

intervened in the proceeding. PGW's Petition was referred to the Office of Administrative Law Judge for hearings and the development of a record for certification to the Commission without a decision. An evidentiary hearing was held in Philadelphia, Pennsylvania on March 26, 2002. On April 3, 2002, the record was certified to the Commission for decision. Memoranda of Law were filed by PGW, the OTS, the OCA, the OSBA and CEPA. At the direction of the Commission, on April 8, 2002, the Office of Special Assistants prepared a Report and Recommendation for the information of the Commission providing a proposed resolution of PGW's Petition, based upon the certified record.

(c) The Office of Special Assistants recommends that the Commission adopt an Opinion and Order which incorporates the recommended disposition provided in the Report and Recommendation submitted April 8, 2002.

Petition of Philadelphia Gas Works
for Extraordinary Rate Relief
Pursuant to Section 1308(e)

PUBLIC MEETING
APRIL 11, 2002
APRIL-2002-OSA-0149
DOCKET NO. R-00017034F002

STATEMENT OF COMMISSIONER AARON WILSON, JR.

Today we are adopting the Motion of Chairman Thomas granting Philadelphia Gas Works (PGW) \$36million of Extraordinary Rate Relief. I reluctantly support this action and with severe reservations. I am very concerned that the level of rate relief may not be sufficient to met PGW's dire liquidity dilemma. On February 12, 2002, Standard and Poors announced that absent immediate and permanent cash flow improvement, the ratings of PGW's bonds would be lowered from investment grade to junk bond status.

If this downgrade were to happen, severe adverse consequences could be devastating, not only to PGW, but possibly the City of Philadelphia as well. A downgrade could prevent PGW from renewing their letter of credit which supports their short-term commercial paper program. This would require PGW to pay down as much as \$70 million or more. The Commission, the Commonwealth and the City of Philadelphia cannot afford such a financial meltdown. PGW would immediately need to suspend normal operations in order to conserve its resources so as to be able to respond to real emergencies and to continue to provide basic gas service to customers as long as possible. This scenario would most likely lead to massive layoffs as well.

Just as the City of Philadelphia was unable to sell its general obligation bonds from 1988-1993 while its credit rating was below investment grade, PGW will be unable to sell bonds and have no means of funding even the most critical of capital improvements. The resulting financial and policy repercussions will be felt throughout the Commonwealth.

The Commission's main focus should be to provide PGW with sufficient rate relief that enables them to maintain their current bond ratings and not impose even greater costs on ratepayers for years to come if their bond rating is downgraded. Due to PGW's dire financial liquidity position and potential devastating consequences, the Commission should err on the side of caution. Therefore, this rate relief request must also be handled with extreme caution. For these reasons, I would have preferred rate relief of \$42million to cover changed circumstances.

4/11/02
DATE


COMMISSIONER AARON WILSON, JR.



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

April 12, 2002

R-00017034 F0002

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DOCKETED
APR 17 2002

Petition of Philadelphia Gas Works (PGW) for
Extraordinary Rate Relief pursuant to Section 1308 (c)

**DOCUMENT
FOI DE**

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on April 11, 2002 has adopted an Opinion and Order in the above-entitled proceeding.

An Opinion and Order has been enclosed for your records.

Very truly yours,

James J. McNulty
Secretary

Enclosure
Certified Mail
LJM

See attached list for additional
parties of record

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**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held April 11, 2002

Commissioners Present:

Glen R. Thomas, Chairman
Robert K. Bloom, Vice Chairman
Aaron Wilson, Jr., Statement attached
Terrance J. Fitzpatrick
Kim Pizzingrilli

DOCKETED
APR 17 2002

Petition of Philadelphia Gas Works
For Extraordinary Rate Relief
Pursuant to 66 Pa. C.S. §1308(e)

Docket No.
R-00017034F0002

OPINION AND ORDER

**DOCUMENT
FILED**

BY THE COMMISSION:

This matter comes before the Commission through a Petition for Extraordinary Rate Relief (Petition) filed on February 25, 2002, by the Philadelphia Gas Works (PGW). By its Petition, PGW seeks extraordinary rate relief in the amount of \$44 million pursuant to Section 1308(e) of the Public Utility Code (Code), 66 Pa. C.S. §1308(e), which provides for extraordinary rate relief during the pendency of a base rate proceeding.

I. History of the Proceedings

On February 25, 2002, PGW filed Supplement No. 17 to Tariff Gas – Pa. P.U.C. No. 1 to become effective April 26, 2002, and proposing an annual increase in revenues of \$60 million. Concurrently, PGW filed its Petition pursuant

to Sections 1308(e) and 2212 of the Code, 66 Pa. C.S. §§1308(e) and 2212.¹ In the Petition, PGW requested that \$44 million of its \$60 million base rate request be approved as extraordinary rate relief.

PGW requested that the Commission address the Petition pursuant to a 45 day schedule, instead of the 30 day schedule set forth in the statute, and rule on the Petition at the April 11, 2002, Public Meeting. The extraordinary rate relief is proposed to become effective on April 12, 2002. Furthermore, PGW requested that the Petition be considered under a standard that comports with its status as a municipally owned and operated utility. In other words, PGW requested that the Commission declare the rate of return requirement of Section 1308(e) of the Code, 66 Pa. C.S. §1308(e), inapplicable. By doing so, any limit on the amount of extraordinary rate relief is removed.

In support of its request for extraordinary rate relief, PGW averred that Standard and Poor's (S&P), a key credit rating agency, will downgrade its bond rating if it does not receive the \$44 million rate increase. On February 12, 2002, S&P issued a notice warning that PGW's bond ratings would be lowered without immediate cash flow improvement. PGW believes that S&P will reevaluate its position in the next six weeks and downgrade its credit rating from investment grade to "junk bond" status without the extraordinary rate relief. In addition, PGW contends that, without the rate relief, PGW's gas main replacement program will end; the safety of its gas distribution system will be compromised; and, there will be immediate and drastic reductions in customer service as well as its current work force.

¹ PGW filed a corrected Petition on February 27, 2002.

The matter was assigned to the Office of Administrative Law Judge (OALJ) for hearings and the preparation of a record to be certified to the Commission for resolution pursuant to Section 335 of the Code, 66 Pa. C.S. §335, and the Commission's regulations at 52 Pa. Code §5.531. Furthermore, the Parties were directed to submit written memoranda of law to the Commission no later than noon on April 3, 2002.

The Office of Trial Staff (OTS) entered a notice of appearance on March 7, 2002. The Consumers Education and Protective Association, the Association of Community Organizations for Reform Now, the Action Alliance of Senior Citizens of Greater Philadelphia, and the Tenants' Action Group (CEPA, *et al.*) filed a Complaint against the base rate case. The Office of Consumer Advocate (OCA) filed a Pre-Hearing Memorandum on March 7, 2002 and an Answer to the Petition on March 13, 2002.

On March 6, 2002, the Office of Small Business Advocate (OSBA) filed an Answer to the Petition requesting that the Petition be denied. Also on March 6, 2002, the Philadelphia Industrial and Commercial Gas Users Group (PICGUG) filed a Petition to Intervene in the Petition at Docket No. R-00017034F0002 and a Petition to Intervene in the base rate proceeding at Docket No. R-00017034.

