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November 30, 2001

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VIA HAND DELIVERY

James McNulty, Secretary
PA Public Utility Commission
400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Philadelphia Gas Works v. Pennsylvania Public Utility
Commission, Docket No. R-00016378 Quarterly Filing

Dear Secretary McNulty:

Enclosed for filing is PGW's December 1, 2001 Quarterly Update, to its Gas Cost Rate ("GCR") filed pursuant to 52 Pa. Code § 53.64 and the order in the above-captioned case. All supporting schedules required by section 53.64 are attached.

Also in accordance with the above regulation and order, a proposed tariff supplement, to be effective as of December 1, 2001, is enclosed reflecting a decrease in PGW's GCR factor from its present \$4.3724 to \$3.1307.

Please note that the Quarterly GCR factor stated above was marginally adjusted so as to hold from the GCR the Interim Rate Reserve Fund authorized by the PUC's Order of February 22, 2001 and fully described in the Joint Petition for Full Settlement between the PUC Law Bureau and PGW filed on February 8, 2001. In the Joint Petition, PGW was permitted to create a "Reserve Fund" consisting of the \$7 million increase to the non-gas portion of PGW's GCR and any GCR overcollection accumulated for the 2000-01 GCR (which, as reflected in the attached schedules, is \$10.58 million as of August 31, 2001), up to a maximum of \$25 million. This reserve account was authorized to be used by PGW to meet bond ordinance requirements in the Winter 2001-02 period, through January 2002. The Joint Petition further authorized PGW to make an informational filing by December 31 if it determines, after considering the effect of the PUC's base rate award, that it requires the reserve account to meet its bond covenants in the December 2001 - January 2002 period.

Since the PUC is still considering PGW's base rate proceeding, PGW has withheld from this update the reserve account funds from the GCR pending a determination by PGW of the

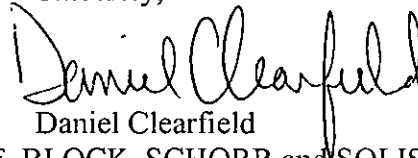
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James McNulty, Secretary
November 30, 2001
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need to utilize the reserve and a PUC determination authorizing such use. Once the PUC makes a determination on PGW's petition for reconsideration, the Company will evaluate its cash needs through January 2002 and if the reserve fund is needed to satisfy its cash obligations it shall make a filing to retain the fund for that purpose. If for any reason the Commission disagrees with PGW's position, the Company will file a revision to its GCR that will return the appropriate portion of the reserve fund to customers by revising downward its GCR factor on a going forward basis.

Please contact me if you have any questions concerning this filing.

Sincerely,



Daniel Clearfield

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DCC/lww
Enclosure

cc: All Parties of Record
Karen Moury, Esq. w/enc.
Robert Rosenthal, Director, Fixed Utility Services w/enc.

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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).

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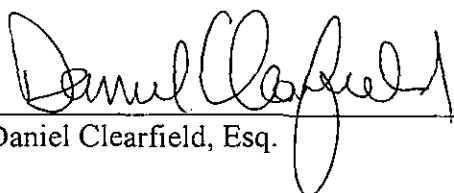
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Daniel Clearfield, Esq.

Date: November 30, 2001

Statement

Actual data, as available, was utilized for the months of September and October. Known per dekatherm natural gas prices are used for the month of November, 2001; and, where known and quantifiable, actual per dekatherm prices are used for December, 2001 through October, 2002. Any remaining volumes not locked-in for price for the months of December, 2001 through October, 2002 are based on the NYMEX Futures Prices (from 11-02-01) for December, 2001 through February, 2002; and the average of the NYMEX Futures Prices (from 11-02-01) and the November, 2001 DRI (Standard and Poors' Fuel Price Service Report) for March through October, 2002. The latest applicable pipeline tariff transportation and fuel charges from specific basin points have been incorporated into these pricing determinants. Forecasted temperatures for the period are assumed to be normal, (i.e., the estimate incorporates the degree-day pattern from the normal 4,555 pattern).

This filing has Net Applicable Raw Material Expenses of \$382,197,358 with applicable sales of 59,157,217 Mcf. This results in a GCR factor of \$3.1307/Mcf .

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Levelized Gas Cost Rate

First Quarter GCR Filing
2001-2002DOCUMENT
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Formula:

$$\text{GCR} = ((\text{C}-\text{E}) / \text{S}) - \text{B}$$

where:

S = Applicable Sales Volume (Mcf)	59,157,217	(Schedule 2)
<i>Fuel</i>		
Net Natural Gas Expense	\$332,665,490	
Plus: Purchased Electric Expense	\$1,407,599	
Total Applicable Fuel Expense	\$334,073,089	
<i>Non-Fuel</i>		
Conservation Programs	\$2,561,719	
CRP Discounts	\$37,953,537	
Total Applicable Non-Fuel Expenses	\$40,515,256	
C = Applicable Raw Material Expense	\$374,588,345	(Schedule 4)
E =		
Adjustment For: Natural Gas Refunds	\$43,760	(Schedule 5)
Prior Reconciliation	(\$652,773)	
Total Adjustment	(\$609,013)	(Schedules 6,7,8)*
C-E = Net Applicable Raw Material Expense	\$375,197,358	
Interim Settlement Bad Debt Allowance	\$7,000,000	
Total Net Applicable Raw Material Expense	\$382,197,358	
B = Base Fuel Charge/Mcf	\$3.1800	
Projected Unit Cost of Fuel	\$6.4607	
Recovery Test on:		
Applicable Sales Volume of (Mcf)	59,157,217	
@ GCR in effect 12/01/01	\$3.1307	(Schedules 9 & 10)
@ Base Fuel Rate Effective 9/1/90	\$3.1800	
GCR Charge	\$194,077,817	
+ Base Fuel Charge	\$188,119,950	
= Total Projected Recovery	\$382,197,767	
Compared To		
Net Applicable Raw Material Expense	\$382,197,358	
= Net Over/(Under) Recovery	\$409	

Degree Days 4,555

* Prior Reconciliation includes over-collection of \$10,580,192 as of August 31, 2001. (Schedule 8)

Applicable Sales

GCR Calculations

<u>MONTH</u>	<u>TOTAL BILLED SALES</u>	<u>LESS LBS & RELATED</u>	<u>LESS SENIOR CITIZENS</u>	<u>TOTAL APPLICABLE SALES</u>
NOVEMBER - 2001	4,710,210	940,765	87,678	3,681,767
DECEMBER	8,061,541	706,126	194,119	7,161,296
JANUARY - 2002	13,025,154	806,037	346,567	11,872,550
FEBRUARY	11,646,913	686,374	308,574	10,651,966
MARCH	9,556,608	603,889	250,190	8,702,529
APRIL	6,722,920	783,704	164,256	5,774,961
MAY	3,520,568	569,281	73,978	2,877,309
JUNE	2,545,796	473,173	43,044	2,029,578
JULY	2,065,281	508,219	30,974	1,526,088
AUGUST	2,075,366	523,503	30,974	1,520,889
SEPTEMBER	1,950,326	542,878	28,152	1,379,296
OCTOBER	2,745,148	723,522	42,638	1,978,988
TOTAL	<u>68,625,831</u>	<u>7,867,469</u>	<u>1,601,144</u>	<u>59,157,217</u>

Philadelphia Gas Works
Summary of Fuels Purchased
Two Months Ending October 2001

Schedule 3

	Actual			Projected			Actual Over/Under vs Projected		
	Sep-01	Oct-01	Total	Sep-01	Oct-01	Total	Sep-01	Oct-01	Total
Total Natural Gas Billed	\$ 28,876,139	\$ 30,713,675	\$ 59,589,814	\$ 31,079,422	\$ 36,560,436	\$ 67,639,858	\$(2,203,283)	\$ (5,846,761)	\$ (8,050,044)
Less Interruptible Credit	\$ 1,234,359	\$ 1,829,953	\$ 3,064,312	\$ 1,864,541	\$ 2,741,579	\$ 4,606,120	\$ (630,182)	\$ (911,626)	\$ (1,541,808)
Pipeline Storages									
(To)	\$ (13,746,629)	\$ (8,850,903)	\$ (22,597,532)	\$ (13,898,325)	\$(12,778,482)	\$(26,776,807)	\$ 251,696	\$ 3,927,579	\$ 4,179,275
From	\$ -	\$ 621,558	\$ 621,558	\$ -	\$ 563,037	\$ 563,037	\$ -	\$ 58,521	\$ 58,521
Net Pipeline Storages	\$ (13,746,629)	\$ (8,229,345)	\$ (21,975,974)	\$ (13,898,325)	\$(12,215,445)	\$(26,213,770)	\$ 251,696	\$ 3,986,100	\$ 4,237,796
LNG Storage									
(To)	\$ (3,882,645)	\$ (4,289,336)	\$ (8,171,981)	\$ (3,546,554)	\$ (3,694,993)	\$ (7,241,547)	\$ (336,091)	\$ (594,343)	\$ (930,434)
From	\$ 467,825	\$ 1,006,713	\$ 1,474,638	\$ 441,885	\$ 452,352	\$ 894,337	\$ 25,940	\$ 554,361	\$ 580,301
Net LNG Storage	\$ (3,414,720)	\$ (3,282,623)	\$ (6,697,343)	\$ (3,104,569)	\$ (3,242,641)	\$ (6,347,210)	\$ (310,151)	\$ (39,982)	\$ (350,133)
NET NATURAL GAS	\$ 10,480,431	\$ 17,371,754	\$ 27,852,185	\$ 12,111,987	\$ 18,360,771	\$ 30,472,758	\$(1,631,556)	\$ (989,017)	\$ (2,620,573)
APPLICABLE GCR EXPENSES									
Net Natural Gas Expense	\$ 10,480,431	\$ 17,371,754	\$ 27,852,185	\$ 12,111,987	\$ 18,360,771	\$ 30,472,758	\$(1,631,556)	\$ (989,017)	\$ (2,620,573)
Electric	\$ 95,237	\$ 95,498	\$ 190,735	\$ 114,167	\$ 114,167	\$ 228,334	\$ (18,930)	\$ (18,669)	\$ (37,599)
Non Fuel Expense:									
Conservation Works Program	\$ 2,302	\$ 2,647	\$ 4,949	\$ 183,333	\$ 183,333	\$ 366,666	\$ (181,031)	\$ (180,686)	\$ (361,717)
Customer Responsibility Program	\$ (767,808)	\$ (87,143)	\$ (854,952)	\$ (513,028)	\$ (186,852)	\$ (699,880)	\$ (254,781)	\$ 99,709	\$ (155,072)
Total GCR Expenses	\$ 9,810,161	\$ 17,382,756	\$ 27,192,917	\$ 11,896,459	\$ 16,471,419	\$ 30,367,878	\$(2,086,298)	\$ (1,088,663)	\$ (3,174,961)

**PROJECTED APPLICABLE FUEL EXPENSE
SUMMARY
GCR CALCULATION**

	NOVEMBER 2001	DECEMBER 2001	JANUARY 2002	FEBRUARY 2002	MARCH 2002	APRIL 2002	MAY 2002	JUNE 2002	JULY 2002	AUGUST 2002	SEPTEMBER 2002	OCTOBER 2002	TOTAL
<u>NATURAL GAS BILLED</u>	37,585,101	40,259,019	44,265,257	36,241,663	31,140,058	28,047,735	26,918,213	23,737,994	24,584,007	24,285,468	26,172,196	29,868,528	373,105,239
LBS CREDIT	(3,965,759)	(3,354,121)	(4,024,903)	(3,141,033)	(2,452,306)	(2,704,369)	(1,938,513)	(1,614,356)	(1,760,033)	(1,820,762)	(1,570,070)	(2,239,841)	(30,586,066)
SENDOUT VOLUME IN MCF	978,065	735,783	839,890	715,201	629,296	814,847	591,859	491,929	528,409	544,336	559,165	745,228	8,174,009
LBS AND RELATED	1.0300	1.0300	1.0300	1.0300	1.0300	1.0300	1.0300	1.0300	1.0300	1.0300	1.0300	1.0300	
PRICE \$/DKT	3.9366	4.4258	4.6526	4.2639	3.7834	3.2222	3.1799	3.1861	3.2338	3.2475	2.8079	3.0056	
NATURAL GAS TO STORAGE	3,806,421	-	-	-	-	6,644,621	9,919,311	9,093,648	9,361,352	8,970,469	11,788,216	10,216,510	69,800,548
FROM STORAGE	4,980,634	13,188,647	18,989,814	14,526,822	8,730,239	1,701,330	131,196	-	-	-	-	-	62,248,682
NET N.G. STORAGE	1,174,213	13,188,647	18,989,814	14,526,822	8,730,239	(4,943,291)	(9,788,114)	(9,093,648)	(9,361,352)	(8,970,469)	(11,788,216)	(10,216,510)	(7,551,865)
LNG TO STORAGE	2,278,825	247,126	-	-	-	-	1,763,658	2,343,975	2,476,437	2,491,981	2,986,509	3,018,812	17,607,323
FROM STORAGE	465,135	2,186,594	5,160,008	3,752,811	859,905	444,742	460,048	461,648	395,433	377,543	372,169	369,474	15,305,510
NET LNG STORAGE	(1,813,689)	1,939,468	5,160,008	3,752,811	859,905	444,742	(1,303,610)	(1,882,328)	(2,081,005)	(2,114,438)	(2,614,340)	(2,649,338)	(2,301,814)
NET N.G. EXPENSE	32,979,865	52,033,013	64,390,175	51,380,263	38,277,895	20,844,817	13,887,975	11,147,663	11,381,617	11,379,798	10,199,570	14,762,839	332,665,490
<u>APPLICABLE GCR EXPENSE</u>													
NET N.G. EXPENSE	32,979,865	52,033,013	64,390,175	51,380,263	38,277,895	20,844,817	13,887,975	11,147,663	11,381,617	11,379,798	10,199,570	14,762,839	332,665,490
PURCHASED ELECTRIC & LPG	117,926	117,926	117,926	117,926	117,926	117,927	117,927	117,927	117,927	117,927	114,167	114,167	1,407,599
<u>NON FUEL EXPENSES</u>													
CONSERVATION WORKS	219,505	219,505	219,505	219,505	219,505	219,505	219,505	219,505	219,505	219,506	183,334	183,334	2,561,719
CUSTOMER RESPONSIBILITY PROGRAM	2,025,276	6,425,398	12,006,508	9,025,878	6,533,880	3,022,536	481,109	(416,632)	(637,109)	(210,183)	(242,821)	(60,301)	37,953,537
TOTAL APPLICABLE EXPENSES	35,342,572	58,795,840	76,734,114	60,743,572	45,149,206	24,204,785	14,706,516	11,068,463	11,081,940	11,507,049	10,254,249	15,000,039	374,588,345
TOTAL APPLICABLE SALES	3,681,767	7,161,296	11,872,550	10,651,966	8,702,529	5,774,961	2,877,309	2,029,578	1,526,088	1,520,889	1,379,296	1,978,988	59,157,217

