

212 Locust Street, Suite 300, Harrisburg, Pennsylvania 17101
Tel: (717) 237-7160 ■ Fax: (717) 237-7161 ■ www.WolfBlock.com

Daniel Clearfield
Direct Dial: (717) 237-7173
E-mail: dclearfield@wolfblock.com

ORIGINAL

November 12, 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

DOCUMENT
FOLDER

Re: Investigation into Financial and Collection Issues
Regarding the Philadelphia Gas Works
Docket Nos. P-00042090, R-00049157, M-00021612 &
P-00032061

Dear Secretary McNulty:

Enclosed are the original and three copies of Philadelphia Gas Works' Petition for Reconsideration and Clarification in the above-referenced matter. As evidenced by the attached Certificate of Service, all parties of record have been served in the manner indicated.

If you have any questions, please contact me at your convenience.

Sincerely,

Daniel Clearfield

Daniel Clearfield

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DC/lww
Enclosures

cc: Certificate of Service (w/enc)

RECEIVED
NOV 12 PM 4:05
SECRETARY'S BUREAU

DSH:55606.1/PH1211-220875

201

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Investigation into Financial and
Collections Issues Regarding
Philadelphia Gas Works

: Docket Nos. P-00042090
: R-00049157
: M-00021612
: P-00032061

DOCKETED
DEC 27 2004

2004 NOV 12 PM 1: 06
SECRETARY'S BUREAU

RECEIVED

PHILADELPHIA GAS WORKS
PETITION FOR RECONSIDERATION AND CLARIFICATION

A. Introduction

Philadelphia Gas Works ("PGW" or "Company"), pursuant to 52 Pa. Code § 5.572 and 66 Pa. C.S. § 703(g), respectfully submits this Petition seeking reconsideration and clarification of the Order of the Public Utility Commission ("PUC" or "Commission") in the above docket, entered on October 27, 2004, which rejected for the most part the waivers PGW requested in the Company's Petition for Limited Waiver or Modification of PUC Chapter 56 Rules and Administrative Interpretations, rejected PGW's proposed means-tested Senior Citizen Discount, rejected PGW's request to be able to continue to charge and collect a residential field visit charge of \$10 per visit and rejected PGW's proposal to require applicants to agree to pay off outstanding arrearages secured by liens or reduced to judgments as a condition of service reinstatement.

PGW requests the Commission to reconsider and revise these rulings because, in material respects, they appear to be based on misperceptions of the record evidence. In other instances it has apparently failed to fully recognize the consequences of its rulings. These factors clearly constitute a valid basis for reconsideration and revision of the Commission's Order under well-established rules.¹

**DOCUMENT
FOLDER**

¹ *Duick v. PG&W Company*, 56 Pa. P.U.C. 553, 559 (1982), *Pa. PUC v. Jackson Sewer Corp.*, 2001 Pa. PUC LEXIS 44 (Commission expects to be raised in petitions for

First, PGW requests that the PUC reconsider and revise its decision to reject most of PGW's nine proposals for waiver of the Commission's billing and collection rules – Chapter 56. While apparently recognizing that PGW's precarious financial situation required action to enhance PGW's collections and cash flow, the Order failed to appreciate that the only viable solution to the Company's dire predicament was the full granting of its Chapter 56 waiver requests. Like providing a rescue rope that falls three quarters short of reaching a drowning man, the net result of the PUC's decision would produce less than 20% of the additional cash flow PGW calculated would be generated if its nine waiver package had been granted as requested. The Order's failure to resolve (or even discuss) this fundamental inconsistency compels reconsideration by the Commission. If, as the PUC appears to admit, PGW must have a substantial additional infusion of cash flow to stave off a financial meltdown, how can it refuse to grant the waivers as requested by the Company? Where is the Company supposed to make up the difference? The Order provides no guidance in this regard. The only way to reverse this impending disaster is for the PUC to reconsider and revise its decision, and to grant all or substantially all of the Company's proposal to produce the "material improvement" in collections and cash flow demanded by the rating agency and which continues to be desperately needed by the Company. The Commission's failure to explain its decision in light of these facts provides inadequate guidance to a reviewing court and justifies reconsideration for this reason alone.

