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August 1, 2022

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Petition to Amend Philadelphia Gas Works Universal Service and Energy Conservation
Plan for 2017-2022 – Docket No. P-2020-3018867

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Joint Petition for Settlement which includes Statements in Support from Philadelphia Gas Works (“PGW”), Office of Consumer Advocate (“OCA”) and Tenant Union Representative Network and Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (“TURN”/CAUSE-PA”) with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Daniel Clearfield, Esq.

DC/lww

Enclosure

cc: Hon. Emily I. DeVoe (via email only)
Hon. Mark A. Hoyer (via email only)
Certificate of Service (via email only)

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of the Joint Petition for Settlement upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

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Dated: August 1, 2022



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition to Amend Philadelphia Gas Works :
Universal Service and Energy Conservation : Docket No. P-2020-3018867
Plan for 2017-2022 :

JOINT PETITION FOR SETTLEMENT

Dated: August 1, 2022

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I. INTRODUCTION

Philadelphia Gas Works (“PGW” or the “Company”), the Office of Consumer Advocate (“OCA”), the Tenant Union Representative Network (“TURN”) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), (collectively, the “Joint Petitioners”), by their respective counsel, submit this Joint Petition for Settlement (“Settlement” or “Joint Petition”) in the above-captioned proceeding. Additionally, the Office of Small Business Advocate (“OSBA”) does not oppose the settlement. The Joint Petitioners respectfully request that Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Emily I. DeVoe (“ALJs”) and the Pennsylvania Public Utility Commission (“Commission” or “PUC”) approve the Settlement without modification.

In support of this Settlement, the Joint Petitioners state as follows:

II. BACKGROUND

1. PGW is a city natural gas distribution operation as defined in Section 2212 of the Public Utility Code. 66 Pa. C.S. § 2212. As such, PGW is subject to the same requirements, policies and provisions regarding universal service and energy conservation programs as applicable to any other natural gas distribution company (“NGDC”).

2. PGW’s Universal Service and Energy Conservation Plan (“USECP”) for 2017 to 2020 was originally approved by Commission Order entered on October 5, 2017.¹

3. On October 3, 2019, the Commission entered an Order at Docket No. M-2019-3012601 (“October 2019 Order”) that extended the duration of existing or proposed USECPs from three to five years, and established pilot filing schedules for future plans and impact evaluations. This Order required electric distribution companies (“EDCs”) and NGDCs to

¹ Docket No. M-2016-3012601.

submit enrollment and budgetary projections for the years added to the current or proposed USECPs. October 2019 Order at Ordering ¶ 3.

4. Additionally, on November 5, 2019, the Commission entered a Final Policy Statement and Order at Docket No. M-2019-3012599 (“Final Policy Statement and Order”) adopting certain Customer Assistance Program (“CAP”) policy changes and amending its CAP Policy Statement at 52 Pa. Code Sections 69.261-69.267. The Final Policy Statement and Order, in conjunction with the October 2019 Order, required EDCs and NGDCs to submit addendums to their existing or proposed USECPs indicating how they planned to implement the policy changes specified in the amended CAP Policy Statement. Final Policy Statement and Order at Ordering ¶ 6. In particular, the Commission’s amended CAP Policy Statement stated that utilities should establish new maximum tiered CAP energy burdens of 6% for natural gas heating customers in Federal Poverty Income Guidelines (“FPIG”) tiers 51%-100% and 101%-150%, and 4% for natural gas heating customers in FPIG tier 0%-50%. 52 Pa. Code § 69.265(2).

5. On January 6, 2020, PGW filed the required cover letter and addendum to its USECP. Through this filing, PGW proposed to amend its 2017-2020 USECP to extend the plan through 2022 and provided enrollment and budgetary projections for 2021 and 2022. PGW’s cover letter also addressed the CAP energy burden changes specified in the amended CAP Policy Statement that it proposed to implement via a pilot program. Specifically, PGW’s January 6, 2020 filing proposed to implement the maximum energy burdens consistent with the amended CAP Policy Statement and to remove the obligation to pay \$5 per month towards pre-program arrears. These modifications were proposed to be implemented as a pilot program through the term of PGW’s Amended USECP (“CRP Pilot Program”). PGW requested that the Commission approve the CRP Pilot Program within 30 days to allow the Company adequate time to

implement the change prior to an upcoming replacement of its customer information system (“CIS”).

6. On February 6, 2020, the Commission entered two separate Orders on Reconsideration and Clarification in response to Petitions filed by the Energy Association of Pennsylvania (“EAP”) and the Office of Consumer Advocate (“OCA”) for Reconsideration/Clarification of the November 5, 2019 Final CAP Policy Statement and Order at Docket No. M-2019-3012599 (“Reconsideration Order”).² The Reconsideration Order clarified that utility compliance with the amended CAP Policy Statement is not mandatory, but was strongly encouraged.³ The Reconsideration Order also indicated, *inter alia*, that utilities proposing to voluntarily modify their USECPs pursuant to the amended CAP Policy Statement must submit a cover letter, a Petition to Amend an existing USECP, and an addendum reflecting proposed CAP changes to an existing USECP including enrollment and budgetary projections.⁴ The Reconsideration Order indicated that utilities should endeavor to implement the amended CAP Policy Statement “as quickly as possible” and ideally by January 1, 2021.⁵

7. On February 21, 2020, PGW filed a Petition for Expedited Approval requesting that the Commission approve the CRP Pilot Program and other modifications as described in PGW’s January 6, 2020 filing, consistent with the Reconsideration Order. PGW explicitly incorporated its January 6, 2020 cover letter and addendum by reference. Through its Petition,

² 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261-69.267, Docket No. M-2019-3012599, Order on EAP Reconsideration and Clarification (entered Feb. 6, 2020) (“EAP Reconsideration Order”).

³ *Id.* at 11-12.

⁴ *Id.* at 12, Ordering Paragraphs 3-5.

⁵ *Id.* at 8-10.

PGW requested expedited Commission review and approval of its CRP Pilot Program in order to have time to implement the pilot program prior to the filing of PGW's next USECP for 2023-2027 (which was to be filed by November 1, 2021). PGW had already begun its planned CIS replacement project and, as a part of that project, needed to cease implementing new system enhancements in order to ensure successful testing and implementation of the CIS. As a result, PGW requested approval of the CRP Pilot Program by March 31, 2020.

8. On March 2, 2020, OCA filed a Notice of Intervention and Answer opposing PGW's Petition for Expedited Approval. Also on March 2, 2020, TURN, CAUSE-PA, and Action Alliance of Senior Citizens of Greater Philadelphia ("Action Alliance") filed a Letter in Lieu of Answer in support of PGW's Petition. OSBA filed a Notice of Intervention on March 19, 2020.

9. On March 26, 2020, the Commission issued an Order granting PGW's Petition for Expedited Approval and approving PGW's Addendum and CRP Pilot Program ("March 26, 2020 Order").

10. On April 10, 2020, OCA and OSBA each filed Petitions for Reconsideration of this Order. The Petitions for Reconsideration were not granted.

11. On May 4, 2020, OCA and OSBA filed Petitions for Review with the Commonwealth Court of Pennsylvania seeking review and reversal of the Commission's March 26, 2020 Order.⁶

⁶ *John R. Evans v. Pa. Public Utility Commission and Tanya J. McCloskey v. Pa. Public Utility Commission*, 421 and 422 C.D. 2020 (consolidated).

12. PGW implemented the CRP Pilot Program as of September 12, 2020. Pursuant to the March 26, 2020 Order, PGW filed quarterly reports with the Commission on the CRP Pilot Program's implementation and costs.

13. On September 29, 2021, the Commonwealth Court entered an Opinion holding that the Commission erred in granting PGW's Petition for Expedited Approval without providing interested parties adequate notice of the grant of expedited consideration and a meaningful opportunity to respond to the particular facts of the proposed changes to PGW's USECP. As a result, the Court vacated the March 26, 2020 Order and remanded to the Commission for further proceedings. The Court directed the Commission to provide evidentiary proceedings and issue a new decision consistent with its Opinion.⁷

14. On October 25, 2021, PGW filed a Petition for Commission Action requesting that the Commission issue an order providing an expedited proceeding to address PGW's revised energy burdens on remand from the Commonwealth Court, and to remove uncertainty about the status of PGW's program in the interim.

15. On October 29, 2021, PGW filed its USECP for 2023-2027 at Docket No. M-2021-3029323.

16. On November 4, 2021, CAUSE-PA and TURN filed Petitions to Intervene in this matter.

17. On November 15, 2021, TURN/CAUSE-PA and OCA filed Answers to PGW's Petition for Commission Action.

18. On December 20, 2021, a prehearing conference was held and a schedule was established for the submission of testimony and evidentiary hearings.

⁷ *John R. Evans v. Pa. Public Utility Commission and Tanya J. McCloskey v. Pa. Public Utility Commission*, 421 and 422 C.D. 2020 (consolidated), slip copy 2021 WL 4451007.

19. On January 4, 2022, the ALJs issued an Interim Order Granting in Part and Dismissing as Moot in Part PGW's Motion for Commission Action. This Interim Order clarified that PGW would continue to operate its Pilot Program during the pendency of the remand proceeding until the Commission enters a Final Order or the presiding officers or the Commission otherwise direct, and that any issues regarding customer refunds would be addressed by the parties, if necessary, through litigation in this matter. January 4, 2022 Interim Order at Ordering ¶¶ 1 and 2.

20. On February 2, 2022, at the parties' request, the ALJs issued an Interim Order revising the litigation schedule.

21. On March 29, 2022, PGW filed direct testimony and accompanying exhibits.

22. On May 13, 2022, OCA, OSBA, and TURN/CAUSE-PA filed direct testimony and accompanying exhibits.

23. On June 17, 2022, PGW, OCA and TURN/CAUSE-PA filed rebuttal testimony.

24. On July 1, 2022, OCA filed surrebuttal testimony.

25. On July 11, 2022, PGW filed written rejoinder testimony.

26. On July 13, 2022, the parties submitted a Joint Stipulation identifying testimony and exhibits to be admitted to the record, waiving cross-examination of all witnesses, and requesting that the scheduled hearing days on July 13 and 14, 2022 be cancelled.

