22.

<sup>18</sup> PGW Main Brief at 27; PGW St. 4-R at 22.

<sup>19</sup> PGW Main Brief at 26; PGW St. 4 at 11; PGW Exh. TML-4 at 27, 49-50.

<sup>20</sup> OCA Main Brief at 13.

<sup>21</sup> As noted in its main brief, PGW reserves the right to re-evaluate the appropriateness and effectiveness of maintaining the ongoing DSM and take appropriate action. PGW Main Brief at 30.

(1) program activity details would be included in an annual report filed four months after the close of PGW's fiscal year; (2) an annual implementation plan would be filed four months prior to the upcoming fiscal year only when PGW proposes major program changes to budgets or goals; and, (3) beyond FY 2020, PGW would file ongoing triennial implementation plans which would give parties an opportunity to propose a termination.<sup>22</sup>

#### **IV. PROPOSED NON-LIURP PROGRAMS**

##### **A. PROPOSED NON-LIURP PROGRAMS**

PGW's current non-LIURP DSM programs include: (1) Residential Equipment Rebates; (2) Efficient Construction Grants; (3) Efficient Building Grants; (4) Commercial Equipment Rebates; and, (5) Home Rebates Program.<sup>23</sup> PGW is voluntarily proposing to continue the first four programs on a smaller scale than Phase I and discontinue the Home Rebates Program if the Commission does not authorize PGW's CAM.<sup>24</sup> PGW proposes to discontinue Home Rebates because it requires significant fixed costs compared to the other non-LIURP programs to adequately manage the network of contractors and grow market awareness. Without approval of PGW's CAM, PGW will not be in a position to spend the money needed to make this program viable going forward.<sup>25</sup> With the exception of OCA, no party opposes PGW's proposals regarding the non-LIURP programs.

OCA advocated that all five non-LIURP programs should be continued, at considerably higher budget levels and without regard to whether PGW's CAM is approved (OCA opposes the

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<sup>22</sup> PGW Main Brief at 30; PGW St. 1 at 6; PGW Exh. TML-4 at 39-40.

<sup>23</sup> PGW Main Brief at 22-37; PGW Exh. TML-4 at 93-97, 100-108, 111-114, 118-121.

<sup>24</sup> PGW Main Brief at 32; PGW St. 3 at 15-17, 21-22. If the Commission approves PGW's CAM, then PGW could implement a more robust DSM Plan pursuant to its "expanded scenario" which involves greater funding levels and continuation of the Home Rebates program. PGW Exh. TML-4 at 65-66.

<sup>25</sup> PGW Main Brief at 37; PGW St. 3 at 18; PGW St. 2 at 6.

CAM).<sup>26</sup> To clarify, continuation of Home Rebates is not dependent on the Commission accepting PGW's proposal regarding OBR (but it is dependent on approval of the CAM). The Home Rebates program is a good candidate for an OBR mechanism because it is a comprehensive retrofit program, and – in PGW's experience – the current inability to offer PGW customers a simple and accessible financing option for the comprehensive residential projects has been a critical issue which an appropriately structured OBR could address.<sup>27</sup> However, continuing the Home Rebates program is not dependent on the OBR; the OBR is an additional opportunity for program improvement that the Company would explore through a stakeholder collaborative process if the Home Rebates program can be continued because the Commission approves PGW's CAM. As further addressed in Section VI.A, undertaking the increased expenses proposed by OCA regarding the non-LIURP programs and continuation of the Home Rebates program without approval of CAM would not be reasonable or prudent given the negative impact on the Company and PGW's customers of such an outcome.<sup>28</sup>

**B. PROPOSED NEW DSM PILOT PROGRAM – EFFICIENT-FUEL SWITCHING**

Only OCA opposes PGW's proposal to include a new pilot Efficient Fuel-Switching load management program to complement the DSM Plan.<sup>29</sup> The purpose of the new program would be to offer a holistic approach to overall energy savings by helping small and mid-sized commercial and industrial customers realize the greatest on-site energy reductions through full fuel cycle usage analysis, including all fuel types, rather than strictly on-side natural gas

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<sup>26</sup> OCA Main Brief at 16.

<sup>27</sup> PGW Exh. TML-4 at 65. PGW's Efficient Building Grants program is also a good candidate for OBR.

<sup>28</sup> This issue is discussed more fully in Section VI. See also PGW Main Brief at 44-55.

<sup>29</sup> OCA Main Brief at 17-21.

reductions.<sup>30</sup> OCA's objection is based on its narrow focus on the source of energy, i.e. natural gas and its insistence that the purpose of PGW's DSM program should be reducing natural gas usage, not overall energy usage.<sup>31</sup> OCA's premise (that only natural gas reduction matters) and its conclusion (that DSM is focused only on natural gas reduction) is fundamentally flawed and must be rejected.

1. **There Is No Requirement That PGW Must Focus Only On Natural Gas Reductions**

PGW's evidence showed that its proposed Efficient Fuel-Switching program is a load management program designed to provide PGW's customers greater overall energy savings and emissions reductions which is a core purpose of PGW's DSM program.<sup>32</sup> There are no statutory, legislative or policy directives requiring that a utility engaging in a DSM program can only offer programs that reduce the customer's usage of the type of energy provided by the utility. On the contrary, Section 1319(a) of the Public Utility Code specifically ties together conservation *and* load management programs for purposes of cost recovery for energy supply alternatives.<sup>33</sup> If all eligible programs had to reduce the fuel source of the utility offering them there would be no need for the second part of the sentence – load management.<sup>34</sup>

OCA references Act 129 and the Commission's LIURP regulations, but Act 129 references reducing "energy demand and consumption within the service territory."<sup>35</sup> Consistent

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<sup>30</sup> PGW main Brief at 38; PGW Exh. TML-4 at 6-12.

<sup>31</sup> OCA Main Brief at 17-22.

<sup>32</sup> PGW Main Brief at 38-40; PGW Exh. TML-4 at 2.

<sup>33</sup> 66 Pa. C.S. § 1319.

<sup>34</sup> In construing a statute, courts must attempt to give meaning to every word, as it is not to be assumed that the legislature intended any language to be mere surplusage. 1 Pa. C.S. §§ 1921(a), 1922(2).

<sup>35</sup> 66 Pa.C.S. § 2806.1(a)(emphasis added). Similarly, LIURP regulations define program measures as designed "to reduce energy consumption." 52 Pa. Code § 58.2(emphasis added).

with Act 129, all resource energy savings (regardless of the source) are counted towards calculating the total resource cost-effectiveness of these programs.<sup>36</sup> As such, some projects that do result in conversions are included with the Act 129 cost effectiveness measures, further supporting the view that Act 129 does not create some type of limitation on the type of energy that must be reduced to be included within an energy efficiency program.

Additionally, as OCA implicitly recognizes, the Commission has already determined that fuel switching that results in cost-effective net energy savings is appropriately included within demand-side management plans for electric utilities.<sup>37</sup> PGW's proposed program would similarly move electric usage off the grid to natural gas, but only for the sake of cost-effectively reducing overall energy savings. The fact that PGW is an NGDC does not negate this fact. To the extent OCA is arguing that PGW's program should be denied because it is an NGDC, it is important to recognize that UGI Utilities, Inc. – Electric Division and PECO Energy Company offer both electricity and natural gas to customers and both electric utilities have DSM plans that include fuel switching programs.<sup>38</sup> Thus, when a PECO electric customer switches to natural gas, that switch provides load growth to PECO's NGDC. If OCA's theory is that a fuel switching program cannot result in load shifting to an NGDC was shared by the Commission,

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<sup>36</sup> PGW St. TML-4 at 45-51.

<sup>37</sup> OCA Main Brief at 17; PGW Main Brief at 40.

<sup>38</sup> UGI has a "Home Energy Efficiency Incentives - Fuel Switching" program for Residential Sector/Low-Income Customers and a "Combined Heat and Power Fuel Switching" program for Commercial and Industrial Sector/Governmental Customers. *Petition of UGI Utilities, Inc.- Electric Division for Approval of its Energy Efficiency and Conservation Plan*, Docket No. M-2010-2210316, Opinion and Order entered October 19, 2011 and Continuation Order entered May 19, 2015; PECO's Smart Home Rebates Program includes incentives for fuel switching. *Petition of PECO Energy Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan*, Docket No. M-2012-2333992, Phase II Plan (As Revised), at 30-31, 33, 36-37.

then these electric companies would not have been permitted to implement fuel switching programs. OCA's position should be rejected.

2. **PGW's Proposed Reporting Does Not Support OCA View That Efficient Fuel-Switching Program Is Not Appropriately Included In DSM Plan**

OCA appears to try to bolster its view that PGW's Efficient-Fuel Switching program is focused on load growth by pointing to PGW's proposed reporting of the program.<sup>39</sup> The Efficient Fuel-Switching program would be tracked and reported separately from the other energy efficiency programs (but would be reported through the same mechanisms and filings), OCA fails to acknowledge that the program will still be held to the same energy efficiency TRC cost-effectiveness standards as the rest of the DSM portfolio while also needing to meet the requirement of net energy reduction.<sup>40</sup> Funding through the Efficient-Fuel Switching program will only be provided for projects that both result in a net reduction in energy usage and project a TRC of greater than 1.0.<sup>41</sup> In other words, the fact that there would be separate reporting on the program, does not in any way obviate the fact that the Efficient Fuel-Switching program – by design – is required to result in more efficient net energy usage consistent with the requirements for all of the other DSM programs.<sup>42</sup>

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<sup>39</sup> OCA Main Brief at 19.

<sup>40</sup> PGW Main Brief at 39; PGW St. 2 at 9; PGW St. 3 at 21-22, 30.

<sup>41</sup> PGW St. 2-R at 34. OCA relies on a case study done by a Commission Working Group that showed micro CHP projects failed the TRC test with a 0.57 benefit-cost ratio to support the view that PGW's Efficient Fuel-Switching program should not be approved. OCA Main Brief at 21. This analysis, however, looked at specific sized micro combined heat and power ("CHP") whereas PGW based its analysis on a similar approach as the Commission but also examined different sizes using PGW's most current avoided cost estimates and found micro-CHPs would be cost-effective over a certain sized threshold. PGW St. 3-R at 14.

<sup>42</sup> PGW St. 3-R at 13-14.

3. **PGW's Proposal Is Different From PGW's Other Non-DSM Programs**

OCA references what it refers to as “other existing load growth programs,”<sup>43</sup> and claims that PGW’s proposal is an expansion of PGW’s existing water heater replacement program, and argues that PGW should focus on offering incentives to improve these existing programs rather than implementing its proposed Efficient Fuel-Switching program.<sup>44</sup> PGW’s proposed Efficient-Fuel Switching program does not focus on water heaters and is not simply an expansion of its water heater replacement program.<sup>45</sup> The non-DSM load growth programs referenced by OCA are not a part of PGW’s DSM Plan they are a part of PGW’s Marketing programs. PGW’s DSM department has no oversight into the design or management of these non-DSM programs nor are these non-DSM programs funded through the ECRS.<sup>46</sup> Most importantly, these other programs are not held to a TRC positive cost/benefit test. As such, OCA’s recommendations regarding these non-DSM programs are not properly within the scope of this proceeding and must be rejected.

4. **There Is No Support For Redirecting The Proposed Budget For Efficient Fuel-Switching To CRP Home Comfort**

For the reasons discussed in the preceding sections, PGW proposed Efficient Fuel-Switching program should be approved and OCA’s objections should be dismissed.

Notwithstanding this, even if the Efficient Fuel Switching program is not approved, PGW

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<sup>43</sup> OCA’s claim that PGW’s proposed Efficient-Fuel Switching program somehow expands PGW’s load promotion and load building program for water heaters is simply wrong as PGW’s proposed Efficient-Fuel Switching program is not focused on water heaters. OCA Main Brief at 19. PGW St. 2-R at 34.

<sup>44</sup> PGW Main Brief at 19-20. Moreover, there is no need for a separate efficiency initiative to be undertaken by the non-DSM Marketing department because the DSM Residential Equipment Rebates program already exists and the two initiatives complement each other.

<sup>45</sup> PGW St. 2-R at 34. In fact, some highly efficient on-demand water heaters are not designed for use on PGW’s low-pressure gas distribution system at all.

<sup>46</sup> PGW St. 2-R at 33.

opposes OCA's view that the proposed \$2.29 million Efficient Fuel-Switching budget should be redirected to the CRP Home Comfort program because the CRP Home Comfort program currently has a higher benefit-to-cost ratio.<sup>47</sup> One of the main goals of PGW's DSM Plan is to target a range of sectors with a range of different cost-effective energy efficiency offerings. If OCA's proposal were adopted, then PGW's DSM would only consist of a single, low income program. This result would be at the expense of programs and projects targeting deep savings opportunities for all customer classes, and at the expense of offering a robust gas conservation program in Pennsylvania<sup>48</sup> Such a result is nearsighted and not in the best interests of all PGW's customers.

**C. PGW ON-BILL REPAYMENT PROGRAM PROPOSAL**

In its over five years of experience with its DSM programs, PGW has determined that the inability of customers to easily and reasonably finance DSM retrofit projects is one of the most significant hurdles to delivering program services and ramping up participation levels.<sup>49</sup> These customers include those who do not qualify for LIURP but do not have the means to pay up-front, out-of pocket costs. If PGW's CAM is approved and PGW is able to increase the scope and budgets for its DSM Plan, then developing a reasonable way to address this issue would enable additional customers to participate in the DSM programs.<sup>50</sup> A properly structured On-Bill Repayment ("OBR") mechanism, whereby PGW would partner with a third party lender to provide seamless financing repayments for customers for the projects of the DSM Plan (but not for regulated utility rates or charges), represents a significant opportunity worth exploring to

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<sup>47</sup> OCA Main Brief at 21.

<sup>48</sup> PGW St. 3-R at 15.

<sup>49</sup> PGW Main Brief at 40; PGW St. 2 at 6; PGW Exh. TML-4 at 3, 65-66.

<sup>50</sup> PGW Main Brief at 42; PGW St. 2-R at 22.

address the financing hurdle.<sup>51</sup> If PGW's CAM is approved, then PGW envisions a collaborative process – that it would chair – that would bring together stakeholders and industry experts to discuss and analyze how an OBR mechanism could be structured to inform an eventual petition to the Commission for review and possible approval. At that point, if a viable proposal were developed, PGW would then petition the Commission with the specific plan for approval.

Notwithstanding this reasonable approach to beginning the process of exploring OBR, OCA, CAUSE-PA, and TURN all vehemently oppose OBR for residential customers and oppose even discussing the possibility of such mechanism. Even though PGW has made clear that OBR would not be used for regulated utility rates or charges, (and could not be the basis of service termination), the foundation for this opposition is rooted in a fear that customers could have service terminated for failing to make an OBR payment.<sup>52</sup> TURN goes even further to “seriously question the wisdom of authorizing loans for low and moderate income customers.”<sup>53</sup> The parties' unreasonable opposition to even discussing a mechanism that could make DSM programs available to a greater number of consumers is perplexing for a number of reasons.

First, as noted above, OBR would involve projects of the DSM Plan, not regulated utility rates or charges.<sup>54</sup> Therefore, a customer financing a DSM project through an OBR mechanism could not have his or her service terminated for failure to make a payment. Likewise, a customer who has already had service terminated could not be required to pay any outstanding balance due through OBR as a condition of restoring service. Thus, the fears expressed by the opposing

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<sup>51</sup> PGW Main Brief at 41; PGW St. 2 at 6; PGW Exh. TML-4 at 3, 65-66.

<sup>52</sup> OCA Main Brief at 22-23; CAUSE-PA Main Brief at 12; TURN Main Brief at 6.

<sup>53</sup> TURN Main Brief at 6.

<sup>54</sup> PGW Exh. TML-4 at 65.

parties on this issue are unfounded and do not support their unreasonable position that OBR should not even be discussed.

Second, the opposing parties mischaracterize what PGW is describing here. OCA mistakenly claims that PGW is seeking “pre-approval from the Commission for an OBR mechanism.”<sup>55</sup> That is simply not accurate. As the record has made clear, PGW envisions a collaborative process that would inform an eventual petition to the Commission. Obviously, upon review of the petition, the Commission would then determine whether or not to allow an OBR mechanism. PGW is not asking the Commission to pre-judge that ultimate determination here or to otherwise “pre-approve” an OBR mechanism. Notably, PGW does not need permission in this proceeding to file a petition or to attempt to coordinate a collaborative process. However, given the parties’ vehement opposition to discussing OBR, Commission direction that a collaborative process should be explored (if PGW’s CAM is authorized) could be useful to incent stakeholders to participate. Given the technical issues and concerns identified by the opposing parties in this proceeding, PGW believes their participation in a collaborative process might be beneficial to designing a useful OBR that benefits customers by enabling them to participate in the DSM Plan.<sup>56</sup> OCA is simply wrong to claim that PGW is asking the Commission to pre-approve an OBR mechanism at this time.

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<sup>55</sup> OCA Main Brief at 26.

<sup>56</sup> OCA specifically refers to OBR as “complicated” and presenting a “variety of issues that must be resolved prior to” implementing a mechanism. OCA Main Brief at 23. In addition to consumer protection issues, OCA also identifies bill neutrality and the costs of an OBR as issues that would need to be addressed prior to implementation. OCA Main Brief at 24-28. Consistent with PGW’s proposal, all of these issues can and should be addressed through a collaborative process, the results of which can be submitted to the Commission for its final approval.

Finally, all of the opposing parties criticize PGW's proposal as providing "no details."<sup>57</sup> OCA specifically describes PGW's proposal as "undefined, undocumented and unsupported" and both CAUSE-PA and TURN flippantly dismiss OBR as nothing more than a "lending scheme."<sup>58</sup> PGW recognizes that there are issues that need to be addressed regarding OBR and that is why the proposal here is for a collaborative process. As such, PGW does not intend to inhibit the flexibility of the collaborative process with mandates about what can and cannot be included in a reasonable OBR mechanism.<sup>59</sup> The purpose of identifying these considerations was not to comprehensively outline the exact details for an OBR structure but rather to establish reasonable guidance for the collaborative process without stifling the flexibility of cooperating parties.

If PGW is able to embark upon a more robust DSM Plan through approval of its proposed CAM, then exploring an OBR mechanism through a collaborative process that would ultimately be decided by the Commission is a way to enable more customers to participate in the DSM Plan.

#### **D. OCA CONFIRMED LOW-INCOME OUTREACH PROPOSAL**

OCA proposes to require PGW to develop and file specific marketing plans through which it will market its non-LIURP DSM programs to confirmed low-income customers.<sup>60</sup>

OCA's proposal is based on mistaken assumptions and a flawed analysis of alleged need.

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<sup>57</sup> CAUSE-PA Main Brief at 12; TURN Main Brief at 6.

<sup>58</sup> OCA Main Brief at 24; CAUSE-PA Main Brief at 12; TURN Main Brief at 7.

<sup>59</sup> PGW Main Brief at 41; PGW St. 2 at 7; PGW Exh. TML-4 at 65-66; PGW St. 2-R at 21-22.

<sup>60</sup> OCA Main Brief at 28-31.

OCA's reason for the proposal is the claim that PGW is somehow preventing or excluding confirmed low-income customers from participating in non-LIURP DSM programs.<sup>61</sup> This is not correct. PGW already engages in DSM marketing that targets all potential customers, including low-income customers.<sup>62</sup> Additionally, PGW undertakes additional efforts to communicate DSM opportunities specifically to lower income customers. PGW's customer service representatives have been provided with DSM talking points for customers with high-bills and receive training on the DSM programs.<sup>63</sup> Undermining its own argument, OCA calculates a penetration rate of low-income customers participating in DSM<sup>64</sup> which shows that low-income income customers are participating in PGW's non-LIURP DSM programs.

OCA's calculation of the penetration rate, however, is based on a faulty analysis which misconstrues the true penetration rate of these customers. More specifically, OCA improperly compares the number of non-CRP confirmed low-income DSM participants against the total universe of confirmed low income customers rather than comparing the percentage of confirmed low income customers against the number of DSM participants.<sup>65</sup> By doing this, OCA's flawed analysis is skewed to result in a low penetration rate by ignoring the limited number of total DSM projects available and broadly defining the universe of the low-income population. By way of example, if a program's budget only allowed for 10 projects and all 10 projects were confirmed low income, OCA's analysis would result in a significantly low participation rate (0.00) by dividing the 10 projects into the much larger number representing the entire universe of

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<sup>61</sup> OCA Main Brief at 28-30.

<sup>62</sup> PGW Main Brief at 42; PGW St. 2-R at 11-12.