Second, PGW is seeking clarification of the Commission's Order granting PGW's request for a waiver permitting it, during the period October 1 through April 30, to demand a \$500 deposit from customers who, after being terminated, reapply for service. Recent BCS

reconsideration "new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission").

actions have raised questions about the way in which BCS is interpreting the Commission's Order granting this waiver request. The PUC should state plainly that it intended to grant the waiver as PGW requested it: to permit PGW to demand a deposit from previously terminated customers who reapply for service during the period October 1 through April 30 of each year. Or, if it did not understand PGW's request in this way, it should now grant the waiver as PGW proposed it all along, again, for the period October 1 through April 30.

Third, the Commission should reverse its decision rejecting the Senior Discount because it appears to be based on the apparent misconception that keeping the Senior Discount program open to new customers on a means-tested basis will somehow have a material negative effect on PGW's cash flow; this is simply not true. The reality is precisely the reverse – granting PGW's request will not have a material impact on PGW's cash flow or its customers and it will continue a reasonable discount to needy seniors from which Philadelphia's elderly have benefited for years.

Fourth, the Commission apparently misunderstood the factual record associated with the Company's request that its Residential Field Visit Charge be reinstated. This fee, which PGW has charged for years, was approved in PGW's prior rate proceedings and covers the cost of actually going to a customer's home to attempt termination. The revenue from the charge was used as an offset to keep basic distribution rates lower than they otherwise would have been without this charge. If the Commission is going to refuse to permit the Company to continue to cover the costs of field visits through this separate charge, then PGW should be permitted to increase its distribution rates by the amount of revenue lost from the PUC-ordered discontinuance of the rate.

Finally, the Commission should reconsider its decision to refuse to permit PGW to require customers to enter into payment arrangements for outstanding arrearages which the Company has secured through a lien or reduced to a judgment. When a customer makes such an arrangement PGW will abide by all applicable PUC billing and collection rules so there is no concern about Commission jurisdiction. Most importantly, if PGW is not able to impose such a requirement – something which it did for years before PGW was regulated by the PUC – it will be forced to recover the money it is owed by foreclosing on houses and executing on judgments – clearly a less desirable result for the customer than entering into a multi-month payment agreement.

B. The Commission Should Reconsider and Revise its Order and Permit PGW to Implement All Nine of PGW's Waiver Requests to Avoid the Adverse Financial Consequences of a Downgrade.

Of the nine waivers requested by PGW, the PUC granted just one in full – the request that a termination notice be valid for 60 days rather than BCS's current policy of 30 days. Four others were only partially granted. In three instances, the modifications significantly reduced the additional collections and cash flow effect of the waiver in comparison to the amount that would have resulted had PGW's request been approved as originally filed. PGW's calculated value of the waivers as granted by the PUC's October 27 Order, compared to the Company's estimates of their value if granted in full, is as follows:

Table I

Waiver Content & Value as Modified by PUC's October 27, 2004 Order²

Request as Modified	Value of Waiver as Modified	Value of Waiver as Originally Proposed
Require previously terminated customers @ 150% of FPL and above to pay full amount of outstanding arrearage before reinstatement. PUC modification <u>Granted only for Income Level 4 Customers Only.</u>	\$0.5 million	\$4.2 million
Waiver Winter Moratorium Shut-off Ban for Income Levels 3 & 4 Customers. PUC Modification <u>Granted: Level 4 only</u>	\$0.1 million	\$1 million
\$250 Deposit from all heating customers and Double Deposit (\$500) for customers previously Shutoff for period Oct. 1 – April 30. PUC Modification <u>Granted as to Double Deposit in Oct – April 30</u>	\$2.5 million	\$7.6 million
Eliminate 48 hour notice. PUC Modification <u>Granted only for non-CWIP Period</u>	\$0.8 million	\$1 million
Keep termination notice valid for 60 days (rather than 30). <u>Granted by PUC</u>	\$1.0 million	\$1 million
TOTAL	<u>\$4.9 million</u>	\$14.8 million
Value of All Requested Waivers		<u>\$26.4 million</u>