27. On July 13, 2022, the ALJs issued an Interim Order Adopting the Joint Stipulation for Admission of Evidence, Admitting Evidence Into the Record, and Cancelling the Evidentiary Hearing.

28. The active parties engaged in settlement discussion to try to achieve a settlement of some or all of the issues in this case. As a result of these negotiations, the Joint Petitioners were able to reach the full Settlement set forth herein.

III. TERMS AND CONDITIONS OF SETTLEMENT

29. The Joint Petitioners respectfully request that the ALJs and the Commission approve the following settlement terms and conditions resolving all issues in this proceeding.

30. With respect to the Customer Responsibility Program (“CRP”), PGW’s current amended USECP for 2017-2022 will remain in place for the duration of the Plan’s term (until the USECP for 2023-2027 goes into effect), subject to the modifications identified herein. Any CRP modifications will be implemented on a going forward basis only. Modifications to non-CRP programs will occur only as ordered by the PUC in PGW’s subsequent USECP.

- (a) No party will seek refunds or any other method to recover costs, in this proceeding or otherwise, related to PGW’s energy burden Pilot Program or other Plan modifications implemented in compliance with the Commission’s March 26, 2020 Order.
- (b) This settlement resolves all open issues related to PGW’s USECP for 2017-2022. For clarity, issues of over- or under-recovery and issues regarding application of USECP charges to particular customer classes or customers are not included in this proceeding.

31. Within 90 days after a final PUC order is entered in this proceeding, PGW will disseminate and publish on its website a fax number by which customers can submit CRP applications and associated supporting documentation.

32. The parties agree to support or not oppose the continuation of the energy burdens in PGW's USECP for 2023-2027.

33. PGW provided the current projected USECP budget for calendar year 2022 in its Further Revised 2017-2022 USECP filed on April 10, 2020. If PGW's actual annual CRP costs⁸ exceed the originally projected budget by greater than 20%, PGW will take the following steps:

- (a) PGW will provide this information to all parties in this proceeding.
- (b) PGW will provide actual cost information in March and will schedule a meeting with the parties to this proceeding within 30 days after providing the data to discuss the costs and receive the parties' input on cost controls.
- (c) Any party to this proceeding may petition the Commission before or after those meetings to address their cost control concerns.
- (d) Parties to this proceeding retain the right to propose or oppose in any subsequent USECP proceeding or base rate proceeding going forward cost control measures that seek to protect non-participants.
- (e) PGW will propose going forward cost control measures if CRP costs exceed budgeted amounts by 20% or more, or will justify why, despite this increase, no cost control measures are needed.
- (f) If the Commission approves the continued use of the energy burdens approved here in PGW's currently pending USECP proceeding for the period from 2023-2027, PGW agrees to continue the requirements of this paragraph for the 2023-2027 period, with the comparison for that period being the final projected costs

⁸ "CRP costs" are defined as the total of the CRP Discount and CRP Forgiveness, as presented in Schedule 9 of PGW's Quarterly GCR filings.

for the 2023-2027 period as approved by the PUC in PGW's USECP 2023-2027.

34. Within eighteen (18) months after a final PUC order is entered in this proceeding, PGW will complete a review of CRP for minimum bill, average bill, and Percentage of Income Payment Program (PIPP) customers, broken down for each by the following income tiers at a point in time: 0-50% of FPL; 51-100% of FPL; and 101-150% of FPL. The purpose of this evaluation will be to respond to the below five (5) questions. PGW will then meet with the parties to this proceeding to discuss the results of its evaluation.

- (a) Did pilot program participants pay their CRP bills?
- (b) How much arrearage forgiveness did pilot program participants earn?
- (c) What was the average annual usage of pilot program participants?
- (d) Did pilot program participants receive LIHEAP grants and what was the average grant amount?
- (e) How many pilot program participants were removed from CRP due to termination for non-payment?

35. As part of its next USECP Impact Evaluation, PGW will include the following information regarding its CRP:

- (a) Payment frequency and bill coverage rates, by CRP type (i.e. average; minimum; 4% and 6%).
- (b) Non-payment shut off frequency, by CRP type.
- (c) Average CRP credit by CRP type.
- (d) Effectiveness of LIURP to reduce gas usage by high-consumption CRP participants.

- (e) Changes in weather-normalized usage for new participants in the CRP compared to their consumption levels as non-participants.
- (f) Trends in CRP participant weather-normalized usage levels during the past two years, compared to non-participants.

IV. THE SETTLEMENT IS IN THE PUBLIC INTEREST

36. The Joint Petitioners have prepared, and attached hereto as Appendices A through C, their Statements in Support setting forth the bases upon which they believe that the Settlement is in the public interest.

37. The Joint Petitioners submit that the Settlement is in the public interest for the following additional reasons:

- (a) ***Substantial Litigation and Associated Costs Will Be Avoided.*** The Settlement amicably and expeditiously resolves a number of important issues. The administrative burden and costs to litigate these matters to conclusion could be significant.
- (b) ***The Settlement Is Consistent With Commission Policies Promoting Negotiated Settlements.*** The Joint Petitioners arrived at the Settlement terms after conducting discovery, preparing and submitting testimony, and engaging in discussions. The Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. Thus, the Settlement is consistent with the Commission's rules and practices encouraging negotiated settlements (*see* 52 Pa. Code Sections 5.231, 69.391) and is supported by the record.

- (c) *The Settlement Is A Reasonable Resolution.* The Settlement represents a reasonable resolution regarding the continuation of PGW's USECP for 2017-2022 while balancing the interests of ratepayers and the public.

V. ADDITIONAL TERMS AND CONDITIONS

38. It is understood and agreed among the Joint Petitioners that the Settlement is the result of compromise and does not necessarily represent the position(s) that would be advanced by any party in this or any other proceeding, if it were fully litigated.

39. Each term and condition set forth in this Joint Petition, whether or not set out in a numbered paragraph, shown in a table or other graphic presentation, bolded, italicized or otherwise emphasized, or set forth in the body, a footnote, parenthetical, or appendix, is material consideration to the entry into this Settlement by the signatory parties.

40. This Settlement is being presented only in the context of this proceeding in an effort to resolve the proceeding in a manner that is fair and reasonable. The Settlement is the product of compromise. This Settlement is non-precedential and is presented without prejudice to any position which any of the Joint Petitioners may have advanced and without prejudice to the position any of the Joint Petitioners may advance in the future on the merits of the issues in future proceedings, except to the extent necessary to effectuate the terms and conditions of this Settlement.

41. This Settlement is conditioned upon the Commission's approval of the terms and conditions contained herein without modification. If the Commission should disapprove the Settlement or modify any terms and conditions herein, this Settlement may be withdrawn upon written notice to the Commission and all parties within five (5) business days following entry of the Commission's Order by any of the Joint Petitioners, and, in such event, shall be of no force

and effect. In the event that the Commission disapproves the Settlement or the Company or any other Joint Petitioner elects to withdraw from the Settlement as provided above, the Joint Petitioners reserve their respective rights to fully litigate this case, including, but not limited to, presentation of witnesses, cross-examination, and legal argument through submission of Briefs, Exceptions and Replies to Exceptions.

42. If the ALJs, in their Recommended Decision, recommend that the Commission adopt the Settlement herein proposed without modification, the Joint Petitioners agree to waive the filing of Exceptions with respect to any issues addressed by the Settlement. However, the Joint Petitioners do not waive their rights to file Exceptions with respect to any modifications to the terms and conditions of this Settlement, or any additional matters proposed by the ALJs in their Recommended Decision. The Joint Petitioners also reserve the right to file Replies to any Exceptions that may be filed.

43. This Settlement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original, and such counterparts shall constitute but one and the same instrument.

WHEREFORE, the Joint Petitioners, by their respective counsel, respectfully request that the ALJs and the Commission approve the Settlement as set forth herein, including all terms and conditions, without modification.

Respectfully submitted,



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Appendix A

PGW's

Statement in Support of Settlement

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition to Amend Philadelphia Gas Works :
Universal Service and Energy Conservation : Docket No. P-2020-3018867
Plan for 2017-2022 :

**STATEMENT IN SUPPORT OF JOINT PETITION FOR SETTLEMENT
OF PHILADELPHIA GAS WORKS' AMENDED UNIVERSAL SERVICE AND
ENERGY CONSERVATION PLAN FOR 2017-2022**

Philadelphia Gas Works (“PGW” or the “Company”) offers this Statement In Support of the Joint Petition for Settlement (“Settlement” or “Joint Petition”) of its Amended Universal Service and Energy Conservation Plan (“USECP”) for 2017-2022. The Settlement is offered as a full resolution of all issues in the above-captioned proceeding and is joined by the Office of Consumer Advocate (“OCA”), the Tenant Union Representative Network (“TURN”) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”). Additionally, the Office of Small Business Advocate (“OSBA”) does not oppose the Settlement.¹

PGW believes that the Settlement is in the best interests of the Company and its customers, as it allows significant benefits to low-income customers to continue pursuant to PGW’s Customer Responsibility Program (“CRP”), while formalizing a process to review and consider actions to mitigate the costs imposed on other PGW customers from PGW’s Universal Service Program. For the reasons discussed herein and in the Joint Petition, PGW respectfully requests that Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Emily I. DeVoe (“ALJs”) and the Commission: (1) approve the Settlement without

¹ Joint Petition at 1.

modification as in the public interest; and (2) take any other action deemed to be in the public interest.

I. BACKGROUND

As more fully set forth in the Joint Petition, PGW's USECP for 2017-2020 was originally approved by the Commission on October 5, 2017.² The Commission later extended the duration of existing or proposed USECPs from three to five years.³ Additionally, the Commission entered a Final Policy Statement and Order on November 5, 2019 (Docket No. M-2019-3012599) ("Final Policy Statement and Order") that included revised energy burdens that lowered the maximum percentage of household income that is considered an affordable energy burden for low-income customers. For natural gas heating customers, the revised maximum energy burdens are 6% for customers in Federal Poverty Income Guideline ("FPIG") tiers 51%-100% and 101%-150%, and 4% for customers in FPIG tier 0%-50%.

