





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

IN REPLY PLEASE  
REFER TO OUR FILE

October 4, 2007

P-00042090  
R-00049157  
M-00021612  
P-00032061

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DOCUMENT  
FOLDER

Investigation into Financial Collections Issues Regarding the Philadelphia Gas Works

To Whom It May Concern:

This is to advise you that the Commission in Public Meeting on **September 13, 2007** adopted an Opinion and Order in the above entitled proceeding.

An Opinion and Order has been enclosed for your records.

Very truly yours,

James J. McNulty  
Secretary

Rpb  
Encls  
Cert. Mail

See Attached List for Additional Parties of Record

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

Public Meeting held September 13, 2007

Commissioners Present:

Wendell F. Holland, Chairman  
James H. Cawley, Vice Chairman  
Tyrone J. Christy  
Kim Pizzingrilli

Investigation Into Financial Collections Issues  
Regarding the Philadelphia Gas Works

P-00042090  
R-00049157  
M-00021612  
P-00032061

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Commission for consideration and disposition is a Petition for Rescission and Amendment of Prior Order (Petition), filed by Philadelphia Gas Works (PGW) on November 20, 2006. The Petition was filed relative to our Opinion and Order entered October 27, 2004, in the above-captioned proceeding. On November 28, 2006, the Commission's Law Bureau Prosecutory Staff (Prosecutory Staff) filed an Entry of Appearance as well as an Answer to the Petition. Answers to the Petition were filed by Community Legal Services, Inc. (CLS) on behalf of Action Alliance of Senior Citizens of Greater Philadelphia, the Association of Community Organizations for Reform Now, and the Tenant Union Representative Network (collectively, Action Alliance) on November 30, 2006, and by the Office of Consumer Advocate (OCA) on December 4, 2006.

## Background

In 2000, PGW came under the jurisdiction of the Commission. 66 Pa. C.S. § 2212(b). PGW's first request for interim rate relief from the Commission in 2000 brought the issue of PGW's customer service standards before the Commission. In *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-0005654 (November 22, 2000), the Commission, *inter alia*, ordered numerous conditions to interim rate relief, including that improvements be made to PGW's customer service practices and that progress reports tracking the improvements should be issued. In 2001, the Commission's Bureau of Consumer Services (BCS), the OCA, and CLS began to meet monthly to discuss the company's customer service in what became to be known as the Customer Service Initiative (CSI) meetings. Our 2002 Utility Consumer Activities Report recognized the continuance of the CSI meetings and stated:

The Bureau continues to meet with PGW officials on a monthly basis to monitor the company's progress with its customer service initiative. In addition, these meetings are used to track PGW's Chapter 56 transition efforts, and to discuss and resolve various customer service issues as appropriate.

*2002 Utility Consumer Activities Report* at 36. By order entered January 13, 2003, the Commission directed PGW to file all information concerning customer service issues in the monthly CSI meetings and to post that information on its website. (Docket Nos. R-0005619, R-00005656, R-00006042). By Opinion and Order entered October 27, 2004, in the instant proceeding,<sup>1</sup> we ordered:

That Philadelphia Gas Works shall continue to meet on a monthly basis with the Bureau of Consumer Services, the Office of Consumer Advocate and Philadelphia Community Legal Services for the purpose of providing progress reports

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<sup>1</sup> *Investigation into Financial and Collections Issues Regarding the Philadelphia Gas Works*, Docket No. P-00042090, *et al.* (October 27, 2004) (*Investigation Order*).

and other data and answering questions about its collection practices.

*Investigation Order* at 63.

### **History of the Proceeding**

On March 1, 2004, PGW made its annual Gas Cost Rate (GCR) filing pursuant to 66 Pa. C.S. § 1307(f) with the Commission. On March 1, 2004, PGW also filed a Petition to Establish a Cash Receipts Reconciliation Clause (CRRC), pursuant to 66 Pa. C.S. §§ 1307(a); and 2212(c) and 52 Pa. Code § 5.41, to impose a surcharge to recover money due from non-paying customers. On March 1, 2004, PGW also filed a motion to consolidate its CRRC petition with its GCR filing.

By Order entered June 2, 2004, we consolidated, with the GCR and CRRC proceeding: PGW's Senior Citizen Discount Petition pending at Docket Nos. M-00021612 and P-00032061; a newly instituted investigation into PGW's collection practices and universal service costs; PGW's request to collect a \$10.00 residential field visit charge; and, the issue of requiring applicants for service with existing civil judgments against them for unpaid PGW balances to enter into payment arrangements.

On June 1, 2004, a "Joint Petition for Settlement of Philadelphia Gas Works' 2004-2005 GCR Proceeding" was filed. On June 29, 2004, a Recommended Decision regarding the GCR filing was issued. At Public Meeting of July 23, 2004, the Commission adopted the Recommended Decision, approving the Joint Petition for Settlement of Philadelphia Gas Works' 2004-2005 GCR Proceeding.