PGW
NATURAL GAS REFUNDS
2001-02 ACTUAL

<u>Month</u>	<u>Pipeline</u>	<u>Amount</u>	<u>TOTAL</u>
SEPTEMBER 2001	Transco	\$43,760.00	\$43,760.00

FUEL ADJUSTMENT
STATEMENT OF RECONCILIATION

September & October 2001

		NET COST OF FUEL	APPLICABLE SALES	BASE FUEL FACTOR	BASE FUEL CREDIT	FUEL COST REMAINING TO BE RECOVERED	GCR FACTOR APPLIED	GCR REVENUE BILLED	2001-2002 OVER/(UNDER) RECOVERY	CARRYOVER DISTRIBUTED ON GCR BUDGET VOLUME	NET OVER/(UNDER) RECOVERY
		1	2	3	4=2*3	5=1-4	6	7	8=7-5	9	10=8+9
<u>PRIOR YEAR'S CARRYOVER:</u>											
SEPT & OCT 2001 Actual OVER/(UNDER) BILLING										(652,773)	
2001-2002 NATURAL GAS REFUNDS										43,760	
TOTAL "E" FACTOR										(609,013)	
<u>2001-2002</u>											
SEPTEMBER	ACTUAL	9,810,161	1,482,129	3.1800	4,713,170	5,096,991	5.5341	8,030,309	2,933,318	0	2,933,318
OCTOBER	ACTUAL	17,382,756	1,894,724	3.1800	6,025,222	11,357,534	4.3724	7,771,443	(3,586,091)	0	(3,586,091)
TOTAL		27,192,917	3,376,853		10,738,392	16,454,525		15,801,752	(652,773)		

FUEL ADJUSTMENT
STATEMENT OF RECONCILIATION

Finalized As Of August 31, 2001

	NET COST OF FUEL	APPLICABLE SALES	BASE FUEL FACTOR	BASE FUEL CREDIT	FUEL COST REMAINING TO BE RECOVERED	GCR FACTOR APPLIED	GCR REVENUE BILLED	Finalized As Of August 31, OVER/(UNDER) RECOVERY	CARRYOVER DISTRIBUTED ON GCR BUDGET VOLUME	NET OVER/(UNDER) RECOVERY
	1	2	3	4=2*3	5=1-4	6	7	8=7-5	9	10=8+9
PRIOR YEAR'S CARRYOVER:										
1999-2000 FINALIZED OVERBILLING									(14,050,659)	
2000-2001 NATURAL GAS REFUNDS									5,002,016	
TOTAL "E" FACTOR									(9,048,643)	
Finalized As Of August 31, 2001.										
SEPTEMBER	12,843,601	1,482,659	3.1800	4,714,856	8,128,745	1.0982	1,616,117	(6,512,628)	(109,017)	(6,621,645)
OCTOBER	22,444,908	2,599,426	3.1800	8,266,175	14,178,733	1.0982	2,801,074	(11,377,659)	(355,608)	(11,733,267)
NOVEMBER	36,538,935	4,318,717	3.1800	13,733,520	22,805,415	1.0982	5,097,106	(17,708,309)	(506,952)	(18,215,261)
DECEMBER	73,641,489	8,641,077	3.1800	27,478,625	46,162,864	2.6678	22,271,131	(23,891,733)	(909,618)	(24,801,351)
JANUARY	92,902,230	11,679,909	3.1800	37,142,111	55,760,119	4.6724	53,946,373	(1,813,746)	(1,524,154)	(3,337,900)
FEBRUARY	68,865,829	8,975,312	3.1800	28,541,492	40,324,337	6.1985	55,795,589	15,471,252	(1,767,157)	13,704,095
MARCH	54,731,639	8,360,140	3.1800	26,585,245	28,146,394	6.4552	54,285,006	26,138,612	(1,246,850)	24,891,762
APRIL	35,584,612	5,983,901	3.1800	19,028,805	16,555,807	6.6959	40,234,816	23,679,009	(927,211)	22,751,798
MAY	19,661,528	2,389,445	3.1800	7,598,435	12,063,093	6.6959	16,454,779	4,391,686	(636,869)	3,754,817
JUNE	7,331,096	1,735,496	3.1800	5,518,877	1,812,219	6.6959	11,269,833	9,457,614	(524,417)	8,933,197
JULY	13,415,765	1,607,386	3.1800	5,111,487	8,304,278	6.6959	10,504,465	2,200,187	(431,112)	1,769,075
AUGUST	5,958,431	1,281,764	3.1800	4,076,010	1,882,421	6.6959	8,476,971	6,594,550	(109,678)	6,484,872
TOTAL	443,920,063	59,055,232		187,795,638	256,124,425		282,753,260	26,628,835	(9,048,643)	17,580,192
Interim Settlement Adjustment										(7,000,000)
GRAND TOTAL	443,920,063	59,055,232		187,795,638	256,124,425		282,753,260	26,628,835	(9,048,643)	10,580,192

CALCULATION OF RECOVERED CHARGES
November 1, 2001 Through October 31, 2001

Schedule 9

	<u>Usage</u>		<u>Usage</u>		<u>Total 2001-02</u>		<u>Total 2000-01</u>	
	MCFs	\$	MCFs	\$	MCFs	\$	MCFs	\$
Applicable Sales (MCFs)								
November 1 through November 30	7,146,910							
December 1 thru August 31			52,010,307					
							59,157,217	
Total Applicable Sales								
Base Fuel Factor \$/MCF	3.18		3.18					
Base Fuel Charge		22,727,174		165,392,776			188,119,950	
GCR Fuel Factor \$/Mcf	4.3724		3.1307					
GCR Fuel Charge		31,249,149		162,828,257			194,077,408	
Total Projected Recovery		<u>53,976,323</u>		<u>328,221,034</u>			<u>382,197,357</u>	

(1) Proper utilization of sales include all of November billed sales and 15 days of average December billed sales recognizing PGW's cycle billing.

(2) Proper utilization of sales include 16 days of average December billed sales and billed sales for the months of January through August 2002 recognizing PGW's cycle billing.

NOTE: The "Total Projected Recovery" includes the Base Fuel Factor of \$3.18 plus the GCR Fuel Factor which fluctuates based on actual natural gas prices times Applicable Sales.

Philadelphia Gas Works

Schedule 10

Dec-01

PROPOSED RATES
Effective December 1, 2001*

<u>Rate</u>	<u>Current Base Rate</u> (1)	<u>Current GCR</u> (2)	<u>Current Commodity Rate</u> (3)=(1)+(2)	<u>Proposed GCR</u> (4)	<u>Increase</u> (5)=(4)-(2)	<u>Proposed Commodity Rate</u> (6)=(3)+(5)
Residential GS/PHAGS	\$ 6.9119	\$ 4.3724	\$ 11.2843	\$ 3.1307	\$ (1.2417)	\$ 10.0426
Commercial GS/MUNGS	\$ 7.1200	\$ 4.3724	\$ 11.4924	\$ 3.1307	\$ (1.2417)	\$ 10.2507
Industrial GS	\$ 7.1200	\$ 4.3724	\$ 11.4924	\$ 3.1307	\$ (1.2417)	\$ 10.2507
Phila.Housing Authority (PHA)	\$ 7.1260	\$ 4.3724	\$ 11.4984	\$ 3.1307	\$ (1.2417)	\$ 10.2567
Municipal (M)S	\$ 6.4130	\$ 4.3724	\$ 10.7854	\$ 3.1307	\$ (1.2417)	\$ 9.5437

* Excludes customer charges

Actual Gas Cost

Schedule 12

	<u>Sep-01</u>	<u>Oct-01</u>
	(Actual)	(Actual/Estimated)*
Williams	\$ 2,667,345	\$ 2,749,450
Texas Eastern	\$ 2,612,611	\$ 2,504,959
Dominion	\$ 147,460	\$ 129,981
Equitrans	\$ 34,499	\$ 34,295
ANR	\$ 163,601	\$ 159,945
Spot Purchases -Transco	\$ 4,108,472	\$ 5,308,782
Spot Purchases -Tetco	\$ 751,315	\$ 275,829
Transco Supply1	\$ 2,757,713	\$ 2,737,366
Transco Supply2	\$ 162,797	\$ 269,129
Transco Supply3	\$ -	\$ 51,345
Transco Supply4	\$ -	\$ -
Transco Supply5	\$ 3,114,750	\$ 3,234,075
Transco Supply6	\$ 433,635	\$ 18,250
Transco Supply7	\$ 2,727,075	\$ 1,776,300
Transco Supply8	\$ 1,643,318	\$ 1,640,358
Transco Supply9	\$ -	\$ -
Tetco Supply1	\$ 16,623	\$ 494,101
Tetco Supply2	\$ -	\$ -
Tetco Supply3	\$ 128,991	\$ -
Tetco Supply4	\$ 4,724,250	\$ 4,898,775
Tetco Supply5	\$ 1,173,000	\$ 1,227,600
Tetco Supply6	\$ -	\$ -
Tetco Supply7	\$ 467,202	\$ 1,431,056
Tetco Supply8		
Sub Total	\$ 27,834,656	\$ 28,941,595
Deferred Gas Payment	\$ 1,008,000	\$ 796,500
Off System Sales		\$ 89,500
Gas Transportation	\$ 33,482	\$ 49,366
Adjustment		\$ 836,713
Total Costs	\$ 28,876,139	\$ 30,713,675

* October 2001 costs are not finalized

PHILADELPHIA GAS WORKS
GAS SERVICE TARIFF



Issued by: Les A. Fyock
Vice President
Regulatory Affairs
PHILADELPHIA GAS WORKS
800 West Montgomery Avenue
Philadelphia, PA 19122

NOTICE

This Tariff Supplement Makes a Decrease in the Gas Cost Rate

LIST OF CHANGES MADE BY THIS TARIFF

THE GAS COST RATE CLAUSE - Section 11.2 – (Sixth Revised Page No. 71)

Decreases the current effective Gas Cost Rate effective December 1, 2001.

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11. GAS COST RATE CLAUSE

11.1 PROVISION FOR ADJUSTMENT

The Gas Cost Rate shall be applied to each Mcf (1,000 cubic feet) of gas supplied under Rates Schedules GS, MS, PHA, and NGVS-Firm, except for gas usage under the Special Provisions – Air Conditioning of those rates.

11.2 COMPUTATION OF GAS COST RATE

- a. The Gas Cost Rate shall be computed to the nearest one-hundredth cent (0.01¢) in accordance with the formula set forth below:

$$GCR = ((C - E) / S) - B$$

- b. Each Gas Cost Rate so computed shall be applied to Customers' bills for twelve monthly billing periods commencing with September; provided, however, that for the 2001-2002 GCR period, that such rate may be revised on an interim basis subject to the following procedures: If there is known and measurable change in gas cost during the effective period of the Gas Cost Rate and the change would result in an increase or decrease in the Gas Cost Rate of 2% or more, PGW may file a petition with the Commission to implement an update early for a proposed revision to its Gas Cost Rate incorporating the recalculated rate, which revision shall become effective on one's days notice. Such filing shall be made in accordance with applicable provisions of 52 Pa Code § 53.64 (i)(5).

The currently effective Gas Cost Rate is \$ 3.1307 for service on or after December 1, 2001.