As directed by Commission's Final Policy Statement and Order, PGW took steps to incorporate the energy burden changes reflected in the Revised CAP Policy Statement. In a January 6, 2020 letter and addendum filed at this docket, PGW proposed to: (1) extend its existing USECP through 2022; (2) implement new maximum CAP energy burdens of 4% for customers in FPIG tier 0%-50% and 6% for customers in FPIG tier 51%-150%; and (3) remove the obligation to pay \$5/month towards pre-program arrears in order to meet those energy burdens. PGW proposed to implement these revised burdens as a Pilot Program (the "CRP Pilot Program") through the term of its Amended USECP.

² Docket No. M-2016-2542415.

³ Order entered October 3, 2019 at Docket No. M-2019-3012601.

PGW subsequently filed a Petition for Expedited Approval of its Amended USECP on February 21, 2020. In its Petition, the Company requested expedited approval of the Amended USECP due to an upcoming replacement of its customer information system,⁴ as well as direction from the Commission that utilities implement the changes “as quickly as possible, preferably by January 1, 2021, to allow for meaningful input in the upcoming universal service rulemaking.”⁵

In a March 26, 2020 Order at this docket, the Commission approved PGW’s Amended USECP including the CRP Pilot Program. Pursuant to this Order, PGW implemented the revised energy burdens as the CRP Pilot Program beginning on September 12, 2020. The Company filed quarterly reports with the Commission at this docket on its progress toward implementing the CRP Pilot Program, and subsequently on the program costs once the CRP Pilot Program was in place.

OCA and OSBA subsequently appealed the Commission’s approval of the CRP Pilot Program to the Commonwealth Court, and the Court remanded this matter back to the Commission for further proceedings to provide stakeholders an opportunity for evidentiary hearings on the energy burden issue. The current proceeding was a result of this remand order. Since no party requested a stay, PGW’s CRP Pilot Program has remained in place since September 2020.⁶ Further, PGW’s USECP for the 2023-2027 period was filed on October 29,

⁴ Philadelphia Gas Works’ Petition for Expedited Approval of PGW’s Letter Request to Amend its Universal Service and Energy Conservation Plan Pursuant to 2019 Amendments to Policy Statement at Docket No. M-2019-3012599, filed Feb. 21, 2020, at 2.

⁵ EAP Order on Reconsideration and Clarification, Docket Nos. P-2020-3016889 and M-2019-3012599 (entered Feb. 6, 2020); Final Policy Statement and Order, Docket No. M-2019-3012599 (entered Nov. 5, 2019), at 100.

⁶ See Interim Order Granting in Part and Dismissing as Moot in Part PGW’s Motion for Commission Action, Jan. 4, 2022, at Ordering ¶ 1.

2021 and is currently pending at Docket No. M-2021-3029323.⁷ The continuation of the revised energy burdens was proposed in the 2023-2027 USECP proceeding.

As part of this proceeding on remand, the parties conducted formal discovery.⁸ The parties also submitted direct, rebuttal and surrebuttal testimony, and PGW submitted written rejoinder.⁹ The parties stipulated to the admission of testimony and waived cross-examination, and evidentiary hearings were cancelled.¹⁰

The parties also engaged in discussions to try to achieve a settlement of the issues in this case.¹¹ As a result of these negotiations, the Joint Petitioners were able to reach the full Settlement of all issues set forth in the Joint Petition.

II. THE SETTLEMENT IS IN THE PUBLIC INTEREST AND SHOULD BE APPROVED EXPEDITIOUSLY AND WITHOUT MODIFICATION

A. Standard of Review of Settlements

The Commission encourages parties in contested on-the-record proceedings to settle cases.¹² Settlements eliminate the time, effort and expense the parties must expend litigating a case and at the same time conserves administrative resources. Such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily entails. The Commission has

⁷ See the PUC Order entered October 3, 2019 at 12, Docket No. M-2019-3012601, which set the filing schedule for USECPs.

⁸ Joint Petition at ¶ 37(b).

⁹ Joint Petition at ¶¶ 21-25.

¹⁰ Joint Petition at ¶¶ 26-27.

¹¹ Joint Petition at ¶ 28.

¹² See 52 Pa. Code § 5.231.

indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding.¹³

The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a “burden of proof” standard, as is utilized for contested matters.¹⁴ Instead, the benchmark for determining the acceptability of a settlement is whether the proposed terms and conditions are in the public interest.¹⁵

By definition, a “settlement” reflects a compromise of the positions that the parties of interest have held, which arguably fosters and promotes the public interest. When active parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest.¹⁶ In their supporting statements, the Joint Petitioners conclude, after discovery and discussion, that this Settlement resolves all issues in this case, is in the public interest, and is consistent with the requirements of the Public Utility Code.

B. Continuation of PGW’s Current Amended USECP for 2017-2022

The primary issues in this remand proceeding involved: (1) whether the revised energy burdens implemented at part of PGW’s CRP Pilot Program are just, reasonable, and in the public

¹³ 52 Pa. Code § 69.401.

¹⁴ See, e.g., *PUC v. Borough of Schuylkill Haven Water Department*, Docket No. R-2015-2470184, et al., Opinion and Order entered Oct. 22, 2015 adopting the Recommended Decision dated Sept. 1, 2015 at 9-10, 2015 Pa. PUC LEXIS 422; *PUC v. City of Lancaster – Bureau of Water*, Docket Nos. R-2010-2179103, et al., Opinion and Order entered July 14, 2011, at 11; *Warner v. GTE North, Inc.*, Docket No. C-00902815, Opinion and Order entered April 1, 1996, 1996 Pa. PUC LEXIS 78.

¹⁵ *Id.*; see also *PUC v. Allied Utility Services, Inc.*, Docket No. R-2015-2479955, et al., Opinion and Order entered April 7, 2016 adopting the Recommended Decision dated Feb. 26, 2016 at 8, 2016 Pa. PUC LEXIS 73.

¹⁶ See, e.g., *PUC v. York Water Co.*, Docket No. R-00049165, Opinion and Order entered Oct. 4, 2004 adopting the Recommended Decision dated Aug. 30, 2004.

interest; and (2) to the extent any changes to the current energy burdens were required, whether such changes should be applied retroactively and whether it would be reasonable and in the public interest to order “refunds” to customers paying PGW’s USC and recoupment from CRP customers who received greater benefits.¹⁷ As discussed by PGW witness Denise Adamucci, the CRP Pilot Program has provided significant benefits to low-income customers with actual program costs to-date being much lower than originally projected.¹⁸ Additionally, Dr. Gil Peach, and national expert on utility low income programs also testified that the revised energy burdens were fully justified in terms of the economic burdens on PGW’s low income customers, and that, in fact even lower energy burdens could be justified.¹⁹ Further, any retroactive changes and “refunds” of program costs would have been extremely problematic, given that PGW is a cash flow entity and that refunds would require PGW to charge low-income, CRP customers after the fact to attempt to “clawback” the additional benefits received as a result of the lower energy burdens.²⁰

In order to resolve these concerns, the parties agreed that “[w]ith respect to the Customer Responsibility Program (“CRP”), PGW’s current amended USECP for 2017-2022 will remain in place for the duration of the Plan’s term (until the USECP for 2023-2027 goes into effect)...” This is subject to the modifications contained in the Settlement, which will be implemented on a

¹⁷ See, e.g., Interim Order Granting in Part and Dismissing as Moot in Part PGW’s Motion for Commission Action, Jan. 4, 2022, at Ordering ¶¶ 1-2 (providing that PGW will continue to operate its CRP Pilot Program until otherwise directed, and issues regarding customer refunds are to be addressed through litigation, if necessary).

¹⁸ PGW St. No. 1 at 5, 7-8.

¹⁹ PGW St. No. 2 at 8-17.

²⁰ PGW St. No. 1 at 8-9.

going forward basis only.²¹ The Settlement also provides that “[n]o party will seek refunds or any other method to recover costs, in this proceeding or otherwise, related to PGW’s energy burden Pilot Program or other Plan modifications implemented in compliance with the Commission’s March 26, 2020 Order.”²² As such, the Settlement resolves all issues related to PGW’s USECP for 2017-2022 (although, for clarity, issues of any over-recovery or under-recovery of costs, or application of USECP charges to particular customer or customer classes were not a part of this proceeding).²³

Through these settlement terms, the parties have also agreed that the amended USECP for 2017-2022, including the CRP Pilot Program and the revised energy burdens, are just, reasonable, and in the public interest, and should remain in place. This will allow low-income CRP customers to continue receiving the additional benefits under the CRP Pilot Program consistent with the Commission’s Revised CAP Policy Statement. PGW submits that these terms are in the public interest and should be approved without modification.

C. Procedures to Address Increases in CRP Costs

In their testimony, OCA and OSBA raised concerns about costs associated with the CRP Pilot Program.²⁴ Since non-CRP customers bear the costs of the CRP Pilot Program, it is necessary to balance the benefits received by low-income CRP customers with the costs to other, non-CRP customers.²⁵ OCA in particular recommended that PGW be required to follow a

²¹ Joint Petition at ¶ 30.

²² Joint Petition at ¶ 30(a).

²³ Joint Petition at ¶ 30(b).

²⁴ OCA St. 1 at 35-48; OSBA St. No. 1 at 5-8.

²⁵ *See* the Commission’s Final Policy Statement and Order at 8 (“[t]he Commission balances the interest of customers who benefit from CAPs with the interests of the other residential customers who pay for such programs.”).

process for addressing program costs if those costs were to increase beyond a certain threshold, as well as potentially adopting certain cost control measures if warranted.²⁶

In order to address these concerns, the parties agreed that PGW will take certain steps if its actual annual CRP costs exceed the originally projected budgets by greater than 20%.²⁷ Those steps include: providing this information to the parties in this proceeding; providing actual cost information in March of each year and scheduling a meeting within 30 days of providing the data to discuss costs and receive the parties’ input on “cost controls;” and either proposing going forward CRP cost control measures or justifying why no CRP cost control measures are needed.²⁸ The parties also reserved their rights to petition the Commission to address their cost control concerns, or to propose or oppose any cost control measures in any subsequent USECP or base rate proceeding.²⁹

PGW submits that this process to address an increase of CRP costs of 20% over the originally projected budget is in the public interest. These terms provide PGW and the parties with the opportunity to identify such cost increases and determine whether and how they should be addressed with CRP customers going forward. The terms are also consistent with terms approved as part of other utilities’ implementation of the revised energy burdens,³⁰ as well as statements by Commissioner Coleman strongly encouraging such an approach.³¹ This provides a

²⁶ OCA St. 1 at 41.