On July 6, 2004, an evidentiary hearing was held in the Commission Investigation. On August 13, 2004, ALJ Rainey's Recommended Decision was issued. Exceptions were filed by PGW, the OTS, the OSBA, and Action Alliance. By Opinion

and Order entered October 27, 2004, the Commission, *inter alia*: granted, in part, and denied, in part, the Petition of PGW for Limited Waiver or Modification of PUC Chapter 56 Rules and Administrative Interpretations; rejected PGW's proposed discount program for certain senior citizens; investigated PGW's Universal Service costs and collections practices; rejected PGW's request to charge for residential field visits; and, rejected PGW's request to require applicants to pay outstanding liens prior to receiving service. In the October 27, 2004 Order, the Commission also directed PGW to continue to meet, on a monthly basis, with the Bureau of Consumer Services, the OCA, and Philadelphia Community Legal Services for the purpose of providing progress reports and other data and answering questions about its collection practices. (*Investigation Order* at 19, 63).

### Discussion

The Public Utility Code (Code) establishes a party's right to seek relief following the issuance of our final decisions pursuant to Subsections 703(f) and (g), 66 Pa. C.S. § 703(f) and (g), relating to rehearings, as well as the rescission and amendment of orders. Such requests for relief must be consistent with Section 5.572 of our Regulations, 52 Pa. Code § 5.572, relating to petitions for relief following the issuance of a final decision. Section 5.572 provides, in pertinent part, that:

- (a) Petitions for rehearing, reargument, reconsideration, clarification, rescission, amendment, supersedeas or the like shall be in writing and specify in numbered paragraphs, the findings or orders involved, and the points relied upon by the petitioner, with appropriate record references and specific requests for the findings or orders desired.

\* \* \*

- (d) Petitions for rescission or amendment may be filed at any time according to the requirements of section 703(g) of the act (relating to fixing of hearings).

52 Pa. Code § 5.572(a) and (d).

In *West Penn Power Co. v. Pa. PUC*, 659 A. 2d 1055, 1065 (Pa. Cmwlth. 1995), the Commonwealth Court stated that "[t]he PUC has the discretion whether to act on a petition for rescission or amendment, and because the relief of rescission or amendment under Section 703(g) may result in the disturbance of final orders, it should be granted judiciously and only under appropriate circumstances." (Footnote and citations omitted).

It is axiomatic that a "litigant's burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible." *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602, (Pa. Cmwlth. 1990). Additionally, Subsection 332(a) of the Code, 66 Pa. C.S. § 332(a), provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding.

PGW states that each month, since 2004, it has presented to BCS, the OCA, and CLS, statistics which track the success of PGW's collections practices and has discussed virtually every aspect of its collections activities. The statistics regularly include: twelve-month rolling collection rate; customer deposits collected; collection call volume; field collections; phone payments; non-payment shutoff reports; new techniques and programs. (Petition at 9-10). PGW claims that regular meetings to discuss PGW's collections practices are no longer necessary and that the costs to PGW and the Commission outweigh any benefits. (Petition at 7). PGW avers that it has put in place a stable collections program which is producing results that exceed the Company's historical results. PGW's collections level for fiscal year 2006 (twelve months ending August 31, 2006) was 95.19%, this in a year where total billings to customers were approximately \$60 million higher than the previous year. (Petition at 9). PGW states that, for a considerable period, the monthly meetings have gone beyond the purpose for

which the Commission originally ordered them and have instead strayed to, among other things, topics such as PGW's winter termination policies, termination notice procedure and content, practices of PGW field services group, the adequacy of service at the Company's district offices, and PGW policy regarding restoration of customers' service. (Petition at 10).

PGW argues that even if the Commission intended more wide ranging discussions at the meetings, there is no justification for continuing the requirement now that the collections crisis has ended. (Petition at 12). PGW states that it understands BCS' interest in maintaining a dialogue with PGW on Chapter 56 and Act 201 policies, but opines that such discussions should occur in the same way that they do with other jurisdictional utilities, when and if needed, not monthly.<sup>2</sup> (*Id.*). PGW further states that while it has a good working relationship with the OCA, it is inappropriate that these meetings are attended by the OCA, and even more so by the CLS which is not a statutory party. PGW claims that these Parties could use information obtained in the meetings in future adversarial proceedings. (*Id.*). PGW requests, as an alternative, that the CSI meetings be held quarterly instead of monthly, and that they should only be continued for one more year. (Petition at 13).

