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July 24, 2017

**VIA HAND DELIVERY**

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

Re: PA Public Utility Commission v. Philadelphia Gas Works  
Docket No. R-2017-2586783

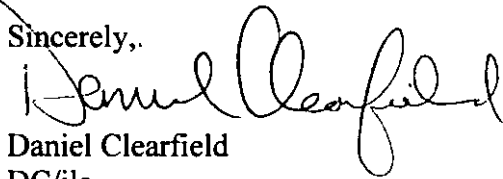
Dear Secretary Chiavetta:

On Friday, July 21, 2017 we e-filed, with the PA Public Utility Commission, Philadelphia Gas Works' ("PGW") Main Brief and Joint Petition for Partial Settlement ("Joint Petition") with regard to the above-referenced matter. The presiding administrative law judges and all parties were served as per the certificate of service. Copies of the e-filing confirmations are attached. Today we received rejection notices for both of the filings. The reason was that the cover letter and certificate of service were filed separately from the Main Brief and the Joint Petition. Accordingly, we electronically re-filed the corrected documents as directed. Copies of the e-filing confirmations are attached.

Enclosed please find copies of PGW's Main Brief and Joint Petition. We request that both the Main Brief and Joint Petition be back-dated to show they were filed on July 21, 2017.

Please contact me if you have any questions or wish to discuss this matter.

Sincerely,



Daniel Clearfield  
DC/jls

Enclosure

cc: Melissa Reside

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July 21, 2017

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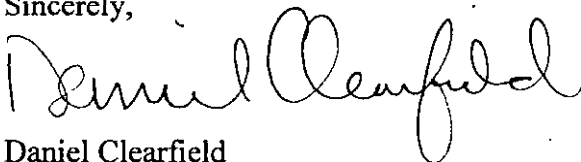
Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

Re: PA Public Utility Commission v. Philadelphia Gas Works  
Docket No. R-2017-2586783

Dear Secretary Chiavetta:

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

Sincerely,



Daniel Clearfield  
DC/lww

Enclosure

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

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## CERTIFICATE OF SERVICE

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

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Date: July 21, 2017

  
Daniel Clearfield, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2017-2586783
Office of Consumer Advocate	:	C-2017-2592092
Office of Small Business Advocate	:	C-2017-2593497
Philadelphia Industrial & Commercial	:	
Gas Users Group	:	C-2017-2595147
William Dingfelder	:	C-2017-2593903
	:	
v.	:	
	:	
Philadelphia Gas Works	:	

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**PHILADELPHIA GAS WORKS MAIN BRIEF**

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## **I. INTRODUCTION AND PROCEDURAL HISTORY**

Philadelphia Gas Works ("PGW" or "Company") hereby submits this Brief on the issues reserved for litigation by the Joint Petition for Partial Settlement ("Settlement" or "Joint Petition") filed on July 21, 2017.

In the Settlement, the Joint Petitioners<sup>1</sup> have resolved nearly all issues and propose that PGW be permitted to file new rates designed to produce an additional \$42 million in annual base rate operating revenues (assuming *pro forma* revenues at present rates calculated using 20-year average Heating Degree Days) instead of the Company's filed increase request of \$70 million. If the Settlement is approved by the Pennsylvania Public Utility Commission ("PUC" or "Commission"), PGW will receive an increase in existing base rate operating revenues of approximately 6.8% instead of the 11.6% increase proposed in PGW's filing. A residential sales customer using 76 Mcfs of gas purchased from PGW per year will see an increase in their monthly bill from \$94.06 to \$99.94 or by 6.3%, instead of the percentage increase of 11.3% that was originally proposed in the filing. The total bill for a commercial customer using 332 Mcfs of gas purchased from PGW per year will increase their monthly bill from \$327.07 to \$340.25, or by 4.0%, instead of the percentage increase of 4.6% that was originally proposed in the filing. The total bill for an industrial customer using 717 Mcfs of gas purchased from PGW per year would increase their monthly bill from \$712.81 to \$747.17, or by 4.8%, instead of the percentage

---

<sup>1</sup> The Joint Petitioners are the active parties in this proceeding: PGW, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Retail Energy Supply Association, the Philadelphia Industrial and Commercial Gas Users Group, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, and Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia.

decrease of (2.6)% that was originally proposed in the filing. The Parties agreed that the Settlement is in the public interest and should be approved by the Commission.<sup>2</sup>

Two issues were not resolved by the Settlement. The first issue relates to the Office of Consumer Advocate's ("OCA") proposals to change PGW's longstanding partial payment allocation practices. The second issue relates to the Office of Small Business Advocate's ("OSBA") proposal to reallocate universal service costs, now paid by all firm customers, to residential customers only.

As explained in greater detail herein, PGW requests that issues not resolved by the Settlement be decided so as to authorize the continuation of: (a) PGW's allocation of universal service costs through the Universal Service and Energy Conservation Surcharge ("USC" or "USEC") Rider; and (b) PGW's existing partial payment allocation practices.

#### **A. Background and Procedural History**

The Natural Gas Choice and Competition Act<sup>3</sup> brought city owned natural gas operations, i.e., PGW, under the Commission's jurisdiction.<sup>4</sup> PGW manages a distribution system of approximately 6,000 miles of gas mains and service lines supplying approximately 500,000 customers in Philadelphia.

This is PGW's first base rate case in eight years.<sup>5</sup> On February 27, 2017, PGW filed Supplement No. 100 to PGW's Gas Service Tariff – PA. P.U.C. No. 2 ("Supplement No. 100")

---

<sup>2</sup> The OSBA has indicated that it does not join in the "Natural Gas Supplier Issues" portion of the Joint Petition.

<sup>3</sup> 66 Pa.C.S. §§ 2201-2212.

<sup>4</sup> 66 Pa.C.S. § 2212(b); 52 Pa. Code § 69.2702(a). There is presently only one "City Natural Gas Distribution Operation" – PGW.

<sup>5</sup> PGW's last base rate proceeding was in 2009-2010. (R-2009-2139884). In that proceeding, PGW filed a rate case requesting rate relief on December 18, 2009 and the Commission approved a settlement on July 29, 2010.

to become effective April 28, 2017, seeking a general rate increase calculated to produce \$70 million in additional annual revenues, or a 11.6% overall increase. PGW's filing is based on a fully projected future test year ("FPFTY") that begins on September 1, 2017.<sup>6</sup> This date is consistent with PGW's fiscal year used for all financial filings both at the Commission and before municipal regulatory agencies.

By Order entered on March 16, 2017, the Commission instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase, as well as PGW's current rates. Accordingly, Supplement No. 100 was suspended by operation of law<sup>7</sup> until November 28, 2017, unless permitted by Commission Order to become effective at an earlier date.

This proceeding was assigned by the Office of Administrative Law Judge ("OALJ") to Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge Marta Guhl (collectively, the "ALJs") for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

Formal complaints were filed by OCA at Docket No. C-2017-2592092; OSBA at Docket No. C-2017-2593497; and the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG") at Docket No. C-2017-2595147. A formal complaint was also filed by the following residential consumer: William Dingfelder at Docket No. C-2017-2593903. The Commission's Bureau of Investigation and Enforcement ("BIE" or "I&E") filed a Notice of Appearance. Petitions to intervene were filed by the Retail Energy Supply Association

---

*PUC v. PGW*, PUC Docket No. R-2009-2139884, Opinion and Order entered July 29, 2010, 2010 Pa. PUC LEXIS 1845.

<sup>6</sup> The same day it filed for a rate increase (February 27, 2017), PGW also filed a Petition for Waiver seeking waiver of the application of the statutory definition of the FPFTY so as to permit PGW to use a FPFTY beginning on September 1, 2017 in this proceeding. There was no formal opposition to the request, and the ALJs granted PGW's Petition. (March 30, 2017, Prehearing Order No. 1.)

<sup>7</sup> 66 Pa.C.S. § 1308(d).

("RESA"), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA") and Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (collectively, "TURN, et al." or "TURN"). The petitions to intervene were granted by the ALJs.<sup>8</sup>

A call-in telephonic prehearing conference was held on March 29, 2017, at which time a schedule for discovery, written testimony, hearings and briefs was established. Counsel for PGW, I&E, OCA, OSBA, RESA, CAUSE-PA, PICGUG and TURN participated. The matters addressed during the prehearing conference were memorialized in the ALJs' Prehearing Order #1 dated March 30, 2017.<sup>9</sup> By Prehearing Order #4 dated May 17, 2017, the ALJs granted modifications to the procedural schedule.

On March 31, 2017, PGW filed a motion for protective order. There was no formal opposition to the request and the ALJs granted the Protective Order via Prehearing Order #3 dated April 19, 2017.

Four public input hearings were held on May 9 and May 10, 2017. A total of 24 PGW customers gave sworn testimony at the public input hearings.

Extensive investigation of PGW's proposed rate request was conducted by the Joint Petitioners. PGW responded to approximately 600 discovery requests (over 1,200 when including subparts). Testimony in response to the Company's filing and accompanying direct

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<sup>8</sup> See the ALJs' Prehearing Order No. 1 dated March 30, 2017 (granting intervention of RESA) and Prehearing Order No. 2 dated April 7, 2017 (granting intervention of CAUSE-PA and TURN). PGW filed its Answers opposing the Petitions to Intervene of both CAUSE-PA and TURN et al. On April 5, 2017, CAUSE-PA and TURN et al. each filed a response to PGW's Answer opposing their respective Petitions to Intervene. Additionally, OCA and I&E each, separately, filed responses to PGW's Answers. The ALJs granted the Petitions to Intervene of CAUSE-PA and TURN via Prehearing Order #2 dated April 7, 2017.

<sup>9</sup> The ALJs also granted PGW's motion, submitted with its original filing, to permit PGW to utilize the period September 1 2017 to August 31, 2018 as its fully projected future test year.

testimony was submitted on May 16, 2017 by I&E, OCA, OSBA, RESA and PICGUG;<sup>10</sup> rebuttal testimony was submitted on June 22, 2017 by all parties with the exception of CAUSE-PA and RESA; surrebuttal testimony was submitted on June 22, 2017 by all parties except CAUSE-PA and rejoinder testimony was submitted by PGW on June 26, 2017.

The evidentiary hearing was held as scheduled on June 28, 2017. At the hearing, PGW, I&E, OCA, OSBA, RESA, PICGUG, CAUSE-PA and TURN (collectively, the “Joint Petitioners”) advised the ALJs that a partial settlement had been achieved among them. The Joint Petitioners waived cross-examination, and all of their testimony<sup>11</sup> and exhibits were admitted into the record. The record was closed on July 5, 2017.

On June 30, 2017, the ALJs issued a Briefing Order which memorialized instructions on how to proceed with the filing of the Joint Petition and the briefs on the issues reserved for litigation.

#### **B. The Partial Settlement and Statements in Support**

The Settlement, together with the Statement in Support of the Settlement, are being filed simultaneous with this Brief. In the Settlement, the Joint Petitioners have agreed to a base rate increase, an allocation of that revenue increase to the rate classes, and a rate design for all rate classes to recover the portion of the rate increase allocated to such classes. Specifically, the Joint Petitioners have proposed that rates be designed to produce an additional \$42 million in annual

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<sup>10</sup> TURN, et al., submitted its direct testimony on May 29, 2017.

<sup>11</sup> With respect to the testimony, the following may be noted: (i) On May 22, 2017, PGW filed its Motion In Limine to Limit the Scope of the Evidentiary Hearing and this Proceeding and to Exclude Certain Portions of Testimony Submitted by the Office of Consumer Advocate (“Motion in Limine”). On May 25, 2017, OCA filed its Response to PGW’s Motion in Limine. By Prehearing Order #5 dated May 16, 2017, the ALJs denied the Motion In Limine; and (ii) On June 23, 2017, PGW filed its Motion to Strike Certain Portions of Testimony Submitted by TURN (“Motion to Strike”). On June 26, 2017, I&E filed a letter to indicate its support for that motion and its agreement that portions of the surrebuttal testimony of Harry S. Geller should be stricken. Also on June 26, 2017, TURN et al. filed its Answer of the TURN. On the same date, CAUSE-PA filed a letter indicating its opposition to the Motion to Strike. By Prehearing Order #6 dated June 27, 2017, the ALJs denied the Motion to Strike.

base rate operating revenues (assuming *pro forma* revenues at present rates calculated using 20-year average Heating Degree Days) instead of the Company's filed increase request of \$70 million. The Joint Petitioners are in agreement that the Settlement is in the public interest. PGW strongly believes that the Settlement is in the best interests of PGW and its customers and should be approved by the Commission.