<sup>63</sup> PGW St. 2-R at 11.

<sup>64</sup> OCA Main Brief at 29.

<sup>65</sup> PGW St. 2-R at 11.

the low income population (OCA used 155,000 for this number).<sup>66</sup> This is not meaningful because the full universe of low income customers could not participate due to the capped number of projects available (the cap is driven by the budget available to fund the projects). The more accurate way to calculate the participation rate would be to divide the number of projects available by the number of low income customers availing themselves of the projects. Thus, in this example, the participation rate would be 100% because all the projects are being provided to low-income customers. Using a proper analysis of PGW's low income participation rate shows that confirmed low income customers consist of 5% of the total number of DSM customers and this figure rises to as high as 25% for some programs.<sup>67</sup>

In sum, there is no basis upon which to adopt OCA's proposal as low income customers are (and can continue to) participate in PGW's DSM Plan. Requiring PGW to "create a work plan to market" further to these customers would be a wasteful use of DSM resources and have the negative effect of increasing costs needlessly in an area where such activities are unwarranted and at the expense of better uses of funding and overall portfolio cost-effectiveness.<sup>68</sup>

## V. DSM COST RECOVERY MECHANISMS

Consistent with the manner in which DSM program costs are recovered now, PGW proposes to continue to (1) recover the costs of its non-LIURP DSM programs through the Efficiency Cost Recovery Surcharge ("ECRS") applicable to all volumes of firm gas delivered;

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<sup>66</sup> OCA Main Brief at 29.

<sup>67</sup> PGW Main Brief at 42; PGW St. 2-R at 11-12.

<sup>68</sup> PGW Main Brief at 42; PGW St. 2-R at 12.

and, (2) recover the costs of the CRP Home Comfort through the Universal Services Charge (“USC”) which is assessed to all classes of PGW’s firm ratepayers.<sup>69</sup>

OSBA is the only party that appears to question continuing to recover the costs of the CRP Home Comfort through the USC.<sup>70</sup> PGW has historically collected its universal service costs from all firm service customer classes through its USC.<sup>71</sup> During PGW’s 2006 base rate case, the issue was fully litigated with the Commission ultimately choosing to continue this cost recovery approach on the basis that “a realignment of the costs. . . would simply overburden the residential classes.”<sup>72</sup> PGW is not proposing any change to this mechanism and, to the extent that OSBA is attempting to re-litigate this issue – at the last minute and without raising this issue on the record – OSBA’s efforts should be rejected.

Even if, however, OSBA’s claims are considered on the merits, OSBA has presented nothing on the record to support its ultimate view that the costs of the CRP Home Comfort program should be recovered exclusively from residential customers. According to OSBA, a threshold determination of whether CRP customers or non-CRP customers benefit from the CRP Home Comfort Program needs to be made to determine whether the costs of the program should be recovered through the USC.<sup>73</sup> Although OSBA presents this as a defining question, the LIURP regulations do not require this analysis.<sup>74</sup>

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<sup>69</sup> PGW Main Brief at 43; PGW St. 2 at 12.

<sup>70</sup> OSBA Main Brief at 11-14. Note that the issue of whether PGW’s proposed new cost elements of CAM and PI should also be included in these cost recovery mechanisms is addressed in Section VI.

<sup>71</sup> *Pennsylvania Public Utility Commission v. Philadelphia Gas Works*, Docket No. R-00061931, Opinion and Order entered September 28, 2007 at 88.

<sup>72</sup> *Id.* at 92.

<sup>73</sup> OSBA Main Brief at 12.

<sup>74</sup> 52 Pa. Code § 58.4(e).

Having defined this question, though, OSBA does not offer any answer. On the contrary, OSBA specifically acknowledges that the Commission already concluded that the CRP Home Comfort program is cost effective and, OSBA did not undertake a detailed review of the CRP Home Comfort program.<sup>75</sup> Nonetheless, OSBA goes on to debate whether or not and to whom the CRP Home Comfort program provides benefits concluding that the Commission must answer the question and commenting that “PGW has some serious explaining to do” if the Commission concludes CRP Home Comfort has only benefitted CRP Home Comfort customers.<sup>76</sup> As explained further in Section VII.B.1, PGW’s LIURP program is the subject of rigorous and valid impact evaluations and the results are provided to the Commission (and interested parties). In addition to all required LIURP reporting, PGW also provides annual implementation plans and annual reports as part of the DSM plan. These evaluations are clear that CRP Home Comfort benefits both participating CRP customers and non-CRP customers.<sup>77</sup>

As such, OSBA has offered nothing in support of altering the current cost recovery mechanism for the CRP Home Comfort Program even if that issue were appropriately raised here (which it is not).

## **VI. PGW PROPOSED TWO NEW COST ELEMENTS FOR ECRS**

PGW proposes to include two new cost elements for recovery through its Section 1307(f) surcharge mechanisms (both the ECRS and the USC) to allow the Company to recover all

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<sup>75</sup> OSBA St. 1 at 3; OSBA St. 3 at 3. The limited review OSBA did undertake regarding the CRP Home Comfort program is addressed more fully in Section VII.B.1.

<sup>76</sup> OSBA Main Brief at 14. Notwithstanding OSBA’s acceptance and embrace of OCA’s arguments as “credible” that CRP Home Comfort benefits non-CRP customers (because customers treated move out of the properties, benefitting the non-CRP customers who subsequently move into the treated property), OCA is incorrect. OSBA Main Brief at 12-13. Contrary to OCA’s assertion, the purpose of LIURP is not to remediate all City properties that might serve low income tenants, rather it is to provide weatherization services to high-usage CRP customers.

<sup>77</sup> PGW Main Brief at 17-18, 69-70; PGW St. 3-R at 4.

appropriate program costs consistent with Sections 1307 and 1319 of the Public Utility Code.<sup>78</sup> The purpose of the CAM is to recover the cost of reduced margins resulting from delivery charges directly resulting from DSM activities.<sup>79</sup> The purpose of the Performance Incentives (“PI”) mechanism is to align the Company’s business interests with the value of the program impacts to customers.<sup>80</sup> The CAM and PI are two separate mechanisms and the inclusion of the PI would not obviate the need for the CAM.<sup>81</sup> Also, to be clear, PGW believes that approval of the CAM (but not both CFAM and PI) is necessary to enable PGW to offer a more expanded DSM Plan that could include increased budgets, planned participation growth, continuation of the Home Rebates Program and a pathway to potential OBR (i.e. the “expanded scenario”).<sup>82</sup>

**A. CONSERVATION ADJUSTMENT MECHANISM (“CAM”)**

PGW is projected to incur \$8.46 million (nominal) in total non-gas revenues losses through the end of FY 2015 as a result of its current DSM Plan.<sup>83</sup> PGW is not seeking to recover the \$8.46 (nominal) losses from the prior operation of DSM Plan. On a prospective basis, however, PGW proposes to include these costs in its CAM to be recovered consistent with Sections 1307 and 1319 of the Public Utility Code.<sup>84</sup> As a municipal utility, every dollar PGW recovers through the CAM will be used to maintain and enhance service to natural gas customers and avoid future rate increases. PGW is not proposing to use CAM recovery for any other

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<sup>78</sup> 66 Pa. C.S. §§ 1307(f) and 1319. PGW Main Brief at 44-59.

<sup>79</sup> PGW Main Brief at 45-55.

<sup>80</sup> PGW Main Brief at 55-59.

<sup>81</sup> PGW St. 4 at 26-27.

<sup>82</sup> PGW Main Brief at 62. OCA mistakenly states that PGW has requested approval of both CAM and PI to be able to offer the expanded DSM. OCA Main Brief at 34.

<sup>83</sup> PGW Main Brief at 46; PGW St. 3 at 32-33; PGW Exh. TML-4 at 56-57; PGW St. 1-R at 8.

<sup>84</sup> 66 Pa. C.S. §§ 1307(f) and 1319. PGW Main Brief at 45-55.

purpose other than to cover fixed costs already approved through the previous rate case, without any set-aside for any one purpose.<sup>85</sup>

With the exception of CAC (who supports the CAM),<sup>86</sup> all the other parties oppose PGW's proposal in this regard. For the reasons discussed further below, none of the proffered opposition justifies rejecting PGW's proposed CAM. On the contrary, approval of the CAM will enable and encourage PGW to offer more robust energy efficiency programs that will have a positive impact for its ratepayers and the environment.

### **1. PGW Has Supported Its Need For CAM**

After over five years of experience with its DSM Plan, PGW fully understands how these programs impact its revenues and how the inability to recover lost margins is an impediment to the ability of PGW to offer energy efficiency programs.<sup>87</sup> PGW also has a real-world, practical sense (supported by five years of actual data) of the continued negative impacts to revenues the Company can reasonably withstand as a result of these programs while still being able to maintain its other obligations. PGW's experience is consistent with national precedent whereby at least forty US jurisdictions permitting either lost revenue adjustments or decoupling for electric and/or gas utilities.<sup>88</sup> All of this experience, both its own and that of other jurisdictions,

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<sup>85</sup> PGW Main Brief at 54-55; PGW St. 2-R at 14, 16, 19.

<sup>86</sup> CAC St. 1-R at 4-6.

<sup>87</sup> PGW Main Brief at 45-49.

<sup>88</sup> PGW St. 4 at 26; PGW Exh. TML-4 at 54, 55. OCA attempts to diminish this point by citing to recent action by the Montana Public Service Commission to discontinue NorthWestern's mechanism. OCA Main Brief at 34, fnote 42. However, the Montana Public Service Commission discontinued NorthWestern's mechanism for specific reasons dealing with that proceeding which do not invalidate Montana's previous support. Montana-Dakota Utilities, another Montana utility, has a lost revenue mechanism that was just approved in April 2015. *In the Matter of the Application of Montana-Dakota Utilities Company to Implement Changes to the Conservation Program Tracking Mechanism Rate 90*, Public Service Commission of the State of Montana Docket No. D2015.3.29, Order 7405 (entered May 6, 2015). A copy of this Order is available at: [http://www.psc.mt.gov/Docs/ElectronicDocuments/pdfFiles/D2015-3-29\\_7405.pdf](http://www.psc.mt.gov/Docs/ElectronicDocuments/pdfFiles/D2015-3-29_7405.pdf)

fully support the fact that approving PGW's CAM is a proven way to address a real need which will lead to a more robust energy efficiency program that benefits all ratepayers and the environment.

Notwithstanding this, however, the opposing parties argue that PGW does not really need a CAM. Incredibly, some parties argue that even without the CAM, PGW should be forced to implement a DSM Plan that is at least 81% higher than PGW's base scenario proposal and includes additional significant and costly programmatic revisions and additions. These parties are patently wrong in their analysis that PGW does not need a CAM and/or that it would be reasonable and prudent to simply order the Company to undertake even greater spending which will serve only to magnify the issue and, in the end, be detrimental to all ratepayers.

*a. PGW's financial situation is not the basis for its requested CAM*

Some parties opposing PGW's proposed CAM claim that PGW does not need a CAM because: (1) PGW is not in "financial distress" (OSBA);<sup>89</sup> (2) PGW has not filed for a base rate increase during the time it has operated DSM and, therefore, PGW must not really need a CAM (OCA);<sup>90</sup> (3) PGW's DSM Plan provides an overall financial benefit or already recovers these costs and, if CAM approved, PGW would receive a "financial windfall" (OCA, PICGUG, CAUSE-PA and TURN).<sup>91</sup> These arguments are wrong and do not present a logical or rational basis upon which to conclude that PGW does not really need CAM (especially when considering that the vast majority of other jurisdictions in the country have already concluded that such a mechanism is necessary to support robust energy efficiency and conservation plans).

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<sup>89</sup> OSBA Main Brief at 16.

<sup>90</sup> OCA Main Brief at 36-37.

<sup>91</sup> OCA Main Brief at 40, PICGUG Main Brief at 5-6; CAUSE-PA Main Brief at 16; TURN Main Brief at 8.

OSBA claims that PGW is seeking the CAM “because [it is claiming to be] in dire financial straits” and since “PGW is no longer in financial distress,” its CAM is not necessary.<sup>92</sup> To be clear, PGW is not seeking CAM based on its current financial situation. The purpose of PGW’s CAM is to ameliorate the unrecovered costs of offering DSM (in the form of lost margins) on a going-forward basis and to eliminate the strong disincentive to continue to offer its DSM programs. PGW’s advocacy in this proceeding is that it cannot prudently and reasonably continue to incur substantial unrecovered costs going-forward because doing so could excessively burden PGW’s financial stability and cash flow.<sup>93</sup> PGW is not claiming, as OSBA argues, that its current financial situation warrants approval of the CAM though PGW is asking the Commission to consider and ameliorate the financial stressor of these programs on its future financial health. Frankly, these currently unrecovered costs exist as a hurdle to further voluntary utility energy efficiency initiatives, regardless of the utility’s overall financial position. Utilities (especially PGW) are discouraged from pursuing additional voluntary energy efficiency programs if these programs in anyway result in additional unrecovered costs.

OCA tries to make the argument because PGW has not filed a rate case during the time its DSM Plan has been operating, that must mean that PGW does not really need a CAM now.<sup>94</sup> As discussed further below in Section VI.A.1.c, rate cases do not and cannot provide PGW with full and timely recovery and, therefore, the traditional regulatory options that OCA espouses are not actually realistic to resolve the issue raised here. Thus, the fact that PGW has not filed a rate case has no bearing on whether or not PGW really needs a CAM to address going-forward

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<sup>92</sup> OSBA Main Brief at 15-16.

<sup>93</sup> PGW Main Brief at 46.

<sup>94</sup> OCA Main Brief at 38.

unrecovered lost costs related to the DSM Plan. The decision to file a rate case is a separate issue from recovering lost margins resulting from the DSM Plan.

OCA also is simply wrong to claim that PGW's DSM "was designed as a measure to improve PGW's financial situation."<sup>95</sup> To the contrary, PGW filed its DSM I Plan "to help residential and commercial customers achieve usage reductions to further reduce natural gas costs."<sup>96</sup> PGW's DSM does not have any material positive effect on its financial condition.<sup>97</sup> However, from the beginning, PGW did recognize that the issue of lost margins needed to be addressed. In fact, PGW's original petition seeking to implement its DSM Plan did include a request to recover the amount of lost margin resulting from decreased gas usage resulting from the program.<sup>98</sup> As part of the settlement of the DSM Plan and PGW's base rate filing, PGW agreed not to make a claim for lost revenues during a two-year stay-out period.<sup>99</sup> Thus, OCA is wrong to claim that PGW's DSM has or was designed to improve its financial situation and thus PGW's CAM is not necessary.

OCA also argues that PGW's DSM Plan provides an overall financial benefit to the Company and CAUSE-PA makes the claim that PGW already recovers the costs of LIURP through a surcharge.<sup>100</sup> Consistent with these claims, OCA PICGUG, CAUSE-PA and TURN try to argue that granting PGW's CAM will provide it with a "financial windfall" or and

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<sup>95</sup> OCA Main Brief at 53.

<sup>96</sup> *Pa. PUC v. PGW*, Docket No. R-2008-2073938, Order entered December 19, 2008 at 11.

<sup>97</sup> This issue is further discussed in Section VI.B.5.

<sup>98</sup> Philadelphia Gas Works' revised Petition For Approval of Energy Conservation and Demand Side Management Plan, Docket Nos. R-2009-2139884, P-2009-2097639, Opinion and Order entered July 29, 2010 at 3 ("DSM I Final Order").

<sup>99</sup> DSM I Final Order at 12.

<sup>100</sup> OCA Main Brief at 40; CAUSE-PA Main Brief at 16.

“overlapping revenue stream.”<sup>101</sup> In support of these claims that PGW already has additional revenue resources and, therefore does not need CAM, OCA references “increased sales that would occur under PGW’s fuel substitution program or under higher than forecasted sales;” and, TURN alleges that weatherization and energy efficiency treatments “free up capacity, creating opportunities for PGW to sell additional liquefied natural gas.”<sup>102</sup> None of these claims were tested on the record and they are misleading<sup>103</sup> but, even if they were accepted as accurate for argument’s sake, they have no relevance regarding PGW’s requested CAM.

As explained further in Section VI.A.4, PGW’s CAM is designed to recover losses attributable solely to the DSM programs as a “cost” of the program without regard for any other revenue stream. The amount recovered from this mechanism would only be used to cover fixed costs already approved through the previous rate case. Therefore, whether or not PGW received unexpected revenues has no impact on the CAM recoveries since all revenue received would be used only to offset the losses caused by the DSM program only. Regarding CAUSE-PA’s point, PGW is not currently recovering the costs of lost margin resulting from its DSM programs through its Section 1307(f) surcharge mechanisms (or the ECRS or the USC and, therefore, approving CAM will not result in an “overlapping revenue stream.”<sup>104</sup>

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<sup>101</sup> OCA Main Brief at 40, PICGUG Main Brief at 5-6; CAUSE-PA Main Brief at 16; TURN Main Brief at 8-9.

<sup>102</sup> OCA Main Brief at 44; TURN Main Brief at 9, fnote 10.

<sup>103</sup> PGW’s CAM would only account for the effects of the DSM programs. PGW also expects that incremental fuel-switching revenues would be small due to the modest program size, compared to the effects of the energy-efficiency programs which make up the majority of the DSM Programming. OCA Exhibit No. GCC-4. Similarly, PGW does not agree that reduced demand associated with energy efficiency work contributes to PGW’s ability to sell LNG and provides capacity to serve load growth because: (1) PGW’s sells LNG on an interruptible basis that is primarily dependent upon actual weather conditions and production capacity; and, (2) reduced demand from PGW’s DSM programs does not provide capacity to serve load growth. TURN Hearing Exhibit No. 1 at 10-11.

<sup>104</sup> PGW Main Brief at 44-46.

PICGUG's claim that this cost recovery comes at the expense of ratepayers ignores the fact that the programs are proven to be cost-effective for ratepayers strictly in terms of resource commodities conserved. Recovering the additional costs proposed through the CAM makes PGW whole for the impacts of implementing the DSM programs, thereby removing the hurdle to further and greater energy efficiency activities. In this way, the CAM provides even greater benefits to PGW's ratepayers than otherwise would occur.<sup>105</sup>

In sum, no compelling or valid arguments have been presented to support claims that PGW's proposed CAM is not needed. To the contrary, approving PGW's CAM would align PGW's ratemaking with national precedent and would remove a significant barrier Company faces by offering energy efficiency programs. Moreover, PGW projects that average customer bills will increase by less than one percent per year during the first five years of the DSM Phase II Plan with a slightly higher impact on rates.<sup>106</sup> Importantly, savings are projected to persist beyond the program delivery period leading to lasting long-term reductions in customer bills well after incurring the delivery costs.<sup>107</sup>

***b. PGW would not benefit from DSM Plan without CAM***

OCA claims that PGW would benefit from the DSM Plan even without the CAM based on his flawed analysis of: (1) the reasons why gas utilities have a greater need for recovery of lost revenues; and, (2) the TRC and the Gas Administrators test.<sup>108</sup> OCA is wrong on this point for the reasons explained further below in Section VI.B.5.

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<sup>105</sup> PGW Main Brief at 17.

<sup>106</sup> PGW St. 3 at 34-36.

<sup>107</sup> PGW St. 3 at 36, PGW Exh. TML-4 at 31.

<sup>108</sup> OCA Main Brief at 39-40.

*c. Traditional ratemaking does not resolve the issues intended to be addressed through CAM*

The opposing parties claim PGW should address its concerns regarding unrecovered lost margins through traditional base rate cases.<sup>109</sup> Such approach, however, does not (because it cannot) present a reasonable way to address this issue.<sup>110</sup> (Arguments that PGW's proposal constitutes an impermissible single-issue ratemaking are discussed below in Section VI.A.2).

Moreover, PGW presents an opportunity to obtain experience with a lost revenue recovery mechanism. PGW is the only Commission regulated municipal utility that has its rates established using the cash flow method of ratemaking.<sup>111</sup> This ratemaking methodology means that PGW does not include in its distribution charge a component for return on rate base (unlike investor-owned utility). Thus, when PGW incurs losses due to reduced usage (as it does through the DSM programs) and these losses fall below the level assumed in the prior rate case, these are lost dollars to cover costs – not profit – and directly affect PGW's continued provision of safe and adequate service for its customers.<sup>112</sup> Stated more simply, PGW – unlike other utilities – does not have investors that can absorb losses by simply receiving less of a return on equity. Thus, contrary to OSBA's comment that "PGW's status as a cash-flow regulated is irrelevant as the other utilities EE&C programs are essentially managed on a cash flow basis,"<sup>113</sup> the reality is that a rate case does not present PGW with the same opportunity to establish a return on equity

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<sup>109</sup> I&E Main Brief at 10; OCA Main Brief at 53; OSBA Main Brief at 8-9; CAUSE-PA Main Brief at 17; TURN Main Brief at 9; and, PICGUG main Brief at 5-6.