Petitions to Intervene were filed by PECO Energy Company (PECO), Trigen-Philadelphia Energy Corporation (Trigen) and Grays Ferry Cogeneration Partnership (Grays Ferry). Trigen and Grays Ferry requested inactive status in the extraordinary rate relief procedure. PECO filed a prehearing memorandum.

On March 7, 2002, a Prehearing Conference was held and informal discovery conferences were scheduled for March 13 and 14, 2002. An evidentiary hearing was held on March 26, 2002, in Philadelphia at which PGW, the OCA, the OTS, the OSBA, CEPA *et al.*, and PICGUG participated.

On April 3, 2003, the ALJ issued an Order Certifying the Record to the Commission for decision. Also on April 3, 2002, memoranda of law were filed by PGW, the OTS, the OCA, the OSBA and CEPA, *et al.*

II. Introduction

In the Order Certifying the Record, the ALJ outlined three issues to be addressed. First, whether PGW has met the requirements of Section 1308(e) of the Code for the grant of extraordinary rate relief? Second, if PGW has met the criteria set forth in Section 1308(e) of the Code, then what level of rate relief should be granted? Third, if extraordinary rate relief is granted, are there other conditions necessary to adequately protect ratepayers?

The record establishes that PGW has met the criteria for extraordinary rate relief and that the appropriate amount to be granted is \$36 million. With respect to any other conditions that may be imposed on PGW, it is noted that the ALJ posed the question as to whether any relief should be conditioned on the City of Philadelphia (City) granting back the \$18 million and whether the City should defer or waive repayment of the \$45 million loan. As this Commission has held in the past, we do not have the statutory authority to direct the City to do either. However, we advise the City and PGW, in the strongest of terms, to explore those possibilities.

III. Requirements of Section 1308(e)

Section 1308(e) of the Code, 66 Pa. C.S. §1308(e), governs this action. Section 1308(e) states, in pertinent part, as follows:

Upon petition to the commission at the time of filing of a rate request or at any time during the pendency of proceedings on such rate request, any public utility may seek extraordinary rate relief of such portion of the total rate relief requested as can be shown to be immediately necessary for the maintenance of financial stability in order to enable the utility to continue providing normal services to its customers, avoid reductions in its normal maintenance programs, avoid substantially reducing its employment, and which will provide no more than the rate of return on the utility's common equity established by the commission in consideration of the utility's preceding rate filing, ...

The active Parties in this proceeding² have referred to the Section 1308(e) standard as a four-part test. The first three prongs of the test determine whether immediate rate relief is necessary for the maintenance of a company's financial stability. The Parties have uniformly cited *Pa. PUC v. Metropolitan Edison Co.*, Docket No. P-80070235 and R-80051196 (Order entered August 28, 1980)(*Met-Ed*) and *Pa. PUC v. Pennsylvania Electric Co.*, 52 Pa. PUC 487 (Sept. 5, 1978) (*Penelec*) for this statement of the standards.

In *Met-Ed* and *Penelec*, the Commission stated that:

Proof of such immediate necessity for such rate relief required for the maintenance of the utility's financial stability must be clear and fully supportable of a finding by the commission that the financial stability of the utility is actually in jeopardy.

² The active Parties are PGW, the OCA, the OTS, CEPA, *et al.* and the OSBA. Other parties have intervened, but they have not presented testimony or arguments on the issues.

Penelec, 52 Pa. PUC at 488; *Met-Ed*, slip op. at 6.

The fourth prong of Section 1308(e) of the Code test places a cap on any rate relief that the Commission may award in this type of proceeding. Section 1308(e) provides that the Commission may award such relief as is necessary provided that the relief awarded gives the utility no greater return on equity than that approved in the utility's preceding rate case. Since PGW is not regulated on a rate of return basis, how, and if, this fourth standard is applied is a significant issue in this proceeding.

At this juncture, we note that Section 2212(c) of the Code, 66 Pa. C.S. §2212(c), provides that the Commission may waive certain provisions of the Code from application to PGW. The rate of return limitation of Section 1308(e) of the Code may be waived pursuant to Section 2212(c).

A. Positions of the Parties

1. PGW

On February 12, 2002, S&P³ issued a general notice that expressed negative views on PGW's financial stability due, in part, to its poor liquidity. In light of those negative views, S&P announced that "without immediate cash flow improvement, ratings will be lowered." (PGW Exh. BCB-1 (updated)). The effect of a reduction in S&P's bond ratings for PGW will result in PGW's bonds being

³ S&P is generally acknowledged to be one of the chief credit rating agencies that evaluates municipal bonds. Investors closely monitor actions of the rating agencies and deem the agencies' analyses to be important factors in whether specific bonds are appropriate investment vehicles.

reduced below investment grade to a “junk bond” rating. (PGW Memo, pp. 17, 19-20).

PGW asserts that a downgrade of its bond ratings would result in the cancellation of all or most of its short-term line of credit in addition to freezing it out of the capital markets. As a result, PGW testified that it would have to:

- 1) drastically cut back or eliminate all customer service initiatives;
- 2) drastically cut back or eliminate all non-essential maintenance programs; and
- 3) *lay-off approximately 500 employees.*

(PGW Memo, pp. 7, 23-26, *emphasis in the original*).

Should a downgrade occur, PGW states that its only option would be to immediately eliminate all activities except for those that are directly related to moving gas through the distribution system in a safe manner. PGW notes that both the OTS and the OCA have agreed that PGW will be forced to curtail normal service to its customers, reduce normal maintenance and construction activities and reduce employment. (PGW Memo at 31). In that event, PGW could not predict how long such a program could continue. (*Id.* at 26).

According to PGW, the only manner in which the immediate liquidity crisis can be solved is for approval of its requested rate relief. PGW detailed its current financial condition and explained its substantial reliance on debt and its commercial paper program for its ongoing operations. In the event of a downgrade of its bond ratings, PGW contends that its current commercial paper program would be substantially reduced and that it would be unable to access the

capital markets. Other credit instruments will be similarly impacted. (PGW Memo, pp. 19-23).

PGW also argues that its need for relief is immediate. PGW notes that S&P has stated that it will review PGW's bond rating upon completion of this proceeding. PGW also noted that the OTS and the OCA did not dispute that PGW would take immediate action to reduce employment and customer service programs and curtail normal maintenance upon receipt of a downgrade. (*Id.* at 29).

Prior Commission actions in *Met-Ed* and *Pa. PUC v. Claysville Natural Gas Co.*, R-860423 (Order entered Nov. 13, 1986), are distinguished by PGW. According to PGW, none of the petitioners in those prior actions provided substantial testimony regarding the need for immediate relief. (PGW Memo, pp. 12, 26-27, 30-31). PGW finds itself to be in a posture similar to that presented in *Pa. PUC v. Pocono Water Co. and Pocono Sewer Co.*, Docket No. R-80011059 and R-80011060 (Order entered March 13, 1980), where the Commission granted extraordinary relief for both capital and operating expenses. PGW asserts that the Commission granted extraordinary relief in *Pocono* upon a finding that "such rates were necessary to ensure that debt service payments were made and to maintain the utilities' liquidity and its source of cash for both daily operating expenses and capital improvements." (PGW Memo, p. 12).