²⁷ Joint Petition at ¶ 33.

²⁸ Joint Petition at ¶ 33(a), (b), and (e).

²⁹ Joint Petition at ¶ 33(c) and (d).

³⁰ *See Duquesne Light Co. Universal Service and Energy Conservation Plan for 2020-2025 Submitted in Compliance with 52 Pa. Code § 54.74*, Docket No. M-2019-3008227, Order entered April 21, 2022, at 24, 27-28.

³¹ *Peoples Natural Gas Co. LLC and Peoples Gas Co. LLC 2019-2024 Universal Service and Energy Conservation Plan submitted in compliance with 52 Pa. Code § 62.4*, Docket No. M-2018-3003177 *et al.*,

level of protection for non-CRP customers by helping to contain CRP customer costs that would otherwise fall on these customers, while allowing CRP customers to continue benefitting from the revised energy burdens. For these reasons, PGW submits that this settlement term is in the public interest and should be approved.

D. PGW’s Proposed USECP for 2023-2027

As previously noted, PGW’s next USECP for the 2023-2027 period was submitted to the Commission on October 29, 2021 and is currently pending at Docket No. M-2021-3029323. As part of that plan, PGW proposed the continuation of the revised energy burdens. Through this Settlement, the parties have agreed to terms related to the 2023-2027 USECP proceeding.

First, the parties have agreed to either support or not oppose the continuation of the energy burdens in PGW’s USECP for 2023-2027.³² While recognizing that the USECP for 2023-2027 is currently being addressed in a separate docket, this term helps advance that separate review process by establishing that none of the parties will oppose the continuation (assuming the PUC determines to continue them) of the revised energy burdens into through the next plan period.

Further, regarding the settlement terms establishing the procedures to be followed if CRP costs increase by more than 20%, the parties have agreed that if the Commission approves the revised energy burdens to continue under the USECP for 2023-2027, PGW will continue to follow this process for identifying the cost increases, reporting to the parties, and establishing

Statement of Vice Chairman John F. Coleman, Jr., dated May 12, 2022 (“The Commission recently approved a Joint Petition for Settlement in Duquesne Light Company’s 2020-2025 USECP which contained a provision whereby Duquesne Light Company will notify the parties to their proceeding and seek their input if USECP costs will exceed the projected budget by 10% . . . I believe similar provisions should be considered for inclusion in all USECPs.”).

³² Joint Petition at ¶ 32.

whether any cost control measures are warranted going forward.³³ PGW submits that this is in the public interest for the same reasons discussed in Section C above. This also helps to establish agreement among the parties on their positions regarding PGW’s USECP for 2023-2027 (while recognizing that that review is a separate process at a separate docket) and continues to balance the interests of both CRP and non-CRP customers. Therefore, these terms are in the public interest and should be approved without modification.

E. Review of CRP Customer Bills and USECP Impact Evaluation

In their testimonies, OCA and TURN/CAUSE-PA stated that PGW should track and report on a variety of additional data points related to CRP.³⁴ The parties believed that this information was necessary to understand how the program is working. To resolve these concerns, PGW has agreed to investigate certain data points as part of its review processes.

First, PGW has agreed to “complete a review of CRP for minimum bill, average bill, and Percentage of Income Payment Program (PIPP) customer...” within 18 months after a final order is entered in this proceeding. This review will provide data at a specific point in time, broken down by the following customer income tiers: 0-50% of FPL; 51-100% of FPL; and 101-150% of FPL.³⁵ PGW will evaluate this information to address five (5) specific questions regarding CRP Pilot Program participants, including whether these customers paid their CRP bills, how much arrearage forgiveness they earned, their average annual usage, whether they received LIHEAP grants and the average amount of such grants, and how many were removed from CRP due to non-payment.³⁶ Once this evaluation is complete, PGW will meet with the parties to

³³ Joint Petition at ¶ 33(f).

³⁴ OCA St. 1 at 48-52; TURN and CAUSE-PA St. No. 1 at 18.

³⁵ Joint Petition at ¶ 34.

³⁶ Joint Petition at ¶ 34(a)-(e).

discuss the results. This review will provide additional information to the parties about how the CRP Pilot Program is functioning and assisting CRP customers.

PGW has also agreed to include specific information regarding its CRP as part of its next USECP impact evaluation.³⁷ The specific data points to be included are: payment frequency and bill coverage rates by CRP type; non-payment shut off frequency by CRP type; average CRP credit by credit type; effectiveness of LIURP to reduce gas usage by high-consumption CRP participants; changes in weather-normalized usage for new participants in the CRP compared to their consumption levels as non-participants; and trends in CRP participant weather-normalized usage levels during the past two years, compared to non-participants.³⁸ Once again, this term provides a variety of additional data points that the parties requested and that can be used in their understanding of the program going forward. PGW submits that providing this additional information is in the public interest and the settlement terms should be approved.

F. Additional Method for Submission of CRP Applications By Customers

During settlement discussions, the low-income advocates expressed the need for additional methods for qualifying low-income customers to submit CRP applications. In order to resolve this concern, PGW agreed that, within 90 days after a final order is entered in this proceeding, the Company “will disseminate and publish on its website a fax number by which customers can submit CRP applications and associated supporting documentation.”³⁹ This term will provide an additional avenue for low-income customers to submit application materials to enroll in CRP and benefit from these assistance programs.

³⁷ Joint Petition at ¶ 35.

³⁸ Joint Petition at ¶ 35(a)-(f).

³⁹ Joint Petition at ¶ 31.

III. CONCLUSION

The Settlement provides a reasonable resolution of all issues in this proceeding, and appropriately balances benefits provided to low-income CRP customers with costs to non-CRP customers. It also reduces the administrative burden on the Commission and the litigation costs of the parties. Accordingly, for the reasons set forth above and in the Joint Petition, PGW submits that the Settlement is in the public interest and should be approved without modification.

Therefore, PGW respectfully requests that the ALJs and the Commission: (1) approve the Settlement without modification as in the public interest; and (2) take any other action deemed to be in the public interest.

Respectfully submitted,



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Dated: August 1, 2022

Appendix B

OCA's Statement in Support of Settlement

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Addendum to Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2017-2020	:	Docket No. M-2016-2542415
	:	
	:	
	:	
Petition to Amend Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2017-2022	:	Docket No. P-2020-3018867
	:	

STATEMENT
OF THE
OFFICE OF CONSUMER ADVOCATE
IN SUPPORT OF SETTLEMENT

The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Petition for Settlement (Settlement), finds the terms and conditions of the Settlement to be in the public interest for the following reasons:

I. BACKGROUND

On November 5, 2019, the Commission entered a Final Opinion and Order in the 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code Sections 69.261-69.267 at Docket No. M-2019-3012599 (Nov. 5 CAP Policy Statement Order). The Opinion and Order incorporates issues raised in the proceedings, Energy Affordability for Low-Income Customers, Docket No. M-2017-258711, and Review of Universal Service and Energy Conservation Programs, Docket No. M-2017-2596907. The Commission's Nov. 5 CAP Policy Statement Order identified 17 changes to the CAP Policy Statement, including, among other things, new maximum energy affordability burdens for customers enrolled in the natural gas and

electric distribution companies' Customer Assistance Programs (CAP). Nov. 5 CAP Policy Statement Order at 28-34. The Commission's Nov. 5 CAP Policy Statement Order also identified potential costs relating to the proposed energy affordability burdens. Nov. 5 CAP Policy Statement Order at 24-28. The Nov. 5 CAP Policy Statement Order directed the utilities to file addendums or proposed USECPs (if applicable) within 60 days of the Order.¹

On November 20, 2019, the Office of Consumer Advocate filed a Petition for Reconsideration and Clarification regarding the extent to which the proposed maximum CAP energy affordability burdens for customers at or below 50 percent of the Federal Poverty Level would cause Pennsylvania's electric and natural gas utilities to increase the amount of Low Income Home Energy Assistance Program (LIHEAP) benefits returned to the Department of Human Services. The OCA also requested clarification regarding the cost information to be included in the universal service plan compliance filings and clarification that the compliance plans include this cost information for the revised programs. Also on November 20, 2019, the Energy Association of Pennsylvania (EAP) filed a Petition for Reconsideration and Clarification at Docket Nos. P-2020-3016889 and M-2019-3012599. On February 6, 2020, the Commission issued its Orders denying the OCA's Petition for Reconsideration and/or Clarification and granting the clarification requested in the EAP Petition for Reconsideration and/or Clarification. 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code Sections 69.261-69.267, Docket Nos. P-2020-3016885, M-2019-3012599, Order at 11 (Feb. 6, 2020) (OCA Reconsideration Order); 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code Sections 69.261-69.267, Docket Nos. P-2020-3016889, M-2019-3012599, Order at 11 (Feb. 6, 2020) (EAP Reconsideration Order). In the EAP Reconsideration Order, the

¹ Nov. 5 CAP Policy Statement Order at 106. The OCA notes that although the Commission directed the utilities to file addendums or proposed USECPs within 60 days, the revised energy burdens are not mandatory.

Commission clarified that the filing requirements in Ordering Paragraphs 6,7, and 8 of the Nov. 5 CAP Policy Statement Order did not direct mandatory compliance with the amendments to the CAP Policy Statement and clarified the required information to be filed. EAP Reconsideration Order at 11-12. Relating to the budgets and costs of the proposed changes in the OCA Reconsideration Order, the Commission's Order provided:

The November 5 Order directs that utilities provide enrollment projections in their addendums for the new CAP provision they propose to implement. This requirement has been reiterated in our order addressing the EAP petition for reconsideration at Docket Nos. P-2020-3016889 and M-2019-3012599. To the extent further granularity may be warranted, it can be addressed in utility-specific proceedings.

OCA Reconsideration Order at 11.