(D)

11.3 DEFINITIONS

GCR - Gas Cost Rate determined to the nearest one-hundredth cent (0.01¢) to be applied to each Mcf of gas supplied under Rate Schedules GS, MS, PHA, and NGVS-Firm, except for gas usage under the Special Provisions – Air Conditioning of those rates

C - the current cost of natural gas and other raw materials determined as follows: (a) for all types of gas, project the cost for each purchase (adjusted for net current gas stored) for the computation year plus (b) the arithmetical sum of (1) the projected book value of non-current gas at the beginning of the computation year minus (2) the projected book value of non-current gas at the end of the computation year.

E - experienced net over billings (or under billing) of the cost of natural gas and other raw materials as of the end of the computation year.

Additionally, supplier refunds received prior to the end of the August billing period will be included in the factor "E". Commencing with the Fiscal Year 1991-92 GCR calculation, supplier refunds anticipated to be received within the computation year will be included in Factor "E".

(D) – Decrease

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December 5, 2001

VIA HAND DELIVERY

James McNulty, Secretary
PA Public Utility Commission
400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

DOCUMENT
FOLDER

RECEIVED
01 DEC -5 PM 2:20
PA P.U.C.
SECRETARY'S BUREAU

Re: Philadelphia Gas Works v. Pennsylvania Public Utility
Commission, Docket No. R-00016378 Quarterly Filing

Dear Secretary McNulty:

We are writing on behalf of the Philadelphia Gas Works ("PGW"). On November 30, 2001, PGW filed its December 1, 2001 Quarterly Update to its Gas Cost Rate. It has come to our attention that an incorrect Table of Contents was included in the Quarterly Update filing. Enclosed, please find the correct Table of Contents for PGW's December 1, 2001, GCR Quarterly Update. Kindly disregard the Table of Contents filed on November 30, 2001.

Thank you for your attention to this matter. If you have any questions concerning this correspondence, please feel free to contact me.

Very truly yours,



Mark S. Stewart

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

MSS/jlg
Enclosure

cc: All Parties of Record
Karen Moury, Esq. w/enc.
Robert Rosenthal, Director, Fixed Utility Services 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 FIRST CLASS MAIL

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Obermayer, Rebmann, Maxwell & Hippell
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Mark S. Stewart, Esq.

Date: December 5, 2001

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SECRETARY'S BUREAU

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DOCKETED

DEC 07 2001



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048

IRWIN A. POPOWSKY
Consumer Advocate

FAX (717) 783-7152
E-Mail: paoca@ptd.net

December 10, 2001

DOCUMENT
FOLDER

James J. McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
P.O. Box 3265
Harrisburg, PA 17120

Re: Pa. Public Utility Commission
v.
Philadelphia Gas Works
Docket Nos. Docket No. R-00005654 and R-00016378

Dear Secretary McNulty:

Enclosed for filing please find an original and three copies of the Petition for Enforcement of Settlements of the Office of Consumer Advocate in each of the above-referenced proceedings.

Copies of this document have been served upon all parties as evidenced by the attached Certificate of Service.

Sincerely yours,

Stephen J. Keene
Senior Assistant Consumer Advocate

RECEIVED
01 DEC 10 PM 4: 17
PA.P.U.C.
SECRETARY'S BUREAU

Enclosure

cc: All parties of record
Honorable Marlane R. Chestnut, Administrative Law Judge
Karen Moury, Esq., Law Bureau
Robert Rosenthal, Fixed Utilities Service

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ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Pennsylvania Public Utility Commission :

v. :

Philadelphia Gas Works :

Pennsylvania Public Utility Commission :

v. :

Philadelphia Gas Works, 1307(f) :

PA.P.U.C.
SECRETARY'S BUREAU
Docket No. R-00005654

DOCKETED

DEC 13 2001

Docket No. R-00016378

DOCUMENT
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PETITION FOR ENFORCEMENT OF SETTLEMENTS

I. INTRODUCTION

On November 30, 2001, Philadelphia Gas Works ("PGW" or "Company") filed its Quarterly Update to its Gas Cost Rate ("GCR") to become effective December 1, 2001. The tariff supplement filed reduced PGW's GCR from \$4.3724/Mcf to \$3.1307/Mcf effective December 1, 2001.

The Office of Consumer Advocate ("OCA") has reviewed the Company's Quarterly Update filing and has identified an error in that filing that has the effect of increasing the Company's gas costs by \$7 million in the 2002 GCR period.

The Company has used this Quarterly Update as an opportunity to try to reinsert \$7 million for bad debt expense allowance into its GCR. The Company claims that it is authorized to do so by the Joint Petition for Full Settlement of Philadelphia Gas Works'

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Petition for the Establishment of Interim Rates and Related Appeal (“Interim Rates Settlement”) entered into between PGW and the Commission’s Law Bureau.

The OCA submits that PGW’s attempt to collect an additional \$7 million in bad debt expense through its GCR is in violation of the Interim Rates Settlement, the Settlement of PGW’s 2002 GCR proceeding, and is simply an attempt to circumvent the Commission’s decision in PGW’s recently concluded base rate proceeding with respect to the appropriate level of bad debt expense. Therefore, the OCA respectfully requests that the Commission direct PGW to *immediately* remove the \$7 million bad debt expense allowance from its GCR.

II. THE COMPANY’S ATTEMPT TO RECOVER AN ADDITIONAL \$7 MILLION FOR BAD DEBT EXPENSE IN ITS 2002 GCR VIOLATES THE INTERIM RATES SETTLEMENT AND THE SETTLEMENT OF PGW’S 2002 GCR PROCEEDING.

In Schedule 1 of PGW’s Quarterly Update, the Company includes a \$7 million expense in its GCR costs for “Interim Settlement Bad Debt Allowance.” Quarterly Update, Sch. 1. In the transmittal letter, the Company explains that the \$ 7 million is to be included in the “Reserve Fund” created by the Interim Rates Settlement. The OCA submits that the Interim Settlement does not permit PGW to collect \$7 million for bad debt expense in the current GCR period. The \$7 million for bad debt allowance authorized by the Interim Rates Settlement has already been collected by the Company during its 2001 GCR period.

The Interim Rates Settlement between PGW and the Commission’s Law Bureau came about as a result of the Company’s appeal of the Commission’s Order in

PGW's Interim Rates proceeding at Docket No. R-00005654. In that proceeding, the Company had sought an interim base rate increase of \$65 million. After an expedited proceeding, the Commission entered an order awarding PGW an \$11 million interim rate increase. After PGW appealed this decision to the Commonwealth Court, the Company entered into settlement negotiations with the Law Bureau that resulted in the Interim Rates Settlement. That Settlement resolved various contested issues that the Company had raised in its appeal. Pertinent to the instant issue, the Interim Rates Settlement allowed the Company to increase its **2001 GCR** to recover an additional \$7 million for additional bad debt expense. Interim Rates Settlement at 2, 7. The recovery of the \$7 million was to be compressed so as to be fully recovered by the end of PGW's 2001 GCR period. Interim Rates Settlement at 7. The Interim Rates Settlement also allowed PGW to hold in reserve any additional GCR over-recovery from the 2001 GCR period to be used as necessary to meet Bond Ordinance covenant requirements, debt service and/or timely payment of obligations when due, through January 2002.¹ Interim Rates Settlement at 8. Thus, the total maximum relief through the GCR provided by the Interim Rates Settlement was up to \$25 million (\$7 million for bad debt expense plus \$18 million for over-recovery of GCR costs).²

The Company has already recovered the \$7 million for bad debt expense during the 2001 GCR period. See, Quarterly Update, Sch. 8. Now the Company is

¹ In its Quarterly Update, the Company has reported that the total GCR over-recovery for the 2001 GCR period was \$10.58 million. Pursuant to the Interim Rates Settlement, this is the total amount that can be placed into the reserve account.

² The Interim Rates Settlement also permitted PGW to increase its customer charge to collect an additional \$11 million in base rate revenues, compressed so as to recover the full amount by August 31, 2001.

attempting to recover an additional, unauthorized \$7 million for bad debt expense in its 2002 GCR as well. This in spite of the fact that the settlement of PGW's 2002 GCR proceeding expressly required the Company to remove the \$7 million from its GCR costs. Joint Petition for Complete Settlement of Philadelphia Gas Works' 2001-2002 GCR Proceeding §III.2 ("2002 GCR Settlement"). Thus, the Company, which just took the \$7 million out of its GCR in its September compliance filing made pursuant to the 2002 GCR Settlement, now seeks to reinsert the \$7 million back into its GCR by using its first quarterly update as a vehicle. The OCA submits that this is in violation of the Interim Rates Settlement and the 2002 GCR Settlement, and should be rejected immediately by the Commission.

It is OCA's understanding that the Company relies principally upon Section III.27 of the Interim Rates Settlement in support of its inclusion of an additional \$7 million in its 2002 GCR. Section III, 27 provides:

27. Any additional calculated GCR over-recovery, up to \$18 million (for a total of \$25 million), will be held in a reserve account to be used as necessary to meet Bond Ordinance covenant requirements, *i.e.*, debt service and/or timely payment of obligations when due, through 2002. After the PUC rules on PGW's permanent base rate request or any additional settlement thereof, PGW will make a projection of its debt service and cash obligations through January 2002. To the extent PGW identifies a cash deficiency that would cause a Bond Ordinance covenant violation, PGW will be permitted to utilize the reserve fund (or portion thereof) to cover this deficiency. Any remaining portion of the reserve will be returned to ratepayers through the GCR, subject to PGW's right to request a different treatment. PGW will make an informational filing to the PUC when it determines whether it shall need the reserve fund, no later than December 31, 2001, which shall be reviewed and approved by the PUC with its conclusions communicated by secretarial letter within ten (10) days of its filing.

Interim Rates Settlement §III.27. In particular, the OCA understands that PGW relies upon the parenthetical “(for a total of \$25 million)” in the first sentence of this paragraph as authority to recover an additional \$7 million in its 2002 GCR. The Company claims that the \$7 million that it recovered for bad debt expense in its 2001 GCR has already been spent and that it has an absolute right under the Interim Rates Settlement to include an additional \$7 million in the reserve fund along with the over-recoveries from the 2001 GCR period.³ The OCA submits that such a reading of this section of the settlement cannot stand in light of the language of the Interim Rates Settlement and Order approving that Settlement, as well as the 2002 GCR Settlement.

Section III.23 is the part of the Interim Rates Settlement that authorizes PGW to collect an additional \$7 million for bad debt expense through its GCR. This Section provides:

23. As part of its previously authorized GCR revision opportunity in March, 2001, the non-gas cost portion of PGW's GCR rate will be increased to produce \$7 million, compressed so as to be collected by August 31, 2001, the end of PGW's current GCR period, in order to recover additional bad debt expense associated with gas costs in excess of the level assumed in the Interim Rate Proceeding. This amount will not be reconciled against actual gas costs. The bad debt expense will be subject to review and revision in PGW's pending base rate proceeding.

Interim Rates Settlement §III.23.

³ As noted in Footnote 1 above, the Company did not reach its ceiling of \$18 million of over-recoveries in the 2001 GCR period authorized by the Interim Rates Settlement. It had a total over-recovery of \$10.58 million as of August 31, 2001. This is the total amount to be held in the reserve account.

The Interim Rates Settlement clearly states that the \$7 million bad debt allowance is to be fully recovered by the end of PGW's 2001 GCR period, August 31, 2001. There is nothing in this section that would authorize an additional \$7 million to be recovered through the 2002 GCR. In fact, the Order approving the Interim Rates Settlement makes it clear that the \$7 million increase in the GCR is only temporary and that the appropriate level of bad debt expense will be addressed in the Company's permanent base rate proceeding. In fact the Commission specifically stated:

As to the assertions concerning the permanent inclusion of a factor in PGW's GCR to recover the bad debt expense, the Commission notes that the Joint Petition expressly states that its provisions constitute a negotiated resolution of the issues and are of no precedential value in subsequent proceedings. *We assure the parties that our approval for the recovery of a portion of bad debt expense through the GCR under the limited and specific circumstances described in the Joint Petition does not reflect any intent to permit such treatment in future GCR proceedings.* (emphasis added).

Interim Rates Settlement Order at 6 (Order entered February 22, 2001).

The issue of the appropriate level of bad debt expense was extensively litigated by the parties in the base rate proceeding at Docket No. R-00006042 and addressed in the Commission's October 4, 2001 Opinion and Order and the Commission's December 6, 2001 Order on Reconsideration. The Company's attempt to include an additional \$7 million in its 2002 GCR for bad debt expense would circumvent the Commission's determination in the base rate case.

The Commission's Order approving the Interim Rates Settlement also provides some guidance with respect to PGW's contention that the parenthetical language

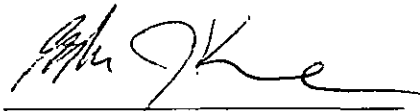
in Section III.27 creates a \$25 million reserve account and that PGW could only get to \$25 million by including an additional \$7 million in its 2002 GCR. In the Order approving the Interim Rates Settlement, the Commission characterized the reserve account as a “potential \$18 million ‘reserve fund.’” Therefore, the Company’s argument that it needs an additional \$7 million from this year’s GCR should be rejected. It is clear that the only amount that should be held in the reserve account is the \$10.58 million of actual over-recoveries experienced by the Company as of August 31, 2001, the end of its 2001 GCR period.