PGW addressed the fourth prong of Section 1308(e) of the Code. According to PGW, the Commission's Order in *Pa. PUC, et al. v. Philadelphia Gas Works*, R-00006042, et al. (Order entered October 4, 2001) (October 4th Order), set forth the goal of providing sufficient revenues "to ensure that PGW is able to maintain an adequate level of financial health require[d] to fund operations and meet debt service requirements." (October 4th Order, p. 43). A downgrade of

PGW's bond rating will eliminate PGW's ability to maintain its external financing and raise capital. PGW states that these two events will eliminate its ability to fund operations and meet debt service requirements. Accordingly, PGW asserts that the fourth prong of Section 1308(e) should be waived and replaced with a standard that provides that the level of relief should be that amount needed to maintain PGW's bond rating at investment grade. (PGW Memo, pp. 32-33).

2. OCA

The OCA agrees that PGW has substantial financial problems but argues that PGW has not met the standards of Section 1308(e) of the Code for extraordinary rate relief. The OCA analyzed the Commission's actions in *Met-Ed* and noted that despite Met-Ed's apprehensions about the capital markets and banking institutions, it was up to that company to convince its bank creditors that it could rehabilitate itself. Similarly, the OCA pointed out that in *Penelec*, there was no evidence that reductions in service or maintenance programs were imminent. (OCA Memo, pp. 6-9).

One of the few cases in which the Commission granted Section 1308(e) relief was *Pocono*. The OCA argues that in that case, relief was granted because the utility had already acted to reduce its workforce, reduce maintenance and terminate its 24-hour customer repair service. The OCA contrasted that case to PGW and argues that PGW's concerns are speculative. (OCA Memo, pp. 9-10, 13-16, 18-21, 25-28).

The OCA also raises substantial concerns regarding PGW's formula. The OCA asserts that PGW litigated two proceedings in which it strenuously argued for a ratemaking methodology that had been used by the Philadelphia Gas Commission. At this juncture, the OCA expresses concerns that PGW is pressing

for a different standard: the S&P formula. The OCA notes that at least one other jurisdiction has refused to use general rating agency standards in setting rates, suggesting that such a standard does not equate to the just and reasonable standard contained in Sections 1301 and 2212 of the Code, 66 Pa. C.S. §§1301 and 2112. (OCA Memo, pp. 13, 16-18).

Regarding the rate of return cap in Section 1308(e) of the Code, the OCA argues that the Commission should not waive that provision, but should limit any relief awarded to that necessary to meet the 1.5x coverage requirement contained in PGW's bond indenture. (*Id.*, pp. 10-11). Instead of rate relief as proposed by PGW, the OCA argues that PGW is actually seeking ratepayer input to capital and that this approach is not contemplated by Section 1308(e).

In order to establish a long-term solution to PGW's liquidity problems, the OCA recommends that the Commission deny PGW's extraordinary rate relief request but grant a short-term capital surcharge that would be collected over a three-year period and yield a total of \$36 million per year. Half of that amount would be collected from ratepayers and the remaining \$18 million from the City in the form of a grant back of the \$18 million annual payment to the City by PGW. (OCA Memo, pp. 30-37).

3. OTS

The OTS asserts that PGW has satisfied the first three prongs of Section 1308(e) of the Code. However, according to the OTS, PGW has relied on its commercial paper program to meet its financial obligations to a much greater degree than investor owned utilities. Accordingly, its credit rating, as expressed by S&P, is extremely important to PGW. Thus, any downgrade of that rating will

have a substantial, negative impact on PGW's ability to maintain service, maintenance and employment levels. (OTS Memo, pp. 6-7).

With regard to the fourth factor, the rate of return cap, the OTS argues that the Commission should waive that part of Section 1308(e) of the Code, since PGW's rates are set on a cash flow basis, not rate of return. OTS does not suggest an alternative to the rate of return limitation. (OTS Memo, p. 6).

4. CEPA

Like the OCA, CEPA argues that PGW is using Section 1308(e) of the Code as a vehicle to provide cash working capital. CEPA points to the Commission's Order in *Pa. PUC, et al. v. Philadelphia Gas Works*, Docket No. R-00006042, *et al.* (Order entered December 6, 2001) (December 6th Order), and argues that it provided that "only a reasonable amount of cash working capital is to be included in rates." (December 6th Order, p. 29).

CEPA also cites OCA's witness LeLash who opined that Section 1308(e) of the Code was intended to address extraordinary needs for revenues to meet operating expenses, not an infusion of working capital. CEPA further argues that PGW is merely using its request for extraordinary relief to improve its year-end cash position over that awarded by the Commission in its previous base rate case. Citing *Penelec* and *Met-Ed*, CEPA argues that Commission precedent is clear in prohibiting utilities from using extraordinary rate relief as a vehicle to improve their positions relative to a prior rate case. (CEPA Memo, pp. 11-15).

CEPA addresses the specific standards of Section 1308(e) of the Code and argues that the testimony adduced by PGW does not meet the immediacy requirement of the standards. According to CEPA, PGW's witnesses

merely speculated about what *might* occur if S&P acts in a certain fashion. (CEPA Memo, pp. 28-31). Further, that threatened action is based only upon a poorly perceived “standard” of S&P that has been interpreted by PGW’s witnesses eager to reach a particular result. (*Id.* pp. 19-25).

With regard to the fourth prong of Section 1308(e) of the Code, CEPA argues that some standard that is substantially similar to the rate of return cap must be applied. According to CEPA, the \$18 million City payment can be viewed as a return on equity and has been so viewed by the Pennsylvania Supreme Court in *Public Advocate v. Philadelphia Gas Commission*, 674 A.2d 1056 (1996). However, CEPA agrees with the OCA that, in the event rate relief is deemed warranted, then the standard should provide that no more relief may be awarded than is necessary to satisfy PGW’s minimum debt service coverage requirements as expressed in the bond indenture covenants. (CEPA Memo, pp. 31-34).

5. OSBA

The OSBA argues that PGW has failed to meet the Section 1308(e) standards of the Code. First, Section 1308(e) requires that, in order for PGW to prevail, the rate relief sought must be immediately necessary. According to the OSBA, use of the word “necessary” means that there is no other choice available. (OSBA Memo, p. 5).

The OSBA asserts that the S&P announcement upon which PGW’s Petition is based speaks to a liquidity crisis, but that announcement does not state that a rate increase is the only manner in which PGW can avoid a bond rating downgrade. According to the OSBA, several other factors should be considered, including an infusion of cash from the City, a reduction in the accounts receivable backlog, or the sale of PGW. Since PGW has failed to show that a rate increase is

the only means available to avoid a downgrade, the OSBA argues that it has failed to meet the Section 1308(e) requirement of the Code that an immediate rate case is necessary. (OSBA Memo, p. 6).

The OSBA also argues that the methodology used by S&P to arrive at a particular rating is not clear. Thus, the intent of S&P and the effect of any relief awarded in this case is purely speculative. There is no assurance that a rate increase will have a positive effect on PGW's bond rating. In addition, factors other than a rate increase may serve to ease the rating concern. According to the OSBA, these matters all serve to show that PGW has failed to meet the Section 1308(e) standards. (*Id.*, p. 7).

With regard to the fourth prong of Section 1308(e) of the Code, the OSBA argues that *Public Advocate* should be deemed controlling. According to the OSBA, that case stands for the proposition that the \$18 million payment to the City is deemed to constitute the rate of return and can be used for that purpose here. Failing that, the OSBA argues that the standard should be "the amount of extraordinary rate relief necessary in order to maintain PGW's investment grade rating for its bonds and commercial paper." (OSBA Memo, p. 4).