## **II. BURDEN OF PROOF**

### **A. Ratemaking Methodology for PGW**

PGW is a "city natural gas distribution operation" as that term is defined in the Public Utility Code.<sup>12</sup> PGW St. 1 at 2. As such, just and reasonable rates for PGW are determined using the Cash Flow Method. PGW St. 1 at 2. PGW has no shareholders and does not pay a dividend or a rate of return to its owner (instead it remits a fixed annual payment to the City of Philadelphia). PGW St. 1 at 2. Accordingly, all of the funds it needs to run the Company must come from ratepayers or from borrowing (the costs of which then must be paid by ratepayers). PGW St. 1 at 2. Therefore, rather than having its revenue requirement determined on the basis of a fair rate of return on a used and useful rate base, PGW's rates are set by determining the appropriate levels of cash, debt service coverage and other financial metrics necessary to enable PGW to pay its bills and maintain access to the capital markets at reasonable rates.<sup>13</sup> PGW St. 1 at 2.

In 2010, the Commission issued a policy statement more fully setting forth these criteria and the financial and other considerations that are to be examined in setting PGW's base rates at

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<sup>12</sup> 66 Pa.C.S. § 102 (definitions).

<sup>13</sup> 66 Pa.C.S. § 2212(e); 52 Pa. Code §§ 69.2701-2703.

just and reasonable levels.<sup>14</sup> PGW St. 1 at 2; PGW St. 2 at 9. In its Policy Statement, the Commission described the requirements of the Cash Flow Method as follows:<sup>15</sup>

(b) The Commission is obligated under law to use the cash flow methodology to determine PGW's just and reasonable rates. Included in that requirement is the subsidiary obligation to provide revenue allowances from rates adequate to cover its reasonable and prudent operating expenses, depreciation allowances and debt service, as well as sufficient margins to meet bond coverage requirements and other internally generated funds over and above its bond coverage requirements, as the Commission deems appropriate and in the public interest for purposes such as capital improvements, retirement of debt and working capital.

The Commission also stated that, in determining just and reasonable rate levels for PGW it would consider, among other relevant factors, the following financial factors:<sup>16</sup>

- PGW's test year-end and (as a check) projected future levels of non-borrowed year-end cash.
- Available short term borrowing capacity and internal generation of funds to fund construction.
- Debt to equity ratios and financial performance of similarly situated utility enterprises.
- Level of financial performance needed to maintain or improve PGW's bond rating thereby permitting PGW to access the capital markets at the lowest reasonable costs to customers over time.

Since PGW's rates are established using an ongoing process of examining its projected actual cash balances and debt service coverages, any expenditures incurred by the Company or required by the Commission must ultimately be reflected in these calculations and included in PGW's revenue requirement.<sup>17</sup> Accordingly, any amounts that PGW is required to spend to

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<sup>14</sup> 52 Pa. Code §§ 69.2701-2703.

<sup>15</sup> 52 Pa. Code § 69.2702(b).

<sup>16</sup> 52 Pa. Code §§ 69.2703(a), (b).

<sup>17</sup> See, OSBA St. 1 at 2-3.

revise its billing or collection procedures, or to make any refunds ultimately must be paid by ratepayers.

### **B. Burden of Proof**

PGW, as the party requesting the rate increase, has the burden of proving that the rate involved are just and reasonable.<sup>18</sup> “In general rate increase proceedings, it is well established that the burden of proof does not shift to parties challenging a requested rate increase. Rather, the utility's burden of establishing the justness and reasonableness of every component of its rate request is an affirmative one, and that burden remains with the public utility throughout the course of the rate proceeding.”<sup>19</sup>

There is no similar burden placed on parties to justify a proposed adjustment to the Company's filing.<sup>20</sup> However, the party proposing an adjustment to a ratemaking claim bears the burden of presenting evidence or analysis tending to demonstrate the reasonableness of the adjustment.<sup>21</sup>

That being said, a party that offers a proposal not included in the Company's original filing bears the burden of proof for such proposal. As the proponent of a Commission order with respect to its proposals, the party must bear the burden of proof as to proposals that PGW did not

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<sup>18</sup> 66 Pa.C.S. § 315(a). PGW need not affirmatively defend every claim it has made in its filing, even those which no other party has questioned absent prior notice that such action is to be challenged. *Allegheny Center Assocs. v. PUC*, 570 A.2d 149, 153 (Pa. Commw. Ct. 1990) (citation omitted). *See also, PUC v. Equitable Gas Co.*, 73 Pa. P.U.C. 310, 359-360 (1990).

<sup>19</sup> *PUC v. Appalachian Utilities, Inc.*, Docket No. R-2015-2478098, et al., Opinion and Order entered March 10, 2016 adopting the Recommended Decision dated February 19, 2016, at 19, 2016 Pa. PUC LEXIS 62.

<sup>20</sup> *PUC v. Appalachian Utilities, Inc.*, Docket No. R-2015-2478098, et al., Opinion and Order entered March 10, 2016 adopting the Recommended Decision dated February 19, 2016, at 19, 2016 Pa. PUC LEXIS 62.

<sup>21</sup> *See, e.g., PUC v. PECO*, Docket No. R-891364, et al., Opinion and Order entered May 16, 1990, 1990 Pa. PUC LEXIS 155; *PUC v. Breezewood Telephone Company*, Docket No. R-901666, Opinion and Order entered January 31, 1991, 1991 Pa. PUC LEXIS 45.



include in its filing.<sup>22</sup> Section 315(a) of the Code<sup>23</sup> cannot reasonably be read to place the burden of proof on PGW with respect to an issue the utility did not include in its general rate case filing and which, frequently, the utility would oppose.<sup>24</sup> Inasmuch as the Legislature is not presumed to intend an absurd result in interpretation of its enactments,<sup>25</sup> the burden of proof must be on the party who proposes a rate increase or change beyond that sought by the utility. For example, the provisions of PGW's Supplement No. 99 to Gas Service Tariff – Pa. P.U.C. No. 2 are deemed just and reasonable,<sup>26</sup> and parties challenging a previously-approved tariff provision bear a “heavy burden”<sup>27</sup> to demonstrate the Commission's prior approval is no longer justified.<sup>28</sup>

Accordingly, the OCA bears the burden of proof on its proposals to change PGW's partial payment allocation practices. In its rate filing, PGW did not propose to alter its partial payment allocation practices, and this became an issue only because OCA elected to submit testimony challenging PGW's existing allocation practices. Changing the existing practices will result in the increase in unrecovered late payment charges and will cause PGW and its customers to incur additional substantial costs. Since OCA is doing more than proposing adjustments to the

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<sup>22</sup> See Section 332(a) of the Code, 66 Pa.C.S. § 332(a), which provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding.

<sup>23</sup> 66 Pa.C.S. § 315(a).

<sup>24</sup> *PUC v. Appalachian Utilities, Inc.*, PUC Docket No. R-2015-2478098, Opinion and Order entered March 10, 2016 adopting the Recommended Decision dated February 19, 2016, at 20, 2016 Pa. PUC LEXIS 62.

<sup>25</sup> 1 Pa. C.S. § 1922(1), *Pennsylvania Financial Responsibility Assigned Claims Plan v. English*, 541 Pa. 424, 664 A.2d 84, 87 (Pa. 1995).

<sup>26</sup> The law presumes an existing tariff is just and reasonable. See, e.g., *Brockway Glass v. PUC*, 437 A.2d 1067 (Pa. Commw. Ct. 1981); *Zucker v. PUC*, 401 A.2d 1377 (Pa. Commw. Ct. 1979); *U.S. Steel Corporation v. PUC*, 390 A.2d 865 (Pa. Commw. Ct. 1978); *Deitch Company v. PUC*, 203 A.2d 515 (Pa. Super. Ct. 1964).

<sup>27</sup> See *Respond Power, LLC v. Pennsylvania Electric Company and Respond Power, LLC v. West Penn Power Company*, Docket Nos. C-2016-2576287 and C-2016-2576292 (Order entered July 13, 2017).

<sup>28</sup> A party challenging an existing tariff provision carries a very heavy burden of proving that the facts and circumstances leading to the creation of the tariff provision have changed so drastically as to render the application of the tariff provision unreasonable. *Shenango Twp. v. Pa. Pub. Util. Comm'n*, 686 A.2d 910 (Pa. Commw. Ct. 1996).

Company's proposals, the OCA is the proponent of a Commission order with respect to its proposals and must bear the burden of proof as to its proposals.<sup>29</sup>

The OSBA bears the burden of going forward with evidence on its proposals to reallocate universal service costs from firm non-residential customers to other customers. In its rate filing, PGW did not propose any changes to the USEC Rider, and it did not propose to alter the allocation of universal service costs that are recovered pursuant to that Tariff Rider. Since, PGW's present method of charging its USEC Rider to all firm customers (including firm commercial and industrial customers) is reflected in its existing tariff, and the PUC has initiated an investigation into PGW's existing "rates, rules and regulations," the ultimate burden of proof to show the reasonableness of its tariff provisions is with PGW.<sup>30</sup> However, since OSBA is making a proposal to alter the existing allocations and PGW's existing tariff, PGW's tariff provision is *prima facie* reasonable and OSBA must come forward with evidence challenging this assumption of reasonableness.<sup>31</sup>

### III. SUMMARY OF ARGUMENT

The Commission should reject the proposal of OCA to modify PGW's longstanding partial payment allocation practices and the proposal of OSBA to reallocate universal service costs from firm non-residential customers to other customers. Neither OCA nor OSBA have carried their burdens of proof in support of their proposals to change existing practices of PGW

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<sup>29</sup> The PUC did initiate an investigation into PGW's "existing rates, rules and regulations." (*Pa. PUC v. PGW*, March 16, 2017). Section 315(a) of the Public Utility Code places the burden of proof upon the utility "in any proceeding upon the motion of the Commission involving any . . . existing rate of any public utility." 66 Pa. C.S. § 315(a). But, as will be explained below, PGW is fully complying with its tariff provisions regarding late payment charges and PGW does not – and is not required to – reflect in its Tariff Rules or Regulations its procedure for applying any partial payments. See Section IV.A.6.

<sup>30</sup> 66 Pa. C.S. § 315(a).

<sup>31</sup> See footnote 26, *supra*.

in this base rate proceeding. Moreover, PGW's current approach for the application of partial payments to prior service and the allocation of universal service costs to firm non-residential customers is consistent with existing regulatory requirements and supported by compelling policy objectives. As a result, the Commission should authorize the continuation of PGW's existing and long-standing practices concerning the application of partial payments to prior service and the allocation of universal service costs through the USC.

#### ***Partial Payment Allocation Practices***

PGW's partial payment allocation practices fully comply with the Commission's regulations governing such practices. When a customer's partial payment is not sufficient to cover a balance due for prior service and charges for the current billing period, the Commission's regulations require public utilities to first apply the partial payment to the balance due for "prior service." It is not in dispute in this proceeding that PGW first applies partial payments to the balance due for prior service. The dispute that has been raised by OCA's witness concerns PGW's allocation of partial payments among the various components of charges for prior services and specifically challenges PGW's practice of first zeroing out late payment charges for prior service before applying partial payments to charges for prior gas service. Since the Commission's regulations only require that public utilities apply partial payments first to unpaid charges for prior service and are silent as to any hierarchy for applying those payments among the various charges for prior service, PGW's practices are in compliance with those standards and should not be disturbed.

Additionally, compelling policy objectives support PGW's existing and long-standing partial payment allocation practices. Specifically, PGW's method incentivizes customers to timely pay their bills, makes late-paying customers responsible for timely paying their own late

payment charges and reduces the costs of carrying delinquent accounts that are otherwise borne by other ratepayers. By contrast, under the alternative approach proposed by OCA, late paying customers would be able to indefinitely avoid paying the late payment charges that have been properly assessed against them. Notably, using OCA's hypothetical customer example and OCA's proposed approach for posting partial payments, a customer that is properly assessed \$143.77 in late payment charges over the course of a year would actually only pay \$5.25 of those charges over the period of more than one year. Such a result cannot possibly be characterized as fair or reasonable.

Neither the legality of PGW's partial payment allocation practices nor whether changes should be made to them are properly before the Commission in this base rate proceeding. The issue involved is not part of PGW's tariff but rather is governed by Commission regulations, which require that partial payments be first applied to the balance due for prior service and are silent as to the method that public utilities must follow in applying partial payments among the various components of prior service. Since PGW's tariff is also silent with respect to a hierarchy for the application of partial payments to prior service, PGW's partial payment allocation practices are beyond the proper scope of this base rate case. If OCA wishes to propose a change in the way in which utilities, including PGW, apply partial payments to prior service charges it should petition the Commission to begin a rulemaking.