Finally, in the Settlement of PGW’s 2002 GCR proceeding, the Company was specifically required to remove the \$7 million of bad debt expense. 2002 GCR Settlement §III.2. The OCA submits that the Company’s inclusion of this \$7 million back into the GCR as part of its first quarterly update is in violation of the 2002 GCR Settlement. The Company should be required to immediately remove the \$7 million from its GCR.

III. CONCLUSION

For the reasons set forth above, the OCA respectfully requests that the Commission enforce the Interim Rates Settlement and the 2002 GCR Settlement by directing PGW to immediately remove the \$7 million bad debt allowance from its GCR.

Respectfully submitted,



Stephen J. Keene
Senior Assistant Consumer Advocate

Counsel for:
Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048

Dated: December 10, 2001

*66644

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CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works
Docket Nos. R-00005456 and R-00016378

I hereby certify that I have this day served a true copy of the foregoing document, Petition for Enforcement of Settlements, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 10th day of December, 2001.

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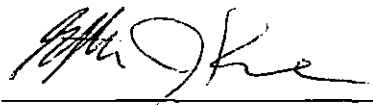
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DEC 10 2001

December 10, 2001

PUBLIC UTILITY COMMISSION
SECRETARY'S OFFICE

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor, 7 North
400 North Street
Harrisburg, PA 17120

Filed by Federal Express

DOCUMENT
FOLDER

Re: Philadelphia Gas Works FY2001-2002 Gas Cost Rate Quarterly Update
Docket No. R-00016378

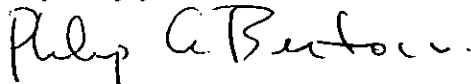
Dear Secretary McNulty:

I represent the Consumers Education and Protective Association (CEPA), the Association of Community Organizations for Reform Now (ACORN), Action Alliance of Senior Citizens of Greater Philadelphia, and the Tenants' Action Group (TAG) (collectively CEPA et al.) in the above-captioned matter.

Enclosed please find for filing an original and three (3) copies of the Comments/Exceptions of CEPA et al. to Philadelphia Gas Works' December 1, 2001 Quarterly Update to Its Gas Cost Rate. Formal Complaint of CEPA et al.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with copies of these Exceptions/Comments.

Very truly yours,



PHILIP A. BERTOCCI

Attorney for CEPA et al.

cc: Certificate of Service

Enclosures

KJR

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ORIGINAL

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Pennsylvania Public Utility
Commission

v.

Philadelphia Gas Works

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Docket Number

R-00016378

DEC 10 2001

PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

~~DOCKETED~~

COMMENTS/EXCEPTIONS OF CEPA ET AL
TO PHILADELPHIA GAS WORKS' DECEMBER 1, 2001
QUARTERLY UPDATE TO ITS GAS COST RATE

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JAN 03 2002

Four low income consumer organizations, Consumers Education and Protective Association (CEPA), Association of Community Organizations for Reform Now (ACORN), Tenants' Action Group (TAG) and Action Alliance of Senior Citizens of Greater Philadelphia (collectively "CEPA et al.") hereby respectfully submit the following Comments/Exceptions to the Philadelphia Gas Works' December 1, 2001 Quarterly Update to its Gas Cost Rate.

DOCUMENT
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I. Introduction.

On Schedule 1 of its November 30, 2001 Quarterly GCR Update Filing (hereinafter "Quarterly Update"), PGW has listed \$7 Million as an "Interim Settlement Bad Debt Allowance" which has been added to or included in the Company's Total Net Applicable Raw Material Expense ("C-E Factor"). In the cover letter accompanying this Quarterly Update, PGW claims incorrectly that the February 2001 Interim Settlement provided for the creation of "a Reserve Fund consisting of the \$7 million increase to the

non-gas portion of PGW's GCR and any GCR overcollection accumulated for the 2000-01 GCR ... up to a maximum of \$25 million."¹ In fact, the Interim Settlement provided for a Reserve Fund consisting only of a potential GCR overcollection of the traditional elements in PGW's FY2000-01 GCR. The immediate result of this totally unwarranted addition of \$7 million is to increase the amount of the updated GCR above the rate otherwise allowable.² The effects on residential customers of the inclusion of this additional \$7 million in the GCR are three-fold. All impose new hardships on PGW customers, whom PGW attempts once more to saddle with the full costs of PGW's refurbishment without any significant equity contribution by the City of Philadelphia, the owner of this historically mismanaged utility.

First, residential customers who already are paying over 30% more than they paid in early November, 2001, would be required to pay this additional \$7 million through their monthly bills. Second, PGW is poised to argue that the PUC must allow the Company to use this additional \$7 million, rather than presently existing rate and available non-rate sources, in tandem with the \$10.58 million in FY2001 over-recovery, to meet alleged bond covenant requirements in January, 2002. Third, in the event that the PUC allows this added \$7 million to be so utilized, PGW, not satisfied with a forced loan from customers, will argue that the \$7 million is non-reconcilable, and therefore not refundable to customers as an over-recovery through the FY2003 GCR.

The claims set forth in the Quarterly Update are very surprising. PGW's claims

¹ Letter dated November 30, 2001 from Daniel Clearfield, Esquire, PGW counsel to James McNulty, Secretary, PA Public Utility Commission. For the full text of the Interim Settlement, see Joint Petition for Full Settlement of PGW's Petition for the Establishment of Interim Rates and Related Appeal, Pa. PUC v. PGW, R-00005654.

² Except to protest the inclusion of the \$7 million Bad Debt Allowance in the GCR and the Reserve Fund, CEPA et al. take no position at this time concerning the legal sufficiency of the methodology utilized by PGW in formulating this Quarterly Update.

contradict statements which PGW itself made in the days leading up to Commission approval of the Interim Settlement on February 22, 2001. At that time, PGW stated that the “creation of a ‘reserve fund’ of up to \$18 million” was provided in the Interim Settlement to be “available only if PGW develops a GCR over collection...”³ The PUC itself confirmed this commitment in its February 22, 2001 Order approving the Interim Settlement: “We assure the parties that our approval for the recovery of a portion of bad debt expense through the GCR under the limited and specific circumstances described in the Joint Petition does not reflect any intent to permit such treatment in future GCR proceedings.”⁴ PGW now claims that the Interim Settlement permits inclusion of a \$7 million Bad Debt Allowance in the FY2002 GCR, that the authorized Reserve Fund is now set at a maximum of \$25 million, and that the Reserve Fund includes \$7 million which has not been overcollected yet, but which PGW purposely seeks now to “overcollect”!

CEPA et al. oppose the inclusion of this \$7 million in the Reserve Fund because it is contrary to law and to the settlement agreements which resolved PGW’s Interim Base Rate Increase proceeding (R-00005654) and PGW’s FY2002 Gas Cost Rate proceeding (R-00016378).

II. The Interim Settlement Does Not Authorize Inclusion of a \$7 million “Interim Settlement Bad Debt Allowance” in PGW’s FY2002 GCR.

The Interim Settlement was a Settlement arising from a Commonwealth Court appeal by PGW of the Interim Base Rate Increase case Pa. PUC v. PGW, R-00005654. In its November 22, 2000 Order in that case, the PUC had awarded PGW an \$11 million

³ Response of Philadelphia Gas Works to the Comments and Objections to the Joint Petition for Full Settlement, at p.5 (Pa. PUC v. PGW, R-00005654).

⁴ Order, at p. 6 (Pa. PUC v. PGW, R-00005664).

Interim Base Rate Increase, subject to certain operational conditions. PGW had refused to accept the conditions as originally formulated by the PUC, and as a consequence had temporarily foregone any interim base rate increase pending resolution of its appeal to the Commonwealth Court.⁵ At the same time, under the pressure of an unprecedented run up in natural gas costs, PGW had obtained two substantial increases in its Gas Cost Rate (GCR), one effective November 22, 2000 and the second effective January 2, 2001. The increases in the Gas Cost Rate, especially with subsequent moderation of natural gas prices, were more than enough to allow PGW to fully recover PGW's Tariff authorized fuel and non-fuel GCR costs and ultimately resulted in an over-recovery of those costs of \$10.58 million in FY2001.

In the course of settlement negotiations with PUC staff, PGW persuaded the Commission that the Interim Base Rate Increase was insufficient because unprecedented increases in natural gas costs reflected in the increased Gas Cost Rate would inevitably exert tremendous upward pressure on PGW's bad debt expense. Under PGW's Tariff, bad debt expense had been traditionally treated not as a fuel cost, or even as one of the few, specified non-fuel costs recoverable through the Company's GCR, but as an expense provided for in base rates. The settlement negotiations between Commission staff and PGW thus had to address at least three problems: (1) how to provide PGW with an \$11 million Interim Base Rate Increase for FY2001, when that \$11 million had to be generated between March 1, 2001, PGW's last heating season high usage month, and the end of PGW's fiscal year on August 31, 2001; (2) how to provide additional revenues to address the unprecedented run up in bad debt expense thought likely to occur as a result

⁵ Although the Interim Settlement was docketed on the PUC record at both R-00005654 (Interim Base Rate Case) and R-00005619, there was never an appeal from the PUC Final Order in R-00005619. The Interim Settlement was docketed at both numbers because one of the terms of the Base Rate Case Settlement required use of the Gas Cost Rate mechanism as a vehicle for recovery of \$7 million that could not be recovered under the circumstances before August 31, 2001 through base rates.

of the GCR increases; (3) how to address PGW's concerns that it might experience cash flow problems in January, 2002.

To resolve the first problem, the base rate issue, the Interim Settlement provided for a Base Rate Increase of \$11 million to be recovered through an increase in the monthly Customer Charge from \$8 to \$11.66, effective March 1, 2001. Interim Settlement, Para. 22.

To address the second problem, the perceived need to generate sufficient revenue to cover the increase in bad debt caused by the natural gas cost run up, and not captured in the interim base rate increase itself, the Interim Settlement provided for an additional \$7 million to be recovered through PGW's FY2001 GCR in the period March 1, 2001 through August 31, 2001. As set forth in the Interim Settlement:

As part of its previously authorized GCR revision opportunity in March, 2001, the non-gas portion of PGW's GCR rate will be increased to produce \$7 million, compressed so as to be collected by August 31, 2001, the end of PGW's current GCR period, in order to recover additional bad debt expense associated with gas costs in excess of the level assumed in the Interim Rate Proceeding. This amount will not be reconciled against actual gas costs. The bad debt expense will be subject to review and revision in PGW's pending base rate proceeding.

Interim Settlement, Para 23.

These provisions clearly demonstrate that the \$7 million was a temporary provision, improvised under unusual circumstances, in which the Gas Cost Rate was used as an instrument to collect a cost which was not recoverable under PGW's Tariff as either a fuel or a non-fuel cost. The \$7 million was to be collected by August 31, 2001; it was not reconcilable or potentially reconcilable, unlike other GCR revenues. The \$7 million was explicitly designated as "not reconcilable"; as such, the \$7 million was not,

technically speaking, capable of over-recovery, nor could it constitute part of any “over-recovery” in that limited sense.⁶ Moreover, as the Interim Settlement envisaged, the reason for the creation of this temporary recovery mechanism (the legal and practical unavailability of a further Interim Base Rate increase to generate these funds in PGW’s FY2001) would be remedied in PGW’s Permanent Base Rate Increase case, the “pending base rate proceeding” at Docket No. R-00006042. In that proceeding, provision would be made according to the Management Agreement for the establishing base rates allowing just and reasonable recovery of PGW’s bad debt expense.

To address the third problem, the hypothetical cash flow shortage in January, 2002, the parties agreed that if there was a FY2001 GCR over-recovery associated with the traditional elements whose costs are recovered through PGW’s GCR, that over-recovery would not be immediately credited to ratepayers in the FY2002 GCR, but rather would be retained by the Company until January, 2002, and could be then spent under certain conditions upon authorization of the Commission. Thus, the Interim Settlement states:

Any additional calculated GCR over-recovery, up to \$18 million (for a total of \$25 million), will be held in a reserve account to be used as necessary to meet Bond Ordinance covenant requirements, i.e., debt service and/or timely payment of obligations when due, through January, 2002. After the PUC rules on PGW’s permanent base rate request or any additional settlement thereof, PGW will make a projection of its debt service and cash obligations through January, 2002. To the extent PGW identifies a cash deficiency that would cause a Bond Ordinance covenant violation, PGW will be permitted to utilize the reserve fund (or portion thereof) to cover this deficiency. Any remaining portion of the reserve will be returned to rate payers through the GCR, subject to PGW’s right to request a different treatment....

⁶ The Interim Settlement recognizes that PGW was being authorized to collect \$7 million more through its FY2001 GCR than would otherwise be permitted, because the \$7 million was in addition to the fuel and non-fuel costs recoverable through the GCR under PGW’s Tariff. In that sense, the \$7 million designated for recovery in FY2001 was an “over-recovery” – but not an “over-recovery” which was subject to reconciliation or even potentially subject to reconciliation.

Interim Settlement, Para. 27.

CEPA et al. do not dispute PGW's contention that in FY2001, PGW over-recovered through its GCR \$10.58 million applying rates designed to cover the fuel and non-fuel costs enumerated in its Tariff for recovery through the GCR, and also recovered the additional \$7 million FY2001 bad debt expense allowance provided for in the Interim Settlement. This \$10.58 million constitutes the Reserve Fund provided in Paragraph 27 of the Interim Settlement. If PGW had over-recovered by the same means an additional \$7.42 million in FY2001 from the same sources as the \$10.58 million, this sum also would be part of the designated potential "additional calculated GCR over-recovery" to be included in the Reserve Fund. However, the \$7 million provided specifically for FY2001 bad debt expense is not to be included in the Reserve Fund under Paragraph 27.

