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DOCUMENT
FOLDER

March 1, 2004

VIA HAND DELIVERY

James McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg., 2nd Floor,
400 North Street P.O. Box 3265
Harrisburg, PA 17105-3265

RECEIVED
2004 MAR -1 PM 3:57
SECRETARY'S BUREAU

Re: Philadelphia Gas Works Cash Receipts Reconciliation
Clause, Docket No. R-00049157; Petition of Philadelphia
Gas Works to Establish a Cash Receipts Reconciliation
Clause; Docket No. P-

Secretary McNulty:

On behalf of Philadelphia Gas Works, enclosed for filing is an original and eight copies of the following:

1. PGW's March 1, 2004 Section 1307(f) filing containing the testimony of PGW witnesses Dybalski (GCR-1) and Moser (GCR-2), supporting data; and
2. PGW's Petition to Establish a Cash Receipts Reconciliation Clause together with the supporting testimony of PGW witnesses Bogdonavage (CRRC-1), Moser (CRRC-2), Gyory (CRRC-3) and Peach (CRRC-4);
3. Proposed Supplement No. 3 to Tariff No. 1 (Supplier Tariff);
4. Proposed Supplement No. 3 to Tariff No. 2, containing tariff revisions associated with PGW's Section 1307(f) filing as well as the proposed CRRC; and
5. Motion to consolidate the CRRC Petition at the Section 1307(f) filing.

DSH:39925.1/PHI211-217982

James McNulty
March 1, 2004
Page 2

All parties of record in the previous GCR filing (Docket No. R-00038173) have been served according to the attached Certificate of Service

Because the Petition to Establish a Cash Receipts Reconciliation Clause and the Section 1307(f) filing contain related issues, I request that the two matters be assigned for hearing before the same administrative law judge and, as the motion to consolidate indicates, that the two matters be assigned together for hearing and recommended decision.

Sincerely,



Daniel Clearfield

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DC/lww

Enclosures

cc: Robert Rosenthal, Director FUS, w/enc.
Robert Bennett, FUS, w/enc.
Chairman Terrance Fitzpatrick (CRRC filing only)
Vice Chairman Robert Bloom (CRRC filing only)
Commissioner Glenn Thomas (CRRC filing only)
Commissioner Kim Pizzigrilli (CRRC filing only)
Commissioner Wendell Holland (CRRC filing only)
Karen Moury, Deputy Executive Director (CRRC filing only)
Attached Certificate of Service w/enc.

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKETED

MAR 03 2004

Pennsylvania Public Utility Commission,

v.

Philadelphia Gas Works

DOCUMENT FOLDER

R-00049157

Petition of Philadelphia Gas Works to Establish a Cash Receipts Reconciliation Clause

P-00042090

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PETITION OF PHILADELPHIA GAS WORKS TO ESTABLISH A CASH RECEIPTS RECONCILIATION CLAUSE

Philadelphia Gas Works ("PGW" or "the Company"), by the undersigned counsel, submits this Petition, pursuant to 66 Pa.C.S. §§ 1307(a) and 2212(c) and 52 Pa. Code § 5.41, requesting the Pennsylvania Public Utility Commission ("PUC" or "Commission") to establish a Cash Receipts Reconciliation Clause ("CRRC"), as a companion to PGW's existing Gas Cost Rate, in order to reconcile its projected and actual cash receipts with billed revenues on an ongoing basis. In the face of a huge increase in the amount and percentage of non-payment by PGW customers, the proposed CRRC would enable PGW to collect the cash receipts at a relative level that the PUC has previously and implicitly authorized. This problem is directly related to the large increases in natural gas costs that PGW, along with all natural gas distribution companies ("NGDCs"), are continuing to experience - but the severity and impact of the problem are much greater for PGW because of a number of circumstances unique to the Company, thereby justifying this clause.

In the last 18 months, PGW has experienced a dramatic increase in the relative level of customer non-payments. While, historically, PGW's collections percentage has averaged 92%,

most recently its cash collections rate has been under 87% (86.5%) and PGW is presently projecting collections levels which are only slightly better for the current fiscal year. This drop-off can be associated with historically high natural gas rates, a return to colder than normal weather and a customer base whose household and business income levels continue to drop, making it increasingly difficult for those customers to absorb such increases. For example, natural gas prices have more than doubled since 1999, with no return to historic levels predicted.

As a Cash Flow regulated company, PGW receives 100% of its cash working capital from its customers in the rates it charges to them. The cash collections shortfalls that PGW is experiencing is robbing PGW of cash working capital that is crucial if it is to avoid financial crisis which, in turn, would harm PGW's customers. Highlighting the precarious nature of PGW's present financial situation, PGW's unprecedented cash collections percentage in Fiscal Year 2003 resulted in total available cash at year end of just \$100,000 (PGW's total gas revenues for that year were over **\$755 million**). Just as concerning, even with an improvement in its cash collections (to 89%), it projects that its total cash and borrowing capability at the end of the present fiscal year will be a **negative \$5 million**. In order for the Company to be able to survive this precarious financial position and access the capital markets, permitting it to continue its capital improvement plans and to pay its obligations when due, PGW must find a way to respond to the effects of persistently higher natural gas prices on its uncollectibles and to increase the percentage of actual cash receipts to billings.

The CRRC, as proposed, would respond to the immediate need in a timely fashion without requiring a permanent base rate increase. The proposed CRRC would adjust PGW's gas receipts in comparison to its billings and permit PGW to collect an additional amount in order to reach a targeted cash receipts percentage. PGW is proposing that the dollar target be set at

\$55.7 million, the level of uncollectible expense allowance authorized in PGW's last litigated base rate proceeding (PGW's uncollectible expense allowance was set at 7.616%). To the extent that PGW's cash collections produce uncollectible levels greater than the *pro forma* allowance, PGW would collect that additional amount in a surcharge built into its distribution rates (but not listed as a separate charge on the bill). If PGW is successful in increasing its cash collections percentages back to historic levels, the clause would return any overcollections in an "E" factor type true-up.¹

The proposed clause is a just and reasonable companion to the Company's longstanding Gas Cost Rate, which provides for a customer pass through of gas costs due to the volatile nature of these costs and the fact that commodity price changes are outside the control of the Company. PGW's recent dramatic increase in the level of non-payments is directly related to these same upward swings in natural gas price, and, similarly, PGW has little ability to control or reverse these effects. Having started a Collections Initiative last summer, PGW is taking all reasonable measures to maximize the level of payment by its customers and is trying to improve its collection results in the coming months. However, PGW's customers will find it especially difficult to recover from the effects of high natural gas costs because the current price levels are projected to remain at close to the current levels for the foreseeable future. Moreover, the disproportionate number of lower income households and struggling small businesses in PGW's service territory means that it will be especially hard for them to recover from several years of very high rates. Accordingly, PGW needs the proposed CRRC to assure that if its efforts to improve collections are not successful it will be able to avoid the severe financial consequences in FY 2005 by collecting an additional amount through the proposed surcharge. On the other

¹ PGW proposes that the clause be put in effect for an initial 2-year period and reexamined as part of PGW's 2006-07 1307(f) filing.

hand, if PGW's efforts are successful, the proposed CRRC will automatically recognize such improvement and return those benefits to ratepayers.

A special clause to recognize the adverse affects of high natural gas costs on uncollectibles is not at all unprecedented. Indeed, several states have already established "uncollectible adjustment trackers" for utilities to adjust their uncollectible or bad debt expense allowance to account for the effects of spiraling energy costs. However, a cash receipts tracker is more appropriate for PGW because, due to PGW's Cash Flow ratemaking methodology, PGW relies at the present time entirely on ratepayer charges to provide all of its cash working capital. At present, ratepayers' non-payment of their bills are robbing PGW of the liquidity allowance approved by the PUC in prior proceedings and which the Commission assumed the Company would have available to it. Without any other source of borrowing or means to increase cash flow, its only choice is to turn to ratepayers in this targeted and specific way to assist it to weather this additional problem.

The Commission is authorized generally to establish "sliding scale of rates" mechanisms and has done so for various types of expenses which, like PGW's cash collections levels, are largely outside the control of the utility and subject to volatility. However, if there is any concern about the legal authority to respond to PGW's special needs, the Public Utility Code, Section 2212, authorizes the Commission, upon the request of PGW, to "customize" a mechanism to respond to the unique needs of PGW. Such a mechanism is justified and critically needed to provide sufficient cash working capital to the Company in order to stabilize PGW's financial position and permit the Company to continue to provide adequate and reliable service to its customers. In specific support of its Petition, the Company states as follows:

A. BACKGROUND

1. PGW is an NGDC whose rates and services are now regulated by the PUC. The specific terms and conditions of such regulation are set forth in Section 2212 of the Code.² As an NGDC, PGW is obligated to contract for, purchase and deliver natural gas in order to provide reliable natural gas service to over 500,000 end-user customers, all of whom reside in the City of Philadelphia.