<sup>110</sup> I&E's claim that PGW is offering the CAM as "nothing more than a diversion allowing the Company to attempt to circumvent the base rate process," is without merit; as explained herein, a base rate proceeding cannot compensate PGW for margin losses incurred in the past. I&E Main Brief at 9.

<sup>111</sup> PGW Main Brief at 47; 66 Pa. C.S. § 2212(e).

<sup>112</sup> PGW Main Brief at 47.

<sup>113</sup> OSBA Main Brief at 8, 16.

that can then be used to absorb losses related to reduced energy usage from the DSM programs.<sup>114</sup>

Without a specific order creating a regulatory asset, rate cases do not allow for the recovery of money lost between rate cases nor do they take into consideration the further costs to file repeated cases. While the rate case presents PGW an opportunity to try to reset its distribution rates to account for reduced sales volumes due to its DSM program, any relief would be prospective and likely would only account for the losses determined to be “normal” and reflected in the test year. If PGW’s losses were greater than the amount allowed in setting its pro forma revenues – the likely scenario unless PGW filed a rate case every year – PGW would have no way of recovering those amounts. Thus, deferring the issue of recovery of these costs to a rate base essentially guarantees that all such costs will not be recovered until new rates are implemented, and then, only on a going forward basis.<sup>115</sup>

Additionally, even if and when rates are reset based on test year sales (including DSM-induced reductions), PGW would immediately begin incurring additional unrecovered costs starting with the very next DSM measure installed, exacerbating until the subsequent rate case. In this way, rate case proceedings would never provide full and timely recovers for these DSM costs; and as such the hurdle discouraging utility conservation efforts continues to exist.

For these reasons, the parties’ conclusions that the important issue which PGW asks the Commission to address here by approving its proposed CAM can be addressed through the

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<sup>114</sup> Despite OSBA’s claim that the CAM is “one more cynical effort by PGW’s shareholder to increase its equity stake in the Company on the backs of ratepayers,” the City Fee that PGW is required to pay its shareholder is a fixed amount that is required to be included in PGW’s rates by law. 66 Pa.C.S. § 2212(f). As such, the increase (or decrease) in revenues has no impact on the amount that is paid to PGW’s shareholder – the City of Philadelphia. Thus, all dollars received through CAM (and through any other revenue stream) flow back to customers through cost of service.

<sup>115</sup> PGW Main Brief at 52.

traditional rate-making process just does not hold up under careful scrutiny. Such a result would be unfortunate because it will hamper the ability of PGW to provide robust DSM programs notwithstanding the years of experience that PGW has with offering these programs and the benefits that can still be achieved through them.

## **2. There Are No Legal Prohibitions Against Implementing CAM**

The legal support for PGW's proposed CAM is rooted in Sections 1307 and 1319 of the Public Utility Code which permit all prudent and reasonable costs for developing, managing, financing and operating DSM programs to be recovered through an automatic adjustment clause.<sup>116</sup> PGW's current mechanisms do not include recovery of the costs to PGW of lost margin due to reduced volumetric delivery charge recoveries.<sup>117</sup> PGW is projected to incur \$8.46 million (nominal) in total non-gas revenues losses through the end of FY 2015 as a result of its current DSM I Plan.<sup>118</sup> While PGW is not seeking to recover these losses now, PGW is seeking to recover the future costs through its proposed CAM.

The legal arguments offered by the parties to oppose PGW's request are: (1) lost margins are not "program" costs that can be recovered through the CAM;<sup>119</sup> (2) the proposal constitutes an impermissible single-issue ratemaking;<sup>120</sup> and, (3) PGW is somehow prohibited from implementing CAM for its LIURP program.<sup>121</sup> (The law and Commission precedent regarding electric distribution companies is discussed below in Section VI.A.3 because they are not legal

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<sup>116</sup> PGW Main Brief at 49-53. 66 Pa. C.S. §§ 1307(f) and 1319. *Pennsylvania Inds. Energy Coalition v. Pennsylvania Pub. Util. Comm'n*, 653 A.2d 1336, 1349 (Pa. Commw. Ct. 1995).

<sup>117</sup> PGW Main Brief at 45; PGW Exh. TML-4 at 53.

<sup>118</sup> PGW Main Brief at 46; PGW St. 3 at 32-33; PGW Exh. TML-4 at 56-57; PGW St. 1-R at 8.

<sup>119</sup> OCA Main Brief at 47-48.

<sup>120</sup> OCA Main Brief at 43-47; OSBA Main Brief at 8-9; CAUSE-PA at 16-17; TURN at 8-9; PICGUG Main Brief at 5.

<sup>121</sup> OCA Main Brief at 48-53.

prohibitions specifically applicable to PGW's DSM Plan.) None of these arguments legally prohibits the Commission from adopting PGW's proposal.

First, (and as described more fully below in Section VI.A.4,) the lost margins resulting from receiving less revenues because PGW's energy conservation programs are causing customers to use less natural gas is a cost of the DSM program. But for the DSM program, the Company would be receiving this revenue. These costs are particularly significant for PGW both as a municipal utility (already discussed above in Section VI.A.1.c) and as a gas utility.<sup>122</sup> There is nothing in Section 1319 that defines "cost;" therefore it is reasonable to adopt one definition of "cost" as the price that one must pay for something, in this case the DSM program.

Second, PGW's proposal is to include these costs in its current Section 1307 mechanisms consistent with the authority granted in Section 1319 of the Public Utility Code. As such, the doctrine of single-issue ratemaking is inapplicable.<sup>123</sup>

Third, there is nothing about PGW's LIURP program that legally prevents PGW from being able to fully recover the costs of the program. The purpose of the LIURP (consistent with the overall purpose of the DSM Plan) is to reduce energy usage.<sup>124</sup> Section 1319 permits public utilities to allow the recovery of "all prudent and reasonable costs associated with the development, management, financing and operation of the program" and the Commission has stated its preference that the costs be recovered through a reconcilable rider.<sup>125</sup> Moreover, approving PGW's CAM would actually enhance PGW's LIURP program – and strongly support

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<sup>122</sup> PGW Main Brief at 47-49. See also Section VI.B.2

<sup>123</sup> PGW Main Brief at Pennsylvania Inds. Energy Coalition v. Pennsylvania Pub. Util. Comm'n, 653 A.2d 1336, 1350 (Pa. Commw. Ct. 1995).

<sup>124</sup> 52 Pa. Code § 58.1.

<sup>125</sup> 66 Pa.C.S. § 1319; Pennsylvania Public Utility Commission, et. al v. UGI Central Penn Gas, Inc., Docket No. R-2010-2214415, et. al., Opinion and Order entered August 19, 2011 at 19.

the purposes of LIURP – because it would permit PGW to implement a more robust program that could fund projects sooner than if it were required to implement a more modest budget.

**3. Sound Policy Supports Approving CAM For PGW**

Because there are no legal prohibitions against approving PGW’s CAM, the opposing parties spend time arguing that the statutory (Act 129) and Commission precedent (1993 DSM Investigation) applicable to EDCs counsel in favor of denying PGW’s CAM.<sup>126</sup> While OSBA and OCA correctly recognize that Act 129 does not apply to PGW, both parties make the leap that Act 129 establishes the “public policy of the Commonwealth not to allow” PGW’s CAM and claims PGW must “demonstrate why it should be treated differently.”<sup>127</sup> I&E focuses its opposition regarding PGW’s CAM on the Commission decision from 1993 to deny electric utilities lost revenues and argues that the reasoning for that decision (because lost revenues are difficult to measure) also applies to PGW.<sup>128</sup> None of these arguments has merit and should be rejected.

First, there is no sound legal basis upon which to conclude that a statute, by its terms, limited to one industry must be applied to other industries. If the legislature had wanted to include NGDCs within Act 129, it certainly could have done so. Rather, Act 129 is silent regarding NGDCs. A more reasonable interpretation of this silence is that the legislature clearly understood that the Commission has discretion regarding allowing utilities to recover lost revenues (which is why the legislature had to specifically set forth its direction on the issue) and chose to give the Commission discretion on how to permit recovery for utilities not subject to

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<sup>126</sup> I&E Main Brief at 8-9; OCA Main Brief at 36-38; OSBA Main Brief at 8.

<sup>127</sup> OSBA Main Brief at 8; OCA Main Brief at 36-37.

<sup>128</sup> I&E Main Brief at 8.

Act 129.<sup>129</sup> Exercising that discretion here to permit PGW to recover the costs of lost margin through its 1307 surcharges make sense because: (1) PGW is not an investor owned utility; (2) PGW is an NGDC voluntarily proposing a DSM; (3) PGW is not seeking recovery of all lost “revenues” in a conventional sense, only those associated with its DSM plan; (4) all of the dollars that PGW receives from customers are used to fund the company’s operating expenses; (5) PGW has over five years’ experience operating its DSM and has proposed a cost effective program; and, (6) PGW is proposing a well-designed and reasonably tailored mechanism to achieve its intended purpose (as further discussed below in Section VI.A.4.)<sup>130</sup>

Second, regarding the Commission’s decision from 1993, I&E’s focus is on the Commission’s concern at that time that it would be difficult to measure lost revenues.<sup>131</sup> This order came just three years after the Commission began looking into DSM programs. In the 22 years since this Commission’s decision, there have been significant advancements in technology, energy efficiency programs and the ability of companies to measure and calculate the impacts of such programs. The 2010 order adopting the Pennsylvania Technical Reference Manual pointed out progress in the market development of tools to capture and analyze the performance of HVAC systems, and the TRM itself draws primarily on savings-estimation reports dated after 2000, a few in 1994-1999, one from 1992, and none from the 1980s.<sup>132</sup> This illustrates that by 2010, most reliable data was from after the 1993 order referenced by I&E.

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<sup>129</sup> PGW Main Brief at 50-51.

<sup>130</sup> PGW Main Brief at 50.

<sup>131</sup> I&E Main Brief at 8, citing, Investigation Into Demand Side Mgt. by Electric Utilities Unif. Cost Recovery Mechanism, Docket No. I-900005, Final Order entered December 13, 1993 at 37.

<sup>132</sup> Implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards for the Participation of Demand Side Management Resources - Technical Reference Manual Update, Docket No. M-00051865, Final Order entered June 8, 2010 (2010 TRM).

Nationally, the spending on natural gas energy-efficiency programs has grown from \$0.6 billion per year in 2008 to \$1.4 billion per year in 2013. Since PGW's initial five-year filing in 2008, the number of active natural gas efficiency programs in the US Has grown from 61 active and 11 planned across 32 states and Canada, to 134 active programs across 39 states and Canada.<sup>133</sup> Moreover, as described in the next section, PGW is proposing a well-designed and reasonably tailored mechanism to achieve its intended purpose, including the incorporation of 3<sup>rd</sup> party evaluation measurements and verification procedures for validating and revising PGW's DSM impacts. In this way, PGW's CAM addresses previous concerns regarding the difficulty of measuring impacts. As such, there is simply no good policy reason to continue a decision from 22 years ago in consideration of the developments since that time and the record evidence presented in this proceeding.

4. **PGW's CAM Is Well-Designed And Reasonably Tailored To Achieve Its Intended Purpose**

The final attack launched by opposing parties against PGW's proposed CAM is that it is not well-designed to accurately measure the level of lost margins attributable to the DSM Plan.<sup>134</sup> This claims is simply inconsistent with the record in this case. PGW's DSM program has been operational for five years and, as such, its evaluation, measurements and verification protocols are based on five years of actual, analyzed and verified impacts. Thus, PGW's projections and true-ups are based on achievements through TRM calculations and either forecasted or actual measures installed, informed by over five years of actual installation and verified third-party impacts. All programs are and will continue to be evaluated biennially by a

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<sup>133</sup> PGW Exh. TML-4 at 11.

<sup>134</sup> I&E Main Brief at 9; OCA Main Brief at 40-43; OSBA Main Brief at 9.

third party and findings have a real impact on calculations and projections going forward.<sup>135</sup> These evaluations have already resulted in more precise measurements of DSM impacts, for instance, through the Residential Equipment Rebates program evaluation finding that actual gas savings were less than the initial TRM projection, which resulted in a revised TRM that calibrates savings calculations to PGW's customer base and provides more accurate projections going forward.<sup>136</sup> This established process with five years of data provides a prudent level of precision based on experience while allowing for timely recovery of DSM impacts and addressing strictly the impact of DSM losses (as opposed to other efficiency losses).<sup>137</sup> Thus, PGW's proposed CAM is structured to ensure that only unrecovered DSM costs are included in the cost recovery mechanism. Timely recovery is critical; not only do unrecovered costs themselves exist as a hurdle to utility energy efficiency, but so do any additional efforts or costs or delays involved. Since PGW's proposed CAM is based on years of experience, industry best practices and well-designed to ensure that it is capturing only lost margins related to the DSM programs, attacks against its design (particularly when based on an investigative proceeding from 22 years ago, in an industry where there has been significant evolution and advancement) are not a valid reason upon which to deny it.<sup>138</sup>

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<sup>135</sup> PGW Main Brief at 51-52; PGW Exh. TML-4 at 81.

<sup>136</sup> PGW Main Brief at 27.

<sup>137</sup> OCA's claim that PGW's use of a Net -to-Gross ("NTG") ratio overstates the savings and ultimately the revenues collected through CAM is not valid. OCA Main Brief at 42. PGW follows industry best practices to provide regular inspections of installations and audits of invoices in all programs to insure that the savings being counted are actually installed. PGW's use of an independent third-party evaluator to perform pre/post impact evaluations, its annual updates to savings calculations to account for these finds makes it possible for PGW to adjust calculated energy savings in a very time manner and provide as accurate an estimation of the savings delivered by the portfolio as possible. PGW St. 3-R at 17.

<sup>138</sup> PGW's proposal for cost recovery through the CAM in this manner stands in stark difference against the National Fuel Gas Distribution Corporation ("NFG") and Equitable Gas Company ("Equitable") examples offered by OCA. OCA Main BRIEF AT 45. Neither was tied strictly to the impacts of a utility DSM program, as proposed by PGW in this proceeding.

If the parties have concerns about the accuracy of PGW's EM&V process, the appropriate place to deal with that concern is in the design and review of the evaluation studies (and PGW would be willing to work with the Commission on that process) since the Company interest is in accuracy in computation of the CAM and determination of savings. Denying PGW recovery of lost margins based on a lack of certainty that the EM&V process is accurate is comparable to denying a utility any return on equity (another cost item that does not come with vendor receipts) because of uncertainty whether the utility's estimate of its cost of equity is precise enough.

**B. PERFORMANCE INCENTIVES**

Raising a variety of claims, all of the parties (except CAC) have continued to oppose PGW's carefully structured Performance Incentive ("PI") proposal. The essence of these opposing arguments is that permitting a PI program for PGW's DSM activities would be extraordinary, of questionable legality and is unneeded. They strongly suggest that a utility, and particularly a municipal utility, should achieve the greatest possible benefit to customers in all circumstances, regardless of any negative consequences to the Company. These arguments simply ignore reality and fail to recognize that the Commission already has a major program that recognizes the prudence of providing utilities with financial incentives to maximize customer welfare even for activities they are required to do.

**1. PGW's PIs No Different In Concept To Current Rules Regarding Capacity Release And Off-System Sales**

The Performance Incentives are no different in concept than the current rule that permits PGW (and all major natural gas distribution companies) to retain 25% of any net revenues from

natural gas capacity release and off-system sales.<sup>139</sup> Both programs recognize that providing the utility an incentive to maximize ratepayer benefit by taking every possible step to reduce net natural gas costs is entirely legal and good public policy. The Commission has mandated this 75/25 split even though (unlike PGW's voluntary DSM Plan) every NGDC has a statutory obligation to procure gas for its sales customers in a "least cost" manner.<sup>140</sup> Notwithstanding each NGDC's obligation to try to keep gas costs as low as possible, the Commission has recognized that providing a gas utility with an incentive to take maximum steps to sell excess supplies of gas or to release unneeded capacity and to net those proceeds against gas costs "was initiated to encourage NGDCs to maximize their use of excess or idle capacity and off-system opportunities in order to recover a portion of fixed costs and reduce the overall PGC rate."<sup>141</sup> Further, since this 75/25% split of proceeds from capacity release/off-system sales applies to PGW as well as all other major Pennsylvania NGDCs there is certainly no basis for suggesting that municipal utilities like PGW are not eligible to receive similar incentives.

## **2. PI Will Benefit Customers**

Notwithstanding this strong precedent for PGW's PI plan, I&E observes that, since the DSM program is entirely voluntary, it is not clear why PGW needs performance incentives. It also expresses concern that PGW has not shown how the PI proposal will benefit customers (as

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<sup>139</sup> PGW Gas Service Tariff, PA PUC No. 2, Fifty Sixth Revised Page No. 67; *PAPUC v. Philadelphia Gas Works*, Docket No. R-2015-2465656, Recommended Decision dated June 5, 2015, adopted by Order entered July 8, 2015 at 16 ("I&E maintains that continuing PGW's Sharing Mechanism serves the public interest because it continues to provide the Company with an incentive to maximize its efforts to increase capacity release and off-system sales activity and thereby reduce gas costs for PGC customers.)

<sup>140</sup> See, 66 Pa. C.S. § 1318.

<sup>141</sup> *Pa PUC v. Equitable Gas Company*, Docket No. R-00050272, Opinion and Order entered September 9, 2005 at 33-34.

opposed to PGW itself) and that it remains unclear what portion of the PI incentives will be going back to customers or how the PI incentives will be spent.<sup>142</sup>

As to the first concern the appropriateness of performance standards really stems from providing PGW with a positive incentive to continue to undertake what I & E frankly admits is an entirely voluntary undertaking as aggressively and as efficiently as possible. As PGW witness Love explained:

Most utility-sponsored DSM efforts in North America are done through investor owned utilities (IOUs), often leaving municipal utility customers with few opportunities to participate. There are a number of reasons for this. Often, municipal utilities are considered too small to be able to handle the additional complexity and cost of providing DSM programming, and sometimes they are not regulated by the same body as the IOUs and the issue is ignored all together. While municipal utilities may recognize the benefits of efficiency to their customers, the lack of mandatory requirements, additional knowledge required, and uncertainty regarding cost recovery makes the adoption of new DSM portfolio an uphill battle. If a municipal utility does pursue DSM, it is often on top of existing programs or in more limited ways compared to other IOUs in the same state. Adopting a performance incentive for municipal utility DSM efforts is one way to help overcome some of these barriers and reward utilities that do pursue energy efficiency.<sup>143</sup>

Moreover, PGW did explain how the PI Plan would allocate benefits between customers and the Company. PGW's proposal is that it could only receive a performance incentive if the Company exceeded its natural gas savings and benefit cost ratio by at least 20%. As noted below, all of the benefits of PGW's conservation programs redound to the benefit of ratepayers, either directly (through a lower gas bill for an individual customer) or as a pass through of cost savings in PGW's GCR (from the effect of lower gas prices). Since the performance incentive is proposed to be a small portion of the increased benefits that represent a 20% increase in the

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<sup>142</sup> I&E Main Brief at 11. Similarly, PICGUG asserts that the performance incentive mechanism would generate unnecessary revenue for the Company at the expenses of ratepayers. PICGUG Main Brief at 6.

<sup>143</sup> PGW St. 3-R at 9.

otherwise expected benefits to customers, by simple logic the overwhelming majority of the benefits emanating from the PI program will go to customers.<sup>144</sup>

Further, the record does establish that 100% of those incentives would be used to offset PGW's cost of service.<sup>145</sup> Since PGW has no shareholders and is a cash flow regulated company, any PI payments would offset additional costs that have arisen since PGW's last rate case or would increase PGW's cash balances, which would be taken into account in PGW's next rate case on a going forward basis.<sup>146</sup>

**3. A Rate Case Does Not Present a Suitable Opportunity To Address PI**

I&E also suggests that PGW's performance incentive plan is not appropriately considered here because, like lost revenues, it should be addressed in a base rate case.<sup>147</sup> As discussed above in Section VI.A.1.c, a base rate case can not completely address the negative effects on a utility of offering a DSM program because the base rate case can only address the effects of lost revenues on a *going forward* basis and cannot recognize lost margins that occur *between* rate cases.<sup>148</sup> Similarly, a PI Plan established in a base rate case could only operate prospectively and, because it would not be recoverable in an automatic adjustment clause, it could not address any changes in performance (positively or negatively) between such base rate determinations.