In addition to the context as described above, the specific language of Paragraph 27 does not support PGW's contentions to the contrary.

First, Paragraphs 23 and 24 of the Interim Settlement addressed the \$7 million bad debt allowance, and provided for its collection through the GCR during the balance of FY2001. Paragraphs 23 and 24 refer only to FY2001, and make no connection between the \$7 million and any Reserve Fund.⁷

⁷ Paragraphs 23 and 24 of the Interim Settlement provide as follows:

23. As part of its previously authorized GCR revision opportunity in March, 2001, the non-gas cost portion of PGW's GCR rate will be increased to produce \$7 million, compressed so as to be collected by August 31, 2001, the end of PGW's current GCR period, in order to recover additional bad debt expense associated with gas costs in excess of the level assumed in the Interim Rate Proceeding. This amount will not be reconciled against actual gas costs. The bad debt expense will be subject to review and revision in PGW's pending base rate proceeding.

24. Depending upon PGW's next GCR update, the \$7 million non-gas costs will either be subsumed within any calculated over-recovery or will be separately billed as an increase to the existing, or then authorized, GCR factor.

The subject of Paragraph 27 establishing the Reserve Fund is not the \$7 million, but “[a]ny additional calculated GCR over-recovery, up to \$18 million...” As PGW itself stated, this Paragraph addresses the “second part of the Joint Petition’s financial package...[that is] the creation of a “reserve fund,” of up to \$18 million...”⁸ It is this additional over-recovery which is to be “held in a reserve account...” Interim Settlement, Para. 27. There is no mention in this Paragraph of the \$7 million Bad Debt Allowance collected through the FY2001, nor of any potential \$7 million Bad Debt Allowance to be collected through the FY2002 GCR and deposited in this Reserve Fund.⁹

Second, PGW may be anticipated to argue that the parenthetical expression “(for a total of \$25 million)” establishes that the Reserve Fund was envisaged to contain up to \$25 million, including the \$7 million. This argument gives the phrase an import which it never had. As has been demonstrated, both the historical context and detailed analysis of the relevant Interim Settlement provisions all weigh against this interpretation. Moreover, this phrase is also susceptible to an interpretation which harmonizes absolutely with the rest of the Interim Settlement. This phrase expresses the intention of the drafters to make it as clear as possible that if there should occur an over-recovery of costs associated with PGW’s traditional GCR fuel and non-fuel elements even up to \$18 million, that whole amount would be included in the Reserve Fund and not subject to reduction by the amount of the FY2001 \$7 million Bad Debt Allowance. The phrase forecloses the interpretation that the \$7 million, which PGW collected unconditionally

⁸ Response of Philadelphia Gas Works to the Comments and Objections to the Joint Petition for Full Settlement (filed February 20, 2001) at p. 5 (Pa. PUC v. PGW, R-00005654).

⁹ Moreover, if such mention is considered implicit, and if there were no need to use the \$7 million in January 2002, then by the terms of Paragraph 27, it would have to be returned to ratepayers unless the PUC otherwise ordered. However, return of this \$7 million to ratepayers would be inconsistent with the provisions of Paragraph 23 which clearly state that the \$7 million is not reconcilable, that is, not to be credited to ratepayers to the extent that it is in excess of the amounts necessary to cover PGW’s Tariff authorized fuel and non-fuel expenses recoverable through the GCR.

and on a non-reconcilable basis in FY2001, and which was calculated to improve PGW's cash position by \$7 million at the FY2001 year end, should be counted against the \$18 million referred to in Paragraph 27. In short, the phrase simply will not bear the weight which PGW arbitrarily and after the fact attaches to it.

Third, the Reserve Fund is by its terms for use in January 2002, if at all. It presupposes an over-recovery which was to have occurred by FY2001 year end. The \$10.58 million over-recovery from FY2001 fits that description. No reference is made to any potential GCR over-recovery occurring in the first quarter of FY2002 or throughout FY2002. See PGW Quarterly Update, Schedule 6. PGW is now arguing for the existence of a \$7 million Bad Debt Allowance, to be collected over the 12 months beginning on December 1, 2001. This supposed element in the Reserve Fund is inconsistent with the designated and limited purpose of the Reserve Fund, for the reason that most of the \$7 million would not be available for use in January 2002, because it would not have yet been recovered.

III. Inclusion of the \$7 Million Is Contrary to the Terms of FY2002 GCR Settlement.

The FY2002 GCR Settlement approved by the Commission on September 7, 2001, confirms CEPA *et al.*'s contention that the Interim Settlement envisaged the \$7 million FY2001 GCR Bad Debt Allowance as a one year measure, confined to FY2001.¹⁰ Indeed, PGW's belated attempt to include a \$7 million Bad Debt Allowance as an update in its FY2002 GCR is contrary to the terms of the GCR Settlement. Paragraph 2 of the "terms" portion of the Settlement states:

¹⁰ PUC Order entered September 11, 2001, adopting ALJ's Recommended Decision, Pa. PUC v. PGW, R-00016378.

Removal of \$7.0 Million of Interim Rate Settlement Bad Debt Expense and Compression Factor. The revised factor of \$4.3724 described in Paragraph 1 above reflects the removal of the \$7.0 million of bad debt expense authorized as part of PGW's settlement with the Commission in Pa. PUC v. Philadelphia Gas Works, Docket No. R-00005654, and the compression factor authorized by the Commission in Pa. PUC v. Philadelphia Gas Works, docket No. R-00005619.

FY2002 GCR Settlement, Para. III (2). The removal of the \$7 million bad debt expense cost, which had been already recovered in FY2001, implicitly recognized that the right to collect such a bad debt allowance through the GCR had terminated permanently with the end of PGW's FY2001 on August 31, 2001.

The reduction of gas cost projections by \$70 million, pending further probable reductions as of December 1, 2001, together with elimination of the compression and of the \$7 million bad debt expense promptly on September 1, 2001, were described by PGW as diminishing the burden on ratepayers at the earliest occasion. Indeed, PGW itself chose in its Supporting Statement filed with the Joint Petition for Complete Settlement of the Philadelphia Gas Works' 2001-2002 GCR Proceeding to emphasize this benefit of the Settlement:

(c) Removal of \$7.0 Million of Interim Rate Settlement Bad Debt Expense and Compression Factor. The proposed Settlement is also in the Company's and public interest because the September 1, 2001 update described in Paragraph (b) above has the effect of removing the \$7.0 million of bad debt expense authorized as part of PGW's settlement with the Commission in Pa. PUC v. Philadelphia Gas Works, Docket No. R-000054654, and the compression factor authorized by the Commission in Pa. PUC v. Philadelphia Gas Works, Docket No. R-000005619. Again, these reduction will occur on September 1, 2001 three months earlier than if the case had been litigation [sic] to a PUC decision.¹¹

¹¹ Philadelphia Gas Works' Statement in Support of the Unopposed Joint Petition for Complete Settlement of its 2001-2002 GCR Proceeding, p. 4, at Appendix C of Joint Petition for Complete Settlement of Philadelphia Gas Works' 2001-2002 GCR Proceeding,, Pa. PUC v. Philadelphia Gas Works, R-00016378.

This statement demonstrates once more that the Interim Settlement provided, and was understood to provide a \$7 million Bad Debt Allowance only for FY2001. Consistent with this negotiated agreement, termination of the FY2001 GCR compression and the elimination of the \$7 million Bad Debt Allowance were bound to occur as soon as a FY2002 GCR became effective. There is nothing in PGW's justification of this Settlement which suggests that the benefits to customers to be derived from removal of the \$7 million Bad Debt Allowance from the GCR were only ephemeral, a temporary maneuver occurring in relatively low consumption months, and that this \$7 million would be restored as a FY2002 Bad Debt Allowance to be included in the Reserve Fund.

In sum, by the terms of the FY2002 GCR Settlement, the \$7 million Bad Debt Allowance was recognized to have terminated at the FY2001 year end, with the same finality as the termination of a rate compression at the onset of a new rate period.

IV. PGW's Tariff Does Not Permit the Inclusion of a "Bad Debt Allowance" in the "C-E" Factor.

Under the Gas Choice Act, PGW's Tariff remains in effect until restructuring, unless amended upon request of PGW, and PUC approval with notice and opportunity to be heard. 66 Pa.C.S. §§2212(d). Section 11 of PGW's current Tariff, which provides for PGW's Gas Cost Clause, does not include bad debt expense within allowable "gas costs." See Tariff Gas - Pa. P.U.C. No. 1, Supplement No. 15, Sixth Revised Page No.71, Sections 11.2 and 11.3. Moreover, although PGW's Tariff allows for recovery of certain non-gas costs through the GCR, only non-gas costs which have been specifically authorized by the tariff and "annually authorized by the Commission" may be recovered through the GCR.

PGW was authorized by Commission order on notice and hearing to recover \$7

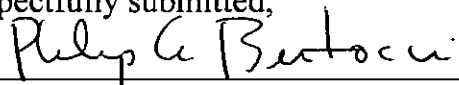
million in non-reconcilable Bad Debt Expense through the FY2001 GCR. But no such authorization exists for the FY2002 GCR. See Tariff Gas - Pa. P.U.C. No. 1, Supplement No. 12, Third Revised Page No. 172, Section 11.5. It is therefore inappropriate for PGW to include such Bad Debt Expense as an "update," when the FY 2002 GCR itself does not authorize inclusion of such an expense in the GCR.

V. Conclusion.

For the foregoing reasons, PGW's Quarterly Update is contrary to applicable law and the Settlement Agreements arduously negotiated by the parties. It is CEPA et al.'s view that the claim for a Bad Debt Allowance has been inserted in this Quarterly Filing in flat disregard of the plain meaning of established agreements and law. In this respect, this action by PGW represents an abuse of provisions allowing GCR Quarterly Updates on one day's notice, without opportunity for prior comment by interested parties.

CEPA et al. therefore request that the Commission require PGW immediately to file an amended Quarterly Update from which the claim for a \$7 million Bad Debt Allowance has been removed and to make such other order as is just and proper.¹²

Respectfully submitted,


PHILIP A. BERTOCCI, ESQUIRE
EDWARD A. McCOOL, ESQUIRE
Attorneys for CEPA et al.

December 10, 2001

COMMUNITY LEGAL SERVICES, INC.
1424 Chestnut Street, 4th Floor
Philadelphia, PA 19102
(215) 981-3702

¹² 52 Pa.Code §53.64(i)(5)(iv) provides that the Commission has discretion to review a Quarterly Update upon filing, as necessary to protect customers and assure that rates are just and reasonable.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Comments/Exceptions in this matter docketed at R-00016378 upon the following parties by First Class U.S. Mail, postage prepaid, as follows:

Dated: December 10, 2001

By First Class U.S. Mail

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PHILIP A. BERTOCCHI

DATE: December 11, 2001
SUBJECT: R-00005654 & R-00016378
TO: Law Bureau
FROM: James J. McNulty, Secretary

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Pa. Public Utility Commission
v.
Philadelphia Gas Works

Attached is a copy of a Petition for Enforcement of Settlements, filed by Office of Consumer Advocate in connection with the above docketed proceedings.

This matter is assigned to your Bureau for appropriate action.

Attachment

cc: FUS

was

Wolf, Block, Schorr and Solis-Cohen LLP

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December 13, 2001

VIA HAND DELIVERY

James J. McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street, 2nd Floor
P.O. Box 3265
Harrisburg, PA 17102

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PA P.U.C.
SECRETARY'S BUREAU

Re: Pennsylvania Public Utility Commission v. Philadelphia
Gas Works, Docket No. R-00005654 and
Pennsylvania Public Utility Commission v. Philadelphia
Gas Works, 1307(f); Docket No. R-00016378

Dear Secretary McNulty:

Enclosed for filing please find the original and three copies of Philadelphia Gas Works' Answer and Motion to Dismiss the Petition for Enforcement of Settlements by the Office of Consumer Advocate, in the above-referenced matter. As evidenced by the attached Certificate of Service, all parties of record have been served in the manner indicated.

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

Sincerely,



Daniel Clearfield

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DC/jlg
Enclosures

cc: Parties of Record w/enc.
Karen Moury, Deputy Chief Counsel w/enc.
Robert Rosenthal, Director, FUS w/enc.
Robert Bennett, FUS w/enc.

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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).

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PA P.U.C.
SECRETARY'S BUREAU

Larry Speilvogel
203 Hughes Road
King of Prussia, PA 19406
(PICGUG)

Dated: December 13, 2001


Daniel Clearfield, Esquire

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P.A.P.U.C.
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PA.P.U.C.
SECRETARY'S BUREAU

Pennsylvania Public Utility Commission

v.

Philadelphia Gas Works

Pennsylvania Public Utility Commission

v.