While OCA's witness has attempted to link PGW's partial payment allocation practices to the provision in its tariff relating to the computation and assessment of late payment charges, this effort must fail. Importantly, OCA's witness has not even alleged that PGW departed from the rule in its tariff in the computation and assessment of late payment charges. Rather, he has concocted a flawed and unsubstantiated legal theory as to PGW's partial payment allocation

practices having the same "effect" as imposing compound interest. It is beyond dispute that PGW charges simple interest on late payments in a manner that is consistent with its tariff. OCA's contentions aside, the issue is straightforward and simple mathematical calculations show that PGW is fully compliant with its tariff and the Commission's regulations regarding computation of and imposition of late payment charges.

If the Commission determines that changes should be made to PGW's partial payment allocation practices, it is necessary for the Commission to apply this new rule to all utilities by initiating a proposed rulemaking proceeding. Administrative agencies are required to use the regulatory review process when establishing industry-wide standards or binding norms. Not only does this process afford affected parties notice and an opportunity to be heard, it also provides the administrative agency with facts and information relevant to the proposed rulemaking and insures uniform treatment among similarly situated parties. By initiating a proposed rulemaking, the Commission could determine the various utilities' practices, as well as the rationales for and the result of their approaches, and consider the impact on public utilities of making any changes in these practices.

#### ***Universal Service Cost Recovery***

On this issue of universal service cost recovery, PGW has historically allocated to and collected its universal service costs from all firm service customer classes and has proposed to continue this allocation methodology as part of this proceeding. As it has several times previously, OSBA has proposed a departure from PGW's long-standing practice and argued that PGW's universal service costs should be allocated only to residential customers. OSBA's proposal should again be rejected for several reasons.

Well-established Commission precedent supports the continued allocation of universal service costs to all firm service customer classes. Under Section 2212(e) of the Public Utility Code, the Commission is required to follow the same ratemaking methodology and requirements that were applicable to PGW prior to the Commission assuming jurisdiction over PGW. Since 2000, the Commission has been steadfast in its adherence to the continuation of PGW's traditional method of allocating universal service costs to both residential and non-residential customers.

This allocation method is also consistent with cost causation principles because non-residential customers benefit from PGW's universal service programs. While the USC recovers the costs of programs designed specifically to benefit low-income residential customers, other customer classes benefit by programs that support and enable a community in which low-income customers are able to maintain utility service at an affordable cost. PGW has the largest USC charge for residential customers of any natural gas distribution company, due to a large concentration of Pennsylvania's low-income households. By keeping the residents of Philadelphia in their homes, the universal service programs allow Philadelphia's businesses to benefit from an economically vibrant community. Keeping people living and working in the City will help businesses avoid financial losses, increase employee productivity, and retain viable consumers. In exchange for this substantial positive economic impact in Philadelphia, it is appropriate for a portion of the universal costs to be paid by non-residential customers.

While OSBA argues for blind adherence to the principle of cost causation, the Commission has long recognized that some flexibility must exist when designing rates. The Commonwealth Court has affirmed this flexibility and permitted the Commission to properly

exercise its judgment in such matters.<sup>32</sup> The Commission has exercised this flexibility by considering matters of public policy, such as gradualism, rate continuity and other public policy goals. Even OSBA's witness has acknowledged that PGW's allocation can be supported by legitimate policy considerations. However, he argues that these considerations should not be used for ratemaking purposes. That argument is directly contrary to the Commission's prior consideration of such matters when exercising flexibility in ratemaking to avoid a blind adherence to cost causation principles.

Here, PGW is merely maintaining the long-term status quo with regard to the allocation of universal service costs and is not attempting to impose a new or increased cost allocation on any rate class. By contrast, adoption of OSBA's proposal would add to the overall rate impact for residential customers. The net effect of OSBA's proposal would be to impose increases that have the potential to cause "rate shock" among residential customers. Because of the size of PGW's universal service program, the number of participants in its universal service programs and the amount of the universal service costs already allocated to residential customers, a total realignment of its USC costs to the residential rate class – together with the \$42 million rate increase under the Settlement – would have a substantial negative effect on residential customers and is not appropriate at this time. To the extent that the programs expand as a result of the pending universal service proceeding, OSBA's proposed change here would result in even more costs being assigned to only the residential customer class.

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<sup>32</sup> See Section IV, B.

#### IV. ARGUMENT

##### A. Partial Payment Allocation Practices

###### 1. Introduction.

Through the direct testimony of Roger D. Colton, OCA raised an issue about the legality of PGW's partial payment allocation practices and proposed that changes be directed by the Commission as part of this base rate proceeding.<sup>33</sup> OCA St. 4 at 35-43. As explained by PGW witness, Mr. Bernard L. Cummings, partial payments made by customers are insufficient to pay the balance that is due for prior service and the current billing period. PGW St. 10-R at 6. When PGW's customers make partial payments, the Company posts them to the bills for prior natural gas service according to a hierarchy: the payment is first allocated to any deposits, if required; then any outstanding late payment charges are satisfied; and then the remaining balance of the payment is posted to the oldest money, meaning that PGW applies the payments to the oldest arrearages for gas service first and then the newer ones. PGW St. 10-R at 7.

It is not in dispute that the Commission's regulations require public utilities to first apply partial payments to charges for prior service before they are applied to charges for the current billing period.<sup>34</sup> It is also not in dispute that prior basic services includes security deposits, late payment charges, commodity charges, distribution charges, customer service charges, reconnection fees, gas cost adjustment charges and taxes.<sup>35</sup> It is further not in question that PGW

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<sup>33</sup> Mr. Colton previously raised this issue as a witness testifying for a commercial customer in *SBG Management Services, Inc. / Colonial Garden Realty Co., L.P. v. Philadelphia Gas Works*, Docket No. C-2012-2304183 and *SBG Management Services, Inc. / Simon Garden Realty Co., L.P. v. Philadelphia Gas Works*, Docket Nos. C-2012-2304183 and C-2012-2304324 (Order entered December 8, 2016) ("*SBG Order*"). PGW filed a Petition for Reconsideration, Clarification and/or Rehearing ("Reconsideration Petition") of the *SBG Order* on December 23, 2016. The Commission entered an Order on December 28, 2016, granting PGW's Reconsideration Petition pending further review of, and consideration on, the merits of the *SBG Order*; suspending the effect of that Order. The Commission has not yet ruled on PGW's Reconsideration Petition.

<sup>34</sup> 52 Pa. Code § 56.24.

<sup>35</sup> 52 Pa. Code §§ 56.2 and 62.74(b)(3). See PGW St. 10-R at 7.



first applies partial payments to charges for prior service before it applies them to charges for the current billing period. The dispute in this proceeding centers on PGW's approach of first posting partial payments to outstanding late payment charges for prior service before applying them to outstanding charges for prior gas service. PGW St. 10-R at 2; PGW St. No. 10-RJ at 2.

Under Mr. Colton's preferred approach, PGW would first apply partial payments to the oldest charges for prior service, without any priority given to outstanding late payment fees. PGW St. No. 10-RJ at 3; OCA St. No. 4-S at 22. In other words, Mr. Colton has suggested that PGW not be permitted to continue its long-standing practice of first zeroing out all unpaid late payment charges for prior service before applying partial payments to unpaid charges for prior gas service.<sup>36</sup> He cites no provisions in the Commission's regulations that prohibit this partial allocation process. Rather than being based on requirement in the regulations, Mr. Colton's proposal is based on his own personal preferences for the approach that he believes PGW (and presumably all public utilities) should follow.

Notwithstanding Mr. Colton's preferences, PGW's partial payment allocation practices fully comply with the applicable Commission regulations, which are silent on the hierarchy that must be followed when public utilities are applying partial payments to the various components of charges for prior basic service, including security deposits, late payment charges and gas commodity and distribution charges. In addition, PGW's partial payment allocation practices are supported by compelling policy objectives of encouraging customers to timely pay their bills in full and avoiding situations where paying customers are shouldering greater financial burdens

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<sup>36</sup> It is noteworthy that Mr. Colton's testimony is silent regarding PGW's practice of first applying partial payments to unpaid security deposits. Therefore, he appears to accept that some prioritization is permissible. Indeed, any recommendations to such practices as they pertain to security deposits would run afoul of Sections 1404 and 1406(a)(3) of the Public Utility Code. 66 Pa. Code §§ 1404 and 1406(a)(3). Further, nothing in the Code or the Commission's regulations prohibit prioritization of other components of prior service, including late payment charges, which as argued below in Section IV, 7 would require a rulemaking.

due to the habits of late-paying and partial-paying customers. In reviewing PGW's partial payment allocation practices, it is important to keep several unrefuted and indisputable facts in mind, as follows:

- *Fact:* The Commission's regulations require public utilities to first apply partial payments to charges for prior service before posting them to charges for the current billing period;<sup>37</sup>
- *Fact:* PGW first applies partial payments to charges for prior service before posting them to charges for the current billing period;<sup>38</sup>
- *Fact:* The Commission's regulations governing partial payment allocation practices are silent on the posting method that must be used by public utilities when allocating partial payments among various components of outstanding charges for prior service;<sup>39</sup>
- *Fact:* Since at least 2000, PGW has applied partial payments first to outstanding security deposits and late payment charges for prior service before posting them to unpaid charges for gas services, and these practices have been reviewed by the Commission in informal and formal complaint handling;<sup>40</sup>
- *Fact:* PGW's partial payment allocation method provides an incentive for customers to timely pay their bills in full, thereby reducing bad debt expense;<sup>41</sup>
- *Fact:* Changing PGW's partial payment allocation approach as proposed by Mr. Colton would allow late-paying customers to delay the payment of late fees for several months or even years;<sup>42</sup>
- *Fact:* Under Mr. Colton's hypothetical customer scenario and using his approach for allocating partial payments, a customer who was properly assessed \$143.77 in late payment charges over the course of a year would pay only \$5.25 in late payment charges for over a year;<sup>43</sup>

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<sup>37</sup> 52 Pa. Code § 56.24.

<sup>38</sup> PGW St. 10-R at 10; PGW St. 10-RJ at 1.

<sup>39</sup> 52 Pa. Code § 56.24.

<sup>40</sup> PGW St. 10-R at 7; PGW St. 10-RJ at 1-2. It is noteworthy that I&E – as the Commission's own independent prosecutory bureau participating in this proceeding – has neither taken issue with regard to PGW's partial payment allocation method nor supported the OCA's views.

<sup>41</sup> PGW St. 10-R at 6, 13-15.

<sup>42</sup> PGW St. 10-RJ at 4-6; PGW Ex. BLC-3.

<sup>43</sup> PGW St. 10-RJ at 4-5; PGW Ex. BLC-3, Table BLC-2.

- *Fact:* Modifying PGW's partial payment allocation practices in the manner suggested by Mr. Colton would result in the general customer base paying the carrying costs caused by the customers who do not timely pay their bills in full thereby increasing PGW's revenue requirement in its next rate case;<sup>44</sup>
- *Fact:* Implementation of Mr. Colton's proposed approach would increase PGW's bad debt expense paid by all customers;<sup>45</sup> and
- *Fact:* Adoption of Mr. Colton's proposal would result in costs of at least \$400,000 (all of which would be paid ultimately by ratepayers) and would take PGW over one year to implement.<sup>46</sup>

Based on these well-established facts, as well as the policy and legal arguments advanced by PGW, it is clear that PGW's method for posting partial payments to charges for prior service is consistent with the Commission's regulations and results in customers who do not timely pay their bills to be primarily responsible for paying late payment charges. Since PGW properly applies partial payments to prior service consistent with the Commission's regulations, and important policy objectives support the continued application of partial payments to the various components of prior service in the manner followed by PGW, the Commission should not find any violations of the existing regulations or direct any modifications of PGW's practices as part of this proceeding.

Further, directing modifications to PGW's partial payment allocation practices would go beyond the scope of this base rate proceeding. These practices are not part of PGW's tariff, but rather are governed by the Commission's regulations. Moreover, Mr. Colton's attempt to link PGW's partial payment practices to the rule in its tariff governing the calculation and assessment

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<sup>44</sup> PGW St. 10-RJ at 3.

<sup>45</sup> PGW St. 10-RJ at 7.