On January 6, 2020, Philadelphia Gas Works (PGW or Company) voluntarily proposed a pilot program implementing new maximum energy burdens (pilot programs) for its Customer Assistance Program (CAP), the Customer Responsibility Program (CRP). PGW proposed to reduce the energy burdens to 6% for customers with income at or below 51-100% and 101-150% of the Federal Poverty Level (FPL) and to 4% for customers with income at or below 0-50% of the FPL. Petition at ¶¶ 5, 8, App. H. PGW also proposed to remove the obligation to pay \$5/month towards pre-program arrears and to modify the consumption limits. Petition at ¶¶ 5, 8, App. H. PGW's proposed Amended Plan indicated that the proposed plan costs will increase from \$68,620,083 in 2020 to \$97,104,143 in 2021. PGW Amended USECP 2017-2022 at App. A.

On March 2, 2020, the OCA filed its Answer to PGW's Petition. In its Answer, the OCA responded that the proposed changes to PGW's Plan should not be approved until a full review could be completed, and that a full review could not be completed in the proposed 30 day time period. The OCA argued that such a significant change in the Company's program design and increase to the costs of the program should not be confined to a short timeframe to accommodate

larger billing system changes. The Company's proposed amendments related to the Nov. 5 CAP Policy Statement Order. The OCA identified concerns that the filing raised significant questions as to the cost of the program, the increased costs related to the proposed amendments, the impact of the amendments on the overall plan, and the continued cost-effectiveness of the Plan, among others. In addition, the OCA argued that further analysis of the impact of the changes on returned LIHEAP dollars was also required.

Also on March 2, 2020, the Tenant Union Representative Network (TURN), the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), and Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance) filed a Letter in Lieu of Answer in support of PGW's Petition. The Office of Small Business Advocate (OSBA) filed a Notice of Intervention on March 19, 2020.

On March 26, 2020, the Commission issued an Order granting PGW's Petition for Expedited Approval and approving PGW's Addendum and CRP Pilot Program. The OCA and OSBA each filed Petitions for Reconsideration, and the Petitions for Reconsideration were denied.

The OCA and OSBA subsequently each filed Petitions for Review with the Commonwealth Court on May 4, 2020. In its Remand Order,² the Commonwealth Court determined that the OCA and the OSBA had been denied adequate notice and opportunity to be heard by the 30-day paper pleadings process provided in the Commission's Order below.³ The Remand Order provided that:

[t]he process provided by the Commission here to review and approve the Petition was truncated and limited, effectively, to the pleadings, despite there being factual questions about the proposed Pilot Program, the increased costs of which would be

² See, John R. Evans v. Pa. Public Utility Commission and Tanya J. McCloskey v. Pa. Public Utility Commission, 421 and 422 C.D. 2020 (consolidated), slip op., 2021 Pa. Commw. Unpub. LEXIS 519 (Sept. 29, 2021) (Remand Order).

³ Remand Order at *37-38, 44.

automatically collected from PGW's non-CAP ratepayers through a USECP surcharge. (Cover Letter at 7, R.R. at 9a (stating the Pilot Program would increase PGW's USECP surcharge).) This limited and truncated process did not provide OCA or OSBA a real and meaningful opportunity to be heard on PGW's Petition. Nor did OCA's and OSBA's participation in the general proceedings on the CAP Policy Statement Amendments provide them with a real and meaningful opportunity to challenge this Petition, notwithstanding the Commission's reference in the Reconsideration Order to utility-specific proceedings. Finally, the Commission's past approval of USECP modifications without a hearing and based only on the filings in situations where there were no factual disputes does not mean that hearings are not required to satisfy due process in the face of such disputes. Accordingly, we agree with OCA and OSBA, as well as Commissioners Coleman and Yanora, that the process provided by the Commission in approving the Petition did not comport with the requirements of due process.

Remand Order at *37-38. The Commonwealth Court directed the Commission “to provide evidentiary proceedings and issue a new decision consistent with this Opinion.” Remand Order at *44.

On October 25, 2021, pursuant to Section 5.41 of the Commission’s regulations (52 Pa. Code § 5.41), PGW filed a Petition for Commission Action to request that the Commission schedule an expedited proceeding in order to address PGW’s revised energy affordability burdens that were remanded from the Commonwealth Court’s determination in the above-referenced dockets. In its Petition, PGW requests that the Commission:

- (1) issue an order directing PGW to maintain the existing energy burden Pilot Program as part of its Customer Responsibility Program (“CRP Pilot Program”) on a temporary basis until a final Commission order is issued in the proceeding on remand; (2) set a schedule for an expedited proceeding on remand in order to provide for the evidentiary proceedings and issuance of a new decision required by the Commonwealth Court’s decision; and (3) direct the Office of Administrative Law Judge (“OALJ”) to develop a certified record to be submitted to the Commission for decision.

Petition for Commission Action at 1; see also, Petition for Commission Action at ¶¶ 17-24. As PGW’s Petition for Commission Action notes, PGW implemented the program on September 12, 2020. PGW Petition for Commission Action at ¶ 14. The actual costs of the program changes have been charged to all firm service customers. PGW Petition for Commission Action at ¶ 14.

Consistent with the Commission's March 26, 2020 Order, PGW has also filed quarterly updates regarding the costs of the program to date. PGW Petition for Commission Action at ¶ 14.

On November 15, 2021, the OCA filed its Answer to the PGW Petition for Commission Action. Also on November 4, 2021, CAUSE-PA and TURN filed their respective Petitions to Intervene. CAUSE-PA and TURN filed a Joint Answer to the Petition for Commission Action on November 15, 2021.

The OCA notes that on October 29, 2021, PGW also filed its 2023-2027 Universal Service and Energy Conservation Plan (2023-2027 USECP) which has been docketed at M-2021-3029323. The 2023-2027 USECP was not consolidated with this proceeding.

The remanded matter was referred to the Office of Administrative Law Judges (OALJ) and Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Emily I. DeVoe were assigned. A Prehearing Conference was held on December 20, 2022, at which time a procedural schedule was established.

On May 17, 2022, the OCA submitted the Direct Testimony of Roger D. Colton.⁴ Also on May 17, 2022, TURN/CAUSE-PA submitted the Direct Testimony of Harry Geller and OSBA submitted the Direct Testimony of Robert Knecht. On June 17, 2022, PGW, OCA, and TURN/CAUSE-PA submitted Rebuttal Testimony. The OCA submitted Surrebuttal Testimony on July 1, 2022. On July 11, 2022, PGW submitted the Rejoinder Testimony of Denise Adamucci.

All cross-examination was waived. On July 13, 2022, in lieu of the scheduled hearing, the parties submitted a Joint Stipulation identifying testimony and exhibits to be admitted to the record.

⁴ Mr. Colton is a Principal of Fisher Sheehan & Colton, Public Finance and General Economics in Belmont, Massachusetts. He provides technical assistance to public utilities and primarily works on low income utility issues. Mr. Colton has devoted his professional career to helping public utilities, community-based organizations and state and local governments design, implement and evaluate energy assistance programs to help low income households better afford their home energy bills. He has been involved with the development of the vast majority of ratepayer-funded affordability programs in the nation. A more complete description of Mr. Colton's education and experience is provided in OCA Statement 1, Appendices.

Also on July 13, 2022, the ALJs issued an Interim Order Adopting the Joint Stipulation for Admission of Evidence, Admitting Evidence Into the Record, and Cancelling the Evidentiary Hearing. The parties subsequently informed the ALJs that a settlement in principle had been reached.

The terms and conditions of the Settlement satisfactorily address the issues raised in the OCA's testimony. The OCA recognizes that this Settlement contains modifications from the original recommendations proposed by the OCA. The OCA submits, however, that the agreed upon Settlement achieves a fair resolution of the many complex issues presented in this proceeding.

In this Statement in Support, the OCA addresses those areas of the Settlement that specifically relate to important issues that the OCA raised in this case. The OCA expects that other parties will discuss how the Settlement's terms and conditions address their respective issues and how those parts of the Settlement support the public interest standard required for Commission approval. For these reasons, and those that are discussed in greater detail below, the OCA submits that the Settlement is in the public interest and in the interest of PGW's ratepayers and should be approved by the Commission without modification.

II. SETTLEMENT

A. The Revised Energy Burdens Should Be Approved. (Settlement ¶¶ 30, 32)

The Settlement provides that PGW's current amended USECP for 2017-2022 will remain in place until the Company's pending 2023-2027 USECP goes into effect. Settlement ¶ 30. Any CRP modifications will be implemented on a going-forward basis only and as ordered by the Commission in PGW's subsequent USECPs. Settlement ¶ 30. The Settlement provides that the parties agree to support or not oppose the continuation of the energy burdens in PGW's 2023-2027

USECP. Settlement ¶ 32. The Settlement also provides that no party will seek refunds related to PGW's pilot program. Settlement ¶ 30 (a).

The OCA supports these terms and believes they are in the public interest. Pilot program costs were greatly reduced from those projected in PGW's original filing with the Commission.

As PGW witness Adamucci testified:

[t]he actual costs and enrollment to date with the CRP Pilot Program in place have been much lower than projected. PGW originally projected that its total CRP costs would increase to approximately \$87.0 million in 2021 after implementing the CRP Pilot Program, with an average monthly participation of approximately 75,000 customers. This is as compared to projected total costs of \$59.7 million in 2020 prior to implementation. In reality, actual costs in FY 2021 were approximately \$59.2 million, as opposed to the projected \$87.0 million. Average monthly participation in FY 2021 was approximately 59,000, rather than the projected 75,000. While various factors - including the pandemic and related economic impacts - may have affected these outcomes, to-date the actual costs and participation in CRP with the revised energy burdens have been significantly lower than originally projected.

PGW St. 1 at 7-8.

In his Direct Testimony, OCA witness Colton supported the pilot program changes to the revised energy burdens contingent upon further analysis of the on-going costs of the program and the development of objective outcome measures. OCA St. 1 at 10. OCA witness Colton testified:

[g]iven the reduced cost of the PGW pilot, OCA does not oppose adoption of the PGW pilot on the condition that the outcome measurements proposed below are adopted such that PGW, the Commission, the OCA, and other stakeholders can continue to recognize and measure the ongoing cost impacts of the program, and the extent to which the expenditure of ratepayer dollars on CRP is achieving the outcomes which the program is intended to achieve. As I will describe in detail, the reasonableness of ongoing costs, as well as both the cost-effectiveness and cost-efficiency of the program remain ongoing concerns.