Philadelphia Gas Works, 1307(f)

Docket No. R-00005654

Docket No. R-00016378

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**PHILADELPHIA GAS WORKS' ANSWER AND MOTION
TO DISMISS THE PETITION FOR ENFORCEMENT OF
SETTLEMENTS BY THE OFFICE OF CONSUMER ADVOCATE
AND REPLY TO THE COMMENTS/EXCEPTIONS OF CEPA**

I. INTRODUCTION

Philadelphia Gas Works ("PGW") respectfully submits this Answer and Motion to Dismiss the Office of Consumer Advocate's ("OCA") Petition for Enforcement of Settlements and Reply to the Comments/Exceptions of the Consumer Education and Protective Association ("CEPA"). OCA and CEPA inaccurately assert that PGW is contravening its Interim Rate and the 2001-2002 GCR Settlement by reinserting into its GCR \$7 million previously authorized by this Commission to account for bad debt expense.

In fact, all that PGW has done¹ is to have complied with and followed the terms of the settlement it reached with the PUC Law Bureau, which steps were already approved by the Commission. In the Joint Petition for Full Settlement of PGW's Petition for the Establishment of

¹ PGW actually only filed its informational filing and request for retention of the Interim Settlement Reserve Fund on December 12, 2001 – after the OCA and CEPA made their filings. These parties apparently felt compelled to make a preemptive filing without even seeing PGW's submission, which filing is not authorized in any way by the exclusive process set forth in the Interim Settlement for the use of the reserve funds.

Interim Rates and Related Appeal, the Law Bureau and PGW agreed both to an annual increase of \$7 million for bad debt expense (which was subsequently to be subsumed into PGW's permanent base rate award) and to the creation of a reserve account, of potentially \$25 million, to assist PGW with its cash flow needs through January 2002.² The reserve account would consist of any calculated GCR over-recovery, up to \$18 million, plus a one time hold back of \$7 million to create a maximum potential reserve of \$25 million.³ This reserve account was approved by the Commission.⁴ Clearly, the 2001 bad debt expense allowance cannot be the same as the winter 2002 cash flow bond covenant reserve fund – but that is the entire basis on which OCA and CEPA have claimed that PGW is improperly trying to collect a \$7 million bad debt expense allowance twice.

Moreover, the pleadings are completely unnecessary and unauthorized. In the cover letter to PGW's December 1, 2001 Quarterly GCR Update, PGW explained exactly how it was complying with the Interim Rate Settlement, holding back the calculated over-recovery of \$10.58 million plus the \$7 million in one time, non-gas cost cash flow hold back for a total reserve account of \$17.58 million, pending PGW's submission of its informational filing requesting authorization to retain the funds. PGW clearly stated that if the Commission found that PGW had not shown the need for the reserve funds, or any portion of them, it would then revise its GCR filing, stop collecting the \$7 million and return whatever has been collected to ratepayers. Given the Company's tremendous need for the funds, as documented in its December 12, 2001

² Joint Petition at ¶¶ 23-24 and 27.

³ *Id.* The Settlement then holds that, if PGW identifies a potential bond covenant violation through January, 2002 "PGW will be permitted to utilize the reserve fund (or portion thereof) to cover this deficiency." *Id.*

⁴ Opinion and Order (February 22, 2001) at ¶ 1. There, the Commission approved "each and every one of [the Joint Petition's] terms and conditions."

filing, PGW firmly believed it would make the necessary showing to retain the entire reserve account, and, by holding the reserve funds out of its Quarterly Update, simply sought to avoid the need to change its rates multiple times, avoiding the customer confusion and Company expense that would accompany such changes.⁵

Thus, under no circumstances are the present filings necessary, as PGW has not violated either settlement referenced by the OCA and CEPA, and the Company has agreed that it will make any changes necessary if the Commission grants it only a portion of the reserve account. Accordingly, the Commission should dismiss the OCA's Petition and deny CEPA's Comments/Exceptions.

II. PGW IS NOT SEEKING TO RECOVER AN ADDITIONAL \$7 MILLION FOR BAD DEBT EXPENSE IN ITS 2002 GCR AS CLAIMED BY OCA AND CEPA.

Throughout its Petition, the OCA asserts that PGW is attempting to "collect \$7 million for bad debt expense in the current GCR period." Petition at 2. CEPA makes similar assertions in its Exceptions. However, these parties' claims are plainly incorrect. The fundamental flaw in the OCA and CEPA's analysis is their belief that the one time allowance of \$7 million in the cash flow reserve account established by the Interim Settlement and approved by the Commission is the same \$7 million annual rate allowance that PGW was permitted to collect on a compressed basis for bad debt expense under that settlement. No logical reading of the Interim Settlement supports this position.

The Joint Petition proposed a package of steps designed to meet PGW's projected cash needs during the 2001 winter and through January 2002. First, it proposed that PGW be permitted to increase its customer charges so as to produce \$11 million in additional base rate

⁵ Amazingly, CEPA contends PGW's Quarterly GCR Update and its attempt to retain the reserve account as contemplated by the Interim Settlement will "impose new hardships" on customers. Comments at 2. CEPA makes this claim despite the fact that PGW further reduced customers' rates when it filed its December 1 GCR update.

revenue by August 31, 2001.⁶ Second, PGW was permitted to increase the non-gas cost portion of its GCR rate to produce \$7 million in annual revenues by August 31, 2001, in order to recover additional bad debt expenses resulting from dramatic increases in the cost of gas.⁷ Third, the Joint Petition sought the Commission's approval of several gas purchasing and operational steps designed to enable PGW to husband cash to meet its obligations through January 2002.⁸ Finally, PGW and the Law Bureau agreed that a one time amount of \$7 million, plus "[a]ny additional calculated GCR over-recovery, up to \$18 million (for a total of \$25 million),⁹ will be held in a reserve account to be used as necessary to meet Bond Ordinance covenant requirements . . . through January 2002."¹⁰

The OCA's Petition and CEPA's Exceptions are entirely based on the misinformed notion that PGW cannot attempt to retain the \$7 million non-gas cost portion of the reserve account because it has already collected the \$7 million in annual revenues to account for heightened bad debt expense. But, turning to the language and purpose of the Interim Settlement, these two \$7 million allowances cannot be the same. First, as the parties admit, the

⁶ Joint Petition at ¶ 22. CEPA attempts to provide a detailed commentary on the negotiations behind the Joint Petition. Notably, CEPA did not actually participate in those negotiations.

⁷ *Id.* at ¶ 23.

⁸ *Id.* at ¶ 25-26.

⁹ Emphasis added. The Settlement clearly contemplates that PGW would be permitted to create a reserve fund consisting of the \$7 million non-gas cost amount plus an calculated gas cost over-recovery. *See*, Joint Petition at ¶ 23-25. CEPA asserts that the Reserve Account is capped at a maximum of \$18 million, but it cannot explain away the words on the face of the Joint Petition which expressly state that "a total of \$25 million will be held in a reserve account." *Id.* at ¶ 27. Based upon these paragraphs in the settlement, the Company held out from its December 1, 2001 GCR Update \$17.6 million, which it will return to ratepayers if the PUC declines to authorize the Company to hold on to the Reserve Account funds. CEPA acknowledges this very reading of the Joint Petition in the first sentence of footnote 9 to its Exceptions.

¹⁰ *Id.* at ¶ 27 (emphasis added).

\$7 million in annual revenues that PGW was permitted by the PUC to collect on a compressed basis by August 31, 2001, were to help the Company absorb increased bad debt expense in that budget year. To the contrary, the \$7 million in non-gas cost reserve account funds are explicitly to be used for cash flow or debt coverage purposes should PGW need the monies to avoid a breach through January 2002. Obviously, funds that were expressly intended to address bad debt expense in FY 2000-01 cannot also be utilized to address cash flow and debt service coverage in FY 2001-2002.¹¹

Second, and equally fatal to the parties' assertion, PGW has already received Commission approval for the \$7 million in revenues for bad debt expense and collected and applied the same. Consequently, the Company would never have agreed to take \$7 million that it had already secured and was already authorized to retain and put those monies back into a reserve account, the funds in which it has yet to receive PUC approval to retain. PGW would literally be giving away money that it had already been authorized to collect and that is not subject to refund.¹²

Based on these flaws alone, the Commission should dismiss the parties' filings. Moreover, the plain language of the Interim Settlement – as quoted but apparently overlooked by OCA and CEPA – compels dismissal. The PUC Law Bureau and PGW clearly agreed that the reserve account would have a maximum potential total of \$25 million, consisting of PGW's

¹¹ OCA makes much of the fact that PGW characterizes the \$7 million non-gas cost portion of the reserve account as "interim settlement bad debt allowance." (Schedule 6) That characterization was used merely as a means of helping the parties identify the \$7 million as distinguished from the gas cost over/under billing. OCA failed to note that the same \$7 million was characterized two schedules later (Schedule 8) as "Interim Settlement Adjustment") where it was clear that it was not referring to the gas cost over-collection.

¹² As CEPA notes, per ¶ 24 of the Joint Petition, the \$7 million in allowed bad debt expense was not reconcilable. To the contrary, ¶ 27 clearly states that PGW must return to customers any portion of the potential \$25 million reserve account that it cannot justify retaining, subject to its right to request a different treatment.

calculated over-recovery, up to \$18 million, plus an additional \$7 million in one time, non-gas cost revenues. Joint Petition at ¶ 27. As the amount of overcollection that PGW can possibly retain via the fund is \$18 million, the only way to reach the maximum total of \$25 million in reserve account funds is if the account is also comprised of this one time \$7 million in revenues. Thus, as PGW has shown that the OCA's Petition and CEPA's Exceptions are untenable under both the language and purpose of the Interim Settlement, the Commission should reject them and directly address the Company's informational filing thereunder.¹³

III. PGW HAS VIOLATED NEITHER THE INTERIM NOR THE 2002 GCR SETTLEMENT, AND IT HAS PROPERLY FOLLOWED THE PROCEDURE TO RETAIN THE INTERIM SETTLEMENT RESERVE ACCOUNT FUNDS.

As detailed above, the OCA and CEPA's entire claim is based on the misperception that PGW is trying to collect a second \$7 million in bad debt expense. PGW has demonstrated that this position is wholly contradicted by the Interim Settlement. Accordingly, the parties cannot support their claim that the Company has violated the Interim Settlement.

Likewise, OCA and CEPA's argument that PGW has violated the 2002 GCR Settlement is based entirely on their belief that PGW agreed to remove the Interim Settlement \$7 million of bad debt expense from its 2002 GCR, but has now reinserted it back into the GCR through the December Quarterly Update. However, once again, the \$7 million permitted by the Commission to be held in the reserve account to address the Company's cash flow and bond covenant needs through January 2002 is not the same as the \$7 million for bad debt expense that the PUC has already authorized PGW to retain and that it has already collected and applied. Thus, as the underpinning of the parties' claim has been shown to be a fallacy, they cannot show that PGW

¹³ On December 12, 2001, PGW filed the informational filing called for in the Interim Settlement, requesting that it be permitted to retain the entire Reserve Account in order to avoid cash deficiencies by the end of January 2002 that will result in violations of its bond covenants. The OCA and CEPA did not wait to consider and respond to PGW's filing, instead choosing to file their pleadings as some sort of preemptive strike.

has violated the 2002 GCR Settlement and the Commission should dismiss the OCA's Petition and deny CEPA's Exceptions.

IV. THE OCA AND CEPA FILINGS ARE UNNECESSARY AND UNAUTHORIZED.

PGW filed its informational filing on December 12, 2001, consistent with the terms of the Interim Settlement. The Commission has ten (10) days to review and approve PGW's request to retain the funds. Notably, the manner in which PGW filed its December Quarterly GCR Update and its reserve account informational filing was completely consistent with the terms of the Interim Settlement. To the contrary, these parties' pleadings are not contemplated by the Settlement -- as they preempt PGW's filing to which the OCA, CEPA and other interested parties are certainly able to respond to the Commission (either in support or opposition).

The pleadings are also not authorized by PUC regulations involving quarterly updates. The regulation clearly indicates that: [q]uarterly filings shall become effective on one day's notice and, unless otherwise ordered by the Commission, shall be subject to review by the Commission and challenged by interested parties only on the utility's next annual Section 1307(f) proceeding.¹⁴ The only order by the PUC clearly establishes that the review of the reserve account issues shall take place in the context of PGW's informational filing.

Finally, the Petition and Exceptions will only serve as procedural distractions to the Commission and the parties, and have caused unnecessary expense to PGW. The Interim Settlement process expressly provides for a prompt review and disposition of the matter, encompassing by necessity any claims raised by OCA and CEPA, and that process should be followed by the Commission. Accordingly, the Commission should dismiss the OCA's Petition and CEPA's Exceptions.

¹⁴ 52 Pa. Code § 53.64(5)(iv).

V. CONCLUSION

For the reasons set forth above, PGW respectfully requests that the Public Utility Commission dismiss the OCA's Petition for Enforcement of Settlements, deny CEPA's Comments/Exceptions to PGW's December 1, 2001 Quarterly Update, and timely review and approve the Company's reserve account informational filing consistent with the terms of the previously approved Interim Settlement.