<sup>46</sup> PGW St. 10-R at 20-21; PGW St. 10-RJ at 10.

of late payment charges fail because they are based on a flawed and unsound analysis.

Specifically, rather than alleging any departures from PGW's tariff rule addressing late payment charges, Mr. Colton claims (incorrectly) that PGW's partial payment allocation practices generate the same "effect" as imposing compound interest on late payments. OCA St. 4 at 43.

If the Commission desires to make any changes to its existing regulations to specify the manner in which partial payments should be allocated to the various components of prior service, it must do so through the regulatory review process. As the Commission's existing regulations already establish standards for public utilities to follow in applying partial payments first to prior service before posting them to charges for the current billing period, any modifications or further elaboration governing that process must, by Pennsylvania law, be made through regulations. Compliance with the regulatory review process would ensure not only that the Commission provides public notice and an opportunity to be heard on proposed changes, but would also enable the Commission to gather information and rationale about public utilities' existing practices, as well as the effect of such changes both on utilities' costs, billing systems and collection activities.

**2. PGW's Partial Payment Allocation Practices Comply with the Commission's Regulations Governing Such Practices.**

PGW's partial payment allocation practices are consistent with Section 56.24 of the Commission's regulations, which provides in its entirety as follows:

In the absence of written instructions, a disputed bill or a payment agreement, payments received by a public utility which are insufficient to pay a balance due both for prior service and for service billed during the current billing period shall first be applied to the balance due for prior service.<sup>47</sup>

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<sup>47</sup> 52 Pa. Code § 56.24.

From a factual standpoint, PGW's method of allocating partial payments is not in dispute in this proceeding.<sup>48</sup> When PGW receives a partial payment from a customer that is not sufficient to pay a balance due both for prior service and for service billed during the current billing period, the Company follows the requirements of Section 56.24 to the letter. Specifically, it first applies the partial payment to the balance due for prior service before applying it the balance due for the current billing periods (PGW St. 10-R at 7-8), and, thus, PGW does precisely what Section 56.24 mandates.

Importantly, as Section 56.24 is silent with respect to the application of partial payments among outstanding charges for the various components of prior service, including security deposits, late payment fees and charges for gas service. Therefore, PGW is not currently bound to follow any particular method so long as it applies the payment to prior service charges. Given this flexibility in the approach for allocating that partial payment among the various components of prior service, PGW first zeroes out any outstanding security deposit and late payment charges and then applies the remainder of a partial payment to charges for gas service, starting with the oldest charges. Mr. Cummings testified that for at least twenty years, PGW has followed the method that has been brought into question by Mr. Colton in this proceeding and before that by Mr. Colton in the proceeding that culminated in the issuance of the *SBG Order*. PGW St. 10-R at 7. Indeed, in the *SBG Order* proceeding, PGW's witness testified that this practice was in effect when PGW was regulated by the Philadelphia Gas Commission and dates back to at least the early 1980s.<sup>49</sup> During the time since PGW has been under the Commission's jurisdiction,

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<sup>48</sup> Notably, however, Mr. Colton's attempt to illustrate PGW's approach was riddled with errors. PGW St. 10-R at 14-15; OCA St. 4-S at 19. The better illustration of PGW's approach, using Mr. Colton's hypothetical customer, is shown by PGW Ex. BLC-3, Table BLC-1. Mr. Colton's proposed approach is illustrated by PGW Ex. BLC-3, Table BLC-2. See also PGW St. 10-RJ at 4-6.

<sup>49</sup> See *SBG Order* at 35 and 40 (Ms. Rizzo, who worked for PGW for 32 years and was a consultant at the time of the hearing in that case, testified that this practice was in effect during that time).

this approach has been reviewed by the Commission on numerous occasions in the context of handling both informal and formal complaints with no issues having been raised.<sup>50</sup> PGW St. 10-R at 9.

While Mr. Colton's approach is certainly another way in which partial payments could be applied, the Commission's regulations do not specify any hierarchy for this process, and therefore, PGW's method cannot be found to be in violation of those regulations, such that the Commission could require a change as part of this base rate proceeding. The only way in which PGW's partial payment allocation practices can be found to be in violation of the Commission's regulations is for the Commission to impute language that is simply not there. For instance, the regulations would have to state as follows:

In the absence of written instructions, a disputed bill or a payment agreement, payments received by a public utility which are insufficient to pay a balance due both for prior service and for service billed during the current billing period shall first be applied to the balance due for prior service in the order in which the charges were billed, except for security deposits.

Mr. Colton's persistent reliance on the Commission's *SBG Order* for his characterization of PGW's partial payment allocation practices as "unlawful" is unfounded. *See, e.g.*, OCA St. 4 at 37; OCA St. 4-S at 22. Although the Commission found in the *SBG Order* that PGW's process for posting partial payments violates Section 56.24 of the regulations, the Commission subsequently issued an order on December 28, 2016 granting PGW's Petition for Reconsideration, pending a further review of the merits. Therefore, the *SBG Order* is not a final, appealable order; as such, it is without effect. Importantly, because the Commission is reviewing its *SBG Order* on the merits, based on the arguments set forth in PGW's Petition for

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<sup>50</sup> It is noteworthy that the Commission's own independent prosecutory bureau, I&E has fully participated in this base rate proceeding and has not taken issue with PGW's partial payment allocation practices or supported Mr. Colton's views.

Reconsideration – which mirror those that are being set forth here – the Commission’s prior conclusions are of no consequence and should not be afforded any weight in reviewing these issues in this proceeding. Indeed, the record that has been developed in this base rate proceeding provides a stronger basis than the record leading to issuance of the *SBG Order* for concluding that PGW’s partial payment allocation practices are lawful and should be undisturbed.<sup>51</sup>

**3. PGW’s Partial Payment Allocation Practices Do Not Violate the Late Payment Charge Provisions of its Tariff or the Applicable Commission Regulations.**

PGW’s partial payment allocation practices also do not violate its existing tariff provision addressing the calculation and assessment of late payment charges or the applicable Commission regulations. Again, several indisputable facts support this conclusion, as follows:

- *Fact:* PGW’s tariff permits it to assess a late payment charge of 1.5% on a customer’s unpaid balance;<sup>52</sup>
- *Fact:* PGW assesses a late payment charge of 1.5% on a customer’s unpaid balance for gas service each month;<sup>53</sup>
- *Fact:* PGW’s 1.5% late payment charge results in 18% simple interest per annum on a customer’s unpaid balance for gas service;<sup>54</sup>
- *Fact:* Before assessing late payment charges, PGW removes outstanding late payment fees from the unpaid gas service balance, and therefore does not impose late fees on late fees,<sup>55</sup> and
- *Fact:* To the extent that a customer is assessed more than 18% interest in late payment charges over the course of the year, that result occurs only because the customer has

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<sup>51</sup> Since the primary issue raised by the commercial complainants in the *SBG Order* proceeding related to the legal effect of the existence of municipal liens on the Commission’s jurisdiction, PGW’s partial payment allocation practices were a relatively minor issue. See PGW Reconsideration Petition filed December 23, 2016.

<sup>52</sup> PGW St. 10-R at 5.

<sup>53</sup> PGW St. 10-R at 13.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

taken an action (or failed to take an action) resulting in the imposition of late payment charges and made only partial payments.<sup>56</sup>

Section 56.22 provides, in its entirety, that:

(a) Every public utility subject to this chapter is prohibited from levying or assessing a late charge of penalty on any overdue public utility bill, as defined in 56.21 (relating to payment), in an amount which exceeds 1.5% interest per month on the overdue balance of the bill. These charges are to be calculated on the overdue portions of the bill only. The interest rate, when annualized, may not exceed 18% simple interest per annum.

(b) An additional charge or fixed fee designed to recover the cost of a subsequent rebilling may not be charged by a regulated public utility.

(c) Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because public utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.

(d) A public utility may waive late payment charges on any customer accounts. The Commission may only order a waiver of late payment charges levied by a public utility as a result of a delinquent account for customers with a gross monthly household income not exceeding 150% of the Federal poverty level. See Pa.C.S. § 1409 (relating to late payment charge waiver.)

Rule 4.2 of PGW's tariff parrots the requirements of Section 56.22 and provides as follows:

Finance Charge on Late Payments. PGW will assess a late penalty for any overdue bill, in an amount which does not exceed 1.5% interest per month on the full unpaid and overdue balance of the bill. These charges are to be calculated on the overdue portions of PGW Charges only. The interest rate, when annualized, may not exceed 18% simple interest per annum. Late Payment Charges will not be imposed on disputed estimated bills, unless the estimated bill was required because utility personnel were unable to access the affected premises to obtain an Actual Meter Reading.

Even Mr. Colton's own testimony does not support an allegation that PGW is in violation of Rule 4.2 of its tariff. Rather, his averment is that PGW's partial payment allocation practices result in the Company "*effectively* charging compound interest." OCA St. 4 at 43 (emphasis added). Mr. Colton made this claim despite correctly describing "compound interest" as

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PGW St. 10-RJ at 8-9.



involving the imposition of “a late fee on unpaid late fees,” and testifying that he was not suggesting that PGW is actually assessing late fees on unpaid late fees. OCA St. 4 at 34; OCA St. 4-SR at 19. Although Mr. Colton appears to understand what compound interest is and recognizes that PGW is not charging compound interest on late payments, he has clung to his claim that PGW’s payment posting method “results in PGW effectively charging compound interest.” OCA St. 4 at 43; OCA St. 4-SR at 19. However, nothing in PGW’s tariff or the Commission’s regulations prohibits PGW from applying partial payments in a way that results in the customer *effectively* paying more than 18% interest per annum over the course of the year due solely to the actions of the customer. The tariff and regulations only limit the finance charge that PGW may impose on late payments, and nothing in Mr. Colton’s testimony suggests that PGW departs from that provision in assessing late payment charges.

In any event, Mr. Colton’s testimony does not even support his underlying premise that PGW’s partial payment allocation practices generate the same effect as charging compound interest. Rather, he merely testified that if a 1.5% monthly late payment charge is charged on a non-compounded basis, it results in an annual percentage interest rate of 18%, and that if it is charged on a compounded basis, it results in an annual percentage interest rate of 19.562%. OCA St. 4 at 38. Notably, however, Mr. Colton did not suggest that PGW charged the 1.5% monthly late payment charge on a compounded basis and he offered no testimony or other evidence to support the claim that consumers who incur late payment charges and make partial payments end up paying an annual interest rate of 19.562%. Rather, as Mr. Cummings testified, “[w]ithout any factual basis or explanation, Mr. Colton leaps to the unsubstantiated conclusion that PGW’s sequencing of the posting of payments amounts to imposing compound interest.” PGW St. 10-R at 12. Instead of explaining how he reached the conclusion that PGW’s payment

posting process generates the same effect as charging an interest rate of 19.562%, Mr. Colton merely relied on his prior testimony, which offered no explanation whatsoever for his calculations. OCA St. No 4-S at 19. In rejoinder testimony, Mr. Cummings aptly noted that “Mr. Colton still has not explained his compound interest theory.” PGW St. 11-RJ at 8.

Even to the extent that consumers who incur late payment charges and make partial payments end up paying an annual interest rate of 19.562% or more than 18% per annum, such an outcome is not the result of PGW charging interest on a compounded basis. Since PGW charges 1.5% interest, which results in 18% interest over the course of the year, and PGW does not charge late payment charges on outstanding late payment charges, it is indisputable that PGW follows Rule 4.2 of its tariff and Section 56.22 of the Commission’s regulations and charges only simple interest.<sup>57</sup>

The fact that Mr. Colton ignores in his flawed analysis is that if consumers are assessed an interest rate higher than 18% over the course of the year, that result occurs solely due to the fact that those consumers untimely paid their bills and made partial payments rather than paying their bills in full. Indeed, as shown by PGW, under Mr. Colton’s approach, these customers would not even be paying their properly-assessed late payment charges for several months or years, meaning that PGW would actually be collecting less than it is entitled to receive from late-paying customers. PGW St. 10-RJ at 4-7. Regardless of Mr. Colton’s contentions, the facts are simple and straightforward and his claim is mathematically impossible. Therefore, the Commission should reject the “smoke and mirrors” argument presented by Mr. Colton.

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<sup>57</sup> While Mr. Colton has suggested that the Commission has previously found that PGW is effectively charging compound interest in violation of Section 56.22 of the Commission’s regulations (OCA St. 4 at 37), a review of the Commission’s *SBG Order* demonstrates otherwise. In particular, the Commission’s analysis in the *SBG Order* was focused on Section 56.24 of the Commission’s regulations, and there is no indication that the Commission gave any credence to Mr. Colton’s compound interest theory. See *SBG Order* at 97-99; PGW St. 10-R at 12.