2. PGW recovers the direct costs of natural gas through an automatic adjustment clause mechanism established pursuant to Section 1307(f) of the Public Utility Code. 66 Pa.C.S. § 1307(f). This mechanism – characterized for PGW as the “gas cost rate” (“GCR”) – is in PGW’s Gas Tariff No. 2 and provides a mechanism by which PGW reflects the increases or decreases in the actual or projected cost of natural gas in customer rates on a real-time, quarterly basis.

3. Section 1307(f) of the Code permits NGDCs to recover the costs of natural gas through this automatic adjustment mechanism rather than through a fixed allowance in their base rates because natural gas prices largely cannot be controlled by NGDCs and because, historically, prices have experienced periods of significant volatility.

4. The GCR portion of PGW’s rates, however, only reflects the direct cost of natural gas on a “billed” basis, i.e., as if PGW collects from its customers 100% of all amounts billed.

5. In reality, of course, PGW does not collect 100% of billed revenues. A certain amount of billed revenues are not collected when due. While PGW makes every effort to collect 100% of its billings, historically it has regularly realized a cash receipts collections percentage of approximately 92% of billed gas revenues, and a provision for uncollectibles of around 8%.

² 66 Pa. C.S. § 2212. This section makes most of the other sections of the Code applicable to PGW but with important caveats and exceptions.

6. In recognition of this level of uncollectibles, the PUC authorized PGW to include in its base rates a pro forma amount for uncollectible expense, calculated at rate of 7.616%.³ The actual amount included in rates (and thus, the amount for which ratepayers are compensating PGW) was \$55.7 million.⁴ As a base rate allowance, however, PGW's uncollectible expense allowance does not automatically change as billed revenues change, even though the two are directly related.

B. JUSTIFICATION FOR AN AUTOMATIC ADJUSTMENT TYPE MECHANISM APPLIED TO CASH RECEIPTS

7. The Public Utility Code, Section 1307(a), authorizes the PUC to establish a "sliding scale of rates or other method for the automatic adjustment of the rates of the public utility. . . ."⁵ The PUC has used this section to establish automatic adjustment mechanisms for expense items over which the utility has limited control, such as state or federal taxes⁶ or which are experiencing volatility such that maintaining a permanent base rate allowance would not be reasonable. As set forth below, PGW's current cash receipts experience fully justifies treatment via an automatic adjustment clause mechanism.

8. Gas costs have spiraled upward to unprecedented levels in the last few years. For example, since 1999, natural gas prices have more than doubled from a range of \$2.00-\$2.50 in

³ The 7.616% figure was calculated by the OTS as the five year average of actual write-offs using the period 1995 through 1999 as the calculation period. This calculation produced an allowance in base rates of \$55.7 million. This is the only instance in which PGW's bad debt expense has been adjudicated by the PUC.

⁴ *Pa PUC v. Philadelphia Gas Works*, R-00006042 Opinion and Order entered Oct. 12, 2001.

⁵ 66 Pa. C. S. § 1307(a).

⁶ See Section D, below.

the late '90's, to a range of \$4.50-\$6.00 in 2003-04 with spikes as high as \$9.00.⁷ The effect on customer bills has also been dramatic. From Fiscal Year (FY) 2000 to FY 2004, the average residential heating bill has increased some 60%, from just over \$900/yr to almost \$1450/yr.⁸

9. Correspondingly, PGW's total revenues and, in turn, its level of non-paid receipts, have also increased. PGW's total FY 2003 billed gas revenues were \$755 million, compared to its 1999 level of just \$482.7 million. Moreover, for the year ending August 31, 2004, PGW is projecting total billed gas revenue of \$818 million, almost a 70% increase over the 1999 level.⁹

10. Correspondingly, as billed revenues have increased, the level of uncollected receipts has also increased and its percentage compared to billed charges has fallen. Compared to its historical, 92% average, PGW collected just 86.57% of billed revenue in FY 2003. It projects just 89% collections in FY 2004.¹⁰

11. As the above statistics indicate, the spiraling level of gas costs has not only increased the absolute level of receipts, it has also increased the amount of non-received revenues as a percentage of billed revenues and, correspondingly, PGW's uncollectible accounts expense. Compared to historic levels of around 8%, PGW's actual, booked Bad Debt Expense as a percentage of billed gas revenues was 11.2% (\$85 million) in FY 2003 and is projected to be 8.6% (\$70 million) in FY 2004.¹¹

⁷ See, Testimony of Douglas Moser, PGW St. CRRC-2.

⁸ Id. See, Testimony of Joseph R. Bogdonavage, PGW St. CRRC-1, Exh. JRB-3. Small business customers have experienced similar increases. Id.

⁹ PGW St. CRRC-1, Exh. JRB-1.

¹⁰ Id.; Exh. JRB-3.

¹¹ PGW St. CRRC-1, Exh. JRB-2

12. The high natural gas prices are not only at historically high levels, but they have also stayed at these levels for an unprecedented length of time, and are projected to stay at or near these unprecedented levels for the next few years at least.¹²

13. The effect of these persistently high prices is that PGW's customers – a large portion of which already have difficulty paying their bills – are now paying even less relative to the total amounts they are being billed. This price elasticity has not only affected historically payment-troubled customers, but can also be seen in the payment experience of virtually all customer groups, including traditionally “good pay” residential customers and small business customers.¹³

14. While volatile natural gas costs will have an effect on levels of cash receipts and uncollectible expense for all NGDCs, the effect on PGW is uniquely and especially severe because of the nature of its customer base and its status as a Cash Flow regulated company. As this Commission is aware, beginning in 2000, PGW became subject to the PUC's ratemaking authority. In the first fully litigated rate proceeding involving PGW, the Commission confirmed that PGW, as a municipal utility, should continue to be regulated using the “Cash Flow method” of establishing just and reasonable rates.¹⁴ As a Cash Flow regulated company, PGW relies almost completely on the rates charged to customers not only to fund operations but also to provide necessary cash working capital and liquidity in order to have the cash to meet its

¹² See, Testimony of Douglas Moser, PGW St. CRRC-2.

¹³ See, Testimony of H. Gilbert Peach, PGW St. CRRC-4.

¹⁴ The cash flow method establishes just and reasonable rate levels for PGW by determining the level of revenues needed by the Company both to maintain acceptable bond indenture coverages as well as the amount in rates sufficient to provide “reasonable additions to the working capital.” *Pa. PUC v. Philadelphia Gas Works*, R-00006042, PUC Opinion and Order entered October 4, 2001 at 13.

obligations when they become due. As a result, the actual level of cash receipts that PGW is able to collect from customers, as well as when they are collected, becomes crucially and uniquely important to the financial health to the Company.

15. Moreover, PGW's customers are hit harder by high natural gas prices than customers of other natural gas utilities. Philadelphia has a greater number of lower income customers than any other area in the Commonwealth. Moreover, income levels in Philadelphia continue to go down. Both factors are resulting in both residential and small business customers paying a smaller portion of their gas bills. Just as concerning, these factors are not easily reversed and will likely continue to take their toll on PGW's collections despite PGW's best efforts.¹⁵

16. These cash receipts drop-offs are having a real, immediate and substantial impact on the financial status of the Company and its ability to pay its bills when due. For example, the drop in collections as a percentage of billed revenues from the 92% historic and PUC authorized level to the most recently experienced 86.57% level means an elimination of cash working capital of some \$40 million annually.¹⁶ Even if PGW is successful in collecting some of this shortfall at some later period, the harm to its immediate cash flow needs is obvious and irreversible. If this trend continues, PGW projects that it simply will be unable to pay all of its obligations when they become due in the Fall of 2004. Moreover, PGW has determined that, even if it repairs its cash receipts problem, it needs to sell another long-term bond in the Fall of 2004. Without such a sale, it will not be able to continue its capital improvement program.

¹⁵ See, Testimony of H. Gilbert Peach, PGW St. CRRC-4.

¹⁶ PGW St. CRRC-1.

Having sufficient cash working capital at the end of its fiscal year is crucial to PGW's ability to secure additional long term financing on reasonable terms and conditions.¹⁷

17. As has been the case for several years, PGW simply has no "cushion" on which to rely to replace these uncollected receipts. Its short term commercial paper program continues to be extended to the full limit of the Company's borrowing ability (currently, \$80 million). Also fully extended is the existing \$45 million loan from the City of Philadelphia. PGW ended FY 2003 with just \$100,000 of cash in the bank and just \$5.7 million of available short term borrowing.¹⁸ It projects a FY 2004 year-end cash and liquidity balance of negative \$5 million.¹⁹ Its ability to issue long term debt is restricted by City Ordinances to funding construction projects. Accordingly, PGW cannot issue long term bonds to supply needed cash working capital which its ratepayers are failing to provide. PGW's expenditures, over which it has direct control, amount to a small fraction – some \$50 million or 6% – of its total revenues.²⁰ Even if it reduced these expenditures by 20%, the cash problem would be far from solved. PGW simply has no choice but to request additional dollars from remaining ratepayers in order to make up this cash receipts shortfall.

