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September 25, 2009

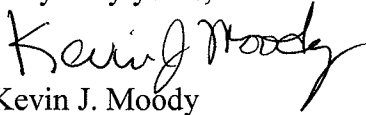
James McNulty, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265Re: Philadelphia Gas Works Universal Service and Energy Conservation Plan
2008-2010 Submitted in Compliance with 52 Pa. Code § 62.4;
Docket No. M-00072021

Dear Secretary McNulty:

Enclosed please find the original, Prehearing Memorandum of Philadelphia Gas Works, which was electronically filed today, in the above-referenced matter. As evidenced by the attached Certificate of Service, the parties of record have been served in the manner indicated.

If you have any questions regarding this filing, please contact me at your convenience.

Very truly yours,


Kevin J. MoodyKJM/jls
Enclosure

cc: Certificate of Service w/enc

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below in accordance with the requirements of § 1.54 (relating to service by a participant).

VIA EMAIL AND FIRST CLASS MAIL

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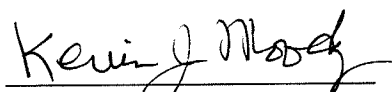
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Date: September 25, 2009


Kevin J. Moody, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Re: Philadelphia Gas Works Universal :
Service and Energy Conservation Plan : **Docket No. M-00072021**
2008-2010 Submitted in Compliance :
with 52 Pa. Code § 62.4 :

**PREHEARING MEMORANDUM OF
PHILADELPHIA GAS WORKS**

Philadelphia Gas Works (“PGW”) hereby submits this Prehearing Memorandum pursuant to 66 Pa. C.S. § 333 and the prehearing conference order issued September 15, 2009 by Administrative Law Judge (“ALJ”) Charles E. Rainey, Jr.

I. INTRODUCTION

A. Procedural History

On July 8, 2009, PGW filed a petition to amend its Universal Service and Energy Conservation Plan for 2008-2010 (“Universal Service Plan” or “Plan”) to revise the manner in which federal Low Income Home Energy Assistance Program (“LIHEAP”) Cash Grants are applied to the accounts of Customer Responsibility Program (“CRP”)¹ participants, in order to comply with directives from the Pennsylvania Department of Public Welfare (“DPW”), the agency which administers the LIHEAP program in Pennsylvania. DPW has ordered PGW to change the manner in which it applies these grants as a condition for allowing PGW to continue as a LIHEAP vendor in the upcoming and future heating seasons. If PGW is decertified as a vendor, DPW would not continue its historical practice of delivering grants directly to PGW. Instead, all LIHEAP grants would be paid to customers (i.e. no LIHEAP funding for any customer would be directly delivered to PGW by DPW and receipt of the LIHEAP funding for

¹ PGW’s Customer Assistance Program.

the payment of PGW bills would be dependent upon the customer using the grant he or she received for that purpose). To effectuate this change, PGW requires PUC approval of a modification to its previously approved Universal Service Plan.² Answers to PGW's petition were filed by the Office of Trial Staff ("OTS"), the Office of Consumer Advocate ("OCA") and the Tenant Union Representative Network/Action Alliance of Senior Citizens of Greater Philadelphia ("TURN *et al.*").³ A prehearing conference is scheduled for Thursday, October 1, 2009.

B. Factual Summary

PGW filed its currently effective Universal Service Plan on June 7, 2007, and it was approved, as filed, by Commission Order entered August 31, 2007. Included in the scope of the Plan is PGW's CRP, which was designed to provide affordable payment plans for vulnerable low income customers, in order to avoid the loss of service, to improve the payment behavior of CRP participants, and to reduce collection costs, while minimizing burdens transferred to other customers. As designed and approved by the PUC, the Plan provides that the cost of the discounts provided to CRP participants (the "CAP Credit") is offset in part by LIHEAP Cash Grants received with respect to CRP participants. Under the current Plan, this offset is accomplished by posting the LIHEAP grant to a CRP participant's account and then immediately backing it out for application with all such grants to the Universal Service and Energy Conservation Surcharge ("Surcharge"). The effect of this methodology is to reduce the amount

² 52 Pa. Code §§ 62.3(a), 62.4(a).