Similarly, Mr. Colton's reliance on Section 1303 of the Public Utility Code, which prohibits a public utility from receiving directly or indirectly by any device whatsoever a greater or less rate for any service rendered than that specified in the tariff,<sup>58</sup> to challenge PGW's partial payment allocation practices is misplaced. PGW is not receiving directly or indirectly a greater or less rate for service rendered than that specified in the tariff. PGW is properly assessing a 1.5% finance charge to late payments per month. When customers subsequently make partial payments, PGW is first applying them to those late payment charges before posting them to other unpaid charges for prior gas service. To the extent that this practice results in a customer being assessed a higher amount of late payment charges over the course of the year than if a different partial payment allocation practice were being used, the outcome does not mean that PGW is receiving a greater rate for service rendered than that specified in the tariff. Rather, PGW is assessing (and presumably eventually receiving) exactly the amount that is permitted under its tariff for late payment charges. It is the customer's actions that effectively result in a different interest rate. Mr. Colton provided no support for his apparent claim that Section 1303 applies to the consequences of customer actions, as well as the actions of the utility itself. If a customer consistently overpays her bill, the customer would be "indirectly" effectively paying more than the tariffed rate, when the time value of money is considered; but it cannot be argued that the utility is "demanding or receiving" a charge greater than the rate in the tariff.

In fact, under PGW's partial payment allocation method, Mr. Colton's schedule shows that PGW does not receive – on a real-time basis – all of the late payment charges that are properly assessed. The customer in Mr. Colton's hypothetical, using PGW's method, would be

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<sup>58</sup> 66 Pa.C.S. § 1303.

properly assessed \$151.97 in late payment charges but only pay \$137.17 over the course of the year. Mr. Colton appears to have not taken into consideration the actual amount of late payment charges paid by the customer in determining the interest rate that was “effectively” charged by PGW. OCA St. 4-S, Schedule RDC-1SR (Revised Schedule RDC-1).

#### **4. Mr. Colton’s Other Legal Theories Also Fail.**

Mr. Colton’s other attempts to reject PGW’s partial payment allocation practices similarly fail. For instance, Mr. Colton suggests that PGW’s order of posting partial payments violates the “just and reasonable” requirement of the Public Utility Code. OCA St. 4 at 39. By contrast, PGW has shown that Mr. Colton’s recommendation would result in the practices being unjust and unreasonable. As Mr. Cummings noted, Mr. Colton’s “approach would require other customers who are timely paying their bills in full to further subsidize those customers who are not timely paying their bills in full by allowing the latter group to delay or even indefinitely avoid paying late payment charges.” PGW St. 10-R at 16. This result is clearly not just or reasonable.

Mr. Colton has also claimed that there is no cost basis for PGW’s partial payment allocation practices. OCA St. 4 at 39. In response, Mr. Cummings testified that “cost of service principles that apply to ratemaking are not applicable to the imposition of late payment charges or a company’s partial payment allocation practices.” PGW St. 10-R at 17. He further explained:

Late payment charges are not wholly based on the carrying and collection costs incurred by the company, but rather are also designed to incentivize customers to timely pay their bills. Further, PGW’s partial payment allocation practices are intended to ensure that the customers who are not paying their bills on a full and timely basis are the ones who responsible for paying their own late payment charges.

PGW St. 10-R at 17. Notably, PGW's approach is consistent with the overall policy objectives of Chapter 14 in the Public Utility Code.<sup>59</sup> Indeed, Chapter 14 contains a declaration of policy announcing the General Assembly's finding that "it is appropriate to provide additional collection tools to city natural gas distribution operations to recognize the financial circumstances of the operations and protect their ability to provide natural gas for the benefit of the residents of the city."<sup>60</sup>

Mr. Colton also testified that PGW's partial payment allocation practices are inconsistent with the Commission's directives requiring public utilities to effectively manage customer accounts to prevent the accumulation of large, unmanageable arrearages. OCA St. 4 at 41-42. However, the regulations referenced by Mr. Colton set forth the requirements that public utilities must follow in determining when it is appropriate to assess late payment charges. They do not provide any standards that are applicable to the later sequencing of partial payments. Further, as explained by Mr. Cummings, "PGW's partial payment allocation practices are consistent with the Commission's policies that are designed to prevent the accumulation of large, manageable arrearages...by providing inherent incentives for customers to timely pay their bills in full." PGW St. 10-R at 18.

Although Mr. Colton claims that the financial impact on late-paying, partial-paying residential customers of PGW's posting order is "substantial" (OCA St. 4 at 42-43), he bases this speculative conclusion on incomplete data and does not quantify the impact. PGW St. 10-R at 18-19. Further, as Mr. Cummings noted, the record in the proceeding culminating in the issuance of the *SBG Order* shows that the effect on an individual customer is relatively minimal.

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<sup>59</sup> 66 Pa.C.S. Ch. 14.

<sup>60</sup> 66 Pa.C.S. § 1402(4).

PGW St. 10-R at 19. Notably, Mr. Colton's analysis completely overlooks the impact of the changes he proposes on customers who timely pay their bills in full. PGW St. 10-R at 19; PGW Ex. BLC-2 (OCA Response to Set II-32). In fact, he suggested that ratepayers should not pay for the costs of such changes (OCA St. 4-S at 22-23), ignoring the fact that as a municipally-owned cash flow ratemaking company with no shareholders, "PGW is completely funded by its ratepayers and would have no other source available to pay for these costs." PGW St. 10-RJ at 10.<sup>61</sup>

**5. PGW Has Offered Compelling Policy Objectives In Support of its Partial Payment Allocation Practices.**

In addition to establishing the legality of its practices of first allocating partial payments to outstanding late payment charges before posting them to unpaid gas service charges, PGW has offered compelling policy reasons in support of this approach. Specifically, Mr. Cummings described the purposes of late payment charges as: 1) compensating PGW (or more accurately the other ratepayers) for the service of carrying delinquent accounts; and 2) increasing timely collections to ensure that service is available to all customers on equitable terms and conditions. PGW St. 10-R at 6. The benefits of PGW's partial payment allocation practices are that they reduce the costs of carrying delinquent accounts that are otherwise borne by other ratepayers. In Mr. Cummings' opinion, paying off late payment charges before posting partial payments to gas charges "is fair and reasonable to other ratepayers and helps ensure that the delinquent account actually pays the late payment charges." PGW St. 10-R at 8.

As further explained by Mr. Cummings, "PGW follows this practice as a way of incentivizing customers to timely pay their bills in full. Customers who do not pay their bills

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<sup>61</sup> *Accord*, OSBA St. 1 at 2-3.

increase the Company's bad debt expense, obligating other ratepayers to shoulder a greater burden." PGW 10-R at 13-14. Mr. Cummings also noted that "[c]ustomers who do not honor the obligation to pay their bills result in the inclusion of such unpaid bills in the Company's uncollectible expense, which is ultimately paid by PGW's ratepayers who do pay their bills on time." PGW St. 10-R at 6. He added that if customers do not timely pay late payment charges, "they are essentially borrowing money from paying customers and these interest free loans increase PGW's bad debt expense, increasing the burden that must be shouldered by the rest of PGW's customer base." PGW St. 10-R at 6.<sup>62</sup> This is particularly troubling when the customer is a commercial entity.

Besides showing how its current partial payment allocation practices promote the payment of late payment charges and work to keep bad debt expense down, PGW also demonstrated the negative financial impact of Mr. Colton's proposed approach. Specifically, Mr. Cummings testified that PGW's revenues from late payment charges would decline, needing to be made up through higher rates for its customers. For example, as shown by Mr. Cummings -- using Mr. Colton's hypothetical customer example and Mr. Colton's approach for applying partial payments -- a customer would pay only \$5.25 in late payment charges over the course of a year despite being properly assessed the amount of \$143.77. Indeed, using Mr. Colton's scenario and proposed partial payment allocation approach, the customer would not pay the second late

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<sup>62</sup> It is also noteworthy that PGW's approach reflects a common business practice of applying partial payments on a contract bearing interest first to the accrued interest with the balance applied towards the reduction of principal. See, e.g., *Katzeff v. Fazio*, 628 A.2d 425 (Pa. Super.Ct.1993); *Cusati v. Dellisanti*, 31 A.2d 604 (Pa. Super. 1943); *Buck v. Mutual Building & Loan Association of Altoona*, 49 Pa. Super. 128 (1912). In addition, that is the practice followed with delay damages under the Pennsylvania Rules of Civil Procedure. *Woods v. Dep't of Transp.*, 641 A.2d 633 (Pa. Commw. Ct. 1994).

payment charge of \$9.75 assessed in year one until September of year two. PGW St. 10-RJ at 4-6; PGW Ex. BLC-3 (Table BLC-2).<sup>63</sup>

Despite Mr. Colton's agreement that customers incurring late payment charges should be responsible for paying them, he has advocated for an approach in this proceeding that would permit customers to indefinitely avoid paying them. PGW St. 10-RJ at 7. The long-term effects of Mr. Colton's proposed approach "are that customers who continue to make partial payments would be able to defer paying late payment charges indefinitely." PGW St. 10-RJ at 6. As Mr. Cummings explained, the "problem with an approach that allows customers to indefinitely delay paying late payment charges they incurred is that other customers on PGW's system are forced to bear the carrying costs." PGW St. 10-RJ at 6. Noting that the longer that late payment charges are unpaid by customers who incurred them, the longer this burden must be borne by the remaining customers, Mr. Cummings observed that "it is not fair to PGW's paying customers to bear the carrying costs associated with these customers who are not paying their bills on time, are incurring late payment charges and are then making only partial payments." PGW St. 10-RJ at 6. Increased carrying costs will ultimately increase PGW's revenue requirement.

Similarly, the change suggested by Mr. Colton would certainly result in an increase in PGW's bad debt expense, which would likewise be shouldered by other customers. PGW St. 10-RJ at 10. Mr. Cummings' testimony explained that "an approach that allows a customer to pay only \$5.25 in late payment charges during a year despite incurring late payment charges of \$143.77 over the course of the year is wrong because it fails to create an incentive for customers to pay their bills on a timely basis." PGW St. 10-RJ at 6-7. Since a "primary purpose of late

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<sup>63</sup> By contrast, using PGW's partial payment allocation method, the same customer would pay \$137.17 in late payment charges over the course of year one. PGW Ex. BLC-3 (Table BLC-1).



payment charges is to increase timely collections and ensure that service is available to all customers on equitable terms and conditions,” it is critical for PGW to retain the effectiveness of the late payment charge as a collection tool to avoid an increase in its bad debt expense.” PGW St. 10-RJ at 7.

In addition, PGW has identified the substantial costs of making changes to its billing system, estimating “that the cost of system changes would be \$400,000 or more, depending on the final technical requirements and the need for additional testing,” which does not include all costs, such as the costs of training customer service representatives. PGW St. 10-RJ at 10. PGW also estimated that it would take more than one year to make the changes necessary to implement Mr. Colton’s proposed approach. PGW St. 10-R at 20. All of the costs and use of resources would ultimately be paid by PGW’s customers.

**6. PGW’s Partial Payment Allocation Practices Should Not Be Revised in a Base Rate Proceeding.**

PGW initiated this proceeding on February 27, 2017 requesting Commission approval for a general increase in base rates. In the Order suspending the base rate filing for investigation, the Commission indicated that it would review “the lawfulness, justness, and reasonableness of the rates, rules and regulations contained in the proposed Supplement No. 100 to Philadelphia Gas Works Gas Service Tariff – PA. P.U.C. No. 2.”<sup>64</sup> PGW’s partial payment allocation method is not set forth in its tariff and the Company is unaware of any Commission requirement for such details to be set forth in the tariff. PGW St. 10-R at 9; PGW Ex. BLC-1. Therefore, the issue has been improperly raised in this base rate proceeding and should be disregarded.

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<sup>64</sup> *Pa. P.U.C. v. Philadelphia Gas Works*, Docket No. R-2017-2586783 (Order entered March 16, 2017), at Ordering Paragraph No. 1. That investigation includes consideration of the lawfulness, justness, and reasonableness of existing rates, rules and regulations. *Id.* At Ordering Paragraph No. 4.