1. While the Company appreciates the Commission's willingness to grant some portion of its waiver requests, it is readily apparent from this analysis that the PUC's decision falls far short of producing the additional collections and cash flow the Company so desperately

² See, Appendix "A," Verified Statement of Randy Gyory.

needs to stave off a bond downgrade.³ As noted above, while granting all of PGW's requests was estimated to produce at least \$26.4 million in additional collections and cash flow, the PUC Order will produce just \$4.9 million, or 18.6% of the total relief requested.⁴

2. The PUC's Order failing to grant the full relief requested appears to be based on a misunderstanding of the effect its ruling would have on the Company's collections and cash flow. The Order clearly recognized that PGW's collections and cash flow needed to be improved. This is the stated basis on which the Commission granted some of PGW's waiver requests.⁵ Yet the Commission failed to make any finding about whether the net effect of its decisions on the various waivers were going to be sufficient to produce the beneficial financial effect the Company needs.

3. The bond rating agencies have made clear that in order to avoid a bond rating downgrade PGW needed to begin to make a material improvement in collections and cash receipts beyond the 92% level experienced in FY 2004, and they consistently identified that the additional cash projected to be produced by the waivers as the kind of material improvement they are expecting.⁶ Throughout the waiver request proceeding, no party questioned PGW's representations concerning its additional cash flow needs. Moreover, PGW explained that it

³ PGW provided substantial evidence in the record explaining the need to increase collections and cash flow above historical averages in order to avoid a bond downgrade by key rating agencies. PGW Exceptions at 3-8.

⁴ App. "A," hereto. Indeed, even this level of relief is not completely certain since the PUC's BCS has refused to recognize PGW's right to implement the most valuable waiver granted by the PUC – a \$500 deposit to customers seeking reinstatement in the October – April period *See, Section C of this pleading, infra.*

⁵ *See, e.g.,* Opinion and Order at 24. *Accord.* Opinion and Order at 42, 50, 56, 59.

⁶ *See, PGW Exceptions at 3-9; PGW MB at 12-16.*

needed to be able to represent that this improvement was occurring before its next major bond rating agency financial review scheduled for January 2005.⁷

4. Since the end of the fiscal year, the need to improve PGW's collections and cash flow has continued and, if anything, has intensified. While PGW has continued to make collections "job one," its cash flow needs have continued to grow as natural gas prices continue to be at near historic highs.⁸ Accordingly, PGW's need to enhance its collections abilities to realize the \$25-30 million in necessary additional cash flow it had originally projected from its waivers has become even more acute as well as more difficult to achieve with existing (pre PUC Order) collections tools.

5. Unfortunately, the PUC's partial grant of only a portion of its waiver requests is clearly "too little, too late." The PUC's Order had such a limited financial effect not only because the Commission chose to grant in varying respects just five of the nine requested waiver requests but also because, in two instances, the PUC limited the waiver to only the highest income customers – Income Level 4. But the record shows that providing a waiver of PUC rules that applies only to the most well off of PGW's customers will provide little assistance in satisfying PGW's need for a material improvement in cash flow. The evidence in the record demonstrates that, of the 133,000 PGW customers who were in arrears and ready to be placed in the collections path, fewer than 1% have family incomes above \$50,000, slightly below the starting point for BCS Income Level 4 (\$56,568 annually for a family of 4), and only 5-7% have incomes of \$40,000 or above:

⁷ *Id.*

⁸ Natural Gas Henry Hub prices are at \$5.96/mm/btu. See, [www.WTRG.com/dailing/oil and gas spot](http://www.WTRG.com/dailing/oil_and_gas_spot).