³ TURN *et al.* also filed a petition to intervene. OTS argues that the requested change violates the Commission's policy statement at 52 Pa. Code § 69.265(9)(i-ii) and must be rejected. OCA argues that the requested change should not be made without opening a proceeding to investigate how the requested change will impact the CRP program, CRP participants and the charges to non-CRP firm service sales customers. TURN *et al.* supports the requested change to the extent it provides for LIHEAP Cash Grants for the 2008 and 2009 Seasons to be applied to reduce the CRP "asked to pay" balance and arrears, but opposes recovery through an increased Surcharge of the amount of the LIHEAP Cash Grants retroactively allocated to individual CRP participants for the 2008 Season.

of subsidy for which non-CRP customers are responsible. Individual CRP customers receive the benefit of the Cash Grants under the Company's present method because PGW's "Percentage of Income" CRP provides a CAP Credit that implicitly credits the customer for the Cash Grant (whether or not he or she actually applies for or receives it).

Notwithstanding this long-standing practice which is authorized by the Commission's CAP Policy Statement, by letter dated May 6, 2009 (Exhibit "B" to PGW's petition), DPW required that PGW stop utilizing its PUC approved application of Cash Grants to CRP accounts and instead apply them directly to the respective CRP participant's monthly CRP bills (the "asked to pay" amount) or any CRP arrears, and any remainder to future CRP "asked to pay" bills. In subsequent correspondence to the Chairman of the PUC, the Secretary of DPW affirmed the Department's position that PGW is required to apply Cash Grants to individual CRP customer accounts beginning in the 2009-10 LIHEAP season.⁴ Accordingly, PGW is asking the PUC to approve an amendment of PGW's Universal Service Plan to permit the application of LIHEAP Cash Grants as required by DPW for the upcoming 2009-10 LIHEAP season.⁵

As PGW anticipates that the 2009 LIHEAP grants will begin being issued in November 2009, PGW has requested expedited approval of the Plan amendment so that it is in effect when the 2009 LIHEAP grants are issued. Failure to so approve the Plan amendment will likely lead to PGW's disqualification as a LIHEAP vendor and throw the operation of the Plan and the CRP into total disarray, possibly unnecessarily subjecting CRP participants to the loss of a direct application of Cash Grants and the risk of service termination. Attempting to apply Cash Grants to customer accounts on a retroactive basis because of late approval of the mandated program

⁴ The letter is attached hereto as Exhibit "A".

⁵ At this time, PGW does not intend to pursue an amendment of the Plan effective for the 2008 Season.

change is administratively infeasible and potentially harmful to customers. For those reasons, PGW needs immediate PUC approval.

C. Summary of Position

The sole issue raised by PGW's petition is whether PGW's Universal Service Plan must be amended to permit it to comply with DPW's directive to apply LIHEAP Cash Grants to the respective CRP participant's "asked to pay" bills. The amendment requested by PGW is necessary to permit PGW to comply with the directive of DPW – the sole administrator of LIHEAP funds in Pennsylvania – and to continue as a LIHEAP vendor for the upcoming 2009-10 LIHEAP season. All other issues that the parties appear to wish to raise are beyond the scope of PGW's petition, and should be raised in other proceedings these parties may initiate at any time. The attempts to inject issues not germane to the immediate need to be resolved by PGW's requested Plan amendment should be rejected.

As explained in more detail below, PGW believes that it is imperative that it obtain authorization to amend its Plan to apply Cash Grants directly to CRP customer accounts in time to do so for this upcoming winter heating season – i.e., by the beginning of November at the latest. Accordingly, it plans to file next week a Petition for Interlocutory Review and Answer to Material Question with the ALJ asking that this question be immediately placed before the Commission in a timely manner. PGW submits that issues concerning the effect of DPW's directive on non-CRP customers and necessary changes in PGW's CRP – while important – are not within the scope of this limited proceeding.

PGW acknowledges that as a result of DPW's directive prohibiting the current application of Cash Grants, the amount of the Surcharge paid by non-CRP participants will be higher on a continuing, going forward basis than it otherwise would have been under PGW's present method. In a future proceeding, PGW plans to seek PUC approval to further modify its

CRP structure in light of this change and the increased burden to be placed on its non-CRP customers going forward, and to conform the program support for low income customers to the PUC's original intentions. PGW plans to propose such changes only after obtaining input from certain parties and after thorough study.

However, any such additional changes that might be approved by the PUC are complex, require study, and will be enormously difficult for PGW to implement, all of which will require substantial lead time. This several month minimum lead time makes any such changes to the structure of CRP for this upcoming LIHEAP season simply impossible. Moreover, given the serious consequences of making changes to the CRP, PGW believes that it would be imprudent and unreasonable to rush and make haphazard changes (which it has not had the ability to study in order to understand potential consequences therefrom) or to make them on some type of interim or temporary basis – even if that were possible operationally, which it is not.