B. Disposition

The Commission finds that PGW has satisfied the legal standards for extraordinary rate relief as set forth in Section 1308(e) of the Code, 66 Pa. C.S. §1308(e). As will be seen below, we will not approve the total level of recovery sought, but the following quote from PGW's Memo succinctly sums up PGW's position as borne out by the record:

While all of these steps⁴ are significant and are necessary for financial recovery or to improve efficiency, only the \$44 million in extraordinary rate relief will avoid the pending downgrade and related disastrous effects on PGW and its customers. PGW has no other sources of borrowing; it cannot obtain revenues in sufficient time (or on a sufficiently permanent basis) from any other source. Additional temporary fixes from the City will not prevent a downgrade. *Whatever steps might have been taken in the past which could have avoided this situation, the Commission must deal with the Company and its problems as they exist today.*

(PGW Memo at 9, emphasis added, footnote added).

In addressing PGW's Petition, we do so with the understanding that this is merely *part* of an ongoing base rate case. To a large extent, PGW's revenues and expenses will be fully litigated in the context of that base rate case. Accordingly, the parties have necessarily maintained a narrow focus in this part of the proceeding and limited their arguments to the legal standard of review and the level of recovery that should be awarded, if any.

We note that the driving force behind the Petition under review is PGW's current liquidity problem. PGW's reliance on the threat of an S&P downgrade is not, in and of itself, sufficient justification for extraordinary relief. The S&P notice is, however, one manifestation of PGW's current and immediate liquidity crisis. Of equal or greater concern is PGW's \$100 million commercial paper credit facility now underwritten by a consortium of banks led by JP Morgan Chase Bank. There is substantial and credible evidence of record to indicate that, if PGW does not receive a significant increase in permanent revenues, PGW's liquidity crisis will result in significant disruptions to its normal customer services,

⁴ At page 8 of PGW's Memo, PGW provided a list of steps that it and the City have taken to address PGW's liquidity crisis.

its ongoing maintenance and mains improvement program and will result in a reduction in PGW's employment.

The OCA, CEPA and the OSBA forcefully argue that PGW's assertions that an S&P ratings downgrade will result in an almost complete financial collapse is speculative. While we are sympathetic to these arguments, we note that there is a fine line between speculation and that which is reasonably foreseeable. We reiterate that a threatened S&P downgrade, standing alone, is insufficient to justify the relief awarded here. However, we also note that the evidence of record clearly establishes that PGW's liquidity problems threaten not only its bond ratings, but also its \$100 million commercial paper credit facility. PGW's efforts to obtain a Forward Purchase Agreement for its Sinking Fund Reserve earnings have already been impacted.

PGW witnesses Bisgaier and Krellenstein testified to their substantial experience in capital markets. The record amply reflects the tenor of the markets and the pressure on credit rating agencies in the wake of the Enron debacle. Given the current tenor of the markets and the record evidence regarding PGW's liquidity crisis, our responsibility to the residential and business customers of PGW requires that we act now. We simply cannot wait until PGW collapses. Thus, although the OCA, the OSBA and CEPA argue that PGW's claims are speculative, the evidence clearly establishes that PGW's concerns are well founded and imminent.

Significantly, the OTS did not challenge PGW's evidence regarding either the rating downgrade or the effect such a downgrade would have on PGW's ongoing operations. Of equal significance, the OCA did not challenge PGW's evidence regarding the challenges of such a downgrade. PGW's interim CEO (Knudsen) testified that PGW would immediately move to a crisis operations plan

that will involve severe cutbacks in its ongoing construction and maintenance activities and customer service programs. That plan also calls for a lay-off of some 500 PGW employees. (PGW Memo, pp. 23-26). This is not speculation. PGW is now preparing to implement that plan.

When one understands that PGW has used its credit facilities and bonds to their limits to fund both ongoing operations and capital programs, then the effects of PGW's liquidity crisis become very real indeed. PGW witness Krellenstein convincingly testified that the existing \$100 million commercial paper credit facility would be severely impacted. It is important to note that the commercial paper facility is up for re-negotiation in August 2002. Failure of PGW to improve its liquidity position and maintain an investment grade bond rating would make it highly unlikely for it to secure that facility going forward. At best, PGW *may* be able to obtain a \$30 million commercial paper program at highly inflated rates if its liquidity position does not improve and its bond rating falls below investment grade. In addition, we have mentioned above that PGW has been unable to pursue its efforts to obtain a Forward Purchase Agreement for its Sinking Fund Reserve earnings. That is also a direct result of PGW's liquidity crisis.

In *Met-Ed, supra*, the Commission stated that "Met Ed's current financial problems consist of lack of adequate earnings rather than cash flow." *Met-Ed*, slip op. at 19. In this case, there is no dispute that PGW's financial problem is liquidity, not earnings. The Commission also stated in *Met-Ed* that "Met Ed will not be in a serious cash flow problem until April 15, 1981. In the interim, all parties and the Commission will have the opportunity to reassess their positions in light of events as they occur." *Met-Ed*, slip op. at 21. That declaration was made on August 20, 1980, eight months in advance of the expected date when Met Ed was expected to hit its cash crunch. Here, S&P has

announced that it will review PGW's credit rating immediately upon the Commission's determination on this Petition. In addition, PGW's commercial paper program must be renegotiated in August of 2002, four months from now. Further, PGW's main base rate case will not be completed until after PGW's commercial paper program must be renegotiated.

The OCA, CEPA and the OSBA forcefully argue that an extraordinary rate increase is unnecessary. The OSBA argues that other measures exist which may serve to improve PGW's liquidity. The OCA and CEPA urge the Commission to adopt a capital surcharge program in which the City will be required to contribute its \$18 million payment each year for three years. Unfortunately, each of these suggestions falls well short of PGW's immediate, demonstrated need.

The OCA's and CEPA's positions relating to capital contribution by the City have already been decided by the Commission in the October 4th Order. At that time, we clearly stated that we have no authority to direct such a contribution from the City. Also, testimony of record has established that one-time contributions by the City will not be sufficient to improve PGW's liquidity problem. We note that, due to the process followed by the City for waiver of its \$18 million annual payment, each waiver is of necessity a one-time event. The OSBA's suggestion relating to "other" measures should definitely be considered in the context of the base rate proceeding. Unfortunately, those measures (such as trimming accounts receivable) will not have the immediate impact needed to address PGW's liquidity problems as set forth by PGW witnesses Krellenstein, Bisgaier and Knudsen.

We agree with PGW that it is in a posture similar to that presented in *Pocono, supra*. In that case, we granted extraordinary rate relief upon a finding

that such rates were necessary to ensure that debt service payments were made and to maintain the utilities' liquidity and its source of cash for both daily operating expenses as well as for capital improvements. The credible evidence of record in this case clearly establishes that PGW is in a similar position.

For the foregoing reasons, we find that PGW has met the first three prongs of Section 1308(e) of the Code, 66 Pa. C.S. §1308(e). There is substantial evidence of record that, absent immediate relief, PGW's financial position will become unstable to the extent that it will no longer be able to continue to provide normal services to its customers; that it will not be able to avoid reductions to its normal maintenance programs; and, that it will be not be able to avoid reductions in its employment.