Table II⁹

Family Income	# of Delinquent Accounts	Percentage	\$ Value of Delinquent Accounts	Percentage
\$50,000 and above	900	.6%	\$0.5 million	.4%
\$40,000 - \$50,000	8,700	6.4%	\$6.0 million	4.3%
\$30,000 - \$40,000	45,000	33.4%	\$36.0 million	26%
\$20,000 - \$30,000	73,000	54.2%	\$85 million	61%
less than \$20,000	7,000	5%	\$10.0 million	7.2%
	134,600		\$137.5 million	

The hard fact is that virtually all of PGW's payment troubled customers (92.4%) have family incomes below \$40,000 and almost 60% (59.2%) have family incomes below \$30,000. Thus, waivers that are made applicable only to higher income Level 4 delinquent customers simply will not provide the relief the Company so desperately needs.

6. In several instances, the Commission appeared to reject the waiver request on the ground that a "case-by-case" approach or other initiatives could be used to achieve the results that the Company was seeking through its waiver requests. PGW believes that the Commission overlooked or did not fully consider the record evidence which showed that PGW could not utilize effectively in the necessary time frame an individual approach or the other initiatives suggested. In still other instances, the PUC's rationale for rejecting a PGW request simply failed to fully consider the significant factual and legal bases supporting the claim.

- (a) Universal Deposits. The PUC found that permitting PGW to request a universal deposit would be inconsistent with Chapter 56's requirements

⁹ Source: CRRC Proceeding PGW St. CRRC-5 at 16.

that deposit policies are to be based upon the credit risk of the individual.¹⁰ But this is directly contrary to the Commission's granting of a uniform, \$500 deposit during October through April, to all customers who seek reinstatement after being terminated.¹¹

Additionally, the PUC's suggestion that PGW can increase collections by implementing a "credit scoring tool" overlooked the record evidence that PGW cannot implement a credit scoring mechanism until the 2nd quarter of 2005, well after the point after when the Company must show increased collections in order to satisfy the requirements of the rating agencies.¹²

Finally, the Commission did not adequately weigh the evidence that PGW has a very percentage of customers that fail to pay – or pay on time (27% of new customers in FY 2004 were delinquent by the summer of that year)¹³ and that, for PGW, a deposit is needed to offset the cash flow effect of these non-payers.

- (b) The Commission rejected PGW's request that an applicant who applies for service at a particular location be responsible for previous arrearages when the Company has evidence that the applicant previously resided at that same location and, therefore, can be presumed to have benefited from the service.¹⁴ But the Commission did so on the basis that PGW could "seek Commission determination [of responsibility for a previous arrearage] in

¹⁰ Opinion and Order at 29-30.

¹¹ Id. at 30. It also fails to appreciate that PGW's request was to grant a waiver of any and all provisions of Chapter 56 that were inconsistent with the requested waiver. *See, e.g.*, PGW MB at 8 (requesting the PUC to "waiver or modify any provision of Chapter 56 . . . necessary to implement the waivers and modifications.") Thus the provisions of section 56.31 of the Code are not relevant.

¹² PGW Exceptions at 20-23, see especially fn. 77.

¹³ PGW Exceptions at 21-22.

¹⁴ Opinion and Order at 34-35. PGW made clear that a customer assigned the arrearage could file a complaint with the utility or the Commission challenging the determination.

all such circumstances that it deems warranted.”¹⁵ The Commission apparently overlooked the evidence that, PGW is faced with several thousand customers each year who play “the name game” to defraud the Company and its customers.¹⁶ Importantly, PGW only requested that a prior arrearage be applied to an applicant when there was affirmative evidence that the applicant had lived at that location prior to applying for service and had benefited from the service received from PGW, thus creating an implied contract with the Company to pay for the benefit he or she received.¹⁷ Nonetheless, if just 18-20% of the applicants who apply for service at a location where service was previously terminated lived at that same location and are thus playing the name game, this would amount to as many 1,000 applicants and some \$1-\$2 million in potentially collectible arrearages.¹⁸ Obviously, while it is important to address this issue, neither the Company nor the Commission are in the position to timely process 1,000 potential name game fraud cases on an case-by-case basis. Accordingly, an alternative procedure is essential if this abuse of the Company and law abiding customers is to be avoided.