18. In the face of this cash receipts collections crisis, PGW has taken comprehensive steps in order to attempt to improve collections. It has contracted with a nationally known consulting group, Accenture, to assist it in every aspect of collections activity.²¹ As part of that

¹⁷ Id.

¹⁸ PGW St. CRRC-1, Exh. JRB-5, p. 1.

¹⁹ Id., Exh. JRB-5, p. 2.

²⁰ PGW St. CRRC-1.

²¹ See, St. CRRC-3, Testimony of Randy Gyory.

effort, PGW has instituted a host of reforms and new programs designed to improve collections on an ongoing basis. While PGW believes that these efforts will ultimately bear fruit, it is not likely that they will produce such immediate and dramatic results such that the need for a clause would be eliminated. However, PGW believes that it has taken reasonable steps to assure that it soon will be collecting every dollar that can be collected.

19. The only other means by which PGW could obtain the additional needed revenues would be to file for a general rate increase. This alternative is inappropriate for PGW and its customers in the present context. First, the traditional 9-month time frame would result in PGW not beginning to receive additional revenues until well into the 2004-05 winter heating season, after PGW needs an additional cash flow infusion. Moreover, since PGW's immediate financial crisis would be ameliorated if the enormous increase in the level and percentage of uncollected cash receipts was reversed, a "laser focused" type of solution makes the most sense. Finally, an automatic adjustment clause-type mechanism is the most suitable and fair mechanism for both customers and the Company. Like gas costs, PGW's levels of collections vary from year to year depending on a number of factors. In the upcoming period, PGW is projecting that it will experience an 89% collections level. But, if natural gas costs mitigate unexpectedly, the Company's ongoing collections initiative is successful or additional LIHEAP funds are authorized by the federal government and received by PGW customers, this level could improve back to historic levels. On the other hand, if natural gas costs go higher than expected, LIHEAP funds go to other fuel providers rather than PGW or if PGW customers' payment ability has been permanently changed by recent events, PGW's collections levels could stay at the low levels it has recently experienced. The CRRC will automatically adjust for these contingences, whereas a base rate determination would provide no such flexibility that would benefit customers.

Moreover, management has determined that were it required to file for a base rate increase at this time, the request would far exceed the amounts being sought through the CRRC.

C. SPECIFICS OF THE PROPOSED CASH RECEIPTS CLAUSE

20. The Cash Receipts Reconciliation Clause ("CRRC"), as proposed by PGW, will track the GCR in most material respects. Based on historical data and projections of future natural gas prices, sales, billings and receipts, PGW will project its anticipated level of billed revenues and receipts for the 12 months beginning September 1st of each year. For the first period in which the clause would be placed into effect, PGW will make its projections for the period September 1, 2004 through August 31, 2005. PGW will assume that its receipts as a percentage of billed revenues for that future period will be the percentage realized in the prior year. That amount, reduced by the dollar amount of *pro forma* uncollectible expense currently contained in PGW's base rates (\$55.7 million - the amount authorized in PGW's last, fully litigated rate proceeding), will constitute the total gas receipts adjustment projected for year one of the clause. PGW is already being compensated in rates for \$55.7 million of uncollectible expense as authorized in its 2001-2002 rate proceeding. By subtracting the \$55.7 million from the gross cash shortfall, PGW will avoid any over recovery or double counting of uncollectibles.²²

21. Part two of the CRRC calculation process will be to establish a reconciliation for the prior year or an "E-factor." The E-factor will reconcile the amount collected in the CRRC to bridge the gap between projected cash receipts and projected billed revenues and the actual cash receipt shortfall for the year. This additional debit or credit will then be added to the total CRRC charge and assigned on a per Mcf basis to all firm customers, in the same manner as the GCR.

²² See, PGW St. CRRC-1, Exh. JRB-6.

For the first year of the clause, PGW proposes to collect an under collection realized in FY 2004 (12 months ended August 31, 2004) on a 3-year amortized basis to recognize the time period over which this problem has arisen and to mitigate the effect upon customers.²³ The total level for the two parts of the clause is currently projected at \$47 million.

22. PGW's proposed clause is a "make-whole" clause, i.e., it would collect additional revenues to allow PGW to have only \$55.7 million in uncollected revenues for the year. If PGW's collections efforts were unusually successful and it was able to collect so much that its uncollectible level would be less than \$55.7 million, PGW would set the projected clause at zero.

23. PGW would file its proposed annual charge in March of each year, as a companion to its GCR filing. At that time, PGW would also file data demonstrating the results of its collections enhancement efforts. As with the 1307(f) process, all parties would have an opportunity to review these programs and explore the reasonableness of PGW's efforts in the prior year to enhance collections, as well as the steps it intends to take in the future. If PGW's efforts were found to be inadequate or imprudent, the Commission could consider making an adjustment to the E-factor portion of the charge.

24. PGW proposes that its CRRC be initially authorized for two years – 2004-05 and 2005-06. In its 2006-07 1307(f) filing, PGW would commit to a re-examination of the need for and workings of the CRRC. At that time, the clause could be rolled into base rates or continued in its proposed form or a revised form.

25. PGW proposes that the CRRC be established as a non-bypassable clause to be charged to all firm transportation or sales customers as part of the distribution rate. The CRRC would not be shown on the customer's bill. Making the clause non-bypassable provides an

²³ Id.

additional benefit to natural gas suppliers seeking to provide natural gas supply services to PGW customers.

26. If the CRRC is implemented, PGW would be willing to explore including NGS billings for PGW customers within the coverage of the CRRC. Under such a possible arrangement, PGW would absorb the shortfall between cash receipts and actual billings (and charge it to remaining customers through the CRRC), thereby freeing up NGSs to provide services without the risk of substantial losses from substantial uncollectibles and arrearages.²⁴ There are several important conditions which would have to be satisfied before PGW would be able to offer such an arrangement, but if PGW and an interested NGS were able to agree on appropriate conditions, it could provide an incentive to NGSs to offer to serve residential and small business customers – something that, so far, has not occurred.²⁵

27. Because the specific conditions under which PGW's CRRC is established are crucially important to its ability to convince potential bond underwriters and insurers that the Clause is a positive financial step for the Company, PGW hereby reserves the right to withdraw its request for the clause if the PUC approves it with material modifications which PGW cannot accept.

28. In summary, the CRRC is an appropriately focused step to provide the necessary levels of working capital desperately needed by the Company to be able to pay its obligations and put it in a position to issue an additional bond in the Fall of 2004. Again, without this type of mechanism, PGW is not optimistic about its ability to issue additional debt at reasonable

²⁴ See, PGW St. CRRC-2. PGW would provide this service for a fee.

²⁵ PGW currently has no suppliers offering natural gas supply services to firm customers.

terms, something that is desperately needed to maintain the Company's construction program and ability to continue to serve customers economically.

D. LEGAL JUSTIFICATION FOR THE CRRC

29. As noted, the Public Utility Code, Section 1307(a), authorizes the PUC to establish a "sliding scale of rates or other method for the automatic adjustment of the rates of the public utility" ²⁶ The PUC has used this section to establish automatic adjustment mechanisms for expense items over which the utility has limited control, such as state or federal taxes, ²⁷ or items which are experiencing volatility such that maintaining a permanent base rate allowance would not be reasonable, ²⁸ or revenue neutral items for which recovery outside of a base rate case is necessary to maintenance of the utility's financial stability. ²⁹

30. While the Commission's authority to establish "sliding scale of rate" mechanism appears clear, if there is any concern about the legal authority to respond to PGW's special needs, the Public Utility Code, Section 2212, authorizes the Commission, upon the request of PGW, to "customize" a mechanism to respond to the unique needs of PGW. ³⁰ Such a

²⁶ 66 Pa. C. S. § 1307(a).

²⁷ State Tax Adjustment Surcharge (STAS), 44 Pa. P.U.C. 545 (1970), 52 Pa. Code §§ 69.51 – 69.56.

²⁸ See e.g., Energy Cost Rate (ECR), Allegheny Ludlum Steel v. Pa. P.U.C., 459 A.2d 1218 (Pa. 1983).

²⁹ Demand Site Management (DSM) expenses, I-90005 (December 13, 1993), PIEC v. Pa. P.U.C., 653 A.2d 1336 (Pa. Cmwlth. 1995), *aff'd per curiam*, 670 A.2d 1152 (Pa. 1996); Distribution System Improvement Surcharge (DSIC), P-00961031 (August 26, 1996), R-00963792 (Pennsylvania-American DSIC); Collection System Improvement Surcharge (CSIC), R-00027982 (November 7, 2003) (Pennsylvania-American).

³⁰ 66 Pa. C. S. § 2212 (c). This section would also be used to waive the provisions of Section 1307(a) which requires that the utility show that the establishment of a Section 1307(a) clause would not cause it to earn in excess of a "fair rate of return." Since PGW

mechanism is justified and critically needed to provide sufficient cash working capital to the Company in order to stabilize PGW's financial position and permit the Company to continue to provide adequate and reliable service to its customers.