In an effort to fit this issue into the pending base rate proceeding, OCA has relied on the flawed theory concocted by Mr. Colton about PGW's partial payment allocation practices allegedly having the "effect" of imposing compound interest in violation of Rule 4.2 of PGW's tariff, which is governed by Section 56.22 of the Commission's regulations.<sup>65</sup> However, a careful review of Mr. Colton's testimony demonstrates that the issue he raised does not relate to any alleged departure from Rule 4.2 of the tariff or Section 56.22 of the regulations.

Notably, Mr. Colton did not suggest that PGW's Rule 4.2 of its tariff violates Section 56.22 of the Commission's regulations. Nor did he suggest that PGW's practices in imposing late payment charges depart in any way from Rule 4.2 of the tariff or Section 56.22 of the Commission's regulations. As noted above, he has relied on a flawed legal theory about the purported "effect" of PGW's partial payment allocation practices on the interest rate that is ultimately assessed on customers. In short, Mr. Colton's allegations do not relate to the calculation or imposition of late payment charges by PGW pursuant to Rule 4.2 of the tariff and are therefore beyond the scope of this base rate proceeding.

The only potentially legitimate issue raised by Mr. Colton concerning PGW's existing tariff is that it does not set forth the partial payment allocation method that is utilized. OCA St. 4 at 38. PGW is unaware of any Commission requirement for payment posting sequencing to be included in the tariff, and the Commission has previously approved PGW's tariff that does not contain an explanation of its partial payment allocation practices, which are governed by the Commission's regulations. PGW St. 10-R at 9. PGW has also reviewed other public utility tariffs that simply parrot the Commission's regulations at 52 Pa. Code § 59.24 regarding the

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<sup>65</sup> OCA Response to PGW Motion in Limine at 2-3.

allocation of partial payments first to the balance due for prior service without providing any additional information about how those partial payments are allocated among the various components of the balance due for prior service. PGW St. 10-R at 9; PGW Ex. BLC-1. On the basis of that review, PGW has indicated its willingness to incorporate the language from the Commission's regulations in its tariff regarding the application of partial payments first to charges for prior service, but sees no reason that it should be required to include any additional details in the tariff. PGW St. 10-R at 9.

**7. The Rulemaking Process Should Be Used to Consider Modifications to Partial Payment Allocation Practices.**

PGW submits that to the extent that the Commission determines that a specific hierarchy for the application of partial payments to the various components of prior basic service should be established, it needs to do so for all utilities and it needs to do so via regulation. Currently, the Commission's regulations set forth the method that public utilities are required to follow in allocating partial payments that are insufficient to pay a balance due both for prior service and for service billed during the current billing period. The requirement of the regulations is that public utilities first apply the partial payment to the balance due for prior service. The focus of Section 56.24 is on applying partial payments to charges for prior service before they are applied to charges for the current billed service, and it is silent on any allocation of the partial payment to the various components of prior service.

As Section 56.24 is silent with respect to the application of partial payments among outstanding charges for the various components of prior service, including security deposits, late payment fees and charges for gas service, public utilities are not currently bound to follow any

particular method.<sup>66</sup> To the extent that the Commission desires to establish standards for PGW and other public utilities to follow in applying partial payments among various components of charges for prior service, it is incumbent upon the Commission to initiate a rulemaking proceeding. Indeed, PGW recommends this course of action if the Commission is not convinced as part of this proceeding that PGW's approach best fulfills the compelling policy objectives of Chapter 14.

In order to establish industry standards that are applicable to public utilities, the Commission is obligated to use the regulatory review process.<sup>67</sup> The Commonwealth Documents Law,<sup>68</sup> the Regulatory Review Act<sup>69</sup> and the Commonwealth Attorneys Act<sup>70</sup> establish a mandatory, formal rulemaking procedure that is, with rare exceptions, required for the promulgation of all regulations.<sup>71</sup> Under the Commonwealth Documents law, an agency must give notice to the public of its proposed rulemaking and an opportunity for the public to comment.<sup>72</sup> Pursuant to the Regulatory Review Act, the agency must also submit its proposed regulation to the Independent Regulatory Review Commission ("IRRC") for public comment, recommendation from IRRC, and ultimately, IRRC's approval or denial of a final-form regulation.<sup>73</sup>

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<sup>66</sup> It is not in dispute that security deposits and late payment charges are components of prior basic service. See 52 Pa. Code §§ 56.2 and 62.74.

<sup>67</sup> See *D.E.R. v. Rushton Mining Co.*, 591 A.2d 1168, 1173 (Pa. Commw. Ct. 1991) (binding norms are legislative in nature and must be promulgated as regulations) ("*Rushton*").

<sup>68</sup> 45 P.S. §§ 1102 *et seq.*

<sup>69</sup> 71 P.S. §§ 745.1 *et seq.*

<sup>70</sup> 71 P.S. §§ 732-101 *et seq.*

<sup>71</sup> See *Naylor v. Commonwealth*, 54 A.3d 429 (Pa. Commw. Ct. 2012).

<sup>72</sup> 45 P.S. § 1201; *Borough of Bedford v. Dept. of Env'tl. Prot.*, 972 A.2d 53 (Pa. Commw. Ct. 2009).

<sup>73</sup> 71 P.S. § 745.5.

The regulatory review process “affords the affected parties a democratic process for participation in the formulation of standards which govern their conduct and increases the likelihood of administrative responsiveness to their needs and concerns. Moreover, it gives the administrative agency facts and information relevant to the proposed rule, as well as opens up the agency to alternatives, detrimental effects, criticism and advice, thereby contributing to the soundness of the proposed regulation.”<sup>74</sup>

Directing only PGW to adhere to some Commission-established hierarchy for partial payment allocation would plainly be unfair and illegal. But issuing an order requiring all public utilities to follow additional rules regarding the allocation of partial payments among various components of prior service would circumvent the requirements of this statutorily-mandated regulatory review process. Establishing industry standards and implementing a uniform statewide policy for how partial payments by customers are allocated among various charges for prior service is a classic example of an action that requires the agency to promulgate regulations, including public notice and a comment period. As Mr. Cummings testified, initiating a rulemaking proceeding would enable the Commission “to determine the various public utilities’ practices, as well as the rationales for and the results of their approaches.” PGW St. 10-R at 21. Mr. Cummings added:

In addition, use of the regulatory review process to establish industry-wide standards would make the Commission aware of any operational or policy impacts that may be experienced by public utilities as a result of a regulatory requirement for a particular method of applying partial payments to balances for prior service. It is important for the Commission to obtain comment and feedback from the industry or other stakeholders as to the practical implications of any particular method, which would enable it to weigh the pros and cons of different ways of applying partial payments. For instance, PGW’s method makes customers responsible for paying their own late payment charges, thereby

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<sup>74</sup> *Rushton*, 591 A.2d at 1171.

reducing uncollectible expenses that are borne by other customers -- which is consistent with the intent and procedures set forth in Chapter 14.

PGW St. 10-R at 21-22.

In a Commission-initiated rulemaking to consider whether changes should be made to Section 56.24 to specify the manner in which partial payments should be applied to various components of charges for prior service, PGW and other public utilities would have notice and an opportunity to which they are entitled under Pennsylvania law to offer feedback about the operational and policy implications of the proposed rules.

## **8. Conclusion**

In summary, PGW's practices of first applying partial payments to charges for prior basic service before applying them to charges for the current billing period are fully compliant with the applicable Commission regulations is just and reasonable and no changes to PGW's partial payment allocation practices should be directed by the Commission as part of this base rate proceeding. To the extent that the Commission determines that a hierarchy should be established the posting of partial payments to prior service, the Commission is legally obligated to initiate a proposed rulemaking proceeding. Such a proceeding would afford notice to the public and give interested stakeholders an opportunity to comment, and ensure that the Commission is aware of the implications of dictating a certain method for public utilities to follow in posting partial payments to prior service.

## **B. Allocation of Universal Service Cost Recovery**

### **1. Introduction**

It bears repeating that PGW is a municipal gas utility owned by the City of Philadelphia. It serves approximately 500,000 customers located exclusively in the City of Philadelphia. PGW St. 7 at 3. Philadelphia is home to perhaps the greatest concentration of Pennsylvania's

vulnerable citizens: almost one in three households in Philadelphia qualifies as low-income.

PGW St. 4 at 19.<sup>75</sup>

PGW's main universal service programs include the Customer Responsibility Program ("CRP"), Low-Income Usage Reduction Program ("LIURP"), the Customer Assistance Referral Evaluation Program ("CARES"), and Hardship Funds. *See* PGW St. 1 at 9; PGW St. 7 at 17-21; PGW St. 9-R at 7-8. For the FPFTY, the cost of these programs is about \$55 million. OSBA St. 1 at 33. These costs will be collected from ratepayers through PGW's USC. *See* PGW St. 5 at 15-16; PGW St. 9 at 14. PGW has the largest USC charge for residential customers of any natural gas distribution company ("NGDC"). *See* PGW St. 4 at 19-20.

PGW intends to continue its current allocation of universal service costs. PGW St. 6-R at 2. PGW has historically allocated and collected its universal service costs from all firm service customer classes.<sup>76</sup> PGW St. 6-R at 2. It does not collect or allocate any universal service costs from PGW's interruptible sales service rate classes or PGW's large volume transportation service rate classes ("GTS/IT"). PGW St. 6-R at 2-3. The OCA and TURN agree with PGW on this issue. *See* OCA St. 4-R at 6-33; TURN St. 1-R at 2-5.

The continuation of PGW's allocation of universal service costs is just and reasonable and should be approved. Nothing in PGW's allocation of universal service costs to all firm customers violates the Public Utility Code<sup>77</sup> or the Commission's regulations. Under Section

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<sup>75</sup> In 2016, 149,001 of PGW's customers were low-income. PGW St. 1-R at Exhibit GJS-1. 149,000 is 29.80% of 500,000.

<sup>76</sup> PGW's cost allocation was determined prior to the Commission's oversight of the Company. *See, e.g., Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms*, PUC Docket No. M-00051923, Final Investigatory Order entered December 18, 2006, at 31, n25, 2006 Pa. PUC LEXIS 108.

<sup>77</sup> "Notwithstanding any provision of [Title 66] to the contrary, in determining the city natural gas distribution operation's revenue requirement and approving overall rates and charges, the commission shall follow the same ratemaking methodology and requirements that were applicable to the city natural gas distribution operation prior to the assumption of jurisdiction by the commission, and such obligation shall continue until the date on which all approved bonds have been retired, redeemed, advance refunded or otherwise defeased." 66 Pa. C.S. § 2212(e).

2212(e) of the Public Utility Code, the Commission is required to follow the same ratemaking methodology and requirements that were applicable to PGW prior to the Commission assuming jurisdiction over PGW. PGW's allocation of universal service costs and related rate design has been found to be just, reasonable and in the public interest.<sup>78</sup> In fact, the Commission has consistently determined that, because PGW has followed this allocation policy prior to and at the time it came under the regulatory authority of the Commission, PGW is an exception to the general policy<sup>79</sup> (applied to other Commission regulated companies) that all of the universal service costs should be allocated to residential customers. PGW St. 6-R at 3.

Moreover, continuation of PGW's allocation of universal service costs is consistent with cost causation principles; and therefore all firm customers should make a contribution toward them, as non-residential customers benefit from PGW's universal service programs. Generally speaking, cost causation provides that ratepayers should pay for programs that benefit them. While the USC recovers the costs of programs designed specifically to benefit low-income residential customers, customers in all classes benefit by programs that support and enable a community in which low-income customers are able to maintain utility service at an affordable cost. PGW St. 6-R at 3-4. Non-residential customers that own or operate residential master-

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<sup>78</sup> In PGW's 2000 Rate Proceeding (R-00005654), the Commission agreed that PGW's universal service costs should continue to be allocated to all firm sales service rate classes. *PUC v. PGW*, PUC Docket No. R-00005654, Opinion and Order entered November 22, 2000, 2000 Pa. PUC LEXIS 65. Subsequently, in PGW's 2002 Restructuring Proceeding (M-00021612), the Commission again ruled that USC costs should be borne by all firm sales customers, and not just residential customers. *PUC v. PGW*, PUC Docket No. M-00021612, Opinion and Order entered March 21, 2003, 2003 Pa. PUC LEXIS 13. In PGW's 2006-2007 base rate proceeding (R-00061931), the Commission again determined that PGW should continue its historic allocation of universal service costs to both residential and non-residential customers. *PUC v. PGW*, PUC Docket No. R-00061931, Opinion and Order entered September 28, 2007, 2007 Pa. PUC LEXIS 45. Finally, in PGW's most recent base rate proceeding in 2009 (R-2009-2139884), the Commission approved a settlement that maintained PGW's method of allocating USC costs. *PUC v. PGW*, PUC Docket No. R-2009-2139884, Opinion and Order entered July 29, 2010, 2010 Pa. PUC LEXIS 1845.