**4. Section 523 of the Code is not Applicable to PGW's Performance Incentive Proposal**

Finally, contrary to I&E's suggestion, Section 523 of the Code does not bar the establishment of a performance incentive plan as a cost of providing DSM programs recoverable

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<sup>144</sup> PGW St. 4-R at 5-6.

<sup>145</sup> PGW St. 2-R at 24.

<sup>146</sup> PGW St. 2-R at 24.

<sup>147</sup> I&E Main Brief at 12.

<sup>148</sup> PGW Main Brief at 52-53.

under Section 1319. Section 523 authorizes the Commission to adjust a utility's cost of service in order to reward or sanction performance. Since a utility has a right to recover all prudently incurred expenses and investment, any such adjustment would necessarily have to be applied to the utility's authorized rate of return on equity or return to shareholders. Since PGW has not asked for recovery of performance incentives in the context of establishing just and reasonable rates or its cost of service – the circumstances under which section 523, by its terms, applies<sup>149</sup> – and since PGW does not have a return on equity and has no shareholders, section 523 is not applicable.

5. **PGW Is Not Prohibited From Receiving A PI Based On Its Status As A Municipal Utility And It Does Not Financially Benefit From Its DSM Programs**

The OCA, on the other hand, claims that PGW is not eligible for performance incentives because, PGW, as a “municipal publically owned utility,” already has an obligation to do what OCA believes is in the best interests of PGW's customers.<sup>150</sup> It actually goes farther and claims that, unlike investor owned utilities, that are negatively affected by helping customers to reduce their usage, PGW somehow benefits financially from its DSM program and, therefore, providing incentives on top of this alleged “benefit” would be unreasonable. These arguments are both wrong legally and factually.

First, it is simply wrong to suggest that PGW, unlike investor owned utilities, are not negatively affected by helping its customers reduce their gas usage. Over the five years of

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<sup>149</sup> 66 Pa. C. S. § 523(a) (“The commission shall consider... the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates under this title.”) The record here shows that the PI plan is part of the cost of providing DSM services and is properly recoverable under section 66 Pa. C.S. § 1319. Also, if Section 523 indeed barred consideration of all performance incentives except in the context of a base rate case the performance incentives permitted for capacity release and off system sales for NGDCs would also be barred.

<sup>150</sup> OCA Main Brief at 56-59.

PGW's DSM Plan, PGW is projected to incur \$8.46 million (nominal) in total delivery revenue losses through the end of FY 2015.<sup>151</sup> Thus, substantial evidence show that PGW did indeed suffer losses as a result of DSM I. That lost margin will continue for DSM II unless the Commission approves PGW's CAM proposal.<sup>152</sup> While the proposed CAM would attempt to compensate PGW for the lost margins associated with reduced sales due to DSM, the PI program is a complementary program that would provide a positive incentive for PGW to exceed its goals as much as possible. And, the real beneficiaries are customers as PGW would only be eligible for the PI if the program exceeded its cost/benefit target by at least 20%.<sup>153</sup>

Moreover, OCA's insistence that, notwithstanding these margin losses PGW nonetheless experiences a "net benefit" because each of the DSM programs has a positive total resource cost ("TRC") net benefit<sup>154</sup> fundamentally misunderstands the net benefits calculated by the TRC analysis. The TRC benefits are to customers and to (potentially) the Company, but, as Mr. Chernick explains, "[i]f the TRC is greater than 1.0 the sum of the effects on the ratepayers and the utility is a net benefit; the TRC does not examine whether the ratepayers and utility both benefit, as Mr. Crandall asserts. A positive TRC can be associated with substantially all the benefits accruing to customers."<sup>155</sup> Moreover, "[e]ssentially all the avoided costs from PGW's DSM programs would be gas costs,"<sup>156</sup> and 100% of any gas cost savings are flowed back to customers through PGW's GCR. In contrast, under the TRC test, the performance incentive is a

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<sup>151</sup> PGW Main Brief at 46; PGW St. 3 at 32-33; PGW Exh. TML-4 at 56-57; PGW St. 1-R at 8.

<sup>152</sup> See discussion above in Section VI.A.

<sup>153</sup> PGW St. 2-R at 23.

<sup>154</sup> OCA Main Brief at 58-59.

<sup>155</sup> PGW St. 4-R at 4.

<sup>156</sup> PGW St. 4-R at 4.

transfer of a small portion of benefits from the ratepayers to PGW, and so would have a net neutral effect under such as test.<sup>157</sup> OCA's argument on this point betrays a misunderstanding regarding elementary DSM concepts.

Second, the claim that, PGW does not "need" a performance incentive to maximize the effectiveness and scope of its DSM because it is "municipal utility" that has an existing obligation to advance the best interests of its customers, is made up from whole cloth. OCA overlooks the fact that, to the extent that special rules apply to PGW those rules are set out in Section 2212 of the Public Utility Code; providing a demand side management program is not one of those special obligations. Moreover, OCA failed to explain how its "special obligation" argument was consistent with section 2212 (c) which states that "to the extent not inconsistent with [section 2212], the provisions of this title [i.e., Title 66, with exceptions not relevant here] shall apply to the public service of [PGW] with the same force as if [PGW] was a public utility under section 102... ." <sup>158</sup> Title 66 has a provision that clearly applies to PGW's DSM program: Section 1319, the section under which PGW filed its DSM program, makes the filing of a conservation or load management program entirely voluntary.

Based upon this, there is no basis to conclude that a utility has an affirmative obligation to undertake conservation or load management activities, and the Commission has never made a finding to the contrary. Suggesting that because PGW is a "municipal utility" it has some special "obligation" to have a DSM program is simply not legally supportable. There are no statutory, legislative or Commission mandates requiring PGW to offer its DSM Plan.

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<sup>157</sup> PGW St. 3-R at 11.

<sup>158</sup> 66 Pa. C. S. § 2212(c).

To be sure, PGW *is* proposing its Performance Incentive plan (as well as its CAM) because it is in the best interests of ratepayers. It is in the best interests of ratepayers to have a DSM program that is conducted as efficiently and as aggressively as possible. Further, a review of section 1319 also makes clear that once the Commission determines that a utility's DSM plan is prudent, the utility is entitled to recover all prudent and cost effective costs. The record here establishes that a PI program is no different than building into a construction contract an "early completion incentive" or, in the gas cost context, permitting a utility to retain a portion of revenues obtained in the process of trying to maximize the benefits of its natural gas assets. Thus including performance incentives as a cost of PGW's DSM program is not only prudent and cost effective it is a "best practice" for the most efficiently run and effective programs and therefore reasonably recoverable under section 1319.

Finally, as part of its argument against PGW's proposed performance incentives, OCA makes the bald statement, contrary to all the evidence on the record, that PGW's DSM program is not entirely voluntary because it has a financial incentive to implement energy efficiency measures.<sup>159</sup> It points to the fact that PGW filed its plan as part of its last general rate increase and then states that "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."<sup>160</sup> None of this is even remotely correct.

While it is true that PGW filed its DSM I plan with its last rate case, that filing was done for efficiency purposes and to provide assistance to customers in the face of a base rate increase, not because there was a financial benefit to PGW from the filing. As with PGW's present

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<sup>159</sup> OCA Main Brief at 57.

<sup>160</sup> OCA Main Brief at 57.

proposed plan, PGW filed its DSM I Plan “to help residential and commercial customers achieve usage reductions to further reduce natural gas costs.<sup>161</sup> This is how its PGW’s current DSM Plan is described the Commission’s Emergency Rate Order<sup>162</sup> and there is absolutely no suggestion in that order, or the PUC’s subsequent final rate order that PGW’s DSM program was viewed as helping PGW (as opposed to its customers) financially.

Moreover, PGW’s DSM does not have any material positive effect on its financial condition (and not a single witness for OCA or any other party suggested as such on the record). Reducing gas purchases does not provide a net permanent reduction to PGW’s cash requirements. When the amount of gas PGW sells goes down the amount of revenues PGW bills through its GCR also goes down. As noted above, 100% of gas cost savings, which is the vast majority of benefits from its DSM plan, goes to customers – not to the Company itself. Other than a short-term delay in reflecting such a reduction in its GCR, such relatively minor reductions in gas sales do not have a material effect on PGW’s cash flow needs. And, while there may be other benefits they are all flowed through to customers. Moreover, and as PGW has well documented, the lost revenue the Company experiences due to reduced sales, and the resulting reduced margins, would completely overwhelm any minor cash flow effect.

These and the other arguments lodged against PGW’s Performance Incentive proposal should be rejected.<sup>163</sup>

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<sup>161</sup> *Pa. PUC v. PGW*, Docket No. R-2008-2073938. Order entered December 19, 2008 at 11.

<sup>162</sup> *Pa. PUC v. PGW*, Docket No. R-2008-2073938, Order entered December 19, 2008 at 11.

<sup>163</sup> OSBA’s only comment on performance incentives was to suggest that any such mechanism should be evaluated in a base rate case and that, if there are to be performance incentives there should also be penalties for non-compliance. OSBA MB at 9. PGW has responded to the contention that the margin losses caused by DSM may only be addressed in periodic base rate cases, showing that a base rate case is time consuming and costly and can only partially compensate PGW for such losses. (See, e.g., PGW St. 2-R at 15-16). As for OSBA’s suggestion that PGW should be subject to potential penalties if it doesn’t not achieve project energy reduction levels, similar to Act 129, the suggestion is incorrect on just about every

## 6. Nothing Prohibits Performance Incentives for LIURP Programs

Finally, both OCA, CAUSE and TURN<sup>164</sup> all claim that, even if performance incentives are found reasonable for PGW's voluntary DSM programs they are, nonetheless, "particularly inappropriate" because LIURP is a "mandatory universal service program."<sup>165</sup> Other than this assertion there is not the slightest support cited for the claim that a utility's mandatory obligation may not be subject to a performance incentive.<sup>166</sup> As noted this argument is completely belied by the discussion concerning the establishment of performance incentives for all NGDCs to incent them to maximize off system sales and capacity release revenues in furtherance of their mandatory obligation to procure natural gas on a least cost basis. PGW submits there is no principled basis for distinguishing the two circumstances and the claims about applying PIs to the low income energy efficiency portion of PGW's DSM should be rejected.

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level. Of course, since PGW's efforts are voluntary there are no "compliance requirements, as there are for Act 129, and therefore PGW cannot be "non-compliant." Most important, imposing penalties on a company that has voluntarily elected to propose a DSM plan would obviously end all voluntary plans. PGW is proposing its Plan in order to enhance the service it provides to its customers. OSBA apparently would just as soon see PGW abandon these efforts as that is the only logical result if its suggestion were adopted.

<sup>164</sup> OCA Main Brief at 60-61; CAUSE-PA Main Brief at 17; TURN Main Brief at 10.

<sup>165</sup> OCA Main Brief at 60.

<sup>166</sup> OCA did see fit to restate the criticisms of its witness Colton but, in rebuttal, PGW showed that Mr. Colton did not understand PGW's LIURP program or its effects on customers. PGW St. 4-R at 17. For example, one of the criticisms lodged by Mr. Colton (and repeated by OCA in its Brief at page 60) is that PGW filed to account for he the "substantial reduction" in arrearages by treated customers and improved bill payment pattern." As Mr. Chernick explained, installing conservation enhancements for CRP customers will have no effect on the customer's gas bill, because the customer pays a percentage of his or her income not on the basis of usage. PGW St. 4-R at 17. This fundamental misunderstanding of the effect of conservation steps on a CRP customer's bill should invalidate all of Mr. Colton's assertions on this and similar topics (i.e., CAM). See also discussion above in Section VI.A.2.

**VII. DSM II BUDGET**

PGW’s proposed budgets for its DSM Plan are as follows:<sup>167</sup>

| <b>DSM Budgets (Nominal \$)</b>   | <b>Phase II Rejoinder<br/>Base Scenario if CAM<br/>not approved</b> | <b>Expanded Scenario<br/>if CAM approved</b>  |
|---|---|---|
| CRP Home Comfort  | \$15,945,846  | \$>\$15,945,846 <sup>168</sup>  |
| <i>Low Income Multifamily Efficiency<br/>(included within CRP Home Comfort numbers)</i> | \$1,028,706   | \$1,028,706   |
| Residential Equipment Rebates   | \$3,800,000   | \$4,167,500   |
| Home Rebates  | \$213,419   | \$3,820,606   |
| Efficient Construction Grants   | \$1,019,000   | \$1,082,000   |
| Efficient Building Grants   | \$1,985,500   | \$1,985,500   |
| Commercial Equipment Rebates  | \$1,762,250   | \$2,630,000   |
| Portfolio-wide Costs  | \$4,476,000   | \$4,530,000   |
| <b>Total Gas Conservation Budget</b>  | <b>\$29,202,015</b>   | <b>&gt;\$34,161,452</b><br><i>(factors in \$15,945,846 budget<br/>for CRP Home Comfort)</i> |
| Efficient Fuel Switching Program  | \$2,290,750   | \$2,290,750   |

**A. PROPOSED BUDGETS (NON-LIURP PROGRAMS)**

Based on its over five years of experience with the DSM programs, PGW has proposed program budgets that can, in good faith, be supported taking into consideration the unrecovered losses PGW has incurred to date and based on the assumption that it may not be able to recover them in the future (unless the Commission approves CAM).<sup>169</sup> CAUSE-PA takes the position that “absent full and complete funding of CRP Home Comfort, the DSM II budget should not be approved.”<sup>170</sup> CAUSE-PA has offered no opinion, no analysis, no criticism and no feedback

<sup>167</sup> PGW Main Brief at 59-60; PGW Exh. TML-4 at 4-5, 22, 13-134; PGW St. 1-RJ at 1.

<sup>168</sup> As stated in its rejoinder testimony, if PGW’s CAM is approved, then PGW would be willing to consider a higher budget. PGW St. 1-RJ at 2.

<sup>169</sup> PGW Main Brief at 60; PGW St. 1-R at 8-9.

<sup>170</sup> CAUSE-PA Main Brief at 18. CAUSE-PA’s position regarding funding for CRP Home Comfort is discussed in Section VII.B.

regarding any of PGW's non-LIURP programs. Presumably, this is because these programs are not geared toward the customers on whom CAUSE-PA focuses – low-income residential customers. While CAUSE-PA may have the luxury of focusing on just its constituency to the exclusion of the rest of PGW's customers, such a narrow focus is not in the interests of all PGW's ratepayers and, frankly, offers nothing useful in terms of reasonably resolving this proceeding.

At the other end of the spectrum, OCA recommended a significantly increased budget (by 37%) for all of PGW'S DSM programs while opposing PGW's proposed CAM.<sup>171</sup> More specifically, OCA recommended that: (1) PGW's "expanded scenario" budgets be adopted for the non-LIURP programs,<sup>172</sup> (2) PGW's proposed CAM be denied; and, (3) PGW's proposed budget for the Efficient Fuel Switching program be redirected to CRP Home Comfort.<sup>173</sup> According to OCA, these expanded budgets would "provide significant TRC benefits," "even more benefits to the system," and still be less than the total Phase I budget.<sup>174</sup>

Nowhere in OCA's advocacy on this issue does it ever mention the negative financial consequences to the Company and its ratepayers of requiring such a significant expense for these

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<sup>171</sup> PGW's proposed base scenario budget for the non-LIURP DSM programs (excluding both CRP Home Comfort and the Efficient Fuel Switching Program) is \$13,256,169 (assumes that PGW's requested CAM is denied). PGW Main Brief at 60. OCA's proposed budget for the non-LIURP DSM program (excluding both CRP Home Comfort and the Efficient Fuel Switching Program) is \$18,215,606 and OCA opposes PGW's proposed CAM even with this increased budget. Note that these numbers include estimated portfolio-wide costs but the actual number could not be determined until the budgets for all the programs are finalized.

<sup>172</sup> OCA's position regarding funding for CRP Home Comfort is discussed in Section VII.B.

<sup>173</sup> OCA Main Brief at 61-63. As discussed in Section IV.B, PGW opposes OCA's position that its Efficient Fuel Switching program should not be approved. However, even if one were to accept for argument's sake OCA's view that its Efficient Fuel Switching is a "load growth" program, then it would be wholly inappropriate to fold its budget into PGW's LIURP as the purpose of LIURP is "to assist low income customers conserve energy and reduce residential energy bills." 52 Pa Code § 58.1(emphasis added).

<sup>174</sup> OCA Main Brief at 63.

programs going forward. Consistent with the discussion below in Section VI.A, adopting OCA's proposal without approving the CAM would significantly and unreasonably increase the amount of unrecovered costs the Company and its ratepayers would be required to bear from offering the DSM Plan. Requiring PGW and its ratepayers to expend money on programs that PGW voluntarily offers without enabling PGW any reasonable opportunity to recover all of the associated costs of doing so is not a prudent or efficient use of ratepayer money. Money that is unrecovered as a result of this DSM program is money that is no longer available for PGW to address other important goals of the Company – shared by the Commission – including pipeline main replacement.<sup>175</sup>

After over five years of experience, PGW understands the impact of these programs on the Company and its ratepayers and believes that it has offered a program that strikes an appropriate balance among financial stressors related to costs and lost revenue while still continuing to offer workable and cost-effective conservation programs.<sup>176</sup> Unlike OCA and CAUSE-PA, PGW has factored in the full impact of its DSM Plan on all of its ratepayers and the Company to inform its proposals in this proceeding. To do anything less would not be in the best interests of the public. As such, if PGW's CAM is not authorized, then OCA's proposal to implement the expanded scenario budgets for the non-LIURP programs must be denied. Likewise, the non-LIURP programs must not be held hostage to meeting the unreasonable financial budget requests of CAUSE-PA for the CRP Home Comfort budget and this position must be denied as well.

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<sup>175</sup> PGW Main Brief at 62; PGW St. 1-R at 9.

<sup>176</sup> PGW Main Brief at 60; PGW St. 2-R at 9.

**B. PGW PROPOSED BUDGET FOR CRP HOME COMFORT PROGRAM (LIURP)**

PGW proposes a CRP Home Comfort Budget (as increased in rejoinder) of \$15,945,846 over the five-year period (approximately \$3.2 million a year) even if PGW's CAM is not approved.<sup>177</sup> This proposed budget is: (1) nearly a third larger than the pre-DSM budgets for LIURP (which averaged \$2.4 million per year from 2008-2010); (2) approximately 16% greater than the budget PGW initially proposed in this proceeding;<sup>178</sup> and, (3) would result in a LIURP budget of 0.45% of PGW's forecasted revenue, to be consistent with the 0.45% statewide average for LIURP spending (as calculated based on the data available during this proceeding and factoring in Columbia Gas of PA, Inc. which has a LIURP program that is 1.02% of its jurisdictional revenues and is a considerable outlier from the other NGDCs' programs).<sup>179</sup> If, however, PGW's CAM were approved, then the Company would be in a position to consider a larger budget for the CRP Home Comfort program.<sup>180</sup>

OSBA, CAUSE-PA, TURN and OCA all offered their views regarding PGW's proposed CRP Home Comfort budget. OSBA supports only a "relatively modest" budget but provides no proposed numbers.<sup>181</sup> As discussed further below, PGW supports a more conservative and prudent CRP Home Comfort budget but not for the reasons offered by OSBA.

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<sup>177</sup> PGW Main Brief at 63; PGW St. 1-RJ at 2.

<sup>178</sup> None of the parties advocating for an increase LIURP budget acknowledge that PGW increased its initial proposal to be consistent with the average statewide LIURP spend of the other NGDCs. As such the hyperbolic claims that PGW is "gutting" its budget by 75% are factually incorrect. The percentage difference between PGW's proposed budget and the current level is 57%.

<sup>179</sup> PGW St. 1-RJ at 2; PGW Exhibit No. DA-6 (comparison of NGDC 2013 jurisdictional intrastate revenues with 2015 LIURP budgets). CAUSE-PA and TURN are simply incorrect in claiming that PGW excluded Columbia from its calculation of the statewide average.

<sup>180</sup> PGW St. 1-RJ at 2.

<sup>181</sup> OSBA Main Brief at 17-18.

On the other end of the spectrum, CAUSE-PA, TURN and OCA all favor implementing the current budgets (or higher) going forward.<sup>182</sup> As discussed further below, these proposals are not legally required, are not realistically sustainable and, in the end, would be detrimental for all of PGW's ratepayers.