31. A clause to recognize the adverse affects of high natural gas costs on uncollectibles is not at all unprecedented. Indeed, several states have already established "uncollectible adjustment trackers" for utilities to adjust their uncollectible or bad debt expense allowance to account for the effects of spiraling energy costs.³¹

E. PROCEDURE AND ROADMAP OF TESTIMONY

32. Because PGW's proposed Cash Receipts Clause is directly related to, and necessitated by the recent run-up in natural gas prices, PGW has filed its Petition as a companion to its 2004-2005 1307(f)/GCR filing and is hereby requesting that its Petition be consolidated for consideration with its GCR. Such consideration is key because the level and structure of the proposed CRRC will be directly related to the level of GCR costs authorized by the PUC in this 1307(f) proceeding.

33. To support PGW's request, it has submitted the testimony of several witnesses. They are as follows:

34. Joseph Bogdonavage (St. CRRC-1) - testifies to the Company's cash collections and uncollectibles history, PGW's current and projected financial condition and the specific mechanics of the proposed CRRC.

is a Cash Flow Company and does not earn a rate of return, this requirement is not applicable.

³¹ See, e.g., Ohio Public Utilities Commission, Case No. 03-1127-GA-UNC (December 17, 2003) (authorizing automatic adjustment clause to permit gas utilities to "recover their actual respective uncollectible expense").

35. Douglas Moser (St. CRRC-2) - documents the significant rise in natural gas prices nationally and for PGW and future projections of gas costs; discusses the potential that the CRRC could help promote customer choice in PGW's service territory.

36. Randy Gyory (St. CRRC-3) - explains PGW's current collection initiative, designed to attempt to return PGW's level of cash collections to historic levels.

37. H. Gilbert Peach (St. CRRC-4) - provides his opinion as to the reasons that PGW's cash collections percentages have dropped off so dramatically and explains the unique circumstances present in PGW's customer base located in the Philadelphia area that makes PGW's experience far more severe compared to other energy utilities.

38. In addition, as part of PGW's Supplement No. 3 to its Tariff Gas No. 2, it has submitted proposed CRRC tariff pages, which PGW proposes to become effective on or after September 1, 2004.

WHEREFORE, Philadelphia Gas Works respectfully requests that the Commission authorize PGW to implement the proposed cash receipts charge set forth in the Proposed Tariff Supplement attached hereto as Appendix A and included in the proposed Supplement 3 submitted as part of the Company's GCR filing.

Respectfully submitted



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800 West Montgomery Ave.
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Dated: March 1, 2004



**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Office Of Administrative Law Judge
P.O. Box 3265, Harrisburg, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

March 2, 3004

In Re: R-00049157

(See attached list)

Pennsylvania Public Utility Commission

v.

Philadelphia Gas Works

Annual 1307(F) filing.

DOCKETED

MAR 22 2004

NOTICE

This is to inform you that a prehearing conference on the above-captioned case will be held as follows:

Type: Initial prehearing conference

Date: Monday, March 15, 2004

Time: 2:00 p.m.

Location: Hearing Room 2
Plaza Level
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania

Presiding: Administrative Law Judge Charles E. Rainey, Jr.
1302 Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130
Telephone: (215) 560-2105
Fax: (215) 560-3133

DOCUMENT
FOLDER

The Administrative Law Judge will be presiding by telephone.

All Philadelphia parties may participate in the conference on the 13th floor of the Philadelphia State Office Building.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: (717) 787-1399.
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

pc: Judge Rainey
June Perry
Eric Levis-BPL, Keystone 3NE
Office of Trial Staff (2)
Consumer Advocate
Small Business Advocate
Judy W. Springer
Beth Plantz
Docket Section
Calendar File

JOHNNIE SIMMS ESQUIRE
PA PUBLIC UTILITY COMMISSION
OFFICE OF TRIAL STAFF
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HARRISBURG PA 17105-3265

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COMMUNITY LEGAL SERVICES INC
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DANIEL CLEARFIELD ESQUIRE
MARK S STEWART ESQUIRE
WOLF BLOCK SCHORR AND SOLIS-COHEN
LLP
212 LOCUST STREET SUITE 300
HARRISBURG PA 17101

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PHILADELPHIA PA 19122

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100 PINE STREET
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OFFICE OF GENERAL COUNSEL
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JANET PARRISH ESQUIRE
PHILADELPHIA GAS COMMISSION
1515 ARCH STREET 9TH FLOOR
PHILADELPHIA PA 19102

ROBERT KNECHT
INDUSTRIAL ECONOMICS INCORPORATED
2067 MASSACHUSETTS AVENUE
CAMBRIDGE MA 02140

DATE: March 3, 2004
SUBJECT: R-00049157
P-00042090
TO: Office of Administrative Law Judge
FROM: James J. McNulty, Secretary *JJM*

**Philadelphia Gas Works Annual 1307(f) filing
And
Petition to Establish Cash Receipts Reconciliation Clause**

Attached please find a copy of Philadelphia Gas Works' Annual 1307(f) filing, along with a Petition to Establish Cash Receipts Reconciliation Clause, and a Motion to Consolidate the two proceedings.

These matters are being assigned to your Office for appropriate action.

Enclosures

cc: Office of Trial Staff
Bureau of Fixed Utility Services

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MAR 03 2004



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Office of Administrative Law Judge

1302 Philadelphia State Office Building, 1400 W. Spring Garden St., Philadelphia, PA 19130
Telephone: (215) 560-2105

IN REPLY PLEASE
REFER TO OUR FILE

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DOCUMENT

March 5, 2004

Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works, R-00049157;
Petition of Philadelphia Gas Works to Establish a Cash Receipts Reconciliation
Clause, P-00042090

To the Parties:

Please be advised that my Prehearing Conference Order dated March 3, 2004,
applies to both matters referenced above.

Sincerely,

Charles E. Rainey, Jr.
Administrative Law Judge

CERjr/mg

cc: All Parties of Record

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APR 14 2004

Pennsylvania Public Utility Commission v. Philadelphia Gas Works (1307(f))
Docket No. R-00049157

SERVICE LIST

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Pa. Public Utility Commission
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Harrisburg, PA 17105-3265

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Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122

Wendy Beetlestone, Esquire
School District of Philadelphia
Office of General Counsel
2130 Arch Street, 5th Floor
Philadelphia, PA 19103

Janet Parrish, Esquire
Philadelphia Gas Commission
1515 Arch Street, 9th Floor
Philadelphia, PA 19102

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility
Commission, et al.
Complainants
v.
Philadelphia Gas Works
Respondent

DOCUMENT

R-00049157
P-00042090

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MAR 31 2004

**Pre-Hearing Memorandum
of Action Alliance of Senior Citizens of Greater Philadelphia,
Association of Community Organizations for Reform Now, Tenants' Action Group
and Consumers Education and Protective Association**

*Action Alliance of Senior Citizens of Greater Philadelphia, the Association of
Community Organizations for Reform Now, the Tenants' Action Group and the
Consumers Education and Protective Association (hereinafter "Action Alliance et al."),
through counsel, hereby submit this Pre-Hearing Memorandum in the above-captioned
matters.*

I. Procedural History.

On March 1, 2004, the Philadelphia Gas Works (PGW) made a filing with the
Pennsylvania Public Utility Commission for its FY2005 Gas Cost Rate, to be effective
September 1, 2004 ("GCR Filing"). In addition, PGW filed a Petition to Establish a Cash

Receipts Reconciliation Clause (“CRRC Petition”) and a Motion to Consolidate the CRRC Petition with its GCR Filing. On March 2, 2004, the Commission issued a Notice scheduling an initial pre-hearing conference on the GCR Filing for March 15, 2004. On March 3, 2004, Administrative Law Judge Charles E. Rainey, Jr. issued a Prehearing Conference Order requiring the parties to submit to him a Prehearing Memorandum regarding the GCR Filing on or before March 11, 2004. On March 5, 2004, by letter, Judge Rainey clarified that the Prehearing Conference Order applies both to the GCR Filing (R-00049157) and to the CRRC Petition (P-00042090).

II. Issues.

CEPA et al. identify the following issues that they may raise in this proceeding:

1. Whether the Gas Cost Rate which PGW proposes reflects all applicable credits under the Philadelphia Gas Commission Tariff and other applicable law?
2. Whether the projected cost of gas is reasonable and properly reflective of a least cost gas procurement strategy?
3. Whether, to the extent that the projected cost of gas is not reasonable and properly reflective of a least cost gas procurement strategy, the Commission should direct that such amounts be deducted from the \$18 million City payment?
4. Whether there are conditions or requirements that the Commission should impose to assure that PGW’s owner the City of Philadelphia applies the highest standards

of management practice and diligence to the operation of the Gas Works, as required by municipal ordinance?