<sup>79</sup> See *Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms*, PUC Docket No. M-00051923, Final Investigatory Order entered December 18, 2006 at 26-32, 2006 Pa. PUC LEXIS 108.



metered multi-family buildings benefit from universal service programs such as the Low-Income Multifamily ("LIME") program. *See* OCA St. 4-R at 12-13; OSBA St. 1-SR at 3. Beyond that, all non-residential customers indirectly<sup>80</sup> benefit from keeping the residents of Philadelphia in their homes. PGW St. 6-R at 4. The residents contribute to the well-being and economic vibrancy of Philadelphia's business community. PGW St. 6-R at 4. Without residents living in the City, businesses may lose their workforce and customers. PGW St. 6-R at 4. Keeping people living and working in the City will help businesses avoid financial losses, increase employee productivity, and retain viable consumers. PGW St. 6-R at 4. Thus, PGW believes that the portion of universal service costs paid by non-residential customers is offset by the substantial positive economic impact in Philadelphia on those non-residential customers created by PGW's universal service programs. PGW St. 6-R at 4.

## **2. OSBA Proposal Should be Rejected**

The OSBA has, once again, proposed a departure from PGW's long-standing practice and the above-described precedent. The OSBA argues that PGW's universal service costs should be allocated to only residential customers. OSBA St. 1 at 32-36; OSBA 1-R at 13; OSBA St. 1-SR at 2-14. PICGUG agrees with the OSBA. PICGUG St. 1-R at 5. To support this argument, OSBA states that its proposal is justified by (1) cost causation principles and (2) the burden on hearing participants to litigate the detailed issues surrounding allocation of universal service costs. OSBA St. 1 at 33-35.

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<sup>80</sup> Non-residential customers have the same relationship to universal service recipients as those residential customers who would receive the benefit: neither are direct recipients of universal service program benefits. Logically, and ironically, if the costs of universal service programs are allocated to only those who directly benefit from the programs, the participants in PGW's universal service programs (i.e., low-income customers) would be required to pay for those programs.

As explained above, PGW submits that its present allocation method is cost justified, blind adherence to the principle of cost causation is not required. The Commission has long recognized that some flexibility must exist when designing rates. In *U.S. Steel Corp.*,<sup>81</sup> the Commonwealth Court affirmed this flexibility by upholding a Commission Order exempting the first 500 KWH of residential usage from a PECO rate increase. The Court concluded that the Commission's action was "a proper exercise of the Commission's flexible limit of judgment in fixing rates."<sup>82</sup> Such flexibility is not unlimited.<sup>83</sup> But, such flexibility is readily apparent in countless proceedings before the Commission. In fact, this Commission has considered matters of public policy, such as gradualism to minimize rate shock,<sup>84</sup> rate continuity,<sup>85</sup> and other public policy goals.

The OSBA's interpretation of Commission precedent is flawed. The OSBA's proposal appears to be based on interpretations of the Commission's prior actions (a) as deciding that PGW's universal service costs must be allocated to only residential customers, OSBA St. 1 at 34-36; and (b) holding that the allocation to only residential customers must proceed if there are no rate shock implications. OSBA St. 1 at 36; OSBA St. 1-SR at 4. Such interpretations are

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<sup>81</sup> *U.S. Steel Corp. v. PUC*, 390 A.2d 865 (Pa. Commw. Ct. 1978).

<sup>82</sup> *Id.* at 870.

<sup>83</sup> *Lloyd v. PUC*, 904 A.2d 1010 (Pa. Commw. Ct. 2006). *Lloyd* does not demand a strict or blind adherence cost causation. In that case, PPL proposed that its distribution rates for the commercial class be increased to provide a rate of return of 16.17% while the residential class would be increased to provide a rate of return of 5.29%. The Court stated that, "In this case there is no dispute that there is a substantial difference in costs required to deliver services between the classes. For such a rate differential to survive a discriminatory rate challenge brought under Section 1304 of the Code, 66 Pa. C.S. § 1304, it must be shown that the differential can be justified." *Id.* at 1020. The Commission justified the rate differential on the basis of gradualism and rate shock, which the court found to be unpersuasive. On balance the court held that the Commission placed too much emphasis on gradualism. Based on its finding of substantial cross-subsidization between rate classes, the court vacated the Commission's order and remanded the case to establish non-discriminatory reasonable rates and rate structure. *Id.* at 1021.

<sup>84</sup> PGW's 2006-2007 base rate proceeding (R-00061931): *PUC v. PGW*, PUC Docket No. R-00061931, Opinion and Order entered September 28, 2007, 2007 Pa. PUC LEXIS 45.

<sup>85</sup> See *PUC v. Metropolitan Edison Company Pennsylvania, Re: Merger Savings Remand Proceeding*, PUC Docket No. R-00061366; et seq., Opinion and Order entered January 11, 2007, 2007 Pa. PUC LEXIS 5.

incorrect. The Commission's precedent provides that the allocation of universal service costs is a policy decision,<sup>86</sup> which does not require uniformity.<sup>87</sup> The precedent regarding PGW authorizes the continuation of PGW's allocation of universal service costs. That precedent does not mandate that PGW change its allocation of such costs in any future rate proceedings.

The analysis by OSBA witness Knecht is flawed. No evidence suggests that PGW's allocation of universal service costs results in discriminatory, unjust or unreasonable rates. In fact, Mr. Knecht admits that "legitimate arguments can be raised for allocating universal service costs to non-residential rate classes."<sup>88</sup> OSBA St. 1-SR at 5.<sup>89</sup> Here, there should be no question that the non-residential classes receive benefits from PGW's universal service program. *See* OCA St. 4-R at 12-13, 14-30; OSBA St. 1-SR at 3, 9. It follows that the continuation of PGW's allocation of universal service costs is consistent with cost causation principles. PGW's allocation also promotes continuity and a lower overall rate increase for residential customers. That allocation is also supported by other policy considerations, TURN St. 1-R at 2-5, PGW St. 6-R at 3-4, OCA St. 4-R at 14-21, and the inherent differences between PGW and other NGDCs, OCA St. 4-R at 6-11, TURN St. 1-R at 1-5. Mr. Knecht acknowledged that PGW is different, that PGW's allocation has a social benefit, and that PGW's allocation can be supported by "legitimate policy considerations." OSBA St. 1-SR at 9, 8-9, 10-14. But, he argues that the

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<sup>86</sup> *See Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms*, PUC Docket No. M-00051923, Final Investigatory Order entered December 18, 2006, at 26-32, 2006 Pa. PUC LEXIS 108.

<sup>87</sup> *See, e.g., Department of Environmental Resources v. Rushton Mining Co.*, 591 A.2d 1173 (Pa. Commw. Ct. 1991) (holding that an attempt to implement a generic uniform state-wide policy was a binding norm and was therefore a regulation, rather than a statement of policy).

<sup>88</sup> He states: "While legitimate arguments can be raised for allocating universal service costs to non-residential rate classes, the rate shock argument simply does not apply to this proceeding." OSBA St. 1-SR at 5. The issue of rate shock is discussed in greater detail below.

<sup>89</sup> It should be noted that OSBA's alternative proposal would continue to allocate universal service costs to non-residential rate classes. This alternative proposal is discussed in greater detail below.

differences, benefits and policy considerations should not be used for ratemaking purposes. *Id.* He is wrong, those items are exactly the ones that may be considered by the Commission to give flexibility to rates (and to avoid a blind adherence to cost causation principles). This is especially true in this proceeding, where PGW is merely keeping the status quo with regard to the allocation of universal service costs and is not attempting to impose a new or increased allocation of such costs on any rate class.

Adopting the OSBA's proposal would add to the overall rate impact for residential customers. PGW St. 6-R at 2-5. The net effect of OSBA's proposal would be to impose 100% of the cost responsibility for universal service programs on residential customers. PGW St. 6-R at 5. PGW's residential customers already contribute a large portion of the USC revenues. PGW St. 6-R at 4. PGW estimated that exempting firm commercial and industrial customers would transfer an additional \$11.6 million in universal service costs to the residential class. PGW St. 6-R at 4.<sup>90</sup> Transferring these costs would increase PGW's proposed overall rate increase for residential customers by 2.3%. PGW St. 6-R at 4. This would result in an overall increase for residential customers of about 8.6% (2.3% plus 6.3%).

Large rate increases have the potential to cause "rate shock" among customers.<sup>91</sup> OSBA argues that there is no rate shock because the resulting rate increase for residential customer is less than the original increase sought by the Company and the resulting USEC surcharge would be less than residential customers were paying in 2007. *See* OSBA St. 1-SR at 4-5. But, such comparisons are not the measure of rate shock. Rate shock is measured by the size of the

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<sup>90</sup> Mr. Knecht's testimony on the impact of OSBA's proposal on residential customers are based on the adoption of Mr. Knecht's class cost of service study ("CCOSS") and his allocations of revenues and costs. *See* OSBA St. 1-SR at 3, 6-8. The Settlement is a "black box" settlement, and does not reflect any particular CCOSS. Accordingly, Mr. Knecht's testimony on the impacts to residential customers is not relevant.

<sup>91</sup> *Lloyd* at 1018, n.14.

increase that is being authorized by the Commission. For example, in PGW's 2006-2007 base rate proceeding, PGW originally requested an increase in base rates of \$100 million. The Commission authorized an increase in base rates of \$25 million, and refused to shift all of PGW's universal service costs to the residential classes given that the Commission was approving a \$25 million increase in rates.<sup>92</sup>

Because of the size of PGW's universal service program, the number of participants in its universal service programs and the amount of the universal service costs already allocated to residential customers, a total realignment of its USC costs to the residential rate class (together with the \$42 million rate increase under the Settlement) is not appropriate at this time. PGW St. 6-R at 4.

It appears that part of the reason that the OSBA desires to change PGW's allocation of universal service costs (and other unique programs) is so that the OSBA (and others) will not need to engage in review of any issue that is unique to PGW in any future proceedings. *See* OSBA St. 1 at 34-35. The burden on hearing participants, such as the OSBA, is not a sufficient reason to change PGW's allocation of universal service costs. That being said, the OSBA's blind pursuit of uniformity has been (and should continue to be) tempered by the unavoidable fact that PGW is different from other NGDCs and should be treated differently from other NGDCs. *See* 66 Pa.C.S. § 2212(c).

In addition, it should be clear that this proceeding should not be about the resources available to OSBA, which operates under the Small Business Advocate Act, 73 P.S. §§ 399.41 *et seq.* (the "Business Advocate Act"). The OSBA is funded by assessments levied on

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<sup>92</sup> PGW's 2006-2007 base rate proceeding (R-00061931): *PUC v. PGW*, PUC Docket No. R-00061931, Opinion and Order entered September 28, 2007, 2007 Pa. PUC LEXIS 45.

Pennsylvania utilities and workers' compensation insurance in Pennsylvania. 73 P.S. § 399.46; 77 P.S. § 1041.3. Under the Business Advocate Act, the Small Business Advocate is granted broad discretion concerning whether or not to participate in particular proceedings before the PUC. 73 P.S. § 399.45(a), (c). In exercising that discretion, the Small Business Advocate is to consider the public interest, the resources available, and the substantiality of the effect of the particular proceeding on the interests of small business consumers. *Id.* There is no actual evidence or analysis of the impact of this issue on the choices made by the Small Business Advocate or the OSBA's resources. In addition, the fact that the Small Business Advocate chose to raise this proposal, after it had been rejected on different occasions by the Commission, is not a sufficient reason to adopt the proposal in this proceeding.

### **3. OSBA Alternative Proposal Should be Rejected**

If the Commission does not allocate all of PGW's universal service costs to residential customers, the OSBA has proposed that universal service costs be allocated between all customers (i.e., residential, firm non-residential, PGW's interruptible sales service rate classes and PGW's large volume transportation service rate classes). OSBA St. 1-R at 13; OSBA St. 1-SR at 14. This appears to be based on fairness principles: if some commercial and industrial customer must pay universal service costs, then all commercial and industrial customers must pay those costs. *See* OSBA St. 1-SR at 13. No other party has supported this alternative proposal. *See* OSBA St. 1-SR at 14; PICGUG St. 1-SR at 14.