The fourth standard of Section 1308(e) of the Code, 66 Pa. C.S. §1308(e) will be waived. The OCA and CEPA suggest that the return on equity standard should be replaced with a standard equal to an amount necessary to cover PGW's coverage ratios as expressed in PGW's bond indentures. This standard has the simple effect of precluding any relief that would approach the level necessary to address PGW's demonstrated need. PGW suggests that the standard be replaced by a limit equal to that amount necessary to ensure that its bond ratings remain at investment grade. The OSBA offers an interesting compromise that would provide that the limit should be equal to that level necessary to maintain PGW's investment grade rating for its bonds and commercial paper.

Section 2212(c) of the Code, 66 Pa. C.S.A. §2212(c), provides that the Commission may waive certain provisions of the Code with regard to city natural gas distribution operations. It is well settled that the Commission must always be guided by the just and reasonable standards, which permeate its ratemaking authority. The Commission cannot act unreasonably or in an arbitrary

or capricious manner. These axioms apply whether the Commission is acting with regard to a petition for extraordinary rate relief or in a regular base rate proceeding.

The OCA and CEPA positions are not appropriate. To adopt the OCA's standard would render the application of Section 1308(e) a nullity in this case since the limitation on the amount of relief would fail to provide PGW with the level of relief necessary to address PGW's immediate liquidity problems. The OSBA's suggestion is interesting, however as we have stated at the outset, the relief in this action is not solely governed by what a credit rating agency may, or may not, do in the future. For similar reasons, we reject the standard suggested by PGW.

The OSBA and CEPA also suggest that *Public Advocate, supra*, stands for the proposition that the \$18 million annual City payment constitutes the rate of return to the City. Our review of that case indicates that while *Public Advocate* did analogize that payment to a rate of return for purposes of that case, that case was not reviewing the question of an appropriate limitation for a cash flow utility seeking extraordinary rate relief. Again, we find that such a limitation in this case would effectively render Section 1308(e) of the Code, 66 Pa. C.S. §1308(e), a nullity, an absurd result.

Because PGW is not a rate of return regulated utility, we will waive the fourth prong of the Section 1308(e) standards of the Code, 66 Pa. C.S. §1308(e), pursuant to Section 2212(c) of the Code, 66 Pa. C.S. §2212(c). However, as we review the amount of relief which should be awarded, we will be guided by whether or not the relief will yield a reasonable level of coverage ratios under all the circumstances. It is axiomatic that we must be guided by the just and reasonable standard and may not act in an arbitrary or capricious manner.

IV. Revenue Requirement

A. Positions of the Parties

1. PGW

PGW argues that a \$44 million extraordinary rate increase is required to assure that S&P will be satisfied, under the rating agency's stated criteria, that PGW's bonds will continue to earn the lowest investment grade of "BBB". PGW further argues that a rate increase lower than \$44 million will cause its bonds to fall below investment grade (i.e. "junk") and the downgrade will plunge it into a financial crisis of enormous proportions that will have far reaching effects for both it and its customers. PGW emphasizes that the OTS and the OCA both acknowledge that it requires tens of millions of dollars of extraordinary rate relief in order to meet S&P's minimum fixed coverage ratio of 1.2 to 1.3.

Moreover, PGW avers that S&P has made it clear that, given its current financial profile, PGW does not look investment grade. PGW further avers that a \$44 million increase is needed to meet the upper end of the coverage range (1.28x) that will assure that its investment grade is maintained. PGW concludes that, based upon the evidentiary record, there should be no question that it has met the stringent requirements of Section 1308(e) of the Code, 66 Pa. C.S. §1308(e), and that extraordinary rate relief is justified. (PGW Memorandum, pp.4-8).

PGW alleges that, concomitant with developing its extraordinary rate filing, it has been doing everything possible to mitigate its financial crisis. PGW alleges that it has instituted a re-evaluation of all of its expenditures to determine which can be deferred or revised. Specifically, the City has granted

back to PGW the use of the interest income on the Bond Sinking Fund to effectuate a \$20 million forward purchase; the City has allowed PGW the use of \$45 million of loan proceeds at no interest cost to customers; and, the City has agreed to grant back that portion of its \$18 million fee that is necessary to provide a backstop to PGW and assure that it will be able to satisfy the debt service coverage on its bonds.

It is important to note, however, that PGW's request of \$44 million in extraordinary rate relief excludes any grant back of the \$18 million City fee. The City alleges that a one-time grant back of the \$18 million to PGW would result in a \$14 million deficit to the City at the end of its current five-year plan. However, as stated above, the City would grant back up to the entire \$18 million fee on a one-time basis if absolutely necessary. (PGW Memorandum, p.45). PGW qualifies the City's offer by reiterating that an adequate amount of permanent financing excluding the aforementioned grant back of the City fee is a prerequisite to it maintaining its investment grade status.

PGW states that, in order to maintain its overall investment grade status of BBB, S&P requires a fixed cost coverage of at least 1.2 to 1.3 times. PGW's \$44 million proposed rate increase is predicated upon its fixed charges being covered 1.28 times. (PGW Memorandum, p. 18). PGW reasons that a coverage at the higher end of the range required by S&P is appropriate to cushion the effects of warm weather in ensuing winters and other unforeseen contingencies.

Included in the S&P coverage calculation set forth in PGW Exhibit JRB-2, Corrected, are the following:

- Coverage of the \$18 million City fee

- Coverage of the \$20 million pay down of commercial paper in each of FY2002 and FY 2003 (the mandatory pay down from 100 million to 80 million in FY 2002 as well as the additional \$20 million pay down expected by S&P in FY 2003).

PGW argues that virtually all the witnesses in the instant proceeding acknowledged that it is crucially important that its extraordinary revenue requirement be calculated in accordance with the *formula and inputs actually used by S&P*.

2. OCA

The OCA suggests that PGW's request is driven by a need for additional working capital and not by increased operating expenses. As a result, the OCA argues that the Commission should address PGW's request as a capital requirement under the cash flow method and not as a request for extraordinary rate relief under Section 1308(e) of the Code, 66 Pa. C.S. §1308(e).

The OCA observes that PGW continues to face an ongoing liquidity problem due to the fact that the \$100 million commercial paper program, which PGW traditionally relied upon to finance seasonal needs for fuel purchases and seasonal increases in accounts receivable, has been fully extended for the past several years. Therefore, the commercial paper program has, in effect, become a permanent part of PGW's capital structure and is not available for smoothing out its seasonal cash flow. This has left PGW in a position of poor liquidity since it does not have access to its commercial paper to handle the seasonal nature of its revenues and expenses or to backstop PGW in the event that it experiences margin losses due to a warmer than normal winter.

The OCA avers that, without its commercial paper available, PGW must finance its cash working capital needs out of existing operating revenues and by borrowing from its capital fund. This has created the ongoing liquidity problems faced by PGW today. In recognition of this problem, the OCA has proposed a plan in this proceeding to rehabilitate PGW's financial situation and restore its liquidity.

The OCA recommends that, as a first step in addressing PGW's ongoing liquidity problems, the City must make several commitments as part of any prospective financial recovery. First, the City should agree to restructure the terms of the \$45 million City loan to be paid back in equal installments over the next three fiscal years. During this period, the City should be paid interest on the outstanding balance of the loan. The loan is currently interest free. Second, the OCA recommends that the City grant back the \$18 million City payment as project revenues for at least the next three years. This would provide PGW with an additional \$54 million of capital at the end of the three year period. Lastly, the City should designate permanent management for PGW and disclose major findings and conclusions concerning the feasibility and desirability of the City's sale of PGW. (OCA Memorandum, pp. 30-32).