1. **OSBA's Analysis Of CRP Home Comfort Is Not The Reason Why PGW Is Proposing A More Conservative And Prudent CRP Home Comfort Budget**

OSBA takes the position that funding for CRP Home Comfort should "continue only at a relatively modest level" based on its analysis that the program has "catastrophically failed" by not resulting in load reduction for CRP customers.<sup>183</sup> While PGW is proposing a more conservative budget for CRP Home Comfort, PGW is doing so based on its concerns about the detrimental financial effect on the Company that would result if the Commission does not approve its CAM and allow it to recover reduced margins going forward.<sup>184</sup> PGW strongly disagrees with OSBA's analysis that its CRP Home Comfort program has not resulted in benefits for participating CRP customers. In fact, as OSBA itself acknowledged, its analysis about the effectiveness of the CRP Home Comfort Program was "a summary of [OSBA's] testimony in the 2010 base rate proceeding."<sup>185</sup>

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<sup>182</sup> CAUSE-PA Main Brief at 18-23 (CAUSE-PA advocates that LIURP must be funded "at or above the current funding levels" going forward); TURN Main Brief at 11-13 (TURN opposes PGW's proposed funding but does not set forth a proposed number); OCA Main Brief at 63-72 (OCA recommends that the LIURP budget be maintain at historic levels of \$7.6 million per year).

<sup>183</sup> OSBA Main Brief at 17-18.

<sup>184</sup> PGW Main Brief at 62-67; PGW St. 2 at 4; PGW St. 1-RJ at 2.

<sup>185</sup> OSBA St. 3 at 3. Furthermore, OSBA's analysis contained a number of flaws invaliding the purported findings. However, looking past the flaws in OSBA's basic sampling approach, the data used shows, in fact, the opposite of OSBA's claims in that the CRP population does demonstrate a trend of reduced usage once the LIURP program was implemented. PGW St. 3-R at 7.

PGW performs rigorous and valid impact evaluations of its CRP Home Comfort program on a regular basis. PGW provides these analysis to the Commission and interested parties through numerous reports: (1) the LIURP data request, (2) the LIURP annual report, (3) the DSM Implementation Plan; and, (4) the DSM Annual Report.<sup>186</sup> Information about PGW's LIURP is also included on a triennial basis when PGW files its USECP plan.<sup>187</sup> PGW's impact evaluations use at least one year of actual usage before and after service delivery for the CRP Home Comfort participants, and compares those results to a control group of eligible customers who did not participate.<sup>188</sup> These evaluations found, with high statistical confidence, that there were substantial energy savings for CRP Home Comfort participants including \$27.4 million (nominal) in weatherization activity for CRP Home Comfort programs, since inception through February 2015.<sup>189</sup> In addition, all PGW's firm customers (who subsidize CRP) have benefitted from the CRP Home Comfort program as the Phase I activity is forecasted to result in a net reduction in the CRP subsidy by \$7.2 million over the lifetime of the measures installed.<sup>190</sup> The admittedly dated and flawed analysis<sup>191</sup> offered by OSBA regarding PGW's CRP Home Comfort program provides no meaningful or new information in the context of this proceeding, serves no purpose and should be rejected.

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<sup>186</sup> 52 Pa. Code § 58.15; PGW Main Brief at 30; PGW St. 1 at 6. In addition to these established reports, PGW provides information regarding its program upon request from Commission Staff.

<sup>187</sup> See, e.g., Philadelphia Gas Works Universal Service and Energy Conservation Plan 2014-2016, dated June 1, 2013 as updated September 22, 2014, Docket No. M-2013-2366301 at 18-20.

<sup>188</sup> PGW St. 3-R at 3.

<sup>189</sup> PGW Main Brief at 17-18, 69-70.

<sup>190</sup> PGW Main Brief at 18; PGW St. 3-R at 4.

<sup>191</sup> PGW St-3-R at 1-8.

2. **Proposals For A Substantially Higher CRP Home Comfort Budget Without Addressing The Financial Realities Of Unrecovered Costs Are Not Legally Required, Not Realistically Sustainable And Would Be Detrimental For All Of PGW's Ratepayers**

PGW, OCA, CAUSE-PA and TURN all agree that PGW's CRP Home Comfort program is cost-effective and provides significant benefits to CRP customers.<sup>192</sup> The disagreement among these parties and PGW is the level of funding for the program going forward. PGW has proposed a prudent and reasonable budget which balances the financial stressors on the Company (and its ratepayers) from increased unrecovered costs (assuming PGW's CAM is not approved).<sup>193</sup>

On the other hand, the advocates propose significantly higher funding levels than that offered by PGW. In attempting to support these proposals, the advocates try to argue that their budget proposals are legally required (which they are not) while either ignoring or flippantly dismissing the resulting negative impact of the proposed budgets on the rest of PGW's ratepayers.

Based on five years of actual experience, PGW has identified a real and pressing financial concern and determined that the current program funding levels are untenable given currently unrecovered costs. The opposing parties counter that the Company should, nonetheless, continue this untenable spending simply because the program has been most recently funded at these levels without any regard or concern for the harm PGW has identified would result to the Company and its ratepayers financial well-being. Unbelievably, TURN and

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<sup>192</sup> PGW Main Brief at 69-70; OCA Main Brief at 72; CAUSE-PA Main Brief at 19-20; TURN Main Brief at 11-12.

<sup>193</sup> PGW Main Brief at 45-49, 64-67.

CAUSE-PA go so far as to depict the LIURP funding proposal as a “bargaining chip,” presumably as a way to just dismiss the very real financial realities.

*a. Section 2203(a) of the Natural Gas Choice Competition Act*

The core legal argument of OCA, CAUSE-PA and TURN in support of their untenable budget proposal for CRP Home Comfort is that their higher levels are required to meet the needs in PGW’s service territory consistent with 66 Pa. C.S. § 2203(a) of the Natural Gas Choice Competition Act and 52 Pa. Code § 58.4(c) of the Commission’s regulations.<sup>194</sup> The Natural Gas Choice Competition Act requires that “universal service and energy conservation policies” are “appropriately funded and available” and “operated in a cost-effective manner.”<sup>195</sup>

PGW’s CRP Home Comfort program and the budget it proposes going forward satisfies these statutory requirements. First, the proposed budget allows the CRP Home Comfort program to remain available to participants at a significant level – in fact, PGW’s LIURP would be funded in an amount higher than every other NGDC with the exception of Columbia (based on the analysis available in this proceeding).<sup>196</sup> Second, the proposed budget provides reasonable and prudent funding that strikes the appropriate balance among all the financial stressors related to costs (including lost revenue costs) while still continuing to offer a thorough and cost-effective LIURP program.<sup>197</sup>

Adopting the increased budget levels recommended by OCA, CAUSE-PA and TURN (without also supporting the CAM, which they all oppose) does not lead to the same result. This is because increasing the budget without addressing the very real financial stressors of the

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<sup>194</sup> OCA Main Brief at 64-67; CAUSE-PA Main Brief at 18-19; TURN Main Brief at 12-13;

<sup>195</sup> 66 Pa Code § 2203(8).

<sup>196</sup> PGW Exh. DA-6.

<sup>197</sup> PGW Main Brief at 61-67; 45-49.

expanded program will threaten the Company's financial stability and its ability to address other important goals, including pipeline main replacement.<sup>198</sup>

**b. Section 58.4(a) of the Commission's LIURP regulations**

The parties attempt to bolster their legal argument in support of their substantial budgets by referencing Section 58.4(a) of the Commission's regulations which states that "annual funding for [LIURP] shall be at least .2% of a covered utility's jurisdictional revenues."<sup>199</sup> There is no dispute (because there cannot be) that PGW's proposed funding level for CRP Home Comfort would result in a LIURP budget of 0.45% of PGW's forecasted revenue<sup>200</sup> which meets (and far exceeds) the .2% minimum funding requirement of Section 58.4(a).

As OCA and CAUSE-PA correctly recognizes Commission precedent recently addressing this issue has already concluded that the .2% of jurisdictional revenues referenced in Section 58.4(a) "is a starting point or floor for LIURP budgets."<sup>201</sup> However, nothing in this recent case stands for the proposition that a utility's proposed new funding level must be benchmarked against a prior level of funding. The prior level of funding is not a relevant basis for considering LIURP funding going forward because the current LIURP budget was approved

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<sup>198</sup> PGW Main Brief at 61-67; 45-49.

<sup>199</sup> 52 Pa. Code § 58.4(a). OCA Main Brief at 80-82; CAUSE-PA Main Brief at 25-26; TURN Main Brief at 15-16.

<sup>200</sup> PGW Main Brief at 63; PGW St. 1-RJ-2. Note that CAUSE-PA and TURN are incorrect to claim that PGW did not include factor into its calculation of the statewide average the 1.02% of jurisdictional revenues that Columbia spends on its LIURP (Columbia is a considerable outlier from the other NGDC's LIURP spend in comparison to their jurisdictional revenues). CAUSE-PA Main Brief at 21; TURN Main Brief at 12.

<sup>201</sup> OCA Main Brief at 64, referencing 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, Final Order entered January 15, 2015 at 70. CAUSE-PA also cites to this case and argues that the .2% of jurisdictional revenues is not a "ceiling." CAUSE-PA Main Brief at 21. PGW, however, is obviously not viewing .2% as the "ceiling" in light of the fact that it is proposing a budget nearly double this "floor."

by the Commission as part of the DSM Bridge Plan; in turn, it continued, on an interim basis and in the interests of reaching settlement, the prior LIURP budget which was ALSO part of a comprehensive settlement approved in 2010 regarding PGW's DSM Phase I Plan and its rate case. To suggest that these compromise levels of LIURP budget are somehow binding on PGW is not only grossly unfair, it violates the basis on which the PUC approved the settlement. The 2010 rate case settlement (to which OCA and TURN were parties) specifically stated that "[i]t is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by an party in this or any other proceeding, if it were fully litigated," and

[t]his Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable. The Settlement is the product of compromise. This Settlement is presented without prejudice to any position which any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.<sup>202</sup>

Accordingly, PGW is not bound by the budgets it voluntarily agreed to in the 2010 Settlement or in the Bridge Plan, and for the parties to suggest otherwise is not only inconsistent with the promises they made in those settlements but grossly inappropriate.

Moreover, and despite OCA's claim to the contrary, the majority of the NGDC's LIURP budgets (based on information available in this proceeding) are at or just slightly above the .2% minimum.<sup>203</sup> Thus, and consistent with PGW's position here, its proposed budget must satisfy the .2% of jurisdictional revenues requirement, which it does, and – in fact – far exceeds.

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<sup>202</sup> *PAPUC v. PGW*, R-2009-139884, Docket No. P-2009-2097639, Joint Petition for Settlement dated May 12, 2010 ¶¶ 37-38.

<sup>203</sup> PGW Exh. DA-6.

After establishing the required minimum level of spending for LIURP (at least .2% of jurisdictional revenues), Section 58.4(a) requires the gas utility to submit annual program budgets to the Commission and to continue to fund its usage reduction program at this level until the Commission: (1) acts upon a petition from the utility for a different funding level; or, (2) 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.<sup>204</sup> Section 54.8(c) sets forth the guidelines for revising program funding.<sup>205</sup> Importantly, as the Commission has recognized, the Commission’s regulations “allow for adjustments to program funding”<sup>206</sup> and offer two distinct paths for such change (i.e. a petition or review of need). Notwithstanding this, the advocates claim that PGW’s proposal constitutes a revision to the current budget and – ignoring the ability of the Commission to act on a petition for a different funding level – jump to claim that the revised budget must be supported by showing that the proposed budget satisfies the need for services.<sup>207</sup> There are several fatal flaws inherent in these arguments.

To be clear, there is no currently approved budget for CRP Home Comfort beyond the expiration of the DSM Bridge Plan (August 31, 2016 or the effective date of the compliance plan

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<sup>204</sup> 52 Pa. Code § 58.4(a).

<sup>205</sup> 52 Pa. Code § 58.4(c)

<sup>206</sup> 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, Final Order entered January 15, 2015 at 67.

<sup>207</sup> OCA Main Brief at 65; CAUSE-PA Main Brief at TURN Main Brief at 12. OCA’s comment 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” makes no sense as PGW has never claimed that the changing name of its LIURP program has anything to do with the budget it has proposed. OCA Main Brief at 82.

following the Commission's decision in this proceeding) and the Commission acknowledged when approving the DSM Bridge Plan that the budget it was approving was an interim budget with the final one to be determined in this proceeding.<sup>208</sup>

OCA and CAUSE-PA, however, point to the USECP 2014-2016 proceeding (which predated approval of the DSM Bridge Plan) to claim that PGW already proposed to continue funding LIURP and current levels and, presumably, is now somehow precluded from proposing a budget in this proceeding.<sup>209</sup> This argument is nonsense. Importantly, the period of time at issue in this case is upon expiration of the DSM Bridge Plan (August 21, 2016 or upon effective date of a compliance plan in this proceeding) as such there is no budget yet approved for that time period. Moreover, while PGW was required to provide enrollment and budget information for the LIURP program fiscal years 2015 and 2016 in response to the Commission's direct request during its review of PGW's USECP 2014-2016, PGW made clear (and the Commission acknowledged) that the FY 2016 DSM Implementation Plan (which included PGW's LIURP) was not yet finalized and would be updated upon the filing of the new proposal (which is this proceeding).<sup>210</sup>

Even though there is no currently approved budget for CRP Home Comfort beyond expiration of the DSM Bridge Plan, the advocates argue that the point for comparison of the proposed going-forward budget is the existing budget.<sup>211</sup> This, however, is not consistent with the plain text of Section 58.4(a) which establishes the minimum funding level of .2% and permits

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<sup>208</sup> PGW Main Brief at 63-66.

<sup>209</sup> OCA Main Brief at 67; CAUSE-PA Main Brief at 27.

<sup>210</sup> PGW Main Brief at 65.

<sup>211</sup> OCA Main Brief at 63-66; CAUSE-PA Main Brief at 18-19; TURN Main Brief at 11.

two distinct options for budget revisions.<sup>212</sup> Importantly, the regulation does not say (as the advocates wish) that once funding is established at a different level, then any going forward budget proposals must be measured against that newly established level. In fact, such a result would unnecessarily hamper the flexibility of utilities to design appropriate programs taking all relevant factors into consideration. Thus, and consistent with PGW's position here, its proposed budget must satisfy the .2% of jurisdictional revenues requirement, which it does, and – in fact – exceeds and it should be approved as proposed.

***c. Record supports PGW's proposed budget consistent with the Commission's regulations***

Even if, however, one were to accept for argument's sake that Section 58.4(a) really means that any future analysis of funding for LIURP must always compare the future proposed budget with the existing level – meaning that PGW is proposing a “reduction” as contemplated by this Section, then there is still no support for the view that PGW's proposed budget should be rejected. As the Commission has recognized, Section 58.4 “allows for adjustments to program funding under specific circumstances.”<sup>213</sup> These circumstances include either: (1) a petition from the utility; or, (2) a review of the need for program services and addressing the recovery of program costs in utility rates.<sup>214</sup> This proceeding *is* PGW's petition and the record here presents ample support to approve PGW's proposed budget.

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<sup>212</sup> 52 Pa. Code § 58.4(a).

<sup>213</sup> 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, Final Order entered January 15, 2015 at 67.

<sup>214</sup> 52 Pa. Code § 58.4.

First, PGW has explained why its proposed budget is appropriate based upon the total expense of providing the services – and a balancing of the financial stressors of being required to fund CRP Home Comfort at levels that do not permit for the recovery of lost margins. PGW is not – as CAUSE-PA and TURN derisively accuse – attempting to use the “LIURP budget as a bargaining chip for its proposed CAM.”<sup>215</sup> PGW has proposed a budget that is reasonable and prudent in light of the very real negative impact to the Company and its ratepayers of being required to continue to bear unrecovered costs of providing this program. It is simply a fact that addressing this concern through the approval of PGW’s CAM would lead to the ability of the company to implement a more robust program. This is not a “bargaining chip,” but rather, a reality that other parties in this proceeding have elected to ignore.

Second, PGW has provided evidence that the proposed budget will reasonably and appropriately serve the needs of its customers taking into consideration the factors set forth in Section 58.4(c), including the total expenses of the program.<sup>216</sup> Given the program’s current usage requirements, which were designed to cost-effectively address CRP’s highest users, PGW has estimated there are approximately 35,000 customers eligible for CRP Home Comfort. Based on the solicitation processes used over the last 5 years and the current structure of the program, the expected participation rate would be approximately 3,216 over the next 5 years. The total implementation cost for the program for PGW’s customers over the next 5 years is \$15,945,846 – it is notable that this does not include all expenses since it excludes the expense to PGW for lost distribution revenues related to the program. In light of the expense impact on ratepayers and assuming that eligibility and participation numbers remain consistent, 3,216 customers will

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<sup>215</sup> CAUSE-PA Main Brief at 11, fnote 8; TURN Main Brief at 11.

<sup>216</sup> PGW Main Brief at 66-67.

receive LIURP over the next years and it is currently estimated it would take PGW (without CAM) approximately 55 years to serve all of the currently eligible customers.

*d. Advocates are not relying on a reasonable baseline of “need” to determine the appropriate going-forward LIURP budget*

Even though PGW has provided significant and substantial evidence in support of its LIURP budget and has provided ample support for the Commission to approve this funding request as “a petition from the utility for a different funding level,” the advocates claim that PGW has not demonstrated a reduction in need to justify its proposed budget.<sup>217</sup> There is, however, no reasonable baseline need presented by the advocates to support this argument. In other words, to determine if there has been a change in the “need,” one needs to know the baseline “need” against which the change is to be judged. Reliance on the current budget does not provide this baseline need because the current budget was never based on a needs analysis – it was based on a settlement – and based need on the entire number of CRP customers is inconsistent with the way PGW operates its LIURP – i.e. focusing on the high users. As already noted, the current LIURP budget was approved by the Commission as part of the DSM Bridge Plan and it continued, on an interim basis and in the interests of reaching settlement, the prior LIURP budget which was part of a comprehensive settlement approved in 2010 regarding PGW’s DSM Phase I Plan and its rate case.<sup>218</sup> Thus, one cannot fairly rely on this historical budget level (as the advocates do) to begin the analysis about whether or not there has been a reduction in need.

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<sup>217</sup> OCA Main Brief at 67; CAUSE-PA Main Brief at 17; TURN Main Brief at 11.

<sup>218</sup> PGW Main Brief at 64; PGW St. 1-R at 21.

The advocates also point to the fact that PGW fully utilized its prior budget to fund CRP Home Comfort weatherization projects as proof that the amount of customers provided by those budgets establishes the baseline need for these LIURP services that PGW must continue to address in the future.<sup>219</sup> The fact that PGW has fully utilized the LIURP budget to treat customers, however, does not transform the provision of weatherization services to those customers into the baseline need required to determine future budgets. As PGW comprehensively weatherizes more homes through the CRP Home Comfort program, the baseline number of homes and cost-effective weatherization opportunities decline. If this continues to the point where the only projects remaining are not cost-effective, the prior year's activity becomes irrelevant to the current year's program goals.

Similarly, CAUSE-PA cites to information provided by PGW in response to the Commission's request in the USECP 2014-2016 proceeding providing the complete number of all the CRP customers who have not received LIURP services in support its view that this establishes the level of need.<sup>220</sup> Assuming for the sake of argument that PGW were even able to provide LIURP services to every single low-income customer in PGW's service territory next year, such a fact would not make a budget large enough to effectuate such service reasonable for PGW's ratepayers and would seriously impact the cost effectiveness of the program.

Simply stated, the fact that there are still CRP customers who have not received LIURP services does not mean that utilities are required to immediately provide those services and at

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<sup>219</sup> OCA Main Brief at 67; CAUSE-PA Main Brief at 19. TURN also claims that an increased budget for CRP Home Comfort is "likely to improve public opinion about PGW's ability to control the costs that other customers pay to fund CRP." TURN Main Brief at 13. Even if this were true, this is not a reasonable basis upon which to require PGW to undertake an unreasonable budget which it has specifically explained would not be prudent or cost-effective.

<sup>220</sup> CAUSE-PA Main Brief at 20.

one point in time – as the advocates argue here.<sup>221</sup> Such a result would simply be untenable. It would force significant costs on all the non-CRP ratepayers – who pay for these programs – and would place an incredible and unreasonable financial burden on those customers (who are not able to get the services for free but who pay for them). Moreover, there are practical considerations in trying to accomplish this standard (even if it were reasonable) in terms of contractor capacity and resources. PGW could be forced to hire additional contractors and administrative costs would rise significantly to appropriately manage the larger program.