OCA St. 1 at 10. The actual costs of the revised energy burdens have been greatly reduced from the Company's initial projections.

The goal of the revised energy burdens is to improve affordability for low-income customers so that those customers can remain connected to service, but it is also the case that the cost impact on other ratepayers should be considered.⁵ The statutory requirements are two-fold: (1) the programs should assist low income customers to maintain service and (2) reduce or manage energy consumption in a cost effective manner.⁶ The Settlement balances these objectives and provides for the framework to continue to monitor the energy burdens and to measure the outcomes of the program going-forward. The additional Settlement terms discussed below will allow the parties to evaluate the actual annual costs of the CRP discount if the actual CRP costs exceed the budgeted projections by greater than 20%; to evaluate whether the revised energy burdens are effectively addressing the needs of low-income customers; to evaluate the impact on the ratepayers who pay the costs of the program; and to evaluate whether additional cost control measures should be considered in the future. The OCA submits that the pilot program's revised energy burdens

⁵ The Commission noted this balance in its Nov. 5 CAP Policy Statement Order when it provided:

[t]he Commission balances the interests of customers who benefit from CAPs with the interests of the other residential customers who pay for such programs. *See Final Investigatory Order on CAPs: Funding Levels and Cost Recovery Mechanisms*, Docket No. M-00051923 (Dec. 18, 2006) (*Final CAP Investigatory Order*), at 6–7.

Nov. 5 CAP Policy Statement Order at 8.

⁶ Section 2202 of the Natural Gas Choice and Competition Act specifically requires that universal service and energy conservation programs be cost-effective. Universal service and energy conservation programs are defined as:

Policies, practices and service that **help residential low-income retail gas customers** and other residential retail gas customers experiencing temporary emergencies, as defined by the Commission, to **maintain natural gas supply and distribution services**. The term includes retail gas Customer Assistance Programs, termination of service protections and consumer protection policies and service that help residential low-income customers and other residential customers experiencing temporary emergencies to reduce or manage energy consumption **in a cost-effective manner**. . .

66 Pa. C.S. § 2202 (emphasis added); see also, OCA St. 1 at 36.

should be approved as in the public interest. The OCA also supports continuation of the revised energy burdens through the 2023-2027 USECP.⁷

B. The Settlement Provides For Continued Annual Monitoring of Actual CRP Costs If the Actual CRP Costs Exceed 20% of the Projected Costs. (Settlement ¶ 33)

Under the Settlement, PGW will continue to monitor the impact of the revised energy burdens on the actual CRP costs and will provide information to the parties about the actual cost information if the actual annual CRP costs exceed the originally projected budget by greater than 20%. Settlement ¶ 33. If this criterion is met, PGW will provide the actual cost information to all parties in this proceeding and will schedule a meeting within 30 days of providing the data to receive input on the need for cost controls. Settlement ¶ 33(a)-(b). Any party would be able to petition the Commission before or after those meetings to address cost control concerns or to raise or oppose cost control measures in any subsequent USECP or base rate proceeding. Settlement ¶ 33(c)-(d). The Settlement also provides that “PGW will propose going forward cost control measures if CRP costs exceed budgeted amounts by 20% or more, or will justify why, despite this increase, no cost control measures are needed.” Settlement ¶ 33(e). Finally, the Settlement provides that:

[i]f the Commission approves the continued use of the energy burdens approved here in PGW’s currently pending USECP proceeding for the period from 2023-2027, PGW agrees to continue the requirements of this paragraph for the 2023-2027 period, with the comparison for that period being the final projected costs for the 2023-2027 period as approved by the PUC in PGW’s USECP 2023-2027.

Settlement ¶ 33(f).

⁷ The OCA is mindful that PGW’s 2023-2027 USECP is separately pending before the Commission at Docket No. M-2021-3029323 and whether the proposed energy burdens are carried forward in that proceeding will be subject to further review by the Commission. However, consistent with the settlement reached at this docket, the OCA will support continuation of the existing energy burdens in its comments at that docket and in the proceedings initiated therein subject to the Commission’s approval of this settlement with all conditions intact, including the cost monitoring and outcome evaluations reached in the settlement of the captioned matter.

OCA witness Colton specifically recommended that a review of the costs be initiated if costs exceeded 20% of the budget. Mr. Colton testified:

I recommend that if the three-year average per-participant cost increases by 20% or more, PGW should be required to: (1) make an informational filing with the Commission explaining the basis for the cost increases and the steps that PGW is doing to control costs; (2) convene its Universal Service Advisory Committee to assess the extent to which additional responsive actions are appropriate; (3) agree that, if a mutually agreed-upon course of action is not agreed to within the Universal Service Advisory Committee, stakeholders could petition the Commission to amend the USECP with specifically-stated proposed demonstrably responsive actions; and (4) propose in its next filed USECP cost containment measures that seek to protect non-participants.

OCA St. 1 at 41 (footnote omitted).

The Settlement reasonably addresses the OCA's concern regarding actual CRP cost increases and the potential need for cost control measures should CRP costs significantly increase. Under the Settlement, the actual CRP costs will be monitored, and the Settlement will provide a pathway to address potential significant increases to the costs of the program. PGW will proactively monitor increases to the CRP costs of greater than 20% and will affirmatively meet with the parties to explain the reasons for the increases and identify programmatic cost containment measures that may be implemented. Settlement ¶ 33.

As OCA witness Colton testified, 20% is an appropriate benchmark to evaluate cost increases. Mr. Colton explained:

[t]he 20% figure is selected to be sufficiently large that it will not trigger a response simply due to normal fluctuations in program costs, but is not so large that the trigger is never exercised. The 20% figure should be considered in the context of each of the three discrete groups I identify above. While a 20% increase in total CRP costs may not give rise for concern for the third group (i.e., those over 300% of Poverty), it may well give rise for concern for either the first or second group.

OCA St. 1 at 41.⁸

The Settlement provides important protection for customers if the costs of the CRP discount significantly increase. The parties will have the opportunity to provide feedback if actual CRP costs exceed the projected budget by 20%. *Id.* The OCA submits that the proposal will allow the parties to monitor the costs of the program and to better understand the reasons for the cost increases. The parties will have the ability under the Settlement to recommend and/or to implement necessary changes to address the cost increases. Under the Settlement, if CRP exceeded budgeted amounts by 20% or more, in the next USECP, PGW will propose going forward cost control measures or will justify why, despite this increase, no cost control measures are needed. Settlement ¶ 33(e). The Settlement provision will work to address the OCA's concern related to potential unconstrained increases to the budget and provide a forum to address the need for additional cost control measures.

The OCA notes that Vice Chairman cited favorably to a similar cost tracking mechanism approved as a part of the Settlement of the Duquesne Light Company 2020-2025 USECP. The Duquesne Settlement provided for the tracking of important cost data and for further evaluation if costs exceeded the identified trigger (in that case 10%). In his Statement in response to the most recent Peoples Natural Gas Company and Peoples Gas Company USECP, Vice Chairman Coleman supported the Duquesne Settlement's provisions for tracking cost increases and recommended that similar provisions be considered in all USECP proceedings. In response to the Settlement, Vice Chairman Coleman's Statement provided:

[t]he proposed Order before us today directs the Peoples Companies to track data related to these CAP payment changes for review during their next

⁸ The three discrete groups referenced in Mr. Colton's Direct Testimony are: "(1) customers who are income-eligible for CRP but who do not participate; (2) customers who are *not* income-eligible for CRP, but who have insufficient income to be self-sufficient; and (3) customers who have income that is generally considered to be adequate for the household to be self-sufficient." OCA St. 1 at 36 (emphasis in original).

USECP. I agree with the proposed Order, but I also encourage the Peoples Companies to take more immediate action if CAP costs increase beyond the projected budgets. The Commission recently approved a Joint Petition for Settlement in Duquesne Light Company's 2020-2025 USECP which contained a provision whereby Duquesne Light Company will notify the parties to their proceeding and seek their input if USECP costs will exceed the projected budget by 10% and file a petition with the Commission explaining the cost increase and outlining possible programmatic cost-containment measures.

I believe similar provisions should be considered for inclusion in all USECPs. The Peoples Companies' Proposed 2019 USECP will be in effect for at least five years after it is approved. The Peoples Companies' next proposed USECP is not due until April 1, 2028, for the five years starting January 1, 2029. The Commission should not wait until five years, or more, have passed to address any disproportionate cost impact to the residential customers who are paying for the Peoples Companies' CAPs. To that end, I encourage the Peoples Companies to notify the parties to this proceeding and seek their input if CAP costs will exceed the annual projected budget by 10% and to file a petition with the Commission explaining the cost increase and outlining possible cost-containment measures.⁹

See also, OCA St. 1R at 4. The factual circumstances of the instant case differ from the Duquesne USECP, so the data tracked and the trigger for examination of cost increases also differs in this case. However, the concept and the objective are the same. The costs of the program changes should be monitored and evaluated, and the parties should not wait five years to evaluate significant changes to the costs of the program.

For the reasons set forth above, the OCA submits the proposed Settlement provisions are in the public interest and should be approved.

⁹ Peoples Natural Gas Company LLC and Peoples Gas Company LLC 2019-2024 Universal Service and Energy Conservation Plan Submitted in Compliance with 52 Pa. Code § 62.4, Docket Nos. M-2018-3003177, *et al.*, Statement of Vice Chairman John Coleman (May 12, 2022).

