

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105-3265**

**Philadelphia Gas Works Petition for Interlocutory
Review, Answer to a Material Question and Approval
of a Joint Settlement Agreement**

**PUBLIC MEETING
OCTOBER 22, 2009
1205928-OSA
Docket No. M-00072021**

**JOINT STATEMENT OF COMMISSIONER KIM PIZZINGRILLI
AND COMMISSIONER ROBERT F. POWELSON**

Today the Commission approves a Joint Settlement Petition and grants a limited waiver of the Customer Assistance Program (CAP) Policy Statement so that Philadelphia Gas Works (PGW) may implement changes to its Universal Service and Energy Conservation Plan (universal service plan), in compliance with a determination made by the Department of Public Welfare (DPW), that changes the manner in which PGW allocates Low Income Home Energy Assistance Program (LIHEAP) grants during the 2009-2010 heating season to CRP¹ customer accounts. The DPW has directed, and the settlement provides, that PGW will apply LIHEAP grants solely to CRP customers "asked to pay" amounts. The settlement is supported by PGW, Office of Trial Staff and the Tenant Union Representative Network/Action Alliance of Senior Citizens of Greater Philadelphia (TURN et al.)

According to the Joint Settlement Petition, a failure to implement the changes required by the DPW could jeopardize PGW's LIHEAP vendor status. The loss of vendor status would cause LIHEAP grants to be released directly to customers, rather than to PGW, thereby eliminating all assurances that the funds will be applied towards the payment of natural gas bills.² The direct distribution of LIHEAP grant funding may also result in customer confusion since customers are accustomed to grant money being applied to their heating service accounts by utilities and may not know how or why they have received such funding directly.

Along with its Statement in Support of the Settlement, PGW submitted a verified Statement of Senior Vice President Randy Gyory. In this Statement, Mr. Gyory indicates that one consequence of the changes mandated by the DPW is that the universal service costs paid by PGW's non-CRP customers will increase by approximately \$11.5 million for the 2009-2010 heating season. Statement of Randy J. Gyory at 3.

The Office of Consumer Advocate (OCA) partially opposes the settlement. In its Statement of Position, OCA avers that the DPW directive that PGW comply with the LIHEAP program changes or possibly lose its vendor status places "PGW, its ratepayers and the Commission in an untenable position." OCA Statement of Position at 3. OCA notes that DPW justifies its directive by indicating that the changes are required by federal law. OCA disputes this fact and avers that the DPW's directive is based upon a "misunderstanding" of the CRP and the CAP programs of all electric and gas distribution companies. OCA does not support paragraph 13 of the Joint Settlement which permits PGW to implement the changes directed by DPW. OCA states that "making such a major programmatic change and increasing the cost burden of non-CRP customers by an additional \$11.5 million is not sound public policy." OCA Statement of Position at 4.

¹ CRP stands for Customer Responsibility Program and is PGW's customer assistance program (CAP).

² A direct release of LIHEAP funds would result in recipients receiving a check in an amount equal to the LIHEAP grant to which they are eligible. There is no guarantee that recipients would use the check for its intended purpose, the payment of heating bills.

OCA's opposition is rooted in the changes mandated by the DPW. To support its contention that PGW's administration of LIHEAP grant funding is consistent with the administration of grants by other utilities, both in Pennsylvania and nationwide, OCA supplied a memo³ prepared by Roger Colton, a consultant to OCA in this case and a nationwide expert in CAP program design. OCA Statement of Position at 6. *See also* Exhibit 1-X to Joint Settlement Petition. Mr. Colton concludes that neither the LIHEAP statute nor public policy considerations preclude the use of LIHEAP funding to pay the difference between a customer's percentage of income based CAP payment and the full bill for usage that would be due but for the customer's participation in a CAP program. OCA also notes that Mr. Colton found that no other state with a CAP program design similar to that used in Pennsylvania is required to apply LIHEAP grants solely to the "asked to pay" CAP amount. *Id.*

OCA's opposition and the memo of Mr. Colton are consistent with the arguments made by the Commission in its comments to the proposed 2010 State Plan issued by DPW. The Commission opposed the provisions of the State Plan that would necessitate regulated utilities to make universal service plan design changes that would result in an increase in the universal service costs passed onto non-CAP program customers. Given the current economic climate and the upcoming removal of rate caps, it is unreasonable to require non-CAP customers to bear the increased costs that will result from compliance with DPW's LIHEAP changes. We agree with OCA's position and question whether these changes are required by the LIHEAP statute. However, in order to ensure that PGW's vendor status is not jeopardized for the 2009-2010 heating season, we reluctantly vote to approve the settlement. However, our vote today should not be interpreted as agreement with all of the LIHEAP program changes.

We note that the DPW has delayed implementation of these changes for all utilities, except PGW. OCA states that it will continue to work with the Commission and PGW to try and obtain a waiver of the DPW LIHEAP changes for PGW for the 2009-2010 heating season. We fully support this endeavor and encourage all parties to this proceeding and the Commission to continue their efforts to obtain a waiver. A waiver of the LIHEAP program changes for all affected utilities would be more equitable and would benefit all Pennsylvania consumers. If such a waiver is granted by DPW, the waiver of our regulations granted to PGW today should be rescinded and PGW should administer LIHEAP funds consistent with its currently approved universal service plan.

October 22, 2009
Date

KIM PIZZINGRILLI, COMMISSIONER

ROBERT F. POWELSON, COMMISSIONER

³ OCA attached a white paper written by Mr. Colton which expands upon the discussion contained in his memo to its comments filed with the Commission on October 9, 2009 related to the DPW LIHEAP program changes and the affordability of CAP programs.