5. Whether consideration of the CRRC Petition should be consolidated with consideration of the GCR Filing.

6. Whether the proposed CRRC is permissible under the Public Utility Code.

7. Whether the proposed CRRC is just and reasonable, and supported by substantial evidence.

Action Alliance et al. anticipate and reserve their right to pursue other issues that may arise during the course of this proceeding.

III. Witnesses.

Action Alliance et al. have not at this early stage identified witnesses that may be called in this proceeding. They reserve the right to present direct, rebuttal and surrebuttal testimony, as may be necessary, and will notify the presiding Judge and the parties as soon as such witness(es) may be identified.

IV. Discovery.

Action Alliance et al. will cooperate with other parties to establish appropriate discovery rules and an appropriate discovery schedule.

V. Settlement.

CEPA et al. anticipate participation in settlement discussions concerning this

matter, once the scope of this proceeding has been determined, and PGW has provided necessary discovery.

VI. Hearing and Briefing Schedule.

CEPA et al. will cooperate with other parties to develop a proposed schedule for evidentiary hearings, public input hearings as necessary, and for submission of briefs.

Respectfully submitted,

PHILIP A. BERTOCCI, ESQUIRE
LAURA MOSKOWITZ, ESQUIRE

Attorneys for Action Alliance et al.

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

March 10, 2004

Philadelphia Gas Works

Gregory J. Stunder
Senior Attorney



800 W. Montgomery Avenue, Philadelphia, PA 19122
Telephone: (215) 684-6878 – Fax (215) 684-6798
Email: greg.stunder@pgworks.com

March 10, 2004

James McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
2nd Floor, 1 North
400 North Street
Harrisburg, PA 17120

DOCUMENT
FOLDER

RE: Pennsylvania Public Utility Commission v. Philadelphia Gas Works
Removal of Participant from the Service List
Docket No. R-00049157

Dear Secretary McNulty:

Please remove Janet Parrish from the Service List in the above-captioned matter. Ms. Parrish's name was erroneously included on the initial Service List that accompanied PGW's January 30, 2004 filing in this matter.

Please contact me if you have any questions regarding this filing at 215-684-6878.

Respectfully,

Gregory J. Stunder

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APR 26 2004

Enclosure

cc: All Parties of Record
Administrative Law Judge Charles Rainey
Janet Parrish, Esquire

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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).

VIA FIRST CLASS MAIL

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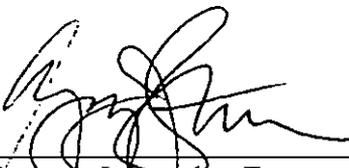
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Community Legal Services
1424 Chestnut Street
Philadelphia, PA 19102



Gregory J. Stunder, Esq.

Date: March 10, 2004

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McNees Wallace & Nurick LLC
attorneys at law

ORIGINAL

CHARIS MINCAVAGE
DIRECT DIAL: (717) 237-5437
E-MAIL ADDRESS: CMINCAVAGE@MWN.COM

March 11, 2004

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

VIA HAND DELIVERY

DOCUMENT
FOLDER

**Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works;
Docket No. R-00049157; and Petition of Philadelphia Gas Works; Docket
No. P-00042090**

Dear Secretary McNulty:

Enclosed for filing with the Commission are the original and three (3) copies of the Philadelphia Industrial and Commercial Gas Users Group's ("PICGUG") Prehearing Memorandum in the above-referenced proceeding.

As shown by the attached Certificate of Service, all parties to this proceeding are being duly served. Please date stamp the extra copy of this transmittal letter and kindly return it for our filing purposes.

Very truly yours,

MCNEES WALLACE & NURICK LLC

By 
Charis Mincavage

Counsel to the Philadelphia Industrial and
Commercial Gas Users Group

Enclosures

CM/lhe

c: Administrative Law Judge Charles E. Rainey (via e-mail and first class mail)
Certificate of Service

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2004 MAR 11 PM 2:19

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC
UTILITY COMMISSION

v.

PHILADELPHIA GAS WORKS

PETITION OF PHILADELPHIA GAS
WORKS

Docket No. R-00049157

Docket No. P-00042090

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**PREHEARING MEMORANDUM OF THE PHILADELPHIA INDUSTRIAL
AND COMMERCIAL GAS USERS GROUP**

Pursuant to Administrative Law Judge ("ALJ") Rainey's March 3 Order, the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG") hereby submits this Prehearing Memorandum in the above-captioned proceeding.

I. HISTORY OF THE PROCEEDING

On January 31, 2004, the Philadelphia Gas Works ("PGW" or "Company") made its preliminary Gas Cost Rate ("GCR") filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission"). On March 1, 2004, PGW submitted supporting testimony and a Petition to implement a Cash Receipts Reconciliation Clause ("CRRC"), which PGW seeks to consolidate with the GCR proceeding. On February 18, 2004, PICGUG filed a Petition to Intervene in this proceeding. A description of PICGUG is set forth in Paragraph 4 of PICGUG's Petition to Intervene. PICGUG's Petition to Intervene is outstanding and awaits ALJ disposition.

II. ANTICIPATED ISSUES AND SUB-ISSUES

Because some PICGUG members may be impacted by any changes to the Company's GCR, PICGUG is concerned with any modifications proposed to the GCR in this proceeding. In

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addition, PICGUG has significant concerns with PGW's proposal to implement a CRRC. Specifically, PICGUG has several questions regarding the appropriateness of such a mechanism and whether such a mechanism would be just and reasonable under the Public Utility Code.

PICGUG anticipates pursuing these issues during this proceeding, and PICGUG reserves the right to raise further issues and to respond to issues raised by other parties.

III. PROPOSED WITNESSES

PICGUG is in the process of evaluating whether it will sponsor testimony in this proceeding. In the event that PICGUG decides to sponsor testimony, it will inform the parties and the ALJ as soon as possible of the intended witness and topics of testimony. PICGUG also intends to participate in this proceeding through the submission of discovery, cross-examination of other parties' witness, and the submission of briefs, exceptions and reply exceptions, if necessary.

IV. PROPOSED SCHEDULE AND DISCOVERY RULES

PICGUG will cooperate with the ALJ and the parties at the Prehearing Conference to develop an appropriate procedural schedule and discovery rules in accordance with the Commission's regulations and any ALJ directives.

V. **POSSIBILITY OF SETTLEMENT**

PICGUG is willing to participate in discussions with the other parties to amicably resolve the issues in this proceeding.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By Charis Mincavage

David M. Kleppinger
Charis Mincavage
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717)232-8000
Fax: (717)237-5300

Counsel to the Philadelphia Industrial and
Commercial Gas Users Group

Dated: March 11, 2004

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ORIGINAL

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

VIA E-MAIL AND FIRST CLASS MAIL

Johnnie Simms, Esq.
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Pennsylvania Public Utility Commission
The Commonwealth Keystone Building
400 North Street
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josimms@state.pa.us

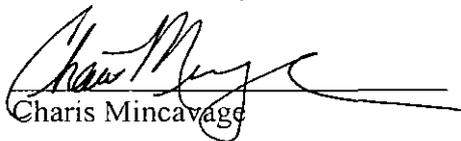
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mstewart@wolfblock.com

Greg Stunder, Esq.
Philadelphia Gas Works
800 W. Montgomery Avenue.
Philadelphia, PA 19122
Greg.Stunder@pgworks.com


Charis Mincavage

Dated this 11th day of March, 2004, in Harrisburg, Pennsylvania.

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

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March 11, 2004

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JAMES J. MC NULTY, SECRETARY
PA PUBLIC UTILITY COMMISSION
P O BOX 3265
HARRISBURG PA 17105-3265

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PA
PUBLIC
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COMMISSION
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Re: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works
Docket No. R-00049157

Petition of Philadelphia Gas Works to Establish
a Case Receipts Reconciliation Clause
Docket No. P-00042090

Dear Secretary McNulty:

Enclosed please find an original and three (3) copies of the Prehearing Memorandum of the Office of Trial Staff for filing in the above-captioned proceeding.

Copies are being served upon all active parties of record.

Very truly yours,

Johnnie E. Simms
Senior Prosecutor
Office of Trial Staff
Pa. Public Utility Commission

JES:pae
c: Parties of Record
Enclosures

63

Tariff Pa. PUC No. 2). Pursuant to Pennsylvania Public Utility Commission (the "Commission") rules, PGW filed advance information concerning its purchased gas costs on January 30, 2004. On March 1, 2004, PGW filed Supplement No. 3 to PGW's Gas Service Tariff Pa. PUC No. 2, proposing certain rate and tariff changes. Accompanying this filing, PGW included certain statements showing the calculation of the proposed changes in rates and supporting written direct testimony of PGW's witnesses.

In addition to the 1307(f) filing, PGW also filed a motion to consolidate a Petition to Establish Cash Receipts Reconciliation Clause with the 1307(f) proceeding.