C. The Settlement Will Evaluate the Effectiveness of the Program Changes.
(Settlement ¶¶ 34-35)

In his Direct Testimony, OCA witness Colton recommended that PGW establish measurable outcomes to measure the extent to which the program will improve the ability of its low-income customers to pay their current bills. OCA St. 1 at 20-31. The Settlement provides for important information that will allow for an evaluation of the effectiveness of the program. Within 18 months of the final Commission Order in this proceeding, PGW “will complete a review of CRP for minimum bill, average bill, and Percentage of Income Payment Program (PIPP) customers, broken down for each by the following income tiers at a point in time: 0-50% of FPL; 51-100% of FPL; and 101-150% of FPL.” Settlement ¶ 34. The evaluation will be designed to answer five questions:

- (a) Did pilot program participants pay their CRP bills?
- (b) How much arrearage forgiveness did pilot program participants earn?
- (c) What was the average annual usage of pilot program participants?
- (d) Did pilot program participants receive LIHEAP grants and what was the average grant amount?
- (e) How many pilot program participants were removed from CRP due to termination for non-payment?

Settlement ¶ 34(a)-(e).

In addition to evaluation of the effectiveness of the program, as part of its next USECP Impact Evaluation, PGW will include the following information by CRP type: payment frequency and bill coverage rates by CRP type; non-payment shut-off frequency; and average CRP credit. Settlement ¶ 34(a)-(c). PGW will also include the effectiveness of LIURP to reduce gas usage by high consumption CRP participants; changes in weather-normalized usage for new participants in CRP compared to their consumption levels as non-participants; and trends in CRP participant

weather-normalized usage levels during the past two years, compared to non-participants. Settlement ¶ 34(d)-(f).

In his Direct Testimony, OCA witness Colton specifically recommended that PGW develop outcome measures to evaluate the effectiveness of the revised energy burdens. OCA St. 1 at 5-6, 11-48. Mr. Colton also recommended additional reporting metrics to assist with future evaluation of the program. OCA St. 1 at 48-52. Mr. Colton explained the “‘outcome’ of a program is the accomplishment of program objectives attributable to having performed those activities.” OCA St. 1 at 11. OCA witness Colton recommended that PGW be directed to include in future USECPs a report of the outcome measurements and “(1) its assessment of the outcomes; and (2) an identification of which elements of the proposed USECP have been included to respond to the outcome results.” OCA St. 1 at 15.

The Commission has also previously supported the idea of outcome measures to evaluate the effectiveness of customer assistance programs in its Nov. 5 CAP Policy Statement Order.¹⁰ As OCA witness Colton testified:

[t]he Commission has previously expressed its interest in reviewing outcomes with respect to CAPs. In the Final Policy Statement and Order in Docket M-2019-3012599, for example, the Commission said:

While the most common reason customers are removed from a CAP is due to failure to recertify, we acknowledge that frequency of recertification is a significant but not sole determinant of this suboptimal outcome. Another barrier is the process itself. Utilities should endeavor to find more effective ways of communicating their recertification policies and procedures and develop more efficient ways of collecting appropriate income information from customers in order to minimize disruption in CAP participation.

(Final Policy Statement and Order, at 71 – 72, Docket M-2019-3012599). As can be seen, in this Commission discussion, the Commission did not direct *what* “ways of communicating recertification policies and procedures” should be adopted, nor did it direct *what* “ways of collecting appropriate income information from customers” were appropriate. Instead, it identified the “suboptimal outcome” that

¹⁰ Nov. 5 CAP Policy Statement Order at 71-72.

it stated utilities should avoid (i.e., “customers are removed from CAP. . .due to failure to recertify”).

Moreover, in its Final Policy Statement and Order, the Commission noted “the need for increased awareness.” The Commission, in particular, noted the need “to reach customers, particularly the very marginal, for enrollment in universal service programs.” (Final Policy Statement and Order, at 78 – 79). The Commission said that utilities should “develop more robust efforts to reach customers. . .” (Id.) Again, the Commission did not direct utilities to pursue any particular “robust efforts to reach customers.” Instead, it identified the *outcome* to be achieved (i.e., reach customers, particularly the very marginal for enrollment in universal service programs).

OCA St. 1 at 13-14.

The proposed metrics to be completed within 18 months of a final Commission Order and the five questions to be addressed in the next impact evaluation reasonably address OCA witness Colton’s recommendation to implement outcome measures and reporting metrics. Settlement ¶¶ 34-35. The proposed metrics and information included in the impact evaluation will provide critical information to evaluate the effectiveness of revised energy burdens and whether additional changes are necessary in the Company’s next USECP. That information will allow the stakeholders and the Commission the ability to determine whether the revised energy burdens are reasonably achieving their identified objectives, the impact on ratepayers who pay the costs of the program, and whether further changes such as additional cost control measures are necessary in the Company’s next USECP. The OCA submits that the provision is in the public interest and should be approved.

D. The Settlement Will Also Provide for an Additional Avenue for CAP Customer Enrollment. (Settlement ¶ 31)

The Settlement also provides that “within 90 days after a final PUC order is entered in the proceeding, PGW will disseminate and publish on its website a fax number by which customers can submit CRP applications and associated supporting documentation.” Settlement at ¶ 31. One

of the outcome objectives that OCA witness Colton identified in his Direct Testimony is how PGW is serving its low-income customer population. OCA St. 1 at 16-20. OCA witness Colton testified:

[a]ccording to the PUC's Bureau of Consumer Services (BCS) annual report on and Universal Service Programs and Collections Performance, PGW had 197,855 estimated low-income customers in 2019. (BCS, at 9). PGW had 53,722 CRP participants in 2019. (BCS, at 59). This represents a CRP participation rate of 27.2% ($53,752 / 198,855 = 0.2715$).

OCA St. 1 at 18-19 (footnotes omitted). OCA witness Colton testified that “[o]nly if participation rates within PGW’s low-income population improves will the offer of deeper discounts, and thus lower burdens, truly improve the affordability of service to Philadelphia’s “low-income population” (PGW’s low-income customer base).” OCA St. 1 at 18.

Allowing customers to fax CRP applications and supporting documentation will provide one more pathway for customers to enroll in the program. Improved access to CRP enrollment and recertification is a key element to improving the outcomes for PGW’s enrollment of low-income customers in its programs. The OCA submits that the provision is in the public interest and should be approved.

III. CONCLUSION

The Office of Consumer Advocate submits that the terms of the Settlement are in the public interest and in the interest of both PGW's CRP participants and the non-participant customers who pay the costs of the program. Based on the above reasons, the Office of Consumer Advocate submits that the proposed Settlement should be approved.

Respectfully Submitted,

/s/ Christy M. Appleby

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DATE: August 1, 2022

Appendix C
TURN/CAUSE-PA's
Statement in Support of Settlement

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition to Amend Philadelphia Gas Works :
Universal Service and Energy Conservation : Docket No. P-2020-3018867
Plan for 2017-2022 :

**JOINT STATEMENT OF
THE TENANT UNION REPRESENTATIVE NETWORK AND
THE COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY
EFFICIENCY IN PENNSYLVANIA IN SUPPORT OF THE JOINT PETITION FOR
SETTLEMENT**

The Tenant Union Representative Network (TURN) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) (collectively TURN/CAUSE-PA), signatory parties to the Joint Petition for Settlement (Joint Petition or Settlement), respectfully request that the terms and conditions of the Joint Petition be approved by Deputy Chief Administrative Law Judge Mark A. Hoyer, Administrative Law Judge Emily I. DeVoe, and the Pennsylvania Public Utility Commission (Commission) without modification.¹ For the reasons stated more fully below, we assert that the terms and conditions of the Settlement are in the public interest and should be approved without delay.

¹ On December 11, 2020, CAUSE-PA filed a Petition to Intervene and Answer in this proceeding.

I. INTRODUCTION

The threshold question before the Commission in this proceeding is whether PGW's implementation of the Commission's lower energy burden standards, set forth in the Commission's CAP Policy Statement, 52 Pa. Code §§ 69.261-267, via a pilot program (CRP Pilot Program), is just, reasonable, and consistent with the Commission's statutory universal service obligations.² If so, the CRP Pilot Program should continue without interruption. As explained herein, the proposed Settlement answers these threshold questions in the affirmative. PGW's CRP Pilot Program is just and reasonable and consistent with the Commission's statutory universal service obligations. As such, PGW's CRP Pilot Program should continue without interruption – ensuring low income consumers will continue to receive critically important rate relief designed to reduce disparities in energy burdens across low income communities.

As TURN/CAUSE-PA's expert witness, Harry S. Geller, explained at length in his direct testimony, “the CRP Pilot Program represents a justifiable, reasonable, and moderate step towards improving low income customers' ability to afford natural gas service.”³ Indeed, PGW's CRP Pilot Program has provided critically important rate relief to low income consumers – helping alleviate categorical rate unaffordability within PGW's CRP.⁴ The cost of PGW's CRP Pilot Program has, in turn, proven to be just and reasonable. Indeed, the cost has been substantially lower than PGW originally projected.⁵ As Mr. Geller explained, the financial impact of the CRP Pilot Program to non-CRP ratepayers has not had an appreciable impact on the relative energy burden of non-CRP

² See 66 Pa. C.S. § 2203(8); 52 Pa. Code § 69.261 *et seq.*

³ TURN/CAUSE-PA St. 1 at 12.

⁴ TURN/CAUSE-PA St. 1 at 8-10.

⁵ TURN/CAUSE-PA St. 1 at 16.

customers.⁶ In short, the record in this proceeding has shown that the benefits of affirming PGW's CRP Pilot Program in this proceeding far outweigh the costs.

The terms and conditions contained in the proposed Settlement, as they pertain to PGW's CRP Pilot Program, are just, reasonable, and squarely in the public interest. The proposed Settlement ensures CRP customers will continue to receive a more affordable CRP rate consistent with the Commission's years-long study of low income rate affordability, which informed the Commission's revised energy burden standards for CAP rates.⁷

The proposed Settlement also improves access to CRP, by providing a direct fax number to submit CRP applications and supporting documentation. Furthermore, the proposed Settlement improves PGW's CRP data tracking and reporting to ensure the Commission, the parties, and other stakeholders are able to meaningfully evaluate the CRP Pilot Program and identify whether further program improvements are necessary to fulfill the Commission's statutory obligation to ensure universal service programs are appropriately funded and accessible to assist those in need.

Finally, the proposed Settlement contains a collaborative process for the parties to review program outcomes and determine whether PGW should proceed with proposing interim adjustments to the CRP Pilot Program prior to expiration of PGW's currently pending USECP. Together, these terms represent a reasonable and balanced resolution of all issues in this proceeding.