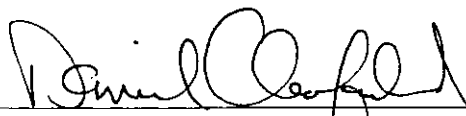
This alternative proposal must fail for lack of supportive evidence. OSBA has the burden of proof on this alternative proposal, which would impose a new or increased allocation of

universal service costs on “non-firm” commercial and industrial customers.<sup>93</sup> It is assumed that OSBA is seeking to have PGW’s interruptible sales service rate classes and PGW’s large volume transportation service rate classes share in the \$11.6 million in universal service costs that are allocated to the firm non-residential customers. That being said, there is no actual evidence or analysis of the impact of this alternative proposal on PGW’s firm non-residential customers or PGW’s non-firm non-residential customers. Therefore, OSBA’s alternative proposal must be rejected.

## V. CONCLUSION

PGW respectfully requests that the ALJs and the Commission: 1) approve the Settlement without modification; 2) resolve the remaining issues so as to authorize the continuation of both PGW’s allocation of universal service costs and PGW’s partial payment allocation practices; and 3) permit PGW to file the tariff supplement annexed as Exhibit 1 to the Settlement (“Settlement Rates”).

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Date: July 21, 2017

<sup>93</sup> 66 Pa.C.S. §§ 315, 332(a), The burden of proof must be on a party to a general rate increase case who proposes a rate increase beyond that sought by the utility. *See, e.g., PUC v. PPL Gas Utilities Corporation*, PUC Docket No. R-00061398, Opinion and Order entered February 8, 2007 at 6-7, 2007 Pa. PUC LEXIS 779.

## Appendix A

### FINDINGS OF FACT

#### **Background**

1. PGW is the nation's largest municipally-owned gas utility. PGW St. 4 at 9. It does not have any shareholders. PGW St. 3 at 10.
2. PGW provides gas sales and transportation services. *See* Filing at Volume IV; PGW St. 3 at Exhibit JFG 3.
3. PGW manages a distribution system of approximately 6,000 miles of gas mains and service lines supplying approximately 500,000 customers in the City and County of Philadelphia. PGW St. 7 at 2-3. Petition for Waiver at ¶ 1; Settlement at ¶ 1.
4. PGW has a denser, more residential, more low income customer base than many similar sized utilities. PGW St. 4 at 9.

#### *Universal Service Cost Recovery*

5. The USC recovers the costs of programs designed specifically to benefit low-income residential customers. PGW St. 1 at 9; PGW St. 7 at 17-21; PGW St. 9-R at 7-8.
6. PGW has historically allocated to and collected its universal service costs from all firm service customer classes and proposed to continue this allocation methodology as part of this proceeding. PGW St. 6-R at 2.
7. PGW does not collect or allocate any universal service costs from PGW's interruptible sales service rate classes or PGW's large volume transportation service rate classes ("GTS/IT"). PGW St. 6-R at 2-3.
8. The Commission has consistently determined that PGW's allocation of universal service costs and related rate design has been found to be just, reasonable and in the public interest. PGW St. 6-R at 2-3.
9. OSBA proposed a departure from PGW's long-standing practice and argued that PGW's universal service costs should be allocated only to residential customers. OSBA St. 1 at 32-36; OSBA 1-R at 13; OSBA St. 1-SR at 2-14.
10. PGW sought to maintain the long-term status quo with regard to the allocation of universal service costs and did not attempt to impose a new or increased cost allocation on any rate class. Specifically, PGW proposes to continue its current allocation of universal service costs from all firm service customer classes. PGW St. 6-R at 2.
11. The Commission has followed this allocation policy prior to and since the time it came under the regulatory authority of the Commission. PGW St. 6-R at 3.
12. OSBA proposes to change this allocation method so that PGW's universal service costs are allocated only to residential customers. OSBA St. 1 at 32-36.



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11. The Commission has followed this allocation policy prior to and since the time it came under the regulatory authority of the Commission. PGW St. 6-R at 3.
12. OSBA proposes to change this allocation method so that PGW's universal service costs are allocated only to residential customers. OSBA St. 1 at 32-36.
13. As a municipal gas utility owned by the City of Philadelphia, PGS serves approximately 500,000 customers located exclusively within the City. PGW St. 7 at 3.
14. PGW is home to perhaps the greatest concentration of Philadelphia's vulnerable citizens, with almost one in three households in Philadelphia qualifying as low-income. PGW St. 4 at 19.
15. PGW's main universal service programs include the Customer Responsibility Program, Low-Income Usage Reduction Program, the Customer Assistance Referral Evaluation Program and Hardship Funds. PGW St. 1 at 9; PGW St. 7 at 17-21; PGW St. 9-R at 7-8.
16. For FPFTY, the cost of these programs is about \$55 million. OSBA St. 1 at 33. These costs will be collected through PGW's Universal Service and Energy Conservation Surcharge ("USC"). PGW St. 5 at 15-16.
17. PGW has the largest USC charge for residential customers of any natural gas distribution company. PGW St. 4 at 19-20.
18. PGW's universal service programs assist low income customers enrolled in those programs to maintain their natural gas service which, in turn, enables them to stay in their homes. PGW St. 6-R at 3-4.
19. By being able to stay in their homes, low-income customers, in turn, support City businesses and contribute to the economy. *Id.*
20. Non-Residential customers that operate residential master-metered multi-family buildings benefit directly from the Low-Income Mutli-Family ("LIME") program. OCA St. 4-R at 12-13.

### *Partial Payment Allocation Practices*

21. The Commission's regulations require that public utilities apply partial payments first to unpaid charges for prior service before applying them to charges for the current billing period. 52 Pa. Code § 56.24.
22. PGW first applies partial payments to charges for prior service before posting them to charges for the current billing period. PGW St. 10-R at 10; PGW St. 10-RJ at 1.
23. The Commission's regulations governing partial payment allocation practices are silent on the posting method that must be used by public utilities when allocating partial payments among various outstanding charges for prior service. 52 Pa. Code § 56.24

## Appendix A

24. When PGW's customers make partial payments, the Company posts them to the bills for prior natural gas service according to a hierarchy: the payment is first allocated to any deposits, if required; then any outstanding late payment charges are satisfied; and then the remaining balance of the payment is posted to the oldest money, meaning that PGW applies the payments to the oldest arrearages for gas service first and then the newer ones. PGW St. 10-R at 7.
25. The OCA challenged PGW's allocation of partial payments challenged PGW's practice of first zeroing out late payment charges for prior service before applying partial payments to charges for prior gas service. OCA St. 4 at 35-43.
26. Since at least 2000, PGW has applied partial payments first to outstanding security deposits and late payment charges for prior service before posting them unpaid charges for gas service, and these practices have been reviewed on numerous occasions in the handling of informal and informal complaints. PGW St. 10-R at 7, 9; PGW St. 10-RJ at 1-2.
27. PGW's partial payment allocation method provides an incentive for customers to timely pay their bills provides an incentive for customers to timely pay their bills in full, thereby reducing bad debt expense, and reducing carrying costs, otherwise paid by ratepayers. PGW St. 10-R at 6. 13-15.
28. Changing PGW's partial payment allocation approach as proposed by Mr. Colton would allow late-paying customers to delay the payment of late fees for several months or even years. PGW St. 10-RJ at 4-6; PGW Ex. BLC-3.
29. Under Mr. Colton's hypothetical customer scenario and using his approach for allocating partial payments a customer who was properly assessed \$143.77 in late payment charges over the course of a year would pay only \$5.25 in late payment charges for over a year. PGW St. 10-RJ at 4-5; PGW Ex. BLC-3, Table BLC-2.
30. Prior basic services includes security deposits, late payment charges, commodity charges, distribution charges, customer service charges, reconnection fees, gas cost adjustment charges and taxes. 52 Pa. Code §§ 56.2 and 62.74(b)(3). See PGW St. 10-R at 7.
31. Implementation of Mr. Colton's proposed approach would increase PGW's bad debt expense paid by all customers. PGW St. 10-RJ at 7.
32. PGW's current tariff is silent with respect to a hierarchy for the application of partial payments to prior service. PGW St. 10-R at 5; PGW St. 10-R at 13.
33. PGW's tariff permits the Company to assess a late payment charge of 1.5% on a customer's unpaid balance for gas service each month. PGW St. 10-R at 5.
34. PGW assesses a late payment charge of 1.5% on a customer's unpaid balance for gas service each month. PGW St. 10-R at 13.

## Appendix A

35. Adoption of Mr. Colton's proposal would result in costs of at least \$400,000 (all of which would be paid ultimately by ratepayers) and would take PGW over one year to implement. PGW St. 10-R at 20-21; PGW St. 10-RJ at 10.
36. PGW's 1.5% late payment charge results in 18% simple interest per annum on a customer's unpaid balance for gas service. PGW St. 10-R at 13.
37. Before assessing late payment charges, PGW removes outstanding late payment fees from the unpaid gas service balance, and therefore does not impose late fees on late fees. PGW St. 10-RJ at 8-9.
38. To the extent that a customer is assessed more than 18% interest in the late payment charges over the course of the year, that result occurs only because the customer has taken an action (or failed to take an action) resulting in the imposition of late payment charges and then made only partial payments. PGW St. 10-RJ at 8-9.

## Appendix B

### CONCLUSIONS OF LAW

1. The Joint Petition for Partial Settlement is in the public interest and is consistent with the requirements contained in *Lloyd v. PUC*, 904 A.2d 1010 (Pa. Commw. Ct. 2006).
2. The rates, terms and conditions contained in PGW's base rate increase filing of February 27, 2017, as modified by the Settlement, are just, reasonable and in the public interest and are in accord with the rules and Regulations of the Commission and the provisions of the Public Utility Code.
3. PGW's present method of allocation of universal service costs to all firm customers is just, reasonable and in the public interest and is in accord with the rules and Regulations of the Commission and the provisions of the Public Utility Code.
4. The Office of Small Business Advocate has not sustained its burden of coming forward with sufficient evidence in support of its position that the cost responsibility for universal service charges should be shifted entirely to the Residential rate class.
5. The Office of Small Business Advocate has not sustained its burden of coming forward with sufficient evidence in support of its position that the cost responsibility for universal service charges should be extended to "non-firm" commercial and industrial customers (e.g., PGW's interruptible sales service rate classes and PGW's large volume transportation service rate classes).
6. PGW's method of posting partial payments to arrearages is just, reasonable and in the public interest and is in accord with the rules and Regulations of the Commission and the provisions of the Public Utility Code.
7. In order to establish industry standards that are applicable to public utilities, the Commission is obligated to follow the statutorily-mandated regulatory review process. *Naylor v. Commonwealth*, 54 A.3d 429 (Pa. Commw. Ct. 2012).
8. The Office of Consumer Advocate has not sustained its burden of proving that PGW's method of posting partial payments to arrearages constitutes a violation of and Regulations of the Commission or the provisions of the Public Utility Code, or is otherwise unreasonable.

## Appendix C

### PROPOSED ORDERING PARAGRAPHS

THEREFORE, IT IS ORDERED:

1. That the Joint Petition for Partial Settlement filed July 21, 2017 by Philadelphia Gas Works, the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, the Retail Energy Supply Association, the Philadelphia Industrial and Commercial Gas Users Group, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, and Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia is approved without modification.
2. That Philadelphia Gas Works shall be permitted to increase annual operating revenues in the total amount of \$42 million consistent with the rates, rules and regulations set forth in Exhibit 1 (proposed tariff modifications) and Exhibit 2 (proof of revenues) to the Joint Petition for Settlement.
3. That upon entry of this Opinion and Order, Philadelphia Gas Works shall be permitted to file tariff supplements in the form set forth in Exhibit 1 to the Joint Petition for Settlement, to become effective upon at least one day's notice.
4. That the complaint of the Office of Consumer Advocate at Docket No. C-2017-2592092 is deemed satisfied.
5. That the complaint of the Office of Small Business Advocate at Docket No. C-2017-2593497 is deemed satisfied.
6. That the complaint of Philadelphia Industrial and Commercial Users Group at Docket No. C-2017-2595147 is deemed satisfied.
7. That the complaint of William Dingfelder at Docket No. C-2017-2593903 is deemed satisfied.
8. That the Office of Small Business Advocate's proposals regarding PGW's allocation of universal service costs are denied.
9. That the Office of Consumer Advocate's proposals regarding PGW's partial payment allocation practices are denied.
10. That upon acceptance and approval by the Commission of the tariff supplements and proof of revenues filed by Philadelphia Gas Works consistent with this Order, this proceeding shall be marked closed.