On March 2, 2004, the Commission notified the parties that the Filing had been assigned to Administrative Law Judge Charles E. Rainey, Jr. and that a prehearing conference on these matters is scheduled for March 15, 2004. In a Prehearing Conference Order dated March 3, 2004 by Administrative Law Judge ("ALJ") Rainey requesting that all parties prepare a prehearing conference memorandum to be filed on or before March 11, 2003.

II. STATEMENT OF ISSUES

In this proceeding, as in every proceeding under Section 1307(f) of the Public Utility Code, the primary issue is the justness and reasonableness of the rates proposed. In determining this question, the Commission is required to investigate whether the utility is pursuing "a least cost fuel procurement policy, consistent with the utility's obligation to provide safe, adequate and reliable

service to its customers.” The additional issues that OTS may address in the 1307(f) proceeding is as follows, however we reserve the right to address additional issues after we have concluded discovery:

1. The forward sale of gas inventory impact on the current 1307(f) filing.
2. Review of the LNG “arrangements and the margins.
3. Review of the capacity release credits.
4. Review of the off-system sales credits.
5. Review of the damage done to PGW’s distribution lines by outside parties and/or entities and the impact on the 1307(f).
6. Review of the discounts to customers (both firm and transportation) and the impact of 1307(f).
7. Review of the 1307(f) E-Factor.

By letter dated March 5, 2004, ALJ Rainey advised the parties that the PreHearing Conference Order dated March 3, 2004 applied to the Petition of Philadelphia Gas Works to Establish a Cash Receipts Reconciliation Clause, at P-00042090. Accordingly, OTS present the following potential issues, however, the issues that may be addressed has not been fully developed as of this prehearing memorandum, and OTS reserves the right to address additional issues as we conclude discovery:¹

1. The impact that the Company’s Weather Normalization Adjustment Clause may have on the receipt of revenues.

¹ OTS’s listing of issues for the Company’s proposed Cash Receipts Reconciliation Clause should not be viewed as in agreement with PGW’s Motion to consolidate the 1307(f) filing with the Petition.

2. The reconciliation of the cash shortfall for Fiscal Year 2003-2004.
3. The results of the "make whole" mechanism.
4. Whether this proposal is a single rate case issue.
5. Is the proposal retroactive ratemaking.

III. WITNESSES

OTS anticipates filing testimony from the following witnesses:

1. Charles Weakley
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pa. 17105
2. Gary Yocca
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, Pa. 17105

Mr. Weakley will be addressing E-Factor issues in the 1307(f), and Mr. Yocca will be addressing the distribution and transportation related issues. With respect to the Petition, OTS has not finalized as to how the issues will be addressed by the witnesses. OTS reserves the right to produce additional witnesses, if the development of the issues so require.

IV. PROPOSED SCHEDULE

OTS will work with the Parties to establish a mutually agreeable schedule in accordance with Your Honor instructions.

V. DISCOVERY

OTS respectfully requests that the Commission's discovery rules be modified as follows:

1. Answers to written interrogatories are shall be served in hand within eight (8) business days of service.
2. Objections to interrogatories shall be communicated orally within three (3) days of service; unresolved objections to be served on the Administrative Law Judge in writing within five (5) days of service of interrogatories.
3. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) days of service of written objections.
4. Answers to motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) days of service of such motions.
5. Rulings on such motions will be issued if possible within seven (7) days of filing of the motion.
6. Responses to requests for document production, entry for inspection, or other purposes be served in hand within eight (8) business days.
7. Requests for admission be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service.
8. Answers to on-the-record data requests shall be served in hand within seven (7) calendar days of the request.

Please note that all of the above paragraphs timeline, with the exception of paragraphs one (1) and two (2), are to be calendar days. Paragraphs one (1) and two (2) are to be complied with in business days.

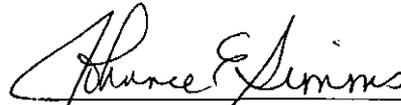
VI. POSSIBILITY OF SETTLEMENT

OTS views settlement in this case and all cases a possibility and we are willing to discuss with the respective parties any potential settlement of the issues.

VII. CONCLUSION

The Office of Trial Staff will be filing answers to both PGW's Motion to Consolidate and Petition to Establish Cash Receipts Reconciliation Clause before the expiration of the Commission's prescribed time period for answers.

Respectfully submitted,
THE OFFICE OF TRIAL STAFF



Johnnie E. Simms
Senior Prosecutor
PA. Public Utility Commission
P.O. Box 3265
Harrisburg, PA. 17105
(717) 787-1976
josimms@state.pa.us

Dated: March 11, 2004

2004 MAR 11 PM 3:29
SECRETARY'S BUREAU

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
: :
v. : Docket No. R-00049157
: Docket No. P-00042090
Philadelphia Gas Works - 1307(f) :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Prehearing Memorandum of the Office of Trial Staff**, dated March 11, 2004, either personally, by first class mail, electronic mail, express mail, or by fax upon the persons listed below:

Gregory J. Stunder, Esquire
Philadelphia Gas Works
800 West Montgomery Avenue
Philadelphia, PA 19122

Stephen J. Keene, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place - 5th Floor
Harrisburg, PA 17101-1923

SECRETARY'S BUREAU

2004 MAR 11 PM 3:23

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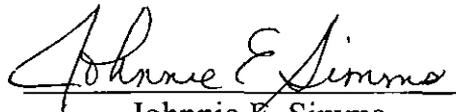
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Philip A. Bertocci, Esquire
Community Legal Services, Inc.
1424 Chestnut Street
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Honorable Charles E. Rainey, Jr.
Administrative Law Judge
Pa. Public Utility Commission
1302 State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130



Johnnie E. Simms
Chief Prosecutor
Office of Trial Staff

Dated: March 11, 2004
Docket No. R-00049157; P-00042090

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March 11, 2004

VIA HAND DELIVERY

James McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg., 2nd Floor,
400 North Street P.O. Box 3265
Harrisburg, PA 17105-3265

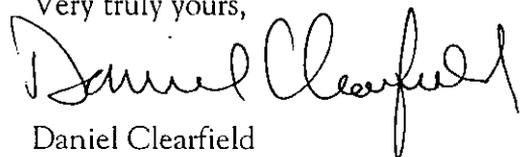
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Re: Philadelphia Gas Works Cash Receipts Reconciliation
Clause, Docket No. R-00049157
Petition of Philadelphia Gas Works to Establish a Cash
Receipts Reconciliation Clause, Docket No. P-00042090

Dear Secretary McNulty:

On behalf of Philadelphia Gas Works, enclosed for filing please find an original and three copies of its Prehearing Memorandum with regard to the above referenced matter. A copy has been served on the parties listed on the attached Certificate of Service.

Very truly yours,


Daniel Clearfield
For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DC/lww
Enclosure

cc: Hon. Charles Rainey w/enc.
Attached Certificate of Service w/enc.

DSH:40119.1/PHI211-217982

05

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :

v. :

Philadelphia Gas Works :

Petition of Philadelphia Gas Works to Establish a
Cash Receipts Reconciliation Clause :

R-00049157

P-00042090

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**PHILADELPHIA GAS WORK'S
PREHEARING MEMORANDUM**

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I. INTRODUCTION

Philadelphia Gas Works ("PGW") submits this Prehearing Memorandum in anticipation of the Prehearing Conference scheduled before Administrative Law Judge Charles Rainey on March 15, 2004. This Prehearing Conference is to cover two matters: 1) PGW's 2004-05 Gas Cost Rate ("GCR") proceeding – which includes the establishment of its 2004-05 proposed Restructuring and Universal Service Surcharge – for which pre-filing information was filed on February 1, 2004 and its annual filing was made on March 1, 2004; and 2) PGW's proposal to establish a Cash Receipts Reconciliation Clause ("CRRC") (P-00042090). Along with its March 1 filing, PGW filed a formal motion to consolidate the two proceedings. Additionally, PGW submitted a Petition requesting waiver of certain Commission regulations pertaining to its supporting data and customer notice for the GCR. That Petition remains pending before the Commission.

II. MOTION TO CONSOLIDATE

As more fully set forth in the above-referenced motion to consolidate, the two cases have been assigned to the presiding ALJ and should be formally consolidated because the standard for consolidation has been met. First there are several common issues of fact in the two proceedings (e.g., current and future natural gas costs projections, consistency of inputs for the GCR and the CRRC). Moreover, considering the two issues together will save time and resources for the Commission, the PUC and the other parties. Since PGW has submitted its direct case along with its Petition on March 1, there should be ample time for the parties to explore PGW's supporting data and information on the CRRC.

III. DISCOVERY

The follow rules were adopted in PGW's 2003-04 GCR proceeding and are acceptable to PGW:

1. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service of the interrogatories.
2. Objections to interrogatories shall be communicated orally within three (3) days of service; unresolved objections shall be served to the ALJ in writing within five (5) days of service of interrogatories.
3. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) days of service of written objections.
4. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) days of service of such motions, and shall have attached a copy of the interrogatory or interrogatories and any responses.
5. Rulings over such motions shall be issued, if possible, within seven (7) days of filing of the motion.
6. Responses to request for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days.
7. Requests to take the deposition of a person upon oral examination notice period shall be reduced to ten (10) days.