The proposed Settlement was arrived at through extensive, good faith negotiation by all parties. For the reasons set forth below, TURN/CAUSE-PA assert that the Settlement is in the

⁶ TURN/CAUSE-PA St. 1 at 11-12.

⁷ Pa. PUC, BCS, Home Energy Affordability for Low-Income Customers in Pa., Docket No. M-2017-2587711 (Jan. 2019), <https://www.puc.pa.gov/pcdocs/1602386.pdf>; 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261-69.267, Final Order, Docket No. M-2019-3012599 (Nov. 5, 2019).

public interest in that it balances the interests of the parties while advancing the critical affordability needs of low income consumers. If approved, the Settlement will avoid substantial litigation and associated costs, and will eliminate the possibility of further appeals and the associated costs. As such, CAUSE-PA asserts that the Joint Petition for Settlement should be approved without modification.

II. BACKGROUND

For the purposes of this Statement in Support, TURN/CAUSE-PA adopt the procedural history as set forth in the attached Joint Petition. (Joint Pet. at ¶¶ 1-28).

III. SUPPORT FOR THE SETTLEMENT

The terms and conditions of the Joint Petition reflect a reasonable and balanced compromise of the varied interests of the parties in this proceeding. As such, CAUSE-PA urges the Commission to approve the Settlement without modification.

A. Affirmation of PGW's CRP Pilot Program

In paragraph 30 of the proposed Settlement, the parties agree that PGW's CRP Pilot Program, as outlined in PGW's current amended USECP for 2017-2022, will remain in place until the effective date of PGW's pending USECP for 2023-2027, subject to modifications contained in the Settlement. (Joint Pet. at ¶ 30). Importantly, the Settlement provides that any modification to the current program contained in the Settlement will be implemented on a forward-going basis, and will not be applied retroactively. (Id.) As such, the parties agree not to seek any refunds or to otherwise alter previously approved cost recovery for the CRP Pilot. (Id.)

Together, this paragraph of the proposed Settlement affirms PGW's CRP Pilot Program and ensures that low income CRP participants will continue to receive more affordable rates

consistent with the Commission’s CAP Policy Statement and in furtherance of the Commission’s statutory universal service program obligations.⁸

It is critical to maintain improved rate affordability within PGW’s CRP. As Mr. Geller explained in direct testimony, “[l]ow income customers struggle on a daily basis to make ends meet, and often make untenable choices between paying for utility services and other critical necessities – including food, medicine, and housing.”⁹ PGW’s service territory, which encompasses the City of Philadelphia, has a substantial low income population. In 2020, 27.5% of PGW’s residential customers were confirmed to be low income.¹⁰ Across the city, various demographic groups – including people of color, seniors, children, and renters – are disproportionately likely to live in poverty.¹¹ These same demographic groups are, in turn, more likely to face disproportionately high energy burdens and correspondingly high rates of payment trouble and involuntary termination.¹² In 2020, approximately 83.7% of PGW’s confirmed low income customers were payment troubled (excluding CRP participants).¹³ And in 2019, 68% of all involuntary terminations were for confirmed low income customers – two times higher than the overall residential termination rate.¹⁴ It is critical that CRP provide an appropriate level of assistance to reduce these disparities in payment trouble and termination. Indeed, that is the stated purpose of a Customer Assistance Program: to provide an alternative path to collections for those who are unable to pay.¹⁵

⁸ See TURN/CAUSE-PA St. 1 at 8-9; 66 Pa. C.S. § 2203(8); 52 Pa. Code § 69.261 *et seq.*

⁹ TURN/CAUSE-PA St. 1 at 13.

¹⁰ *Id.*

¹¹ *Id.* at 13-15.

¹² TURN/CAUSE-PA St. 1 at 13-15.

¹³ TURN/CAUSE-PA St. 1 at 14.

¹⁴ *Id.* at 14. Note that due to the pandemic, 2019 was the last year for which full-year representative termination data was available.

¹⁵ See 52 Pa. Code § 69.261.

Continuation of PGW's CRP Pilot Program will also provide benefits to other residential, commercial, and industrial customers across PGW's service territory. As the Commission has previously concluded, "all firm customers, including commercial and industrial customers, benefit indirectly from PGW's extensive low-income assistance programs."¹⁶ This includes reduced collections and uncollectible account rates, reduced involuntary terminations, and improved family and community stability.

Ultimately, preservation of PGW's CRP Pilot Program until the effective date of its next USECP will improve rate affordability for thousands of low income Philadelphians. Ongoing rate affordability for CRP participants will likewise deliver associated benefits to the communities in which they live and work.

Paragraph 32 of the proposed Settlement is another notable provision that affirms the justness and reasonableness of PGW's CRP Pilot Program. Pursuant to this paragraph, the parties agree to either support or not oppose continuation of the energy burden standards in PGW's pending USECP for 2023-2027, which is currently pending review.¹⁷ By agreeing not to oppose PGW's reduced energy burden standards in its pending USECP for 2023-2027, the proposed Settlement will help to preserve the parties' and the Commission's resources necessary to raise and respond to conflicting positions and will provide greater consistency and stability for CRP participants.

B. Improved CRP Program Access

Pursuant to paragraph 31 of the proposed Settlement, PGW will disseminate and publish on its website a fax number by which customers can submit CRP applications and associated

¹⁶ TURN/CAUSE-PA St. 1-R at 10; Pa. PUC v. Philadelphia Gas Works, R-2017-2586783 at 74 (Nov. 8, 2017), available at <https://www.puc.pa.gov/pdocs/1543224.docx>.

¹⁷ Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2023-2027 Submitted in Compliance with 52 Pa. Code § 62.4, Docket No. M-2021-3029323.

supporting documentation. This Settlement provision serves the recognized and mutually embraced objectives of ensuring availability of CRP to all qualifying low income customers, regardless of their ability to access PGW services in person or via PGW's website. Although some low income customers may be able to utilize internet resources to apply for and recertify eligibility for CRP, there are certainly many low income customers for whom these resources are still not adequately available.

Given the closure of PGW's customer service centers, TURN and CAUSE-PA aver that it is essential that additional pathways be created to ensure that CRP-eligible customers have the ability to provide PGW with the necessary information to enroll and continue to participate in CRP. By publishing and disseminating a fax number, these customers will be able to utilize other community-based resources, including Neighborhood Energy Centers, elected official constituent services offices, and other non-profit and community organizations to submit their CRP applications and documentation to PGW. The proposed Settlement's inclusion of this term is vital to the interests of the low income PGW customers, and their allies, who are members of TURN and CAUSE-PA.

C. Data Tracking and Reporting

The proposed Settlement contains several provisions designed to improve data tracking and reporting with regard to the CRP Pilot Program, helping to ensure that the Commission, the parties, and stakeholders have access to information necessary to assess the program. Paragraph 34 provides that PGW must review each CRP rate by income tier to determine rates of CRP bill coverage, payment frequency, average usage, receipt of LIHEAP, and program removal.

In his direct testimony, Mr. Geller explained that several factors impacted full analysis of PGW's CRP Pilot Program, including the fact that PGW does not currently track certain data

necessary to examine the full extent of the benefits driven by the CRP Pilot.¹⁸ Mr. Geller recommended that PGW “improve data collection, tracking and storage practices to enable a third-party evaluation to more accurately determine the ways in which the pilot program has benefited CRP customers.”¹⁹

The proposed Settlement will help improve PGW’s data collection and tracking – helping to facilitate a more holistic review of how CRP benefits participants and the broader Philadelphia community. For these reasons, TURN and CAUSE-PA submit that this proposed Settlement term is vital to facilitating the shared interests of the settling parties that CRP be accessible on an ongoing basis to low-income customers, facilitate CRP customer payment, and consider other available resources, such as LIHEAP.

D. Program Assessment and Adjustment

Paragraph 33 of the proposed Settlement establishes a trigger for automatic review of PGW’s CRP Pilot Program if costs exceed more than 20% of the projected budget. (Joint Pet. at ¶ 33). The review, if triggered, would require PGW to notify the parties of the higher-than-anticipated costs, and organize a meeting to discuss the costs and identify whether PGW should implement cost control mechanisms. (*Id.*) Following this meeting, the proposed Settlement requires PGW to either propose cost control measures or explain why cost control measures are unnecessary.

This provision of the proposed Settlement will help to ensure a touch-point to review and assess PGW’s CRP Pilot Program and, if warranted, to make additional adjustments to the program. TURN and CAUSE-PA believe this is a reasonably balanced approach, as it does not prejudge whether program reforms are necessary. Rather, it establishes a deliberative process to

¹⁸ TURN/CAUSE-PA St. 1 at 16.

¹⁹ TURN/CAUSE-PA St. 1 at 18.

collaboratively examine relevant data and determine whether program features are the driver of higher than projected costs.

IV. THE SETTLEMENT IS IN THE PUBLIC INTEREST

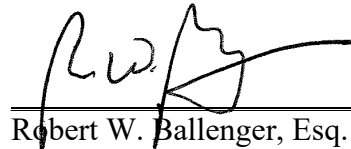
The proposed Settlement reasonably balances a range of interests in this proceeding. Not only does the Settlement preserve PGW's CRP Pilot Program – and the reduction in CRP rates included therein – it also contains provisions that will increase opportunities to enroll and remain in CRP, while also advancing PGW's data tracking, reporting, and program assessment to ensure the Commission and stakeholders can meaningfully evaluate the need for future program reforms. The Settlement also helps preserve limited resources of PGW, the Commission, and the parties to this proceeding by eliminating the need for further litigation and subsequent appeal.

V. CONCLUSION

TURN/CAUSE-PA submit that the proposed Joint Petition for Settlement, which was achieved by the Joint Petitioners after an extensive investigation of PGW's CRP Pilot Program and associated costs and metrics, is in the public interest and should be approved. Acceptance of the proposed Settlement avoids the necessity of further administrative and appellate proceedings regarding the settled issues at what would otherwise be a substantial cost to the Joint Petitioners and PGW's customers. Accordingly, TURN/CAUSE-PA respectfully request that the Commission approve the proposed Settlement without modification.

Respectfully submitted,

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