II. INFORMATION REQUIRED BY PREHEARING CONFERENCE ORDER

A. Status of Settlement Discussions

As time is of the essence in this matter, PGW has engaged in discussions with various parties to attempt to resolve or narrow contested issues. Although PGW has not reached any such agreements, PGW remains hopeful that this matter will be resolved without the need for litigation because of the need to amend the Plan as requested before the 2009-10 LIHEAP Cash Grants begin to be received, which will likely be as early as November 2009.

B. Admissions or Stipulations

As stated above, the parties' discussions have not yet produced any admissions or stipulations.

C. Status of Discovery

PGW has not received formal discovery requests but has provided information informally in response to certain parties' requests.

D. Proposed Schedule for Discovery

As explained above, the Universal Service Plan change requested herein as ordered by DPW must be in place by the start of the 2009-10 LIHEAP season, or by November 2009. PGW submits, therefore, that if the Administrative Law Judge elects to have this case proceed while the Petition for Interlocutory Review and Answer to Material Question is pending, any formal discovery should be on an expedited basis. Parties should be required to serve discovery on PGW by October 6. Responses to discovery should be due within five (5) calendar days of service. Objections to discovery should be communicated orally within three (3) calendar days of service, and unresolved objections submitted in writing within five (5) calendar days of service. Service of documents by email by 5:00 p.m. on a due date should be considered timely, and follow-up service of hard copies by first class mail should not be required (except for briefs, if necessary), but hard copies may be provided upon request .

E. Legal and Factual Issues to be Addressed

1. Whether the PUC must authorize a modification in PGW's Universal Service Plan to enable PGW to comply with the directive from DPW that, for the 2009-10 LIHEAP season (and thereafter), PGW shall apply LIHEAP Cash Grants received from DPW on behalf of CRP customers who assign such grants to PGW directly to the relevant CRP customer's account (i.e., to their "asked-to-pay amount", to CRP asked to pay arrearage, and if there is a remaining credit as a credit on future asked-to-pay amounts) as opposed to its present method of applying such grants.
2. Whether issues about the rate effect of such a change on non-CRP firm customers via PGW's Universal Service automatic adjustment mechanism, or the effect on base rates (via changes in PGW's experienced bad debt) are outside the scope of this proceeding.

3. Whether other modifications to PGW's approved CAP/CRP as a result of the DPW-directed change in applying LIHEAP Cash Grants are outside the scope of this proceeding.
4. Whether PGW is capable from an operational standpoint of implementing any other modifications in its existing CRP (e.g., to offset the effect of the change in Cash Grant application) in time for the 2009-10 LIHEAP season.
5. Whether failure to timely comply with the DPW directive to implement this change creates a potential loss of benefits for CRP customers as well as additional detriment to PGW.

F. Witnesses

If testimony is required, PGW intends to present the following witnesses:

1. Cristina Coltro, Vice President of Customer Affairs
2. Randy Gyory, Senior Vice President of Operations and Customer Affairs

G. Issues Witnesses will Address

If necessary, PGW's testimony will address the following issues:

1. Cristina Coltro

The changes required by DPW in the application of LIHEAP Cash Grants to CRP participants for the 2009-10 LIHEAP season.

The effect on PGW's status as a LIHEAP vendor of the Commission's failure to approve the requested Plan changes before the 2009-10 LIHEAP season.

Whether it is feasible, in this proceeding, to consider changes to the CRP structure resulting from the implementation of DPW's directives for the 2009-10 LIHEAP season.

- (a) Randy Gyory

The inability and inadvisability of modifying PGW's billing system to reflect a modification of its existing CRP in time for the upcoming 2009-10 LIHEAP season.

H. Proposed Date for Second Prehearing Conference

PGW submits that a second prehearing conference will be necessary only if the Commission declines to review and address the material question to be presented by PGW.

However, as it is uncertain at this time whether or when this will occur, PGW proposes that setting a date for a second prehearing conference be deferred.

I. Proposed Schedule for Submission of Written Testimony (if necessary)

As stated above, PGW believes that written testimony is neither necessary nor appropriate because the issues raised by PGW's petition are questions of law/policy and the other issues raised by the parties are outside the scope of this proceeding. PGW intends to request that these questions be certified to the full Commission for determination in a timely manner. Nonetheless, PGW will be discussing a proposed litigation schedule with the parties and hopes to have a consensus proposal to present at the next prehearing conference, if the Commission declines or is not presented with the certified question.