8. Requests for admission shall be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service.

9. Answers to on-the-record data requests shall be served in-hand within three (3) calendar days, or less of the request.

IV. FACTUAL AND LEGAL ISSUES

The following is a summary of the factual and legal issues that PGW anticipates will be raised in this case:

A. GCR

1. Whether PGW proposed 2004-05 projected cost of natural gas expense and total applicable GCR Expense are just, reasonable and consistent with the least cost fuel procurement and other standards set forth in 66 Pa.C.S. §§ 1307(f), 1317 and 1318?

2. Whether PGW's claimed realized 2003-04 natural gas expense, GCR Expense and prior year undercollection is just, reasonable and consistent with the least cost procurement and other standards set forth in 66 Pa. C.S. §§ 1307(f), 1317 and 1318?

3. Are the revisions to PGW's authorized Restructuring Surcharge, designed to recover PGW's realized and projected restructuring costs, authorized by the Pa PUC in PGW's Restructuring Proceeding (M-00021612), just, reasonable and in accordance with applicable PUC orders and the Public Utility Code?

4. Are the revisions to PGW's authorized Universal Service Charge (USC) designed to recover PGW's realized and projected costs and discounts associated with its CRP, CAP, Conservation Works Program (CWP) and Senior Citizen Discount (SCD) programs just, reasonable an in accordance with applicable PUC orders and the Public Utility Code?

5. Whether PGW's proposed Supplement No. 3 to PGW's Pa PUC Tariff No. 2 setting forth the revisions in rates required by the changes in the GCR, Restructuring, USC and CRRC surcharges is just, reasonable and otherwise consistent with law?

B. CRRC

1. Is PGW's proposal to establish a Cash Receipts Reconciliation Clause (CRRC) as an automatic adjustment mechanism to recover shortfalls in PGW's projected and realized cash receipts in comparison to the uncollectible expense level contained in PGW's rates authorized by the Public Utility Code §§ 1307(a) and 2212 or other application sections?

2. Is the proposed CRRC mechanism just and reasonable and consistent with the Cash Flow Method of establishing PGW's rates?

3. Is the proposed level of the CRRC for the 2004-05 recovery period, which includes an underrecovery for the 2003-04 Fiscal Year, just and reasonable?

V. SERVICE OF DOCUMENTS

Service of documents in this matter should be on the following counsel of record:

Daniel Clearfield, Esq.*
Kevin J. Moody, Esq.
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212 Locust Street, Suite 300
Harrisburg, PA 17101
(717) 237-7173 (phone)
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dclearfield@wolfblock.com
kmoody@wolfblock.com

Gregory J. Stunder, Esq.**
Senior Attorney
Philadelphia Gas Works
800 West Montgomery Ave.
Philadelphia, PA 19122
(215) 684-6878 (phone)
(215) 684-6798 (fax)
greg.stunder@pgworks.com

* Lead Counsel on CRRC

** Lead Counsel on GCR

VI. SCHEDULE

PGW proposes the following schedule for the consolidated proceedings, following the schedule that was established for PGW's 2003-04 GCR (which was subsequently settled):

Discovery /Settlement Conference	To be scheduled
Admissions or Stipulations	“
Opposing Testimony	April 23, 2004
All Rebuttal	May 14, 2004
All Surrebuttal	May 20, 2004
Public Input Hearings	(scheduled if deemed necessary by the parties)
Hearings	May 25 & 26, 2004
Record Close Date	May 28, 2004
Main Briefs Due Date	June 8, 2004
Reply Briefs Due Date	June 15, 2004

VII. WITNESSES

PGW expects to submit the testimony of the following witnesses in the GCR proceeding:

- A. Douglas Moser
- B. Kenneth Dybalski

In addition, PGW will call the following witnesses as part of its CRRC request:

- A. Joseph Bogdonavage, Senior Vice President - Finance
- B. Douglas Moser, Vice President of Gas Management
- C. Randy Gyory, Vice President – Customer Affairs
- D. H. Gilbert Peach, Principal of H. Gil Peach & Associates LLC

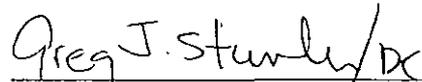
PGW has filed these witnesses prepared direct testimony with its March 1 filing.

PGW reserves its right to modify this witness list prior to the submission of testimony.

VIII. SETTLEMENT

PGW is willing to discuss settlement of its claims and will be initiating such discussions as soon as the parties indicate they have had sufficient time to review PGW's direct case on the GCR and the CRRC.

Respectfully submitted,



Gregory J. Stunder, Esq.
Senior Attorney
Philadelphia Gas Works
800 West Montgomery Ave.
Philadelphia, PA 19122
(215) 684-6878



Daniel Clearfield, Esq.
Kevin J. Moody, Esq.
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212 Locust Street, Suite 300
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(717) 237-7173

Dated: March 11, 2004

For Philadelphia Gas Works

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document of Philadelphia Gas Works' upon the participants listed below in accordance with the requirements of § 1.54 (relating to service by a participant).

VIA EMAIL AND FIRST CLASS MAIL

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Richard A. Kanaskie, Esq.
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Tanya McCloskey, Esq.
James Mullins, Esq.
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E-mail: pbertocci@clsphila.org


Daniel Clearfield, Esq.

Dated: March 11, 2004

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

IN REPLY PLEASE
REFER TO OUR FILE

March 12, 2004

ORIGINAL

JAMES J. MC NULTY, SECRETARY
PA PUBLIC UTILITY COMMISSION
P O BOX 3265
HARRISBURG PA 17105-3265

DOCUMENT
FOLDER

Re: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works
Docket No. R-00049157

Petition of Philadelphia Gas Works to Establish
a Case Receipts Reconciliation Clause
Docket No. P-00042090

Dear Secretary McNulty:

Enclosed please find an original and three (3) copies of the Office of Trial Staff's Answer to Motion for Consolidation in the above-captioned proceeding.

Copies are being served upon all active parties of record.

Very truly yours,

Johnnie E. Simms
Senior Prosecutor
Office of Trial Staff
Pa. Public Utility Commission

SECRETARY'S BUREAU

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JES:pae
c: Parties of Record
Enclosures

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Pennsylvania Public Utility Commission

:

R-00049157

v.

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Philadelphia Gas Works

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P-00042090 ✓

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**THE OFFICE OF TRIAL STAFF'S
ANSWER TO PHILADELPHIA GAS WORKS'
MOTION FOR CONSOLIDATION**

On March 1, 2004, pursuant to 52 Pa. Code Sections 5.81 and 5.101, Philadelphia Gas Works ("PGW") requested that its petition to establish a Cash Receipts Reconciliation Clause ("CRRC"), be consolidated for hearing and disposition with its 2004 1307(f) proceeding because "both proceedings involve common questions of law and fact." The Office of Trial Staff ("OTS") respectfully objects to PGW's request for consolidation.

**DOCUMENT
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In support of its opposition to consolidation, OTS answers pursuant to 52 Pa. Code Section 5.61, PGW's motion for consolidation in enumerated fashion as follows:

1. Admitted. OTS agrees that Section 5.81 of the Commission's regulations provides that the Commission may order proceedings involving a common question of law or fact to be consolidated. The problem with PGW's averment is that there is no common question of law or fact between PGW's annual 1307(f) proceeding and PGW's petition to establish a CRRC. A 1307(f) proceeding is designed to address a local distribution company's ("LDC") least cost procurement policies and the rate to be charged to reflect changes in natural gas costs going forward. In contrast, PGW's CRRC proposal is a surcharge designed to collect additional uncollectible account expense not currently included in base rates.

2. Denied. OTS disagrees that the proposed CRRC and PGW's "2004 GCR" proceeding involves common questions of law and fact. There is no evidence to suggest that there is a commonality in law or fact between a 1307(f) proceeding and a surcharge designed to collect additional uncollectible account expense. Nor should there be any dispute that uncollectible account expense is a base rate issue and not a 1307(f) issue.¹ The mere fact that PGW has attempted to associate its CRRC proposal from a procedural standpoint with its 1307(f) Filing does not satisfy the intent of Section 5.81 of the Commission's regulations. By proposing CRRC so as to mirror the 1307(f) in terms of "filing dates and time periods, and the use of historical and projected amounts of actual gas prices, sales, billings and

¹ See Pennsylvania Public Utility Commission v. Philadelphia Gas Works at Docket No. M-000021612, pages 25-28.

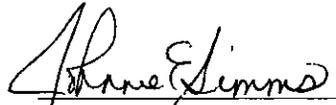
receipts does not meet the standards of common question of law and fact. In that regard, the instant 1307(f) proceeding and all other future 1307(f) proceedings will be totally unaffected by the outcome PGW's CRRC proposal in this proceeding or future 1307(f) proceedings. The determinations made by the Commission regarding instant PGW's 1307(f) filing will not have a question of law or fact impacted by the outcome of the CRRC proposal. Consequently, there is no common question of law or fact as required by Section 5.81 of the Commission's regulations.