Action Alliance denies PGW's claim that the monthly meeting focus has been inappropriately modified to focus on areas outside of collections. Action Alliance states that the CSI monthly meetings at issue began in 2001 with the purpose of facilitating and monitoring PGW's transition to substantive and procedural compliance with the customer service standards contained in Chapter 56 of the Code. (AA Ans. at 2). According to Action Alliance, the purpose of the CSI meetings has always been to monitor PGW's progress toward a higher level of customer service, i.e., call center performance, processing of customer informal and formal complaints, and compliance

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<sup>2</sup> Chapter 14 of the Code, 66 Pa. C.S. §§ 1401, *et seq.*, 2004, Nov. 30, P.L. 1578, No. 201, § 3, effective Dec. 14, 2004.

levels with regulations and guidelines. (AA Ans. at 6). Action Alliance avers that utility collection practices are inextricably bound to the application of standards for billing practices and customer service in that the primary motivation to violate customer service standards is to increase collections. (*Id.*). Action Alliance contends that monthly CSI meetings are still necessary because customer service, which includes but is not limited to the collections ratio, continues to be substandard. (AA Ans. at 5). Action Alliance states that continued participation by the OCA and CLS provides a framework in which BCS is able to conduct its monitoring activity with the benefit of information from parties with varying perspectives. (AA Ans. at 8).

The OCA notes that the CSI meetings have been ongoing for several years and cover a variety of customer service related topics. The OCA states that the Investigation Order did not narrow the scope of the meetings to collections only, but that even if it did, customer service and collections are integrally related. (OCA Ans. at 4-5). The OCA refutes PGW's contention that regular meetings are no longer necessary because collection rates have gone up. The OCA argues that PGW's Call Center performance is still problematic and requires continued monitoring. (OCA Ans. at 5). The OCA submits that the CSI meetings facilitate an understanding of PGW's consumer policies and procedures, provide value to consumers, and limit unnecessary litigation by resolving misunderstandings regarding PGW's practices. (OCA Ans. at 6). The OCA supports PGW's alternative request that meetings be held quarterly instead of monthly, but opposes PGW's suggestion that the meetings only continue for another year. (*Id.*).

Prosecutory Staff states that the CSI meetings should continue on a quarterly basis, but submits that the BCS must control the meeting agenda. (Pros. Staff Ans. at 3). Prosecutory Staff clarifies that, while it does not believe that all of PGW's business practices are connected to collections, issues such as deposit policies, termination notices, medical certifications, PGW's Customer Responsibility program, Senior Citizen Discount Program, service restorations, and poor Call Center access do

impact collections. (Pros. Staff Ans. at 4). Prosecutory Staff argues that, in the event a dispute as to what constitutes a collection issue arises, the BCS should be authorized to make a final determination. Prosecutory Staff notes that when BCS adds items to the agenda, PGW is always given advance notice. Prosecutory Staff states that BCS and PGW have often had separate meetings following regular CSI meetings for issues requiring further discussion outside of the CSI forum. (Pros. Staff Ans. at 4).

Based on our review of the record in this proceeding, we find that the CSI meetings are in the public interest and that they should continue. It is premature to end or even sunset these critical meetings. The dialogue between BCS, CLS, the OCA, and PGW on Chapter 56 and Act 201 policies must continue. That being said, we understand that monthly meetings are time and resource intensive. As such, we will grant, on a conditional basis, PGW's alternative request that the meetings be held on a quarterly basis. BCS shall evaluate the effectiveness of the quarterly meeting schedule and may petition the Commission if it believes that the monthly meeting schedule should be resumed.

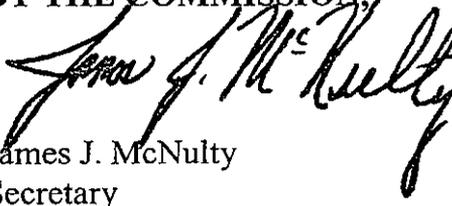
We note that PGW is still acclimating to Commission jurisdiction while many of its counterparts have been subject to Commission jurisdiction for the better part of a century. Also, while PGW has significantly raised its collection ratio, it still has strides to make with regard to other customer service standards such as its Call Center performance. When this Commission directed PGW to continue to meet monthly with the Parties herein for the purpose of providing progress reports and other data regarding its collection practices, we did not direct the Parties to cease discussing other customer service related topics which were, historically, the reason for the CSI meetings. *Investigation Order* at 19, 63. We agree with the answering Parties' position that collections practices and customer service standards are so integrally linked, that the issues cannot be comprehensively discussed separately. We expect that any dispute regarding proprietary information would be handled professionally and that BCS and

PGW would discuss such information outside of the CSI meetings, as has been their practice in the past; **THEREFORE,**

**IT IS ORDERED:**

1. That the Petition for Rescission and Amendment of Prior Order filed by Philadelphia Gas Works on November 20, 2006, is granted, in part, and denied, in part, consistent with this Opinion and Order.
2. That, consistent with this Opinion and Order, Philadelphia Gas Works shall continue to meet, on a quarterly basis, with the Bureau of Consumer Services, the Office of Consumer Advocate and Philadelphia Community Legal Services for the purpose of providing progress reports and other data and answering questions about its provision of customer service, including its collection practices.
3. That the Secretary mark this matter as closed.

**BY THE COMMISSION,**

  
James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: September 13, 2007

ORDER ENTERED: **OCT 04 2007**