### **VIII. CRP HOME COMFORT PROGRAM (LIURP)**

#### **A. CONTINUATION OF CRP HOME COMFORT AS PGW'S LIURP WITHIN DSM II PORTFOLIO**

PGW proposes to continue the CRP Home Comfort program as part of its DSM Plan, unless PGW elects (or is otherwise directed) to terminate the non-LIURP programs in which case it would address LIURP within the context of its Universal Service and Energy Conservation Plan or other appropriate filing.<sup>222</sup> No party opposes PGW's proposal. CAUSE-PA, however, comments that it would "object to any attempt by PGW to circumvent its responsibility to comply with LIURP requirements merely because the program appears in PGW's DSM II Portfolio"<sup>223</sup> and OCA similarly notes that its support is contingent on ensuring that PGW's LIURP is "not diminished" by remaining in the DSM Plan.<sup>224</sup>

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<sup>221</sup> In fact, and contrary to CAUSE-PA's advocacy, the goal of PGW's LIURP is not to cure "intractable poverty" and the reality of its population" as that would actually be impossible to do. CAUSE-PA Main Brief at 21.

<sup>222</sup> PGW Main Brief at 67-68; PGW St. 1-R at 10-13.

<sup>223</sup> CAUSE-PA Main Brief at 23.

<sup>224</sup> OCA Main Brief at 72.

To be absolutely clear, PGW has never attempted to use the fact that the Commission approved inclusion of its LIURP program within its DSM Plan to in anyway diminish the LIURP program or otherwise “circumvent” its compliance responsibilities regarding LIURP. As stated many times in PGW’s main brief, PGW has been and will continue to remain fully committed to ensuring that the Commission’s Bureau of Consumer Services (“BCS”) (the Bureau that is charged with reviewing LIURP programs) is kept fully informed about PGW’s LIURP program and provided with all appropriate notices and information about its LIURP plan.<sup>225</sup> The Commission was fully aware that PGW’s LIURP would be addressed in this proceeding<sup>226</sup> and there is simply no basis to insinuate that PGW’s proposals in this proceeding (whether to the LIURP budget or programmatic elements) are being offered to avoid the appropriate regulatory review. To the contrary, this has been a litigated, on-the-record proceeding with all parties able to thoroughly present their positions and views on PGW’s proposals and BCS will have the opportunity to review all parties’ positions. As such, one could argue that even more regulatory oversight has been afforded PGW’s LIURP programs as a result of it being included in its DSM Plan.

#### **B. CRP HOME COMFORT PROGRAM ELIGIBILITY CRITERIA**

PGW proposes to: (1) extend the pool of eligible high gas usage CRP customers beyond the top 30 percent of CRP users, potentially up to the top 50 percent, in order to identify

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<sup>225</sup> PGW Main Brief at 5, 6, 10, 31, 62, 68, 69, 76, 81, 84. This is consistent with the Commission’s specific directive 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].” *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, Final Order entered August 22, 2014 (“*USECP 2014-2016 Order*”) at 74.

<sup>226</sup> USECP 2014-2016 Order at 49.

sufficient cases suitable for weatherization; (2) update quality assurance training protocols; and, (3) explore new ways to leverage data and provide additional cost-effective treatment opportunities where full weatherization is prevented due to health, safety and/or structural issues at a home. Also, consistent with the directive in the *USECP 2014-2016 Order* no longer excludes CRP customers with program arrearages greater than two months from CRP Home Comfort eligibility.<sup>227</sup> No party objected to these proposals.

The following proposals were offered to expand the eligibility criteria for CRP Home Comfort: (1) OCA's proposed 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;<sup>228</sup> (2) CAUSE-PA proposed that PECO customers who use electric heating alternatives be eligible for CRP Home Comfort services;<sup>229</sup> and, (3) CAUSE-PA proposed that consumers who were previously eligible for CRP Home Comfort but have had gas service terminated still receive CRP Home Comfort services.<sup>230</sup> PGW does not support these proposals. All of them would have the same negative effect of unreasonably expanding the eligibility for the CRP Home Comfort program and would be: (1) be administratively complex; (2) provide no additional value given what CRP Home Comfort is already achieving and the existing opportunities within the currently targeted populations; and, (3) result in a large influx of customers that would significantly dilute the total pool of eligible customers drawing

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<sup>227</sup> PGW Main Brief at 70; PGW St. 2 at 2; USECP 2014-2016 Order at 56.

<sup>228</sup> OCA Main Brief at 72. CAUSE-PA also recommended in testimony that PGW's eligibility guidelines be increased to enable 50% of its highest CRP energy users to be eligible for CRP Home Comfort services. CAUSE-PA St. 1 at 17. PGW does not support this proposal to expand eligibility requirements consistent with the discussion here. *See also* PGW Main Brief at 71, fnote 316. CAUSE-PA did offer additional argument on this proposal in its Main Brief

<sup>229</sup> CAUSE-PA Main Brief at 29.

<sup>230</sup> CAUSE-PA Main Brief at 35.

resources away from those most in need and potentially harming program effectiveness as a result.<sup>231</sup> In addition, CAUSE-PA's proposals are inconsistent with LIURP regulatory requirements. The specifics of CAUSE-PA's proposals will be addressed further below in Sections VIII.E and VIII.F.

OCA is critical of the fact that PGW's LIURP program is limited to customers in its CRP program and argues that there are customers who are not participating in CRP that could benefit from the services offered by PGW's LIURP program.<sup>232</sup> According to OCA, "the opportunities for energy efficiency measures for low-income customers should be driven primarily by the customer's usage levels and need."<sup>233</sup> OCA's would eliminate the benefit of the CRP Home Comfort program to non-CRP customers by not giving them the reduction to the subsidy they pay for CRP.

CRP participation is a reasonable and well-established way for PGW to identify potentially eligible low-income customers.<sup>234</sup> Because customers are required to receive the LIURP services as a condition of CRP participation, using CRP eligibility as a criteria for LIURP ensures that customers comply with their CRP obligations and accept the treatment (as it is a requirement of CRP) and ensures that these customers have already submitted sufficient income information which PGW has reviewed.<sup>235</sup> Thus, PGW's criteria more effectively ensures that participants will be low-income. OCA provides no details about how its proposal would be

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<sup>231</sup> PGW Main Brief at 70-71; PGW St. 2-R at 5, 7.

<sup>232</sup> OCA Main Brief at 72-74.

<sup>233</sup> OCA Main Brief at 73.

<sup>234</sup> OCA misinterprets the purpose of LIURP by focusing on housing policy rather than addressing low-income customers. OCA Main Brief at 74; PGW Main Brief at 72.

<sup>235</sup> PGW Main Brief at 71-72; PGW St. 2-R at 6-7.

implemented or what would happen to money set aside for this purpose but not used. To revise eligibility criteria beyond what is already in place and what PGW is proposing in this proceeding would require PGW to substantially review and revise its program criteria, messaging and time spent on eligibility determinations. This would increase the costs for this program (which, without the CAM, would result in an ever-growing amount of unrecovered costs) and is simply not reasonable or practical.

Furthermore, PGW currently has a sufficient number of CRP customers eligible for CRP Home Comfort who need treatment.<sup>236</sup> As such, there is no basis upon which to justify expanding beyond these customers to identify others that may benefit from LIURP services. Doing so will dilute the total pool of eligible customers beyond the program's capacity to provide services. Moreover, treating non-CRP customers has no impact on reducing the CRP subsidy that all non-CRP customers pay. All PGW's firm non-CRP customers pay a CRP subsidy to cover the natural gas used by the CRP participant that the CRP participant is not required to pay because of his/her low income status. If a non-CRP customer is treated through CRP Home Comfort there is no reduction in the CRP subsidy (because the customer is paying the full bill).<sup>237</sup> The best way to provide a positive impact for the non-CRP customers in this context is by appropriately sizing the CRP Home Comfort Program to provide value to the non-CRP customers in terms of the CRP subsidy rather than unreasonably expanding the program to offer weatherization services to customers in different circumstances and with different effects on costs and benefits.

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<sup>236</sup> PGW Main Brief at 72; PGW St. 2-R at 7.

<sup>237</sup> PGW St. 2-R at 7.

### C. PGW PROPOSED NEW LOW-INCOME MULTIFAMILY (“LIME”) PROGRAM

PGW proposes to include a new Low-Income Multifamily (“LIME”) program as part of its CRP Home Comfort program in compliance with the Commission’s Final Order approving PGW’s USECP for 2014-2016.<sup>238</sup> Consistent with a Stipulation recently reached between PGW and I&E (the “PGW/I&E Stipulation), PGW modifies its original proposal as follows: (1) PGW will convene a stakeholder collaborative to receive input from interested parties about the program; (2) A 75% confirmed low income residency will be required for properties to be eligible for LIME treatments; and, (3) 100% of the costs for confirmed low income customer usage will be recovered through the USC while 33% of the costs for all other customer usage (whether commercial or non-low-income customers) will be recovered through the ECRS and the remaining costs for this other customer usage will be funded by property owners.<sup>239</sup>

Parties raised the following concerns about PGW’s LIME program: (1) the manner in which PGW proposed to designate property as low-income (I&E, OCA); (2) the proposed measures to be provided (CAUSE-PA, TURN); (3) recovering the costs of the program through the USC (I&E, OCA, OSBA); and, (4) designating a portion of the CRP Home Comfort program to fund the program (OCA, CAUSE-PA, and TURN). The revision of PGW’s original proposal is consistent with the PGW/I&E Stipulation which addresses concerns raised by the parties regarding the designation of eligible properties and cost recovery. To the extent there are still issues regarding the measures PGW proposes that they be discussed in the collaborative process agreed to in the PGW/I&E Stipulation.<sup>240</sup> Finally, PGW’s inclusion of LIME as part of the CRP

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<sup>238</sup> PGW Main Brief at 72-75; PGW St. 2 at 7-9; PGW Exh. TML-4 at 86. *USECP 2014-2016 Order* at 57.

<sup>239</sup> See Attachment A, Stipulation between PGW & I&E dated December 4, 2015.

<sup>240</sup> In addition, as noted in PGW’s Main Brief, the Commission recently announced the development of an Act 129 Multi-Family Housing Working Group which will gather stakeholder input regarding these issues in the context of the EDC’s energy efficiency and conservation programs as mandated by Act 129. PGW

Home Comfort budget is consistent with the *USECP 2014-2016 Order* and PGW does not support removing the program from this budget.

1. **The PGW/I&E Stipulation Reasonably Addresses Concerns About Designating Eligible Properties**

In directing PGW to implement a LIME program and to include it as part of PGW's LIURP program, the Commission recognized that multifamily accounts would include commercial ratepayers but determined that including them for treatment was appropriate given that commercial ratepayers support PGW's LIURP through the USC.<sup>241</sup> Notwithstanding this, I&E and OCA objected that PGW's proposal would not capture enough low-income residential customers.<sup>242</sup> OCA recommended that PGW be required to treat tenant-metered low-income multi-family housing units only and have at least 75% of its residents defined as low-income.<sup>243</sup> Through the PGW/I&E Stipulation, PGW is agreeing to only include those properties that qualify as publicly subsidized housing in which the residents include at least 75% that are confirmed low income which also includes a process allowing PGW to lower this threshold if it is not resulting in adequate participation.<sup>244</sup> While PGW is not withdrawing its initial proposal to include both individually-metered accounts and master-metered properties, based on its

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Main Brief at 75, referencing *In Re: Multifamily Housing Stakeholder Meeting*, Docket No. M-2014-2424864, Secretarial Letter dated November 18, 2015. PGW will monitor this process which may provide further instructive guidance regarding this program.

<sup>241</sup> USECP 2014-2015 Order

<sup>242</sup> I&E Main Brief at 17; OCA Main Brief 75-76.

<sup>243</sup> OCA Main Brief at 75.

<sup>244</sup> Attachment A, PGW/I&E Stipulation at ¶1(b). PGW's initial proposal was to target low-income multifamily buildings with at least 50% of residents at or below 150 percent of the Federal Poverty Level. PGW Main Brief at 74; PGW St. 2 at 7-8; PGW Exh. TML-4 at 89; PGW St. 2-R at 30. Note that PGW reserves its right to decrease the percentage beginning in FY 2017 but only after a showing of cause for program incentive budget under-spending and with either the unanimous approval of the signatory parties, to be obtained by written consent, or by Commission Order. Attachment A, PGW/I&E Stipulation at ¶1(b).

understanding of the Commission's *USECP 2014-2016 Order*,<sup>245</sup> OCA stated that it does not disagree with including commercially master-metered buildings.<sup>246</sup> Likewise, CAUSE-PA did not object to including mater-metered and individually-metered properties.<sup>247</sup> Thus, the PGW/I&E Stipulation is a reasonable compromise of this issue which addresses the concerns raised by both OCA and I&E while still remaining consistent with the expressed intent of the Commission's *USECP 2014-2016 Order* that commercial customers receive the benefit of a LIME program.

2. **The PGW/I&E Stipulation Reasonably Addresses Concerns About How To Recover The Costs Of The LIME Program**

Recognizing that PGW's proposed LIME could include commercial properties and tenants who may not qualify as low-income, some parties objected to recovering the full costs of the program through the USC.<sup>248</sup> OCA specifically recommended that any costs not directly benefitting low-income customers be recovered through the ECRS.<sup>249</sup> Similarly, OSBA agrees that commercial beneficiaries of the program should pay for them and that the costs be shared between PGW and the building owners.<sup>250</sup>

The PGW/I&E Stipulation fully addresses this issue because it ensures that the costs of the LIME program that is directly attributable for 100% of the confirmed low income customer usage is recovered through the USC.<sup>251</sup> Thus, if 75% of the residents of a property are confirmed

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<sup>245</sup> PGW Main Brief at 73; PGW St. 2 at 7-9.

<sup>246</sup> OCA Main Brief at 76.

<sup>247</sup> PGW St. 2-R at 32, citing CAUSE-PA Responses to PGW Interrogatory Request I-4.

<sup>248</sup> I&E Main Brief at 17-18; OCA Main Brief at 76-79.

<sup>249</sup> OCA Main Brief at 79.

<sup>250</sup> OSBA Main Brief at 13, fnote 22; OSBA St. 2 at 3-4).

<sup>251</sup> Attachment A, PGW/I&E Stipulation at ¶1(c).

low-income, then 75% of the costs of the LIME program will be recovered through the USC. For the costs of the LIME program attributable to non-low-income customers or commercial customers, 33% would be recovered through the ECRS and the remaining project costs would be funded by property owners.<sup>252</sup> This is the same cost recovery method that PGW uses for its Efficient Building Grants program<sup>253</sup> and is consistent with OSBA's position on this issue.

As noted in the PGW/I&E Stipulation, this cost recovery proposal is not consistent with the Commission *USECP 2014-2016 Order* which required a portion of the CRP Home Comfort budget to be allocated to the LIME program and recognized that the CRP Home Comfort budget is funded through the USC.<sup>254</sup> However, this approach would appropriately resolve the concerns raised by I&E and OCA on this issue and PGW is willing to implement it upon Commission approval. Therefore, PGW respectfully requests that the Commission modify or revise its prior directive to the extent necessary to approve this proposed resolution.

**3. PGW's Proposal Already Includes Offering Comprehensive Program Measures**

PGW proposes to include as many natural gas savings measures as possible includes low cost measures (i.e. low flow faucet aerators, low flow showerheads, programmable thermostats, hot water heater turndown and pipe insulation) as well as other measures (such as air-sealing, insulation and heater or domestic hot water heater replacements) where cost-effective.<sup>255</sup>

CAUSE-PA recommends (and TURN agrees) that the proposed LIME program provide "a greater level of comprehensive measures."<sup>256</sup> This view, however, is likely a misunderstanding

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<sup>252</sup> Attachment A, PGW/I&E Stipulation at ¶1(c).

<sup>253</sup> PGW Exh. TML-4 at 55, 107.

<sup>254</sup> USECP 2014-2016 Order at 57.

<sup>255</sup> PGW Main Brief at 73; PGW St. 2 at 8-9; PGW St. 3-R at 18.

<sup>256</sup> CAUSE-PA Main Brief at 24; TURN Main Brief at 14.

of PGW's proposal because it incorrectly infers that only low cost measures would be installed. This is not accurate; PGW proposes to install low cost measures combined with comprehensive measures as deemed cost-effective. Notwithstanding this, these issues can be discussed in the collaborative process agreed to in the PGW/I&E Stipulation.<sup>257</sup>

**4. Including LIME Within The CRP Home Comfort Program Budget Is Consistent With The Commission's USECP 2014-2016 Order**

Consistent with the Commission's *USECP 2014-2016 Order*, the LIME program will be included within the CRP Home Comfort program and PGW's initial pilot phase for LIME is proposed at approximately 6.45% of the total proposed budget for CRP Home Comfort.<sup>258</sup> Costs for LIME will be recovered consistent with the PGW/I&E Stipulation as discussed above in Section VIII.C.2. CAUSE-PA recommended (and TURN agrees) that PGW should be directed to develop an "independent LIME budget" which would "be developed as a supplement and an addition to the currently existing CRP Home Comfort budget."<sup>259</sup> Contrary to CAUSE-PA's claim that the Commission "did not suggest that the new program be developed at the expense or dilution of the currently existing LIURP,"<sup>260</sup> the Commission's *USECP 2014-2016 Order* specifically directs PGW to "designate a portion of the [LIURP] budget to specifically serve low-income multifamily properties."<sup>261</sup> As discussed further in Section VII.B, the budget for CRP

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<sup>257</sup> Attachment A, PGW/I&E Stipulation at ¶1(a). Moreover, as noted in PGW's Main Brief, the Commission recently announced the development of an Act 129 Multi-Family Housing Working Group which will gather stakeholder input regarding these issues in the context of the EDC's energy efficiency and conservation programs as mandated by Act 129. PGW Main Brief at 75, referencing *In Re: Multifamily Housing Stakeholder Meeting*, Docket No. M-2014-2424864, Secretarial Letter dated November 18, 2015. PGW will monitor this process which may provide further instructive guidance.

<sup>258</sup> The proposed budget for the LIME program is \$1,028,706 and PGW's proposed budget for the CRP Home Comfort program if the CAM is not approved is \$15,945,846. PGW Exh. TML-4 at 88; PGW St. RJ-1 at 1.

<sup>259</sup> CAUSE-PA Main Brief at 24-25; TURN Main Brief at 14-15.

<sup>260</sup> CAUSE-PA Main Brief at 25.

<sup>261</sup> USECP 2014-2016 Order at 57.

Home Comfort is fiscally responsible and prudent to the extent the Commission does not authorize CAM and, consistent with the Commission's directive, PGW proposes to designate a portion (6.45%) of that budget for the LIME program. PGW does not have the ability to increase its funding for LIME, as these parties propose, without also addressing the impact of unrecovered costs on the ability of PGW to provide the DSM programs.<sup>262</sup>

#### **D. CHAPTER 58 WAIVER REQUESTS**

PGW has reviewed all Chapter 58 regulations is requesting an exemption or waiver of those Sections that do not make sense or cannot be reasonably fitted into PGW's LIURP program. The waivers are necessary primarily because PGW's CRP Home Comfort program is designed to be consistent with currently accepted standards for energy efficiency programs (in contrast to the Commission's more dated LIURP regulations that were first effective in 1993 and last updated in 1998).<sup>263</sup> To be clear, and contrary to the misstatement of CAUSE-PA, PGW is not seeking any waiver or exemption by claiming that its DSM program is voluntary and, therefore, not subject to the LIURP regulations.<sup>264</sup> PGW has repeatedly stated that its non-LIURP programs are voluntary while recognizing that its LIURP program is required to meet Commission's regulations – unless waived.<sup>265</sup>

Importantly, of the eight Sections from which PGW seeks an exemption or a waiver, the parties only oppose PGW's request regarding three Sections – 52 Pa. Code §§ 58.4(a), 58.10, and 58.14. For the reasons discussed further below, none of this opposition justifies denying PGW's

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<sup>262</sup> PGW Main Brief at 74.

<sup>263</sup> PGW Main Brief at 75-76; PGW St. 1 at 7, PGW St. 1-R at 11 PGW St. 1-SR at 4.

<sup>264</sup> CAUSE-PA Main Brief at 26.

<sup>265</sup> *See, e.g.*, PGW Main Brief at 14.

request and, therefore, PGW respectfully requests that it be granted a waiver or exemption of the identified sections to the extent the Commission deems necessary.