Respectfully submitted,



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Attorneys for Philadelphia Gas Works

Of Counsel:

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Date: December 13, 2001

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

December 19, 2001

James J. McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17102

Filed by Federal Express

DOCKETED
DEC 21 2001

Re: PA Public Utility Commission v. Philadelphia Gas Works, Docket No. R-00005654
PA Public Utility Commission v. Philadelphia Gas Works, Docket No. R-00016378

CEPA ET AL. LETTER SUPPORTING OCA'S ANSWER
TO PGW'S MOTION TO DISMISS

DOCUMENT
FOLDER

Dear Mr. McNulty:

We represent four low income consumer organizations, Consumers Education and Protective Association (CEPA), Association of Community Organizations for Reform Now (ACORN), Tenants' Action Group (TAG) and Action Alliance of Senior Citizens of Greater Philadelphia (collectively "CEPA et al.") in the above-captioned matters.

This letter is written in support of the Office of Consumer Advocate's Answer to PGW's Motion to Dismiss the Petition for Enforcement of Settlements by the Office Consumer Advocate (hereinafter "Motion"). In the Motion, filed December 13, 2001, PGW also requested that the Commission deny CEPA et al.'s Comments/Exceptions to PGW's November 30, 2001 Quarterly Update. Motion, p. 8. All of these filings addressed the issue whether PGW appropriately included a claim for \$7 million characterized as an "Interim Settlement Bad Debt Allowance" on Schedule 1 of its Quarterly Update. The effect of the inclusion of that \$7 million as a "hold back" in PGW's Quarterly Update is to implement on one day's notice a GCR which is approximately \$.12/Mcf. higher than it otherwise would be.

CEPA et al. have already extensively discussed the grounds for their opposition to PGW's inclusion of the \$7 million "hold back" in its November 30, 2001 Quarterly GCR Update both in CEPA et al.'s original December 10, 2001 Comments/Exceptions and also in the Comments of CEPA et al. to Philadelphia Gas Works' December 12, 2001 Filing for Authorization to Use Reserve Fund, filed on December 17, 2001 at Docket No. R-00005654. In this letter, we shall limit ourselves to four brief points:

1. The so-called Interim Settlement Bad Debt Allowance as an element of PGW's FY2002 GCR is a fiction because no trace of such an allowance appears in the Interim Joint Settlement. For that reason, the allowance changes identity overnight. In the November 30, 2001 Quarterly Update Filing, PGW explicitly and unambiguously characterized the \$7 million as an "Interim Settlement Bad Debt Allowance." After consumer parties challenged this allowance, it reappeared in the December 12, 2001 Reserve Fund Filing as a "one time non-gas cost cash flow allowance." There is nothing in the Interim Settlement which indicates the existence of a "cash flow allowance," states that it is a "one time" allowance for FY2002, identifies the FY2002 GCR as the vehicle for recovery of the allowance, or provides that it may be considered a "gas cost" for GCR update purposes and implemented on one day's notice. These facts compel the conclusion that the allowance does not exist and has never existed.

2. PGW implicitly recognizes that in making this \$7 million claim, it is skating not just on thin ice, but on mere frost particles on the top of the pond. It is quick to assure the Commission that should the Commission find, as it must, that this imposition of \$7 million is not justified by the Interim Settlement, it will "return the appropriate portion of the reserve fund to customers by revising downward its GCR factor on a going forward basis." Quarterly Update, Transmittal Letter, at 2; Motion, at 2, 3. The Commission should decline to give PGW the slightest credit for agreeing to undo what it did not have the slightest right to do in the first place.

3. Notwithstanding PGW's protestations, inclusion of the \$7 million "cash flow allowance" in the Quarterly Update Filing was a violation of the GCR Settlement (Docket No. R-00016378). PGW's claim of a \$17.58 million Reserve Fund is made up of two components - \$10.58 million which PGW has already collected in FY2001, and the \$7 million, which PGW admits has not been collected. It is one thing to "hold back" return of the \$10.58 million, pending Commission decision whether retention is appropriate; it is another to impose a new \$7 million charge on customers, admittedly not a gas cost, with no legal justification (even pending Commission "review") through the filing of a Quarterly Update.¹

4. Under such circumstances, prompt protests by CEPA et al. and OCA were entirely appropriate. They were certainly not precluded or preempted by the Interim Settlement, which does not specify whether or how the PUC's Quarterly Update procedures were to be used in the implementation of Interim Settlement Paragraph 27. While normally, protests related to Quarterly Updates are deferred until the end of the

¹ See Joint Petition for Complete Settlement of Philadelphia Gas Works' 2001-2002 GCR Proceeding, at Para. III, 5, 6. These paragraphs provide for the update to reflect the "most recent gas cost projections" and make no provision for potential inclusion of a new non-gas cost such as the "non-gas cash flow allowance."

GCR year, this practice reflects the generally reconcilable character of natural gas adjustment collections and well defined practices concerning their projection. The alleged \$7 million non-gas cash flow allowance is not reconcilable and can not claim any legal basis for its existence. PUC regulations at 52 Pa.Code §53.64(i)(5)(iv) explicitly preserve the Commission's discretion to intervene before the year is out when necessary to prevent abuse of the GCR update mechanism.

Consumer advocates can not be faulted for promptly protesting by Petition, Comments or Exception, or Formal Complaint the use of the Quarterly Update to implement a non-gas cost not authorized by regulation, Interim Settlement or by law.

Very truly yours,



PHILIP A. BERTOCCI, ESQUIRE
EDWARD A. MCCOOL, ESQUIRE

Attorneys for CEPA et al.

cc: Certificate of Service

Karen Moury, Esquire, Law Bureau

Robert Rosenthal, Fixed Utilities Service

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works
Docket Numbers: R-00005654, R-000016378

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

Dated this 19th day of December, 2001.

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December 20, 2001

James J. McNulty, Secretary
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Re: Pa. Public Utility Commission
v.
Philadelphia Gas Works
Docket Nos. Docket No. R-00005654 and R-00016378

Dear Secretary McNulty:

Enclosed for filing please find an original and three copies of the Answer to Philadelphia Gas Works' Motion to Dismiss of the Office of Consumer Advocate, in each of the above-referenced proceedings.

Copies of this document have been served upon all parties as evidenced by the attached Certificate of Service.

Sincerely yours,

Stephen J. Keene
Senior Assistant Consumer Advocate

PA. P.U.C.
SECRETARY'S BUREAU

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Enclosure

cc: All parties of record
Honorable Marlane R. Chestnut, Administrative Law Judge
Karen Moury, Esq., Law Bureau
Robert Rosenthal, Fixed Utilities Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Pennsylvania Public Utility Commission

v.

Docket No. R-00005654

Philadelphia Gas Works

Pennsylvania Public Utility Commission

v.

Docket No. R-00016378

Philadelphia Gas Works

OFFICE OF CONSUMER ADVOCATE'S
ANSWER TO PHILADELPHIA GAS WORKS'
MOTION TO DISMISS

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I. INTRODUCTION

On December 13, 2001, Philadelphia Gas Works ("PGW" or "Company") filed its "Answer and Motion to Dismiss the Petition for Enforcement of Settlements by the Office of Consumer Advocate and Reply to the Comments/Exceptions of CEPA" (hereinafter "Motion to Dismiss"). PGW's pleading was in response to the Office of Consumer Advocate's ("OCA") Petition for Enforcement of Settlements ("OCA Petition") that was filed on December 10, 2001 and the Comments/Exceptions of the Consumers Education and Protective Association ("CEPA), *et.al.* that were filed on December 10, 2001. The Company's Motion to Dismiss seeks to dismiss both the OCA's Petition and CEPA's comments as premature and

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unauthorized by Commission rules of procedure. The OCA now files this Answer to PGW's Motion to Dismiss.

II. ANSWER

The OCA has already set forth in its Petition and in its response to the Company's December 12 Informational Filing¹, the arguments about how PGW's inclusion of \$7 million in the quarterly update of its 2002 GCR was in violation of the Interim Rates Settlement and Settlement of PGW's 2002 GCR proceeding. Those arguments were clearly stated in these two filings and will not be repeated here. Instead, this Answer will only address PGW's request to dismiss OCA's Petition on procedural grounds.

In the Company's Motion to Dismiss, PGW argues that OCA's Petition was not contemplated by the Interim Rates Settlement, in that it preempted PGW's Informational Filing of December 12, 2001, wherein PGW seeks to retain the entire amount in the reserve account.² PGW Motion at 7. The Company claims that it was premature to object to the inclusion of the \$7 million bad debt expense in the Company's quarterly update and that the

¹ See Letter to James McNulty, Secretary, from Stephen J. Keene dated December 18, 2001. A true and correct copy of that letter is attached hereto and marked Appendix A.

² PGW's December 12 Informational Filing requests authority for the Company to retain \$17.58 million that it claims is in the reserve account. This consists of a \$10.58 million over-recovery from the 2001 GCR period and the disputed \$7 million bad debt allowance that PGW has improperly inserted into its 2002 GCR as part of the December 1, 2001 quarterly update. The OCA's Petition for Enforcement of Settlements addresses the inappropriate inclusion of this \$7 million as part of PGW's net gas costs in its 2002 GCR.

appropriate time to respond would be in response to the Company's December 12 Informational Filing or in the Company's next GCR proceeding under Section 1307(f). Motion at 7. The OCA submits, however, that a petition to enforce a settlement is an appropriate proceeding when it is alleged that the terms of the settlement have been violated. In the instant case, the OCA has challenged PGW's inclusion of an additional \$7 million in bad debt allowance in its December 1 quarterly update as being contrary to two settlements. The Commission's regulations provide for petitions for relief. 52 Pa.Code §5.41. Here, the OCA has sought the relief of enforcement of the settlements. As the OCA stated in its Petition, the Company's actions violated both the Interim Rates Settlement³ entered into between the PGW and the Commission's Law Bureau, as well as the Settlement of PGW's 2002 GCR proceeding.⁴ Where a party to a settlement violates a term or provision of the settlement, a petition to enforce the settlement may be filed.

The Company also claims that OCA should have waited until it filed its response to PGW's Informational Filing of December 12 before it objected to the \$7 million in the quarterly update. The OCA has already submitted a response by Letter to Secretary McNulty that raises the same objections to the \$7 million that the OCA raised in its Petition. Therefore, the issue is squarely before the Commission and ripe for determination.

While it is generally true that an objection to a claimed gas cost in a GCR

³ See Pa.P.U.C. v. Philadelphia Gas Works, Docket No. R-00005654 (Order entered February 22, 2001).

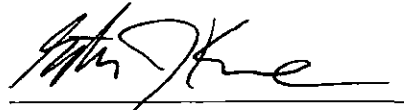
⁴ See Pa.P.U.C. v. Philadelphia Gas Works, Docket No. R-00016378 (Order entered September 11, 2001).

quarterly update would usually be reserved until the next GCR proceeding, the OCA raises its objections now to PGW's attempt to recover an additional \$7 million in the December 1 quarterly update through its 2002 GCR, since PGW is also seeking Commission authority to place the \$7 million into a reserve account to be used to pay its debt obligations in January 2002. As such, a determination of whether the \$7 million of *non-gas costs* was properly included in the quarterly update must be decided prior to the Commission's determination of whether PGW may retain the dollars held in the reserve account. The current situation, therefore, is not analogous to a review of whether a company has properly recalculated its GCR or whether a particular gas cost is prudently incurred and should be included in a quarterly update. The latter situations are the type that can be reconciled in the next 1307(f) proceeding. In the instant case, PGW is seeking to include in the quarterly update of its GCR an unauthorized, *non-gas cost* contrary to a settlement agreement and then seek permission to utilize this amount to meet bond obligations and operational expenses in January 2002 – before its next GCR proceeding under Section 1307(f) of the Public Utility Code. These unique circumstances require immediate actions by the Commission. Therefore, the objections of the OCA raised in its Petition for Enforcement of Settlements, and in the OCA's response to the Company's Informational Filing are timely and should be considered by the Commission.

III. CONCLUSION

For the reasons set forth above, the OCA respectfully requests the PGW's Motion to Dismiss be denied.

Respectfully submitted,



Stephen J. Keene
Tanya J. McCloskey
Senior Assistant Consumer Advocates

Counsel for:
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Dated: December 20, 2001

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CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works
Docket Nos. R-00005456 and R-00016378

I hereby certify that I have this day served a true copy of the foregoing document, Answer to Philadelphia Gas Works' Motion to Dismiss, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 20th day of December, 2001.

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Bernard A. Ryan, Jr
Small Business Advocate

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December 20, 2001

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Harrisburg, PA 17105

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SECRETARY'S BUREAU

Re: Pennsylvania Public Utility Commission v.
Philadelphia Gas Works
Docket No. R-00005654 and R-00016378

Dear Mr. McNulty:

Enclosed please find the original and three copies of the Comments on behalf of the Office of Small Business Advocate in the above-captioned proceedings. As evidenced by the enclosed certificate of service, a copy has been served on all active parties.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Steven C. Gray
Steven C. Gray
Assistant Small Business Advocate

Enclosures

cc: Karen Oill Moury, Esquire
Law Bureau

Robert Rosenthal, Director
Fixed Utility Services

Robert D. Knecht

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PENNSYLVANIA PUBLIC UTILITY :
COMMISSION :
v. :
PHILADELPHIA GAS WORKS :

PA.P.U.C.
SECRETARY'S BUREAU
Docket Nos. R-00015654 and
R-00016378

COMMENTS
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE

DOCKETED

JAN 07 2002

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I. INTRODUCTION

The OSBA respectfully submits this response to the December 12, 2001 submission of Philadelphia Gas Works (PGW) in Docket No. R-00005654. PGW describes its submission as an "informational filing and request to utilize the Interim Settlement reserve account funds consistent with the Joint Petition for Full Settlement entered into with the Public Utility Commission's ("PUC") Law Bureau, dated February 8, 2001, and the PUC's February 22, 2001, Order in the above-referenced matter adopting the Settlement."