Noting that PGW can no longer work around its liquidity problems or its highly leveraged capital structure, the OCA submits that it may be necessary for ratepayers to augment rates with a contribution of capital, if the City is willing to make similar commitments. Therefore, the OCA's specific proposal calls for a capital infusion from ratepayers through the implementation of a time-limited surcharge of \$18 million per year for three years which is to be matched by a grant back from the City. This surcharge would go directly toward paying down the City loan and commercial paper. The Commission should consider this surcharge

only if it determines that incremental capital is required by PGW and only if the City makes the necessary commitments set forth above.

The OCA contends that, with the proper commitment from the City, and a determination by the Commission that it would be reasonable for ratepayers to provide a portion of such capital, then a time-limited capital surcharge may be appropriate. However, the OCA notes that it should be made clear that such a surcharge is not based solely upon the potential requirements of one bond-rating agency. Instead, it represents a balance reflecting both just and reasonable rates and PGW's long-term capital needs. The OCA contends that it would be, in effect, part of a multi-year rehabilitation plan that will restore PGW's liquidity and improve its financial conditions. The OCA argues that, with the commitment from the City and the capital surcharge from ratepayers, short-term debt could be reduced by nearly \$110 million by the end of the three-year rehabilitation plan. This would allow PGW to pay down its commercial paper program to approximately \$15 million, while at the same time increasing retained earnings. (OCA Memorandum, pp. 35-37).

Lastly, the OCA argues that the amount of revenues, whether project revenues or rate relief, that would be necessary to meet the minimum coverage level under the S&P formula should be no more than \$35.4 million. This amount is more than that which is required under PGW's bond indenture and is being driven by S&P's inclusion of capital requirements and the City payment in its formula. (OCA Memorandum, pp. 28-29).

3. OTS

The OTS argues that PGW's \$44 million request for extraordinary rate relief is predicated on the fact that S&P issued a notice on or about February

12, 2002, warning that PGW's ratings would be lowered without immediate improvement in its cash flow. The OTS avers that PGW's credit rating is important because it determines how expensive it will be for PGW to raise external capital. (OTS Memorandum, p.1). The OTS indicates that PGW has satisfied three of the four prongs necessary for PGW to qualify for extraordinary rate relief under Section 1308(e) of the Public Utility Code, 66 Pa. C.S. §1308(e). However, the fourth prong, rate of return, is not applicable because PGW was regulated under the cash flow criteria in its last base rate case.

The OTS alleges that PGW made two errors in its calculation of the debt coverage ratio set forth in PGW Exhibit JRB-2.

First, the OTS alleges that PGW erred by not adding back capital leases of \$5.9 million in its debt service calculation. The effect of this alleged error is a reduction to PGW's debt service coverage ratio.

Second, the OTS contends that PGW erred by including a \$20 million projected paydown of its commercial paper program for budget year 2001-2002 in its debt coverage calculation. The OTS further contends that the correct amount is \$11 million because it would be consistent with the amount claimed by PGW in the base rate filing. Moreover, according to the OTS, the \$20 million paydown is a one-time reduction to PGW's commercial paper over the historic period and, therefore, should be excluded from the future test year.

Third, the OTS asserts that there currently exists no contract that mandates a paydown for the 2002-2003 fiscal year. Given that S&P's debt service coverage is defined by default risk, only contractual obligations should be included in the calculation. (OTS Memorandum, p.12). After making the corrections to the debt coverage calculation, the OTS arrived at a debt coverage

ratio of 1.25 times, well within S&P's required range of 1.2 times to 1.3 times for PGW's debt coverage ratio. (OTS Memorandum, p.3). Based on its recommended 1.25 times debt service coverage, OTS recommended extraordinary rate relief in the amount of \$25 million. (OTS Memorandum, p.16). The OTS's recommendation yields an overall interest coverage of 1.25 times and would cover PGW's 1975 Ordinance Bonds and 1998 Senior Ordinance Bonds by 2.78 times and 3.01 times, respectively. (OTS Memorandum, p.10).

4. CEPA

CEPA submits that, just as in its prior base rate case, the instant proceeding proposes to increase base rates in order to require ratepayers to provide, not only the costs of working capital, but also the working capital itself. CEPA further submits that such an objective is contrary to the principles and law governing ratemaking for public utilities. Moreover, according to CEPA, PGW and its owner, the City of Philadelphia, have attempted to give the appearance of fulfilling ownership responsibilities in the refurbishment of PGW, while minimizing the dollar contribution of the City to PGW's financial recovery. (CEPA Memorandum, p.1).

Accordingly, CEPA concludes that PGW's proposed \$44 million rate increase is not just and reasonable because it imposes virtually all the costs of PGW's liquidity restoration on ratepayers, without providing that the City, as PGW's owner, bear an equal share of this substantial burden.

5. OSBA

The OSBA submits that PGW has failed to demonstrate any immediate need that would necessitate receiving extraordinary rate relief under

Section 1308(e) of the Code. The OSBA reasons that, since PGW's request for extraordinary rate relief does not satisfy the fourth prong of Section 1308(e) of the Code, PGW's request must be denied in its entirety. (OSBA Memorandum pp. 1,9).

B. Disposition

Based on the record before us, we agree with PGW that a level of extraordinary rate relief is indeed required to improve PGW's existing and immediate liquidity crisis that would negatively impact its customers, its employees, and its service. We also note that PGW's \$100 million commercial paper program with a consortium of banks is up for renewal in August of 2002. Without this critical source of short term financing, PGW would have much difficulty functioning as a viable municipal gas utility.

Accordingly, a \$36 million base rate increase will not only enable PGW to pay down its commercial paper program by \$20 million in the current fiscal year, but will also provide the necessary financial flexibility for PGW to continue to pay down its outstanding short-term indebtedness on an annual basis. This level of extraordinary rate relief should place PGW in a positive position going forward.

The \$20 million buy-down of commercial paper is a significant issue in the case. It bears repeating that a level of relief which includes the \$20 million buy-down is a valid assumption given PGW's current cash position, the essential nature of that credit facility and the fact that the commercial paper program is scheduled for re-negotiation in August of 2002. Failure to adequately provide for a buy-down of \$20 million going forward will jeopardize both the continuation of that credit instrument as well as PGW's standing in the capital markets.

In addition, it is noted that a \$36 million extraordinary rate increase will enable PGW to make its \$18 million annual payment to the City. However, we fully expect the City to make good on its offer to grant back the \$18 million city payment if PGW experiences additional problems that extend or exacerbate its financial crisis. Thus, although the relief provided here places PGW at the low end of its expected coverage ratios, inclusion of the City payment in our calculations provides both PGW and the City with the grant-back option if it is necessary.

An additional way for PGW to improve its liquidity and financial picture would be for the City to restructure the terms of the \$45 million City loan while granting back all or some of the \$18 million annual City payment as project revenues for at least the next three years. The record indicates that this could provide PGW with additional capital of up to \$54 million at the end of three years. We believe the City ought to disclose major findings and conclusions concerning the feasibility and desirability of the City's sale of PGW. Also, the City should act promptly to reform and streamline the governance of PGW. While we have no authority to condition approval of extraordinary rate relief on these measures, we strongly urge the City and PGW to seriously consider these opportunities.