1. **52 Pa Code § 58.4(a) (Minimum Funding Requirements and Public Notice)**

Section 58.4(a) addresses the minimum funding requirements for a LIURP program and requires public notice found acceptable to BCS and the opportunity for public notice for proposed funding revisions that would involve a reduction in program funding.<sup>266</sup> Because there is no budget approved for the LIURP program beyond the expiration of the DSM Bridge Plan (August 31, 2016 or the effective date of the compliance plan following the Commission's decision in this proceeding) and PGW proposes to fund the CRP Home Comfort program far in excess of the required minimum going forward, PGW does not believe this Section applies here.<sup>267</sup> However, and to the extent the Commission determines otherwise, PGW has requested a waiver limited of Section 58.4(a) (and not of the entire regulation as OCA states.)<sup>268</sup> OCA, CAUSE-PA and TURN all argued that this Section does apply here and opposed granting PGW a waiver.<sup>269</sup>

a. ***Required Minimum Budget for LIURP***

This issue is discussed above in Section VII.B.2.

b. ***Public Notice Regarding Reduction In LIURP Budget***

Notwithstanding PGW's position that this Section is not triggered by this proceeding, PGW has stated that if the Commission deems public notice is necessary going forward, PGW

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<sup>266</sup> 52 Pa Code § 58.4(a).

<sup>267</sup> PGW St. 1 at 8.

<sup>268</sup> OCA Main Brief at 66.

<sup>269</sup> OCA Main Brief at 80-82; CAUSE-PA Main Brief at 25-28; TURN Main Brief at 15-16.

will work with BCS regarding the appropriate process.<sup>270</sup> Nonetheless, CAUSE-PA uses this opportunity to accuse PGW of “sidestep[ping] important due process.”<sup>271</sup> However, this accusation is nothing more than a transparent attempt to support CAUSE-PA’s theme in this proceeding that PGW is somehow trying to circumvent the LIURP regulatory review process. As previously discussed, this docket has presented a full and open opportunity for any party or affected persons to become involved.<sup>272</sup> PGW filed its petition almost a year ago (on December 23, 2014) setting forth its proposed budget for LIURP and provided responses to numerous rounds of discovery requests from the parties. Additionally, and after discussions with all of the parties which specifically included discussion about the LIURP budget, PGW’s DSM Bridge Plan was approved on May 7, 2015.<sup>273</sup> The parties engaged in numerous settlement discussions and the litigation schedule for this proceeding was revised two times.<sup>274</sup> At any point in time throughout this long process, the public advocates could have requested a public input hearing or made the request that some other public notice be provided. They did not. To now claim that PGW is somehow attempting to circumvent due process or otherwise prevent a full and fair opportunity for parties to express their views about its proposals should be dismissed as nothing more than an attempt to create a misimpression about PGW’s intentions regarding its LIURP program.

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<sup>270</sup> PGW Main Brief at 79-80; PGW St. 1 at 8.

<sup>271</sup> CAUSE-PA Main Brief at 27.

<sup>272</sup> See Section VIII.A

<sup>273</sup> Philadelphia Gas Works’ Revised Petition For Approval of Energy Conservation and Demand Side Management; and, Pennsylvania Public Utility Commission v. Philadelphia Gas Works, Docket Nos. P-2009-2097639 and R-2009-2139884, Opinion and Order entered May 7, 2015 (“DSM Bridge Plan Order”).

<sup>274</sup> *See, e.g.*, Prehearing Order #3 dated August 11, 2015 at 3.

In sum, PGW explained its view about why this Section does not apply here but, nonetheless, identified the Section sought a waiver and committed to working with BCS to the extent the Commission deems appropriate.

**2. 52 Pa Code § 58.10 (Prioritization Based On Arrearages and Income)**

Sections 58.10(a)(2) and (3) establish prioritization for receipt of LIURP program services based on a customer's arrearages and income.<sup>275</sup> PGW is not seeking a waiver of the requirement to prioritize customers for the receipt of benefits (because PGW already has a rigorous prioritization strategy in place to ensure the greatest energy savings and program cost-effectiveness); rather, PGW is seeking a waiver of the requirement to prioritize customers for LIURP treatments based on arrearages and income deficits.<sup>276</sup>

OCA, CAUSE-PA and TURN all argue that PGW should still be directed to prioritize CRP customers for LIURP treatments based on a customer's arrearages and income and recommend that PGW's waiver request be denied.<sup>277</sup> This opposition should be rejected because it is not a prudent use of the dollars that the other non-CRP customers (many of whom are just above the poverty level – the working poor) are paying for these LIURP treatments and does nothing to positively impact the CRP subsidy paid by these non-CRP customers. Further, the reference to the *USECP 2014-2016 Order* by CAUSE-PA and TURN, which appears to be intended to create the misimpression that PGW is somehow not in compliance with that order, is blatantly misleading.

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<sup>275</sup> 52 Pa Code § 58.10(2) and (3).

<sup>276</sup> PGW Main Brief at 69-70.

<sup>277</sup> OCA Main Brief at 81-82; CAUSE-PA Main Brief at 28-29; TURN Main Brief at 16-17.

*a. The financial benefit of energy usage reduction through LIURP flows to non-CRP customers through a reduction in the CRP subsidy*

OCA, CAUSE-PA and TURN singularly focus on targeting LIURP weatherization treatments to CRP customers with the lowest income and greatest arrearages. Such a shortsighted view must be rejected.

PGW's LIURP treatments generally do not have a financial impact for the CRP customer who receives the treatment.<sup>278</sup> This is because PGW's CRP is a percentage of income program<sup>279</sup> which means that the CRP customer is asked to pay a specific amount for PGW's service (an amount below the full cost of the usage) and non-CRP customers pay for the remaining cost of the CRP customer's actual usage through the CRP subsidy.<sup>280</sup> Importantly, the amount the CRP customer is asked to pay is not based on the CRP customer's usage<sup>281</sup> and, therefore, the impact of LIURP services to reduce the CRP customer's usage does not change the amount the CRP customer is required to pay (they do receive the benefits of more energy efficient homes). In contrast, reductions in energy usage for the CRP customer who received the LIURP treatment do financially benefit the non-CRP customers by reducing the CRP subsidy.<sup>282</sup>

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<sup>278</sup> They do have other benefits for those customers in terms of improving their living conditions.

<sup>279</sup> See 52 Pa. Code § 69.265(2)(i) for a further explanation about percentage of income customer assistance plans. Ironically OCA, CAUSE-PA and TURN all recognize that PGW's CRP is a percentage of income program in the context of opposing OSBA's testimony regarding a usage signal for CRP customers. OCA Main Brief at 85, CAUSE-PA Main Brief at 39; TURN Main Brief at 26. However, they never acknowledge how this program structure impacts the other proposals that they make which are directly aimed at addressing financial issues for the CRP participant through the use of CRP Home Comfort weatherization services.

<sup>280</sup> PGW Main Brief at 80; PGW St. 1 at 10; PGW St. 1-R at 25-27.

<sup>281</sup> This is in contrast to a "percentage of bill" customer assistance plan which factors the household's energy usage level into the amount the participate is required to pay. 52 Pa Code § 69.265(2)(ii)

<sup>282</sup> All PGW's firm customers (who subsidize CRP) are projected to receive a net reduction in the CRP subsidy by \$7.2 million over the lifetime of the measures installed. PGW Main Brief at 18; PGW St. 1 at 3.

Therefore, focusing on program savings and cost-effectiveness goals in the context of prioritization is logical and appropriate because it ensures that the actual positive financial benefit of the LIURP program flows to those who benefit, i.e. the non-CRP customers.

PGW has a rigorous and time-tested prioritization system in place for its CRP Home Comfort program. Individual selection assignments begin with screening for primary eligibility criteria, and then a statistical analysis of eligible customers' weather-normalized usage.<sup>283</sup> Because the best predictor of energy savings is pre-treatment usage and not some rigid rule or arbitrary number, PGW targets the highest usage CRP customers based on pre-treatment usage.<sup>284</sup> Usage thresholds are customized for each assignment based on the population, their usage, and the number of participants in each quintile, as well as program contractors' capacity to assume a set number of assignments.<sup>285</sup> PGW allows its contractors to prioritize their work independently based on the cost effectiveness and savings outcomes that PGW demands.<sup>286</sup> PGW's contractors pursue accounts based on their own practices in order to maximize the number of properties that are treated and to ensure that their budgets are fully utilized. Forcing them to utilize arrearages to future prioritize treatments – based on arrearages that do not impact the CRP customers (other than a \$5 monthly arrearage co-pay) – could lead to underutilized budgets or problems with cost-effectiveness.

Notwithstanding the actual financial impacts of PGW's CRP Home Comfort program, the fact that it is well-designed to ensure all customers (those who receive service and those who pay

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<sup>283</sup> PGW St. 2-R at 8.

<sup>284</sup> PGW Main Brief at 80; PGW St. 1 at 10; PGW St. 1-R at 25-27.

<sup>285</sup> PGW St. 2-R at 8.

<sup>286</sup> PGW St. 1-R at 27.

for it) benefit, and the robust annual LIURP reporting PGW provides as described above, OCA, CAUSE-PA and TURN claim that PGW has provided “no support for its hypothesis” that further prioritizing CRP customers already identified as eligible for treatment based on arrearages and income deficits “would lead to negative impacts.”<sup>287</sup> A refusal to understand and acknowledge that prioritizing based on the greatest energy savings opportunities and program cost-effectiveness is the optimal way to provide the greatest level of program benefits to all customers does not equate to a lack of evidence presented by PGW. PGW has an obligation to ensure that all of its customers (both CRP and non-CRP) receive the greatest possible value and benefits available from the CRP Home Comfort program. Focusing only on the arrearages and income deficits of the CRP customers as OCA, CAUSE-PA and TURN do here and requiring changes based on that myopic focus will erode the LIURP program effectiveness and – in the end – not result in any additional financial benefit for the CRP customers. To the contrary, non-CRP customers would be harmed because projects would not be addressed based on ensuring the most energy savings and cost-effectiveness criteria that has been established. This is clearly a negative impact of adopting the position of OCA, CAUSE-PA and TURN, which would have no financial impact on the CRP customers (who appear to be the only customers upon whom CAUSE-PA and TURN – and to a significant extent OCA – focus).

To be clear, any reprioritizing away from the current time-tested structure would come at the expense of greatest energy savings opportunities and program cost-effectiveness (and therefore CRP subsidy reduction) and not result in providing any greater financial benefit to the CRP customers receiving the LIURP services.

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<sup>287</sup> CAUSE-PA Main Brief at 29; TURN Main Brief at 17.

***b. The issue was already considered by the Commission in the USECP 2014-2016 Order***

Both CAUSE-PA and TURN, without any accompanying analysis, offer a quote from the *USECP 2014-2016 Order* which seems to be intended to support their overall theme that PGW is somehow attempting to circumvent its LIURP regulatory requirements or somehow otherwise trying to shield itself from Commission review of its LIURP.<sup>288</sup> As repeatedly stated throughout this Reply Brief, PGW has never attempted to use the fact that the Commission approved inclusion of its LIURP program within its DSM Plan to in anyway diminish the LIURP program or otherwise “circumvent” its compliance responsibilities regarding LIURP.<sup>289</sup> Aside from this, however, the cite used by CAUSE-PA and TURN fails to provide the appropriate context of the Commission’s prior review of this issue and, ironically, the Commission’s ultimate decision to not direct PGW to include prioritization based on arrearages and income deficit in the *USECP 2014-2016 Order*.

During the Commission’s review of PGW’s USECP 2014-2016 plan, CAUSE-PA recommended that PGW be required to “adjust [LIURP] eligibility and prioritization criteria in line with the PUC’s regulation by prioritizing customers with significant arrearages and eliminating its prohibition on CRP customers with more than two (2) months behind in payments.”<sup>290</sup> In response, the Commission directed PGW “to reconsider its exclusion of CRP customers with program arrearages greater than two months from [LIURP] eligibility.”<sup>291</sup> In fact, the Commission recognized the inadvisability of performing comprehensive weatherization

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<sup>288</sup> TURN Main Brief at 17; CAUSE-PA Main Brief at 29, *citing*, *USECP 2014-2016 Order* at 55.

<sup>289</sup> *See, e.g.*, Section VIII.A.

<sup>290</sup> USECP 2014-2016 Order at 55.

<sup>291</sup> USECP 2014-2016 Order at 55-56.

services for a customer with a poor bill payment history.<sup>292</sup> Consistent with this directive, PGW no longer excludes CRP customers with CRP program arrearages greater than two months from CRP Home Comfort eligibility.<sup>293</sup> Notably, the Commission did not direct PGW to revise its prioritization criteria and PGW is in compliance with what the Commission did actually direct. The contrary misimpressions offered by CAUSE-PA and TURN on this point are demonstrably wrong and should be rejected.

### 3. 52 Pa Code § 58.14 (Inter-Utility Coordination)

Section 58.14(c)(1) is concerned with inter-utility coordination and requires a gas utility to address electricity usage through the provision of education, efficient light bulbs, installation of electric water heaters and hot water pipe insulation and devices to reduce the flow of hot water.<sup>294</sup> Because of the complexity involved in intra-utility coordination for electric usage reduction activities and in light of the extensive program steps that PECO is already taking as part of its Act 129 Energy Efficiency and Conservation program (and not with any coordination with PGW),<sup>295</sup> PGW does not propose to address or identify energy efficiency or conservation measures regarding electricity usage.<sup>296</sup> Only OCA opposed this requested waiver claiming that

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<sup>292</sup> *USECP 2014-2016 Order* at 55 (“The Commission finds that performing extensive and costly weatherization services on a premise with questionable bill payment history is likely not a prudent investment of funds.”)

<sup>293</sup> PGW Main Brief at 70; PGW St. 2 at 2.

<sup>294</sup> 52 Pa. Code § 58(c)(1).

<sup>295</sup> For example, through and including Program Year 2015, PECO is using its (1) Smart Home Rebates program to provide rebates for the purchase of eligible, energy efficient equipment (including hot water heaters); (2) Smart Lighting Discounts program to provide in-store discounts on purchases of eligible CFL and LED bulbs; (3) Low Income Energy Efficiency program (LEEP) to educate and assist income eligible residential customers on reducing energy usage by installing CFL bulbs, refrigerators and equipment as appropriate; and, (4) Smart House Call program to provide a walk through comprehensive energy audit for all residential customers. PECO’s AEPS Phase II Plan (as revised) is available at M-2012-2333992. PECO has proposed similar programs for Phase III (Program Years 2016 to 2020). *See PECO Petition for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan*, Docket No. M-2015-2515691.

<sup>296</sup> PGW Main Brief at 80; PGW St. 1-R at 27.

PGW should examine de facto heating situations that result from the loss of gas service by PGW customers under this regulation.<sup>297</sup> Section 58.14(c), however, does not provide OCA with the legal requirement it seeks to achieve its stated purpose of directing PGW to examine de facto heating situations.

A de facto heating situation occurs when a natural gas customer loses service and turns to alternate electricity heating sources. OCA claims that LIURP investments could prevent this by repairing the equipment that would allow the natural gas customer to restore natural gas service.<sup>298</sup> This proposal, however, has nothing to do with Section 58.14(c). As the Commission explained when it adopted Section 58.14(c), it was “designed in a way that promotes the concept of inter-utility coordination . . . where there is an opportunity for significant enough energy savings and bill reductions to warrant more comprehensive coordination.”<sup>299</sup> Energy savings and bill reductions are not the same as requiring PGW to undertake an effort to ensure that PECO customers are removed from de facto heating situations (presumably with the arrearages for which they were terminated paid by PGW customers) pursuant to PGW’s LIURP program. Section 58.14(c) provides no legal basis to support OCA’s claim here that PGW’s requested waiver should be denied and PGW should be directed to examine de facto heating situations that result from the loss of gas service.

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<sup>297</sup> OCA Main Brief at 84.

<sup>298</sup> OCA Main Brief at 83.

<sup>299</sup> *Residential Low Income Usage Reduction Programs*, Docket No. L-00960118, Final Rulemaking Order adopted August 28, 1997, 28 Pa.B. 25 (emphasis added).

**E. DE FACTO ELECTRIC HEATING PROPOSAL**

CAUSE-PA recommended that PGW expand its LIURP program and explore a pilot with PECO to identify ways to remediate de facto heating in PGW's service territory.<sup>300</sup> TURN supports this proposal and OCA does not oppose it.<sup>301</sup> Basically, CAUSE-PA wants PGW to work with PECO to identify consumers who were previously receiving natural gas from PGW and then provide CRP Home Comfort services, including potentially cost in-effective heater replacements or repairs, to those non-PGW customers<sup>302</sup> which would then reduce the "overall higher [PECO] energy bills" because the customer would then be served by PGW."<sup>303</sup> There are numerous conflated and incorrect assumptions that undermine this proposal and the parties unreasonably chose to ignore the significant negative impact that would actually result from adopting this proposal to the detriment of all PGW's ratepayers. For these reasons, PGW opposes this proposal and it should be rejected.

**1. PGW's LIURP Does Not Impact A CRP Customer's Financial Responsibilities**

The arguments of CAUSE-PA and TURN that PGW is legally required to implement the de facto electric heating proposal are without merit. There is no legal mandate on PGW to implement this proposal. The parties cite to Section 58.1 of the LIURP regulations and claim that the de facto electric heating program "could enable low-income PGW customers to decrease

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<sup>300</sup> CAUSE-PA Main Brief at 29-34.

<sup>301</sup> TURN Main Brief at 18-22; OCA Main Brief at 84.

<sup>302</sup> The view that PGW can somehow be required to provide weatherization services to consumers who are not currently receiving gas from PGW lacks any foundation in law or reality. Forcing PGW to "give away" services to non-customers is not only costly and unwarranted but denies these benefits to PGW's existing customers who could benefit from them and are paying their bills.

<sup>303</sup> CAUSE-PA Main Brief at 30-32; TURN Main Brief at 20..

the incidence and risk of customer payment delinquencies.<sup>304</sup> CAUSE-PA also references Section 58.4(d) and claims that utilities are “expressly encouraged to propose pilot programs” to achieve the result of reducing residential energy bills and the incidence and risk of customer payment delinquencies.<sup>305</sup> Finally, CAUSE-PA makes the claim that this proposal could “reduce the high number of PGW service terminations.”<sup>306</sup> Thus, the legal argument of these parties is that the proposal is required to address non-payments. However, the proposal cannot and will not address customers who chose not to pay their CRP asked-to-pay bills – which are designed and approved by the Commission to be affordable. PGW’s LIURP treatments do not have a financial impact for the CRP customer who receives the treatment because participation by CRP customers in LIURP:

- does not affect the asked-to-pay amount of the CRP customer’s bill (either by reducing or increasing that amount);<sup>307</sup>
- does not make the CRP Home Comfort customer more likely to remain on CRP;
- does not reduce the arrearages for the LIURP CRP customer; and,
- does not reduce either the amount of shut-offs or length of shut-offs for such customers.<sup>308</sup>

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<sup>304</sup> TURN Main Brief at 19(emphasis added); CAUSE-PA Main Brief at 32. CAUSE-PA also references Section 58.4(d) for the proposition that utilities are “expressly encouraged to propose pilot programs” to achieve the result of reducing residential energy bills and the incidence and risk of customer payment delinquencies. CAUSE-PA Main Brief at 32 (mistakenly references Section as 58.7(d) in the main text). However,

<sup>305</sup> CAUSE-PA Main Brief at 32 (emphasis added).

<sup>306</sup> CAUSE-PA Main Brief at 32 (emphasis added).

<sup>307</sup> OCA mischaracterizes the LIURP Impact Evaluation performed by M. Blasnik & Associates which does indicate that customer payments increased by \$105 after LIURP treatment, but specifically states: “. . . the payment analysis of [LIURP] does not yield any strong conclusions due to the many factors that can affect asked-to-pay amounts and payments other than the program” *Long Term Study of Pennsylvania’s Low Income Usage Reduction Program: Results of Analyses and Discussion* by John Shingler, Consumer Services Information System Project, Penn State University, dated January 2009 at 18. *See* OCA Main Brief at 52.

<sup>308</sup> PGW Main Brief at 71; PGW St. 1-R at 16-19; PGW St 2-R at 17-18.