II. COMMENTS

PGW requests that it be allowed to retain \$10.58 million in GCR over-recovery as well as \$7 million in additional GCR over-recovery as detailed in its December 1, 2001 quarterly GCR update filing in Docket R-00016378. In short, PGW requests that it be allowed to use GCR over-recoveries to meet the cash requirements of the business. PGW's informational filing and request is submitted pursuant to its interpretation of the "Joint Petition for Full Settlement of Philadelphia Gas Works' Petition for the Establishment of Interim Rates and Related Appeal" ("Interim Settlement"), dated February 8, 2001 between itself and the Commission's Law Bureau, and the Commission's Order in Docket Nos.

R-00005654 and R-00005619 ("Order") approving the settlement entered February 22, 2001.

The OSBA was not a party to the Interim Settlement, although it did not oppose it (Order at page 5). However, in general, the OSBA opposes the use of GCR or PGC revenues to meet base rate revenue or utility cash flow requirements. GCR revenues come primarily from residential and small business customers, while base rate revenue and cash requirements should be borne by all customers. Therefore, the use of GCR revenues for general utility purposes is discriminatory and constitutes a textbook example of poor rate design. It is the OSBA's view that the mechanism contemplated in the Interim Settlement to retain GCR over-recoveries for general purposes should only apply in the most extreme circumstances.

PGW's submission in this matter is complicated by differing interpretations of the "Interim Settlement" as detailed in the December 10, 2001 petition of the Office of Consumer Advocate (OCA), the comments/exceptions of CEPA et al. and PGW's response dated December 13, 2001 ("Response"). At issue is whether the Interim Settlement contemplated two separate \$7 million GCR over-recovery allowances, or whether only one \$7 million allowance was agreed upon.¹

Because OSBA was not a party to the Interim Settlement, it cannot comment on its contemporaneous understanding of the provisions therein. However, the OSBA observes that it takes a disingenuous interpretation of that Settlement to envision two separate \$7 million allowances in that Settlement document. First, if two separate allowances were specifically contemplated, the OSBA believes that they would have been clearly identified within the document. No such clear delineation is present in the settlement. The introduction to the Interim Settlement mentions only one \$7 million allowance. Paragraph 23 to the Interim Settlement identifies a specific \$7 million to be recovered at an accelerated rate by August 31, 2001 in order to recover additional bad debt expense. Paragraph 24 refers to how "the \$7 million non-gas costs" are to be recovered,

¹ Curiously, PGW's Response to the OCA and CEPA submissions refers to "an annual increase of \$7 million for bad debt expense" (page 2, emphasis in original). The OSBA can find no specific justification for anything more than a one-time \$7 million over-recovery allowance for bad debt.

obviously referring to the \$7 million in ¶23. Finally, ¶27 of the Interim Settlement refers to "[a]ny additional calculated GCR over-recovery, up to \$18 million (for a total of \$25 million), will be held in a reserve account to be used as necessary to meet Bond Ordinance covenant requirements, i.e., debt service and/or timely payment of obligations when due, through January 2002."²

PGW's Response to OCA and CEPA relies wholly on the parenthetical expression in ¶27 of the Interim Settlement to argue that a second \$7 million was specifically identified in the Settlement for inclusion in the reserve. With all due respect, PGW's argument is absurd.

Paragraph 27 of the Interim Settlement indicates only that the additional over-recovery is to be held in the reserve account, up to \$18 million. A much more reasonable and logical interpretation of the "for a total of \$25 million" parenthetical expression in the operative sentence is that it refers to the total GCR over-recovery, not the total reserve. The amount held in reserve is \$18 million. The Commission's Order also refers specifically to the \$18 million in the reserve account:

"Resolution: In response to the comments submitted by the OCA, CEPA et al., and PICCUG, it should be emphasized that the rate increase proposed in this Joint Petition amounts to \$18 million through August 31, 2001 that would be implemented as an \$11 million interim base rate increase proportionately in the customer charge for each class and a \$7 million increase in PGW's GCR. . . . Moreover, the potential additional \$18 million 'reserve fund' is available to PGW only if PGW develops a GCR over-collection and only if it is needed to satisfy bond debt service (after PGW pursues in good faith all other sources of revenue reasonably available). If not needed, the reserve (if it exists) will be refunded to ratepayers in accordance with existing GCR rules."

(Page 6, emphasis in original).

Note that the Commission's resolution of this matter has no reference to two separate \$7 million over-recovery pools, and it specifically refers to a reserve fund of only \$18 million.

In short, the plain language of the Interim Settlement and the Order indicate that the reserve fund was to consist of a maximum of \$18 million, and

² PGW's Response to the OCA and CEPA filings indicates, "CEPA asserts that the Reserve Accounts is capped at a maximum of \$18 million, but it cannot explain away the words on the face of the Joint Petition which expressly state that 'a total of \$25 million will be held in a reserve account.' *Id.* at ¶27." The OSBA is unable to find any such quote in paragraph 27 of the Interim Settlement, nor is it able to locate such a quote anywhere within that document.

the total over-recovery of GCR was \$25 million. As such, the OSBA finds itself in agreement with OCA and CEPA that PGW has improperly included a second \$7 million over-recovery pool in its December 1, 2001 GCR submission.

Once the hypothetical second \$7 million is resolved, the issue in this proceeding becomes whether PGW should be entitled to retain the \$10.58 million associated with actual GCR over-recoveries. To evaluate this question, the OSBA believes that the Commission should review what the purpose of the reserve fund was as specified in the Interim Settlement and subsequent Commission Order, and determine whether PGW has met its burden for demonstrating the need to retain these funds in its December 12, 2001 submission.

The Interim Settlement includes the following relevant statements:

"PGW will also be permitted to hold in reserve any GCR overcollection that it actually incurs, not to exceed an amount set forth herein, to insure that it will be able to have sufficient cash to meet its bond covenants through the beginning of 2002."

(page 2, emphasis added).

"27. Any additional calculated GCR over-recovery, up to \$18 million (for a total of \$25 million), will be held in a reserve account to be used as necessary to meet Bond Ordinance covenant requirements, i.e., debt service and/or timely payment of obligations when due, through January 2002. . . . To the extent that PGW identifies a cash deficiency that would cause a Bond Ordinance covenant violation, PGW will be permitted to utilize the reserve fund (or portion thereof) to cover this deficiency.."

(Page 8, emphasis added).

Thus, the OSBA concludes that the Interim Settlement states that the reserve funds were to be used only to meet cash requirements associated with bond covenants -- they were not intended to make up for revenue shortfalls associated with warmer than normal weather unless such revenue shortfalls create a cash crisis. Moreover, because applying GCR over-recoveries to general cash requirements represents inequitable and discriminatory ratemaking, the OSBA submits that PGW has an obligation to utilize all other sources of cash to meet bond covenants, before dipping into the GCR over-recovery reserve.

The OSBA disagrees strongly with the allegation of PGW's Mr. Bogdonavage who states, "In addition, the Commission-approved Settlement contemplates PGW's

use of the reserve account in the absence of other revenue sources reasonably available. A loan from the City or any third party is not a revenue source." (page 2, emphasis added) While a loan is not a revenue source, Mr. Bogdonavage's representation of the terms of the Interim Settlement are obviously inconsistent with the specific terms cited above, wherein GCR over-recoveries may be used for critical cash needs.

The Interim Settlement states at paragraph 29 that, after adopting all of the previous provisions of the settlement including the potential use of the reserve fund as detailed in paragraph 27, PGW may not seek additional rate relief unless it has pursued all other revenue sources. Thus, the reference to other revenue sources refers only to additional rate relief not otherwise specifically contemplated in the Settlement -- the reserve fund applies only to cash needs. The OSBA notes also that the Commission's Order (page 6) may also incorrectly apply the language of paragraph 29 to the reserve fund. The OSBA would agree with the Order however, if it indicated that PGW has an obligation to pursue in good faith all other sources of revenue and cash reasonably available.

In short, the OSBA submits that the Commission should evaluate whether PGW has pursued all other sources of cash before requesting use of the \$10.58 million provided by GCR customers that is now in the reserve fund.

Turning to PGW's depiction of "need" for the reserve, the OSBA submits that insufficient information is provided from which a judgment can be drawn. First, there is the confusing matter of whether Mr. Bogdonavage's analysis does or does not assume that PGW retains the \$10.58 million reserve. PGW's informational filing and request indicates: "As Mr. Bogdonavage's schedules clearly demonstrate, PGW is projecting that it will have an \$18.4 million deficiency on January 28, 2002, which will only be addressable by the PUC authorizing the use of the entire \$17.6 million reserve fund." Mr. Bogdonavage, however, states "Importantly, even if the Company is permitted to retain the reserve account its present analysis nonetheless shows that it will have a huge negative cash balance -- \$18.4 million on January 25 when the monthly gas bill is due . . ." (page 2) Because Mr. Bogdonavage's analysis appears to be based on a GCR of \$3.13 per MCF,

the OSBA concludes that PGW will not be able to meet its obligations in January, even by retaining the reserve. Thus, for PGW to demonstrate that it needs the reserve, it needs to make a clear showing of why retaining the reserve will somehow allow it to attract additional cash to meet this \$18.4 million shortfall, while not retaining it will somehow preclude it from meeting its cash requirements..

Second, PGW's filing makes no effort to demonstrate the cash benefit of retaining the reserve for January cash requirements. Mr. Bogdonavage refers to the \$0.29 per MCF value, which the OSBA assumes that he has calculated by taking the \$17.58 million and dividing by the GCR annual volume in the December 1 filing of 59,157,217 MCF ($\$0.297/\text{MCF}$). Thus, Mr. Bogdonavage implies that the alternative to retaining the \$10.58 million (and adding in another \$7 million) would be to deduct that amount from the December 1 GCR calculation. Doing so would reduce the GCR by about \$.29 per MCF, for the GCR effective December 1, 2001. If that amount is applied to November and December MCF sales (approximately 10.8 million MCF), the net cash benefit of retaining the \$10.58 million and the second suspect \$7 million would be about \$3.2 million.³

In short, the cash benefit of retaining the \$10.58 million in the GCR appears to be relatively minor, compared to the \$18.4 million shortfall.

Third, the PGW filing presents very little information regarding either the use of the Capital Fund or alternative sources of financing to meet the cash shortfall, other than indicating that it somehow believes that the Capital fund can meet the \$18.4 million requirement, but not some relatively small additional amount if the GCR is slightly lower. (The OSBA notes that PGW's most recent filing in this matter dated December 19, 2001, contains some additional information about the limits to the availability of the Capital Fund for meeting near term cash requirements. However, the updated filing still provides no information as to why PGW can use the Capital Fund to meet a significant share of the cash requirements, but cannot meet the relatively small additional

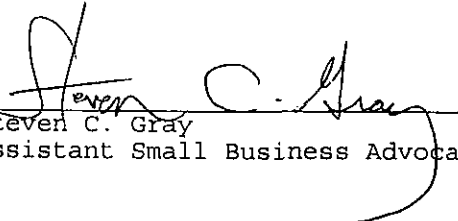
³ The OSBA assumes that cash receipts in December and January are associated with gas billed sales in November and December. If December and January billed sales are used, the cash benefit would be approximately \$5.6 million.

requirement caused by beginning to refund the reserve to GCR customers.) In addition, Mr. Bogdonavage mentions, almost in passing, a \$24.3 million debt service payment due in January, but provides no information regarding this payment. He also provides no analysis of whether additional sources of financing are available to replace that debt, and, in fact, explicitly states that he has no obligation to do so because it is not revenue related.

III. CONCLUSION

For the reasons stated herein, the Office of Small Business Advocate submits that PGW has not met its burden of demonstrating that retaining the \$10.58 million reserve will allow it to meet its debt covenant requirements that it otherwise could not meet.

Respectfully submitted,


Steven C. Gray
Assistant Small Business Advocate

Dated: December 20, 2001

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY :
COMMISSION :
 : Docket No. R-00005654
v. :
 :
PHILADELPHIA GAS WORKS :

CERTIFICATE OF SERVICE

I certify that I am serving a copy of the Comments on behalf of the Office of Small Business Advocate in the manner indicated upon the persons addressed below:

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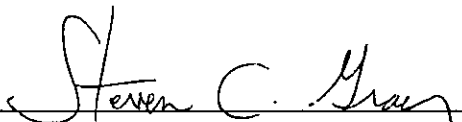
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Steven C. Gray
Assistant Small Business Advocate

Dated: December 20, 2001

DATE: December 21, 2001

SUBJECT: R-00016378

TO: Law Bureau

FROM: James J. McNulty, Secretary *JJ*

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Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works

KJR

Attached is a copy of a Petition filed by Consumers Education and Protective Association et al in connection with the above docketed proceeding.

This matter is assigned to your Bureau for appropriate action.

Attachment

cc: FUS
AUDITS

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