J. Proposed Schedule for Public Input Hearings (if necessary)

PGW defers to the other parties with respect to the need for and scheduling of public input hearings.

K. Proposed Schedule for Evidentiary Hearings

See No. 9 above.

L. Proposed Briefing Schedule

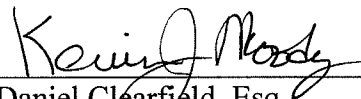
See No. 9 above.

M. Any Other Pertinent Information

The need for immediate amendment of PGW's Universal Service Plan as requested, and deferral to another subsequent proceeding the consideration of changes to CRP, cannot be overstated. There can be no reasonable dispute that PGW's Plan must be amended as requested before the 2009-10 LIHEAP season to ensure PGW's continued participation as a LIHEAP vendor and to ensure that CRP customers' accounts and service are not thrown into disarray from delayed amendment. Thus, the primary dispute is whether other changes to the Plan, including

the entire structure of CRP, should also be addressed now. PGW submits that there is simply insufficient time to do so and, more importantly, it is not in the public interest to do so now, because: (1) as the party responsible for its Universal Service Plan, potential modifications to CRP must be analyzed and understood by PGW and PGW must have the operational ability to timely implement modifications; (2) failure to approve the requested Plan changes to be effective before the 2009-10 LIHEAP season jeopardizes both PGW's LIHEAP vendor status and service to CRP participants; and (3) any party desiring to expand this proceeding beyond the narrow scope presented by PGW's petition is free to file, at any time, a complaint or other pleading raising those other issues, if unsatisfied with the pace of PGW's efforts on those issues. However, it would be tantamount to a denial of PGW's petition to expand the scope to include a full investigation of all the possible effects of DPW directive.

Respectfully submitted,



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Date: September 25, 2009

EXHIBIT A



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
P.O. BOX 2675
HARRISBURG, PENNSYLVANIA 17105-2675

Estelle B. Richman
Secretary

SEP 8 2009

Telephone 717-787-2600/3600
FAX 717-772-2062

The Honorable James Cawley
Chairman
Public Utility Commission
PO Box 3265
Harrisburg, Pennsylvania 17105-3265

Dear Chairman Cawley:

I am writing to follow up on several discussions that have taken place among the Public Utility Commission (PUC), the Department of Public Welfare (DPW) and the Governor's Office regarding the Low Income Home Energy Assistance Program (LIHEAP) and Customer Assistance Plans (CAP).

This correspondence confirms that DPW has extended the date by which fuel vendors will need to return signed vendor agreements in order to participate in the 2009/10 LIHEAP program. The extended date is September 30, 2010.

I would also like to confirm that DPW has extended the timeframe by which all regulated utility companies who offer CAP plans to LIHEAP customers will need to revise their plans to come into compliance with federal law. DPW has extended the timeframe to the start of the 2010/11 LIHEAP season. DPW will continue to work with PUC and the regulated utility companies to design programs that comply with federal LIHEAP statute. **In order to ensure that regulated utilities were promptly notified, DPW has directly contacted the companies to advise them of these changes.**

In addition, DPW is in the process of revising the proposed state plan and will be submitting it to the US Department of Health and Human Services for approval on or before September 25. Upon federal approval, the final state plan will be posted on the DPW website.

The one exception to the extended timeframe for coming into compliance with federal statute is Philadelphia Gas Works (PGW). As you know, discussions continue on this matter, but it is our expectation that PGW will stop the practice of pooling LIHEAP funds and develop a plan that assures individual LIHEAP recipients receive the full benefit of the LIHEAP cash payment for which they are eligible. DPW understands that PGW must wait for PUC approval to make this change and has agreed to cooperate with the PUC process. However, as a LIHEAP vendor, PGW will be

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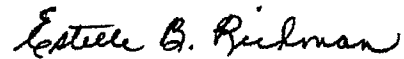
The Honorable James Cawley

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expected to apply all payments issued during the 2009/10 LIHEAP season to individual accounts retroactively once the PUC has approved the plan.

I look forward to further collaboration with you to assure that LIHEAP funding is used effectively to benefit Pennsylvania's low income households.

Sincerely,

A handwritten signature in cursive script that reads "Estelle B. Richman".

Estelle B. Richman