By approving a \$36 million rate increase, we will enable PGW to cover its overall fixed charges 1.22 times, which is within the range of 1.2 times to 1.3 times which the Company testified is needed. We emphasize that this is an extraordinary rate case and we will provide only that relief which is immediately necessary during the pendency of PGW's main base rate case. We also emphasize our expectation that the City will stand by its commitment regarding a grant back of the \$18 million annual payment in the event PGW falls below the suggested

range for coverage ratios. Further, we have noted above various measures which the City and PGW can take to improve PGW's liquidity problem.

C. Allocation Stipulation

The issue of how to implement the extraordinary rate relief and allocate it among the customer classes has been resolved by stipulation of the Parties. A Stipulation and Settlement Regarding Allocation of Extraordinary Rate Increase (Stipulation) was entered into by PGW, the OCA, the OTS, the OSBA and PICGUG. CEPA, *et al*, indicated that it did not oppose the Stipulation. PGW asserts that the Stipulation is fair and reasonable and should be adopted by the Commission.

Pursuant to the Stipulation, any extraordinary rate relief granted by the Commission will be attributed exclusively to the volumetric charge imposed on the firm customer classes. No customer charges will be increased. The Parties proposed that any extraordinary rate increase be allocated to the following customer classes in the following percentages: residential 83.75%, commercial 13.53%, industrial 1.83%, and PHA/PHA 0.89%. Based on the \$36 million extraordinary rate relief granted herein, the Stipulation would allocate an increase of \$30.15 million to the residential class, \$4.871 million to the commercial class, \$.659 million to the industrial class, and \$.320 million to PHA/PHA.

The Parties further reserved the right to litigate all rate structure issues as part of the base rate proceeding. Thus, to the extent that any Party is not completely satisfied with the allocation method, modifications can be made on a going forward basis. However, for purposes of the extraordinary rate proceeding, all Parties concur that the Stipulation is in the public interest and have requested that it be approved and the terms adopted.

Based on the foregoing, we will adopt the Stipulation for purposes of allocation of the extraordinary relief granted in this proceeding.

V. Conclusion

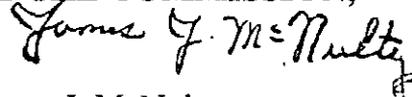
Based on our review of the record in this proceeding as it pertains to PGW's request for extraordinary rate relief, we conclude that PGW has demonstrated an immediate need for an increase in annual revenues in the amount of \$36 million, consistent with the foregoing discussion; **THEREFORE,**

IT IS ORDERED:

1. That the Petition of Philadelphia Gas Works for Extraordinary Rate Relief Pursuant to 66 Pa. C.S. §1308(e) is hereby granted, consistent with this Opinion and Order.
2. That, within ten (10) days of the date of entry of this Opinion and Order, Philadelphia Gas Works file a Supplement to Tariff Gas Pa. P.U.C. No. 1 designed to produce an increase in total annual operating revenues of \$36,000,000 effective on one (1) day's notice for service rendered on and after April 12, 2002.
3. That the Stipulation entered into by the Parties and executed on March 26, 2002, in this proceeding concerning the allocation of revenues is hereby granted.

4. That, at the time of filing of the Tariff Supplement referred to in Ordering Paragraph No. 2 above, Philadelphia Gas Works shall file with the Commission all data necessary to demonstrate its compliance with this Opinion and Order.

BY THE COMMISSION,



James J. McNulty,
Secretary

(SEAL)

ORDER APPROVED: April 11, 2002

ORDER ENTERED: April 12, 2002

TABLE I

Philadelphia Gas Works
Fiscal Year 2001-02
Projected Income Statement

	Current Estimate <u>2001-02</u>	Test Year Budget <u>2001-02</u>
<u>Operating Revenues</u>		
Gas Revenues	\$672,188	\$638,733
Margin Loss Gas Sales	-25,000	
Proposed Base Rate Incr.	-	36,000
Other Revenues	<u>27,450</u>	<u>28,117</u>
Total Operating Revenues	\$674,638	\$702,850
<u>Operating Expenses</u>		
Natural Gas Costs	\$373,016	\$334,566
Raw Material Exp.	<u>10</u>	<u>10</u>
Total Nat. Gas & Raw Mat.	\$373,026	\$334,576
Contribution Margins	\$301,612	\$368,274
Supply & Field Expenses	\$58,331	\$59,331
Customer Services	29,722	30,222
Bad Debt Expense	54,553	52,544
Marketing	4,000	5,596
Aministrative & General	39,086	39,086
Health Insurance	31,490	30,490
Capitalized Benefits & A&G	-12,430	-13,430
Amortization	3,965	3,965
Pensions	3,091	3,091
Taxes	6,054	6,054
Added Costs PUC and Other	0	10,000
Labor/Cost Savings	<u>-7,100</u>	<u>-7,100</u>
Total Operating & Maint.	\$210,762	\$219,849
Depreciation	\$31,585	\$31,587
Total Operating & Maint. Exp.	<u>\$242,347</u>	<u>\$251,436</u>
Total Operating Expenses	\$615,373	\$586,012
Operating Income	\$59,265	\$116,838
Other Income	<u>4,963</u>	<u>5,743</u>
Income Before Interest	\$64,228	\$122,581
<u>Interest</u>		
Long-Term Debt	\$50,966	\$50,966
Other	6,148	6,498
AFUDC	-775	-775
Loss on Extinguished Debt	<u>3,976</u>	<u>3,976</u>
Total Interest	\$60,315	\$60,665
Net Income	\$3,913	\$61,916
City Payment	<u>18,000</u>	<u>18,000</u>
Net Loss From Operations	<u>-\$14,087</u>	<u>\$43,916</u>

TABLE II

**Philadelphia Gas Works
Fiscal Year 2001-02
Projected Debt Service Coverage
(Dollars in Thousands)**

<u>Debt Service Calculation</u>	<u>Current Estimate 2001-02</u>	<u>Test Year Budget 2001-02 36m Rate Increase \$20m txcp</u>
<u>FUNDS PROVIDED</u>		
Operating Revenues	\$674,638	\$702,850
Other Income +/-		
Restricted Funds	4,963	5,743
AFUDC (Interest)	<u>775</u>	<u>775</u>
TOTAL FUNDS PROVIDED	\$680,376	\$709,368
<u>FUNDS APPLIED</u>		
Fuel Costs	\$373,026	\$334,576
Other Operating Expenses	242,347	251,436
Less: Non-Cash Expenses	<u>-36,165</u>	<u>-36,165</u>
TOTAL FUNDS APPLIED	\$579,208	\$549,847
Funds Available to Cover Debt Service	\$101,168	\$159,521
1975 Ordinance Bonds Debt Service	<u>\$55,528</u>	<u>\$55,528</u>
Debt Service Coverage 1975 Bonds	1.82	2.87
Funds Available To Cover	\$45,640	\$103,993
Capital Leases	<u>5,954</u>	<u>5,954</u>
Funds Available To Cover	\$39,686	\$98,039
1998 Sr. Debt Service	<u>\$30,926</u>	<u>\$30,926</u>
Debt Service Coverage Sr. Bonds	1.28	3.17
Funds Available To Cover	\$8,760	\$67,113
1998 Subordinate Debt Service	<u>\$1,986</u>	<u>\$1,986</u>
Debt Service Coverage Subordinate Bond	4.41	33.79
<u>Revised Standard & Poor's Fixed Charge Coverage Ratio</u>		
Net Available To Service Aggregate Debt Service	\$102,542	\$160,897
Aggregate Debt Service	\$94,394	\$94,394
Fixed Charge Coverage Ratio on Aggregate Debt Service	1.09	1.70
Fixed Charge Coverage Ratio Including \$18.0 M City Fee	0.91	1.43
Fixed Charge Coverage Ratio Including \$18.0 M City Fee & 20 M TXCP Payment	0.77	1.22
City Fee	18,000	18,000
TXCP	20,000	20,000

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

**Petition of Philadelphia Gas Works
for Extraordinary Rate Relief
Pursuant to Section 1308(e)**

**PUBLIC MEETING
APRIL 11, 2002
APRIL-2002-OSA-0149
DOCKET NO. R-00017034F002**

STATEMENT OF COMMISSIONER AARON WILSON, JR.

