

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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Consumer Advocate

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September 25, 2009

James J. McNulty  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

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

Dear Secretary McNulty:

Enclosed for filing is the Prehearing Memorandum of the Office of Consumer Advocate,  
in the above-referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

  
Christy M. Appleby  
Assistant Consumer Advocate  
PA Attorney I.D. # 85824

Enclosures

cc: Honorable Charles E. Rainey, Jr.

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. § 333, and in response to the Prehearing Conference Order issued in the above captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

**I. INTRODUCTION**

On July 8, 2009, Philadelphia Gas Works (PGW or the Company) filed a Petition to Amend its Universal Service and Energy Conservation Plan (Plan) 2008-2010. PGW requests amendment of its Plan to change how the Company applies the federal Low Income Home Energy Assistance Program (LIHEAP) cash grants to low-income Customer Responsibility Program (CRP) participants. PGW avers that it is seeking to amend the Plan because the Pennsylvania Department of Public Welfare (DPW) has ordered PGW to do so as a condition of allowing PGW to continue as a LIHEAP vendor in the upcoming, and future, winter heating seasons. Petition at 1. According to Exhibit B of PGW's Petition, DPW has required that going forward, and retroactively for all grants issued during the 2008 winter heating season, PGW must apply the LIHEAP grants to past due CRP bills. Petition

at ¶ 4. Further, for the 2008 winter heating season, PGW seeks retroactive cost recovery through the Universal Service and Energy Conservation (USC or Surcharge) of \$15.2 million from all firm service customers as a result of these changes. Petition at ¶ 12.

The matter was assigned to the Office of Administrative Law Judge for investigation and review and was further assigned to Administrative Law Judge Charles E. Rainey, Jr. The OCA filed its Notice of Intervention and Answer on July 28, 2009.

## **II. FACTUAL ISSUES AND LEGAL ISSUES TO BE ADDRESSED**

Based upon a preliminary analysis of the Company's Petition, the OCA has compiled a list of issues that it anticipates will be included in its investigation. It is anticipated that other issues may arise as discovery is conducted.

The OCA has identified several issues that require further review as follows:

Changes Proposed to the Application of LIHEAP Payments and its Impact on CRP Participants and Non-CRP Firm Service Customers: The OCA will examine PGW's proposed change to the method of applying LIHEAP payments. The Company's proposal requires an examination of the existing CRP program and how the proposed changes will affect the balance between the need for affordability for CRP participants and the resultant cost recovery from non-CRP firm service sales customers. The OCA will analyze whether PGW's proposal will require further CRP program design changes in order to restore the balance of affordability under the Commission's CAP Policy Statement.

Cost Recovery: The OCA will examine PGW's request to retroactively recover \$15.2 million from ratepayers through the USC. The OCA will analyze whether PGW's proposal is in compliance with all Commission regulations, statutes and applicable case law, including whether PGW's proposal constitutes retroactive ratemaking, and will evaluate whether this request is reasonable.

**III. STATUS OF SETTLEMENT DISCUSSIONS**

The OCA has had several informal discussions with the parties and is willing to participate in settlement discussions.

**IV. STATUS OF DISCOVERY**

The OCA has informally exchanged information with the Company but has not issued any formal discovery.

**V. WITNESSES**

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of Roger D. Colton. Mr. Colton will present testimony in written form and will also attach various exhibits, documents, and explanatory information which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be mailed directly to the OCA's witness at the below address, as well as mailing a copy to counsel for the OCA.

Roger D. Colton  
Fisher, Sheehan and Colton  
34 Warwick Road  
Belmont, MA 02478  
E-mail: roger@fsconline.com

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, all parties of record will be notified.

**VI. SERVICE ON OCA**

The OCA will be represented in this case by Assistant Consumer Advocate, Christy M. Appleby and Senior Assistant Consumer Advocate, Tanya J. McCloskey. Two copies of all documents should be served on the OCA as follows:

Tanya J. McCloskey  
Senior Assistant Consumer Advocate  
Christy M. Appleby  
Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street  
5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Telephone: (717) 783-5048  
Fax: (717) 783-7152  
Email: TMcCloskey@paoca.org  
cappleby@paoca.org

As a courtesy, the OCA requests that all electronic correspondence be copied to Jessica J. Horner (JHorner@paoca.org).

#### **VI. DISCOVERY RULE MODIFICATIONS**

At this time, the OCA does not propose any discovery rule modifications. However, if the schedule adopted for this proceeding is expedited, the OCA submits that discovery rule modifications will be required. The OCA will work with the parties to develop mutually agreeable discovery rule modifications once the schedule is set.

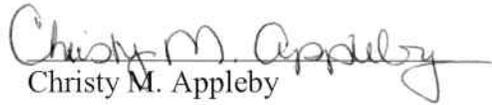
#### **VII. PUBLIC INPUT HEARING**

At this time, the OCA has not received any requests for a public input hearing.

## VII. SCHEDULE

The OCA will work with all parties to develop a mutually agreeable procedural schedule.

Respectfully Submitted,



Christy M. Appleby

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Dated: September 25, 2009

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CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the foregoing document, the Prehearing Memorandum of the office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 25<sup>th</sup> day of September, 2009.

SERVICE BY E-MAIL and INTEROFFICE MAIL

Adeolu A. Bakare, Esquire  
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Counsel for: *Office of Trial Staff*

SERVICE BY E-MAIL and FIRST CLASS MAIL

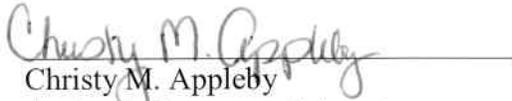
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