With no financial impact to the treated CRP customer from receiving LIURP services, there is no validity to the claim that LIURP services will “decrease customer payment delinquencies” or “reduce terminations.”<sup>309</sup> In other words, if a customer cannot pay his or her CRP asked-to-pay bill, then whether or not the home receives LIURP weatherization services will have no impact because the CRP bill will be the same with or without the weatherization services. Thus, the de facto electric heating proposal would not fulfill the regulatory purposes relied upon by CAUSE-PA and TURN here. In addition, the reference to Section 58.4(d) of the regulations is not relevant because that Section discusses pilot programs “for achieving the purposes of residential low income usage reduction,”<sup>310</sup> and not, as CAUSE-PA and TURN advocate here, decreasing customer payment delinquencies or reducing terminations, or reducing electric bills at the expense of increasing gas bills. As such, the regulations do not create a legal mandate for PGW to implement the de facto electric heating proposal offered by CAUSE-PA.

CAUSE-PA and TURN also argue that the proposal will enhance the public safety by eliminating the need for households to resort to dangerous forms of alternative heating.<sup>311</sup> Again implicit in this argument is the incorrect assumption that a former PGW CRP customer could not afford to pay for gas because the home did not receive LIURP weatherization services and, therefore, gas service was terminated causing the customer to resort to alternative electric heating sources. This is not factually accurate. In addition, the focus on CRP Home Comfort ignores the

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<sup>309</sup> Since this discussion is about customers who are already not receiving gas service from PGW, it is not clear how returning these customers to PGW’s gas service would “reduce terminations.” The only way this argument makes sense is if viewed in terms of reducing terminations from PECO’s electricity service. There is no legal requirement for PGW to undertake a program that would address another utility’s termination of services.

<sup>310</sup> 52 Pa. Code § 58.4(d)(emphasis added).

<sup>311</sup> TURN Main Brief at 19(emphasis added); CAUSE-PA Main Brief at 32.

fact that this is just one part of PGW's overall universal service programs and, as already discussed, it is not designed to provide a financial benefit to CRP participants.<sup>312</sup> PGW offers a robust percent of income payment plan – CRP – which is specifically designed to help low-income customers deal with their energy costs by providing a fixed reduced gas bill to participants.<sup>313</sup> The goals of PGW's CRP are to provide affordable gas bills to low-income households, avoid loss of service for vulnerable customers, improve payment patterns, reduce collection costs, and minimize the burden placed on other ratepayers.<sup>314</sup> Participation in CRP (in contrast with participation in LIURP) has been statistically shown to address de facto heating situations. After participation in CRP, there was a 23% decrease in the number of participants who stated that they continued to use kitchen stoves for heating and a 13% decrease in the number of participants who said they could not afford to repair or replace their heating system.<sup>315</sup>

Contrary to the misrepresentations of CAUSE-PA and TURN (and the offensive statement that PGW's opposition to the proposal is based on its "callous disregard" for the concerns of these consumers),<sup>316</sup> PGW is already addressing de facto heating situations but within the context of its CRP and not its LIURP because its LIURP has no impact on the financial responsibilities of a CRP

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<sup>312</sup> To be clear, PGW's position is not that it is inappropriate to discuss in this proceeding whether its LIURP program is in compliance with the Commission's regulations as both CAUSE-PA and TURN mistakenly claim. CAUSE-PA Main Brief at 31-32; TURN Main Brief at 19. Rather, PGW's position is that what CAUSE-PA is trying to achieve with its proposal cannot be achieved by changing PGW's LIURP program because PGW's LIURP does not have a financial impact on the CRP participant's bill (this is in contrast to PECO's LIURP program as discussed further in Section VIII.E.3).

<sup>313</sup> CAUSE-PA and TURN recognizes that this is the purpose of PGW's CRP. CAUSE-PA Main Brief at 39 ("the [CRP] program is intended to provide an affordable payment plan for low-income customers."); TURN Main Brief at 25 ("CRP is intended to produce affordable bills for PGW's lowest income customers.")

<sup>314</sup> APPRISE, PGW Universal Service Program Impact Evaluation Final Report, at i (November 2012) available at [https://www.puc.state.pa.us/general/pdf/USP\\_Evaluation-PGW.pdf](https://www.puc.state.pa.us/general/pdf/USP_Evaluation-PGW.pdf)

<sup>315</sup> APPRISE, PGW Universal Service Program Impact Evaluation Final Report, at vi (November 2012) available at [https://www.puc.state.pa.us/general/pdf/USP\\_Evaluation-PGW.pdf](https://www.puc.state.pa.us/general/pdf/USP_Evaluation-PGW.pdf)

<sup>316</sup> CAUSE-PA Main Brief at 33; TURN Main Brief at 21.

participant. Moreover, in this proceeding, PGW has already committed to exploring new ways to leverage data and provide additional cost-effective treatment opportunities where full weatherization is prevented due to health, safety and/or structural issues as the home.<sup>317</sup> As such, there is no reasonable basis or need to adopt the proposal here which will needlessly increase the costs of the LIURP program and degrade its effectiveness without achieving the stated goals of the proposed program.

2. **Impact Of Proposal Will Force PGW To Incur Even More Unrecovered Costs Due To Implementation And Increased Arrearages**

The reality that the parties choose to ignore is that the vast majority of PGW's terminations are the result of customers' not paying their bills. There is a regulatory process in place for a customer to seek a payment arrangement and reconnection in the event of an involuntary shut-off.<sup>318</sup> With this proposal (as with the restore service program discussed in Section VIII.F,) CAUSE-PA and TURN are seeking an additional payment avoidance process for customers who have exhausted all other opportunities to maintain payments and service. However, the receipt of LIURP weatherization services will not address the underlying root cause of a termination for non-payment because even after receiving the services, the CRP customer will be required to make the same payment. Thus, the likely effect of the de facto electric program will be to increase the amount of arrearages for PGW because it will: (1) expend money to provide weatherization services; (2) provide natural gas service to customers who failed to pay in the first place; and, (3) implicitly involve forgiving past arrearages that would otherwise be required for restoring services, after other options have been exhausted. The result will be to diminish the

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<sup>317</sup> PGW St. 2 at 2.

<sup>318</sup> 52 Pa. Code §§ 56.1-56.191

cost-effectiveness of the CRP Home Comfort program (as discussed further above in Section VIII.D.2) by providing services to customers who would not obtain the most energy savings which will increase the CRP subsidy that non-CRP customers will be required to pay. CAUSE-PA dismissively acknowledges that PGW's concern regarding "past arrears" is a difficult issue and points to its mistaken view that offering these customers LIURP weatherization services could reduce delinquency – which it cannot for the reasons discussed above in Section VIII.E.1.

Moreover, both CAUSE-PA and TURN are wrong to claim that PGW "did not provide any specific examples of barriers to coordinating with PECO to address de facto heating."<sup>319</sup> There is no option within the context of coordinating with PECO to adequately address the added cost of the arrears to PGW of the PECO customers/off consumers served. This is because PECO's program specifically eliminates de facto electric heating mitigation costs for payment of gas bills to re-establish service.<sup>320</sup> Thus, coordination with PECO would do nothing to address PGW's concerns regarding who will pay these arrears. Neither party addresses who should fund any past arrearages owed before service can be reconnected. Similar to the other parties' recommendations requiring PGW to expand DSM programming while preventing full cost recover, these positions fails to acknowledge the reality of utility financial operations. Forcing utilities into financially untenable positions (without an acknowledgment of how the additional funding would be provided) only imposes greater costs on utility ratepayers while risking overall company well-being.

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<sup>319</sup> CAUSE-PA Main Brief at 34, fntn 29; TURN Main Brief at 20, fntn 20.

<sup>320</sup> PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Docket M-2012-2290911, Recommended Decision dated June 11, 2015 at 17, approved without modification by Commission Order entered July 8, 2015 (the proposal applies to "certain de facto heating situations. . . where (1) the mitigation measure is repair or replacement of a broken heater or furnace (**but not payment of a gas or oil bill to re-establish oil or gas service**); and, (2) the mitigation measure has a payback period. . . of 15 years or less.")(emphasis added)

Finally, coordination with PECO will do nothing to address the negative impact on the CRP Home Comfort program from engaging in weatherization projects for non-PGW customers and for homes that do not result in the greatest energy savings and cost-effectiveness use.

**3. PECO's De Facto Program Does Not Provide Support For Adopting This Proposal For PGW**

CAUSE-PA argues that its proposed de facto electric program is appropriate because the Commission approved a settlement of PECO's customer assistance program ("CAP") which includes an increase in the budget for PECO's LIURP program to address certain de facto heating situations which driving up the costs of these customers' PECO electricity bill.<sup>321</sup> Both CAUSE-PA and TURN use this to claim that this settlement presents a "fortuitous and time sensitive opportunity" for PGW to adopt the proposal here.<sup>322</sup>

However, PECO's program was agreed to as a part of PECO's comprehensive customer assistance program (CAP) – a percentage of bill CAP program meaning that the customer's asked-to-pay amount is calculated in part on the basis of the customer's energy usage.<sup>323</sup> As such, PECO's program will address the electric bills of PECO's customers which PGW understands to directly impact the bills PECO's CAP customers are asked to pay and the number of terminations from PECO service (to the extent PECO customers are shifted to PGW's service, that also has a positive impact on PECO in terms of arrearages and service terminations though it

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<sup>321</sup> CAUSE-PA Main Brief at 30. PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Docket M-2012-2290911, Recommended Decision dated June 11, 2015 at 17, approved without modification by Commission Order entered July 8, 2015

<sup>322</sup> CAUSE-PA Main Brief at 34; TURN Main Brief at 19-20.

<sup>323</sup> 52 Pa. Code § 69.265(2)(ii). PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Docket M-2012-2290911, Recommended Decision dated June 11, 2015 at 7, approved without modification by Commission Order entered July 8, 2015.

shifts the burden of non-payment to PGW).<sup>324</sup> In other words, PECO's de facto program accomplishes the goals CAUSE-PA and TURN mistakenly argue could be accomplished here for PGW. But PECO's program cannot be used as a guide because of the differences between the CAP programs of the two companies.

Moreover, to the extent CAUSE-PA and TURN are trying to create the misimpression that there is some opening here to benefit PGW and its customers through PECO's de facto program, there is no merit to the claim. PECO's program will benefit PECO. Requiring PGW to erode its CRP Home Comfort program to provide services to non-PGW customers will result in negative consequences to PGW in terms of: (1) forcing PGW to extend non-cost-effective CRP Home Comfort programs for non-customers; and, (2) increasing the number of customers on PGW's system who are in no better position to pay their PGW bills after having received CRP Home Comfort services.

#### **F. RESTORE SERVICE PROGRAM**

CAUSE-PA recommended that PGW establish a restore service program that would: (1) restore service to former customers of PGW who were enrolled in CRP and were high users; and, (2) provide CRP Home Comfort weatherization services to these former customers.<sup>325</sup> TURN supports this proposal and OCA does not oppose it.<sup>326</sup> According to CAUSE-PA and TURN,

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<sup>324</sup> It is simply not factually accurate to claim, as CAUSE-PA and TURN do, that adopting its proposal "represents an opportunity to increase distribution revenues." CAUSE-PA Main Brief at 30, fnote 22; TURN Main Brief at 18, fnote 18. This proposal would increase the costs of the CRP Home Comfort (paid by non-CRP customers), erode the benefits of the program to provide the greatest energy savings and cost-effectiveness which would not decrease the subsidy paid by non-CRP customers. Even if PGW were to add new customers through this program and these customers paid their asked-to-pay CRP bills, PGW's distribution revenues would not be increased.

<sup>325</sup> CAUSE-PA Main Brief at 22-25.

<sup>326</sup> TURN Main Brief at 35-38; OCA Main Brief at 84.

this proposal would “address PGW’s termination crisis and increase CRP enrollment.”<sup>327</sup> This proposal suffers from many of the same issues as discussed in the preceding section and, PGW opposes it.

First, there is no statutory or other obligation for PGW to offer CRP Home Comfort weatherization services to non-customers and, doing so is not an appropriate use of program funds which are paid by non-CRP customers.<sup>328</sup>

Second, as discussed in the preceding section, weatherization services have no impact on the amount a CRP customer is asked-to-pay and, therefore, there is no support for the view that CRP customers receiving weatherization services are shut off less frequently than CRP customers who do not receive LIURP services. The reliance by CAUSE-PA and TURN on data provided by PGW in response to discovery does not support their claim that weatherization treatments impact shut-offs. On average, just 1.5% of customers who did not receive weatherization previously and were shut-off for non-payment, would have been eligible to receive treatment through LIURP.<sup>329</sup>

Third, even if weatherization services could somehow prevent terminations (which they cannot), there is no support for the claim that PGW is in a “termination crisis.” Looking at the number of PGW’s terminations in a vacuum, as CAUSE-PA and TURN do, provides no meaningful context. The reality is that 30.8% of PGW’s customers are confirmed low-income (the highest proportionate number of low income customers of all Pennsylvania’s utilities –

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<sup>327</sup> CAUSE-PA Main Brief at 35; TURN Main Brief at 22.

<sup>328</sup> PGW Main Brief at 82; PGW St. 1-R at 4-6.

<sup>329</sup> TURN Hearing EXHIBIT No. 1 at 5-7.

electric or gas).<sup>330</sup> Notwithstanding this, PGW's termination rate for confirmed low-income customers (10.7%) is lower than average the termination rate for all the NGDCs (average is 14.7%) and the EDCs (average is 17.3%).<sup>331</sup> Thus, there is absolutely no support for the claim that PGW is in a "termination crisis" that must be addressed in this proceeding (even if it could be addressed by the proposal offered, which it cannot).

Fourth, a restore program to provide non-PGW customers CRP Home Comfort weatherization services would not address PGW's alleged "precipitous decline in CRP enrollment" (even if it were appropriate to address that issue here).<sup>332</sup> Customers enroll in CRP to receive the benefit of a lower bill payment, they do not receive CRP Home Comfort weatherization services to further reduce their required bill payment. Therefore, there is no logical nexus between what each program provides to leap to the conclusion that an increase in weatherization services will "provide a pathway" to increase participation in a program (CRP) designed to lower required bill payments.

Finally, the cursory claim that PGW could address "concerns about the cost-effectiveness of such a program and the treatment of arrears" by pursuing collaboration with PECO on the basis that the terminated customers may have become PECO de facto heating customers<sup>333</sup> makes no sense. PECO's program specifically eliminates payment of gas bills required for

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<sup>330</sup> *Pennsylvania Public Utility Commission 2014 Report on Universal Service Programs and Collections Performance*, October 2015 at 7. Available at: [http://www.puc.pa.gov/General/publications\\_reports/pdf/EDC\\_NGDC\\_UniServ\\_Rpt2014.pdf](http://www.puc.pa.gov/General/publications_reports/pdf/EDC_NGDC_UniServ_Rpt2014.pdf)

<sup>331</sup> *Pennsylvania Public Utility Commission 2014 Report on Universal Service Programs and Collections Performance*, October 2015 at 12-13. Available at: [http://www.puc.pa.gov/General/publications\\_reports/pdf/EDC\\_NGDC\\_UniServ\\_Rpt2014.pdf](http://www.puc.pa.gov/General/publications_reports/pdf/EDC_NGDC_UniServ_Rpt2014.pdf)

<sup>332</sup> CAUSE-PA Main Brief at 37; TURN Main Brief at 23. In the *USECP 2014-2016 Order*, the Commission has already addressed concerns about declining enrollment in PGW's CRP and provided directives to PGW about the issue. *USECP 2014-2016 Order* at 69. That directive did not include expanding PGW's LIURP services through implementation of a restore service program as recommended here.

<sup>333</sup> CAUSE-PA Main Brief at 36, fnte 32; TURN Main Brief at 23, fnte 24.

reconnection.<sup>334</sup> Thus, there is no opportunity in the context of PECO's program to address this issue.

**IX. OTHER ISSUES – RESTRUCTURING CRP TO INCLUDE USAGE SIGNAL**

PGW took the position that its CRP is not an issue in this proceeding in response to OSBA's proposal that it be restructured to include a usage signal to program participants.<sup>335</sup> However, PGW does not agree with OCA, CAUSE-PA and TURN that CRP customers' usage would necessarily be wholly unaffected by a price signal, that energy usage reductions by each CRP customer are unattainable without LIURP treatment, or that the inclusion of a price signal would necessarily undermine the purposes of CRP.<sup>336</sup> PGW does not agree that just because PGW's CRP is a percent of income plan it cannot include any price signals. PGW agrees only that such a change to PGW's CRP in the context of this proceeding is not appropriate because this proceeding is only focused on PGW's LIURP.<sup>337</sup>

**X. CONCLUSION**

PGW opposes the recommendations of the parties discussed herein to revise its carefully crafted and extensively documented DSM Plan that PGW proposes in this proceeding. Importantly, the majority of the recommendations of the other parties will result in an unreasonable and unsustainable expansion of PGW's DSM without permitted PGW to fully

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<sup>334</sup> PECO Energy Company Universal Service and Energy Conservation Plan for 2013-2015 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4, Docket M-2012-2290911, Recommended Decision dated June 11, 2015 at 17, approved without modification by Commission Order entered July 8, 2015 (the proposal applies to "certain de facto heating situations. . . where (1) the mitigation measure is repair or replacement of a broken heater or furnace (**but not payment of a gas or oil bill to re-establish oil or gas service**); and, (2) the mitigation measure has a payback period. . . of 15 years or less.")(emphasis added)

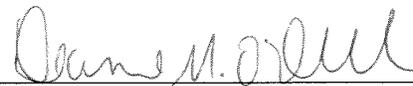
<sup>335</sup> PGW St. 1-SR at 2-3.

<sup>336</sup> OCA Main Brief at 84-86; CAUSE-PA Main Brief at 38-40; TURN Main Brief at 25-27.

<sup>337</sup> PGW St. 1-SR at 2-3.

recover all costs that are incurred as a direct result of operating the DSM programs. Forcing such a result could lead to a decision by PGW to not offer the voluntary programs of the DSM plan which would be an unfortunate outcome especially when considering that the DSM Plan has been operational for over five years now and there are still viable opportunities to bring the benefits of the plan to a greater number of PGW ratepayers and the community and environment as a whole. Thus, rather than adopt any of the recommendations of the other parties, PGW submits that its customers would be best served by full approval of all PGW's proposals in this proceeding – including its proposed CAM and PI mechanisms – as such result would lead to the implementation of a more robust DSM Plan.

Respectfully submitted,



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Attorneys for Philadelphia Gas Works

Date: December 8, 2015

# Attachment A

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

STIPULATION

Philadelphia Gas Works (“PGW”) and the Bureau of Investigation and Enforcement (“I&E”) (the “Stipulating Parties”) hereby enter into this Stipulation regarding the issues identified below in the above-captioned proceeding. The Stipulating Parties agree to have this Stipulation admitted as evidence of their agreement and further stipulate and agree as follows:

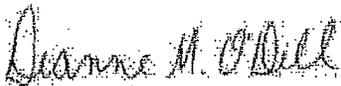
1. Regarding PGW’s proposed Low-Income Multifamily (“LIME”) Program:
  - a) PGW will convene a stakeholder collaborative to receive input from interested parties;
  - b) The low income residency requirement will be revised to subsidized housing with 75% confirmed low income. PGW reserves the right to decrease this percentage beginning in FY 2017 but only after a showing of cause for program incentive budget under-spending, and with either the unanimous approval of the signatory parties, to be obtained by written consent, or by Commission Order;
  - c) Program costs for the LIME will be through PGW’s Universal Services Charge (“USC”) applicable to all volumes of firm gas delivered and LIME project costs will be recovered: (i) 100% for confirmed low income

ATTACHMENT A

customer usage through the USC; (ii) 33% of project costs for all other customer usage through the Efficiency Cost Recovery Surcharge (“ECRS”); and, (iii) remainder of project costs will be funded by property owners.

- d) The Stipulating Parties acknowledge that the LIME cost recovery provisions are not consistent with the Commission’s Final Order approving PGW’s Universal Service and Energy Conservation Plan for 2014-2016<sup>1</sup> and ask the Commission to modify or revise its prior directive to the extent necessary to approve this proposed resolution.
2. I&E does not object to continuing PGW’s CRP Home Comfort (LIURP) as part of PGW’s DSM Plan (to the extent PGW continues to offer a DSM Plan).
3. I&E does not object to implementation of all PGW proposed non-LIURP programs.

AGREED TO BY:



Daniel Clearfield, Esq.  
Deanne O’Dell, Esq.  
Eckert Seamans  
For Philadelphia Gas Works

AGREED TO BY:



Gina L. Lauffer, Esquire  
Carrie B. Wright, Esquire

For the Bureau of Investigation &  
Enforcement, Pennsylvania Public Utility  
Commission

Dated: December 4, 2015

<sup>1</sup> 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, Final Order entered August 22, 2014 at 57. The Commission directed the LIME program to be included as part of PGW’s LIURP and the costs of PGW’s LIURP are recovered through the USC.