The outstanding question is what impact will the granting of the motion to consolidate have on the prosecution of this instant 1307(f) proceeding. OTS respectfully submits that the granting of motion to consolidate will severely handicap the other parties' ability to fully and adequately review both the 1307(f) filing and the CRRC Petition at the same time. Case in point, it is common knowledge that 1307(f) proceedings generically, and this proceeding specifically, have time constraints that requires modifications to the procedural schedule of the case, most notably the discovery period and the close of the record. In fact, as indicated in ALJ Rainey's prehearing conference order, the schedule must be set in such a manner as to schedule reply briefs to be filed no later than June 1, 2004. Without addressing the merits of the CRRC proposal, the time constraints of a 1307(f) proceeding as a stand alone proceeding should be enough to warrant denying the motion to consolidate a 1307(f) proceeding with another contested issue, such as the CRRC proposal. Simply put, there is barely enough

time to fully address the 1307(f) issues without the additional consideration of the
CRRC issues.

WHEREFORE, for the reasons set forth above the motion to consolidate
should be denied.

Respectfully submitted,



Johnnie E. Simms
Senior Prosecutor
PA. Public Utility Commission
P.O. Box 3265
Harrisburg, Pa. 17105
(717) 787-1976

Dated: March 12, 2004

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :
: :
v. : Docket No. R-00049157
: Docket No. P-00042090
Philadelphia Gas Works - 1307(f) :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Office of Trial Staff**
Answer to Philadelphia Gas Works' Motion for Consolidation, dated
March 12, 2004, either personally, by first class mail, electronic mail, express
mail, or by fax upon the persons listed below:

Gregory J. Stunder, Esquire
Philadelphia Gas Works
800 West Montgomery Avenue
Philadelphia, PA 19122 .

Stephen J. Keene, Esquire
Aron J. Beatty, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place - 5th Floor
Harrisburg, PA 17101-1923

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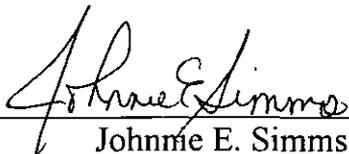
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Philip A. Bertocci, Esquire
Community Legal Services, Inc.
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Philadelphia, PA 19102

Honorable Charles E. Rainey, Jr.
Administrative Law Judge
Pa. Public Utility Commission
1302 State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130



Johnnie E. Simms
Chief Prosecutor
Office of Trial Staff

Dated: March 12, 2004
Docket No. R-00049157; P-00042090

OALJ Hearing Report

Please Check Those Blocks Which Apply

Docket No.: <u>R-00049157 +</u> <u>P-00042090</u>	Prehearing Held: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Case Name: <u>PA PUC v PGW</u>	Hearing Held: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	Testimony Taken: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
	Transcript Due: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
Location: <u>HBG</u> DOCUMENT FOLDER	Hearing Concluded: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Date: <u>MARCH 15, 2004</u>	Further Hearing Needed: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
ALJ: <u>Charles E. Rainey, Jr.</u>	Estimated Add'l Days: _____
Reporting Firm: <u>Commonwealth Reporting</u>	RECORD CLOSED: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	DATE: _____
	Briefs to be Filed: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	DATE: _____
	Bench Decision: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	REMARKS: <u>May 11 + 12 hearings at 10:00 AM - Phila office.</u>

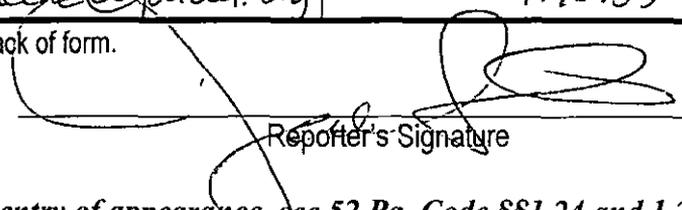
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 PA PUC

MAR 15 2004
 PA PUBLIC UTILITY CO
 COMMONWEALTH REPORTING

PLEASE PRINT CLEARLY - Incomplete Information may result in delay of processing.

Name and Telephone Number	Address	Who are you representing?
<u>Johnnie E. Simms</u> Telephone: <u>(717) 787-1976</u>	<u>P.O. Box 3265</u> City: <u>HARRISBURG</u> State: <u>PA</u> Zip: <u>17105</u>	<u>Office of TRHL Staff</u>
<u>Steven C. Gray</u> Telephone: <u>(717) 783-2525</u>	<u>Suite 1102, Commerce Bldg</u> <u>300 North Second St</u> City: <u>HBG</u> State: <u>PA</u> Zip: <u>17101</u>	<u>OSBA</u>
<u>Stephen J. Keene</u> Telephone: <u>717-783-5048</u>	<u>555 Walnut St.</u> <u>5th Floor</u> City: <u>Harrisburg</u> State: <u>PA</u> Zip: <u>17101</u>	<u>Office of Consumer Advocate</u>
	E-mail Address: <u>jsimms@state.pa.us</u>	Fax Number: <u>(717) 772-2677</u>
	E-mail Address: <u>SGRAY@STATE.PA.US</u>	Fax Number: <u>(717) 783-2831</u>
	E-mail Address: <u>skeene@paoca.org</u>	Fax Number: <u>717-783-7152</u>

Check this box if additional parties or attendees appear on back of form.


 Reporter's Signature

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.

Name and Telephone Number	Address			Who are you representing?
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Telephone: 717.232.8000	City Hbg.	State PA	Zip 17108	E-mail Address: cmincavage@mwn.com Fax Number: 717.237.5300
Daniel Clearfield	10022 Locust St S.300			PGW
Telephone:	City Harrisburg	State PA	Zip 17101	E-mail Address: Fax Number: (717) 237-7161
Philip Bertucci's	1427 Chestnut Street 3rd Floor			action alliance of senior citizens of Greater Philadelphia, et al.
Telephone: 215-981-3702	City Philadelphia	State PA	Zip 19102	E-mail Address: Fax Number:
Telephone:	City	State	Zip	E-mail Address: Fax Number:
Telephone:	City	State	Zip	E-mail Address: Fax Number:
Telephone:	City	State	Zip	E-mail Address: Fax Number:
Telephone:	City	State	Zip	E-mail Address: Fax Number:
Telephone:	City	State	Zip	E-mail Address: Fax Number:
Telephone:	City	State	Zip	E-mail Address: Fax Number:
Telephone:	City	State	Zip	E-mail Address: Fax Number:

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Office Of Administrative Law Judge
P.O. Box 3265, Harrisburg, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

March 17, 2004

In Re: R-00049157 & P-00042090

(TO ALL PARTIES)

Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works

R-00049157

Annual 1307(f) filing.

P-00042090

DOCUMENT
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Petition to establish a cash receipts reconciliation clause.

Hearing Notice

This is to inform you that the hearings on the above-captioned case will be held as follows:

Type: Initial and Further Hearings

Date: Tuesday, May 11, 2004 - Initial
Wednesday, May 12, 2004 - Further

Time: 10:00 a.m.

Location: In an available hearing room
Philadelphia State Office Building
Broad and Spring Garden Streets
Philadelphia, Pennsylvania

Presiding: Administrative Law Judge Charles E. Rainey, Jr.
1302 Philadelphia State Office Building
1400 West Spring Garden Street
Philadelphia, PA 19130
Telephone: (215) 560-2105
Fax: (215) 560-3133

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APR 08 2004

Attention: You may lose the case if you do not come to this hearing and present facts on the issues raised.

If you intend to file exhibits, 2 copies of all hearing exhibits to be presented into evidence must be submitted to the reporter. An additional copy must be furnished to the Presiding Officer. A copy must also be provided to each party of record.

Individuals representing themselves do not need to be represented by an attorney. All others (corporation, partnership, association, trust or governmental agency or subdivision) must be represented by an attorney. An attorney representing you should file a Notice of Appearance before the scheduled hearing date.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: (717) 787-1399.
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

pc: Judge Rainey
June Perry
Eric Levis-BPL, Keystone 3NE
Office of Trial Staff (2)
Consumer Advocate
Small Business Advocate
Elizabeth L. Plantz, Scheduling Officer
Beth Plantz
Docket Section
Calendar File

R-00049157 and P-00042090 P. PUC v. Philadelphia Gas Works - Annual 1307(F).
Petition to establish a cash receipts reconciliation clause.

JOHNNIE SIMMS ESQUIRE
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ANN WEITZ
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ELEANORE CASSIDY
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C-0005

C-0003

C-0004

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C-0009

C-0010

C-0011

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C-0012

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C-0014

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C-00015

C-0016

C-0017

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C-0018

C-0019

C-0020

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C-0021

C-0022

C-0023

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C-0024

C-0025

C-0026

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C-0027