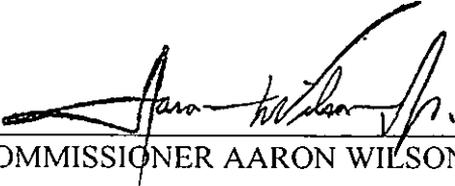
Today we are adopting the Motion of Chairman Thomas granting Philadelphia Gas Works (PGW) \$36million of Extraordinary Rate Relief. I reluctantly support this action and with severe reservations. I am very concerned that the level of rate relief may not be sufficient to met PGW's dire liquidity dilemma. On February 12, 2002, Standard and Poors announced that absent immediate and permanent cash flow improvement, the ratings of PGW's bonds would be lowered from investment grade to junk bond status.

If this downgrade were to happen, severe adverse consequences could be devastating, not only to PGW, but possibly the City of Philadelphia as well. A downgrade could prevent PGW from renewing their letter of credit which supports their short-term commercial paper program. This would require PGW to pay down as much as \$70 million or more. The Commission, the Commonwealth and the City of Philadelphia cannot afford such a financial meltdown. PGW would immediately need to suspend normal operations in order to conserve its resources so as to be able to respond to real emergencies and to continue to provide basic gas service to customers as long as possible. This scenario would most likely lead to massive layoffs as well.

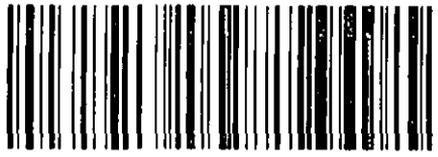
Just as the City of Philadelphia was unable to sell its general obligation bonds from 1988-1993 while its credit rating was below investment grade, PGW will be unable to sell bonds and have no means of funding even the most critical of capital improvements. The resulting financial and policy repercussions will be felt throughout the Commonwealth.

The Commission's main focus should be to provide PGW with sufficient rate relief that enables them to maintain their current bond ratings and not impose even greater costs on ratepayers for years to come if their bond rating is downgraded. Due to PGW's dire financial liquidity position and potential devastating consequences, the Commission should err on the side of caution. Therefore, this rate relief request must also be handled with extreme caution. For these reasons, I would have preferred rate relief of \$42million to cover changed circumstances.

4/11/02
DATE


COMMISSIONER AARON WILSON, JR.

2. Article Number



7106 4575 1293 0907 8981

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) Yes

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) *Chris Smith*

B. Date of Delivery **APR 15 2002**

C. Signature *Chris Smith* Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

1. Article Addressed to:

R-00017034F2 O/O

DAVID KLEPPINGER CHARIS BURAK ATTYS
MCNEES WALLACE & NURICK LLC
100 PINE STREET PO BOX 1166
HARRISBURG PA 17108-1166

PS Form 3811, June 2000

Domestic Return Receipt

2. Article Number



7106 4575 1293 0907 8974

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) Yes

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) *Zulma Rodriguez*

B. Date of Delivery *4/15/02*

C. Signature *Zulma Rodriguez* Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

1. Article Addressed to:

R-00017034F2 O/O

KENT D MURPHY ESQUIRE
2301 MARKET STREET S23-1
PO BOX 8699
PHILADELPHIA PA 19101-8699

PS Form 3811, June 2000

Domestic Return Receipt

2. Article Number



7106 4575 1293 0907 8998

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) Yes

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature *[Signature]* Agent Addressee

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:



1. Article Addressed to:

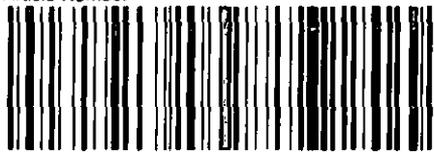
R-00017034F2 O/O

GREG STUNDER ESQUIRE
800 WEST MONTGOMERY AVENUE
PHILADELPHIA PA 19122

PS Form 3811, June 2000

Domestic Return Receipt

2. Article Number



7106 4575 1293 0907 9001

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) **D. PAUTER**

B. Date of Delivery **4/15/02**

C. Signature **D. Pauter**

Agent
 Addressee

D. Is delivery address different from item 1?
 If YES, enter delivery address below: Yes
 No

R-00017034F2 O/O

STEVEN C GRAY ESQUIRE
 SUITE 1102 COMMERCE BUILDING
 100 NORTH SECOND STREET
 HARRISBURG PA 17101

PS Form 3811, June 2000

Domestic Return Receipt

2. Article Number



7106 4575 1293 0907 9032

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery **4/15/02**

C. Signature **Wolf, Block, Schorr & Solis-Cohen**

212 Locust Street

Suite 300

Harrisburg, Pa 17101

Agent
 Addressee

D. Is delivery address different from item 1?
 If YES, enter delivery address below: Yes
 No

R-00017034F2 ~~000~~

DANIEL CLEARFIELD MARK S STEWART ESQS
 WOLF BLOCK SCHORR & SOLIS-COHN LLP
 212 LOCUST STREET SUITE 300
 HARRISBURG PA 17101

PS Form 3811, June 2000

Domestic Return Receipt

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 15th day of April, 2002,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of an Opinion and Order an official Commission document entered, issued, or otherwise promulgated under date of April 11, 2002 at Docket No. R-00017034 F0002 on behalf of:

STEPHEN J KEENE ESQUIRE
OFFICE OF CONSUMER ADVOCATE
555 WALNUT STREET
5TH FLOOR FORUM PLACE
HARRISBURG PA 17101-1923



Signature

Kindly sign and date this acceptance of service and acknowledgement of receipt, and, return the same for filing to:

SECRETARY'S BUREAU RECORD RETENTION
PA PUBLIC UTILITY COMMISSION
KEYSTONE BUILDING 2ND FLOOR
400 NORTH STREET
Harrisburg, PA 17105-3265

DOCUMENT
FOLDER

02 APR 15 PM 3:44
SECRETARY'S BUREAU
PA P.U.C.

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

RECEIVED

2002 APR 15

SECRETARY'S BUREAU

AND NOW, to wit, this 12th day of April, 2002,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of an Opinion and Order an official Commission document entered, issued, or otherwise promulgated under date of April 11, 2002 at Docket No. R-00017034 00002 on behalf of:

JOHNNIE E SIMMS ESQUIRE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
PO BOX 3265
HARRISBURG PA 17105-3265

Elaine C. Meisinger
Signature

Kindly sign and date this acceptance of service and acknowledgement of receipt, and, return the same for filing to:

To: → SECRETARY'S BUREAU RECORD RETENTION
PA PUBLIC UTILITY COMMISSION
KEYSTONE BUILDING 2ND FLOOR
400 NORTH STREET
Harrisburg, PA 17105-3265

DOCUMENT
FOLDER

APR 12 PM 2:50
SECRETARY'S BUREAU