- (c) The PUC rejected PGW’s request for authorization to have more than 24 hours in which to reinstate service after termination but apparently did not understand that, because of the tens of thousands of customers that the Company must terminate for non-payment, (estimated at approximately 20,000 – 30,000 customers), and the large number of customers who do not have curb valves, it is simply impossible for PGW to comply with the reinstatement by the end of next day requirement for regular, non-medical certificate reinstatements who require that the Company dig up the

¹⁵ Opinion and Order at 35.

¹⁶ PGW Exceptions at 25.

¹⁷ *Id.* at 23-24 and note 85.

¹⁸ PGW Exceptions at 25. The average outstanding balance of a terminated customer is \$2,300. PGW Exh. CP-1, App. A. at 9-10.

sidewalk or street to reinstate service.¹⁹ The only way that the Company could comply with this general rule would be by hiring scores of additional personnel or abandoning its termination process, either of which would spell financial disaster for the Company.

Accordingly, while the PUC's Order recognizes PGW's serious financial crisis and the need to give the Company additional flexibility to increase collections, it falls critically short of giving PGW the tools it needs to avert the threatened downgrade and the serious adverse financial consequences that such a downgrade would produce.²⁰ Accordingly, it is respectfully requested that the Commission reconsider and reverse its prior Order and grant the waivers as requested by PGW so that the Company can represent to the bond rating agencies that it has been given the necessary tools to make a material improvement in the collections and cash flow, a representation it simply cannot make now.

¹⁹ PGW St. CP-1R at 27-28. The PUC's claim that PGW had requested the right to take several days to reinstate service to a customer with a medical certificate is not correct. See, PGW MB at 53-54.

²⁰ In addition, the PUC's rejection of PGW's request that PO it be permitted to terminate customers on Fridays (Opinion and Order at 38) appeared to misinterpret the Commission's legal authority to waive the statutory provision. While the Commission acknowledged that the Friday shut-off ban was antiquated and acknowledge that it had the authority under Section 2212(c) to waive the statute for PGW, it stated without explanation that "PGW's argument does not rise to the level that would cause us to consider waiving section 1503(a)(1) of the code." *Id.* Why not? PGW demonstrated that this single change would allow it to increase its collections by \$2.5 million. (PGW Exceptions at 28-29).

Section 2212(c) states that the PUC may "waive or suspend" the application to PGW "of any provision of this title." 66 Pa. C.S. § 2212(c). The only criteria for this request in the section is that it must be initiated by a request by PGW. Considering the evidence of justification and need and the Commission's own acknowledgment of the reasonableness of PGW's request, it is hard to understand how the Commission could have declined to authorize this waiver.

C. Petition For Clarification of PUC Granting of Double Deposit For Terminated Customers.

7. While, as noted above, the Commission declined to grant most of PGW's waiver requests, one of those that it did authorize, at least in part, was PGW's request that it be permitted to demand a "double deposit," – \$500 – from customers who had been terminated and who were reapplying for service during the period October 1 through April 30.²¹

8. This partial grant will provide important assistance to PGW in its efforts to improve collections and cash flow. PGW projected that this single change would increase collections by approximately \$2.5 million. In view of PGW's extremely precarious position, the Company implemented this change immediately as it is in dire need of the additional cash produced by this change. Importantly, the deposit would partially secure payment for the high costs of natural gas that the Company will be forced to incur for each customer added in the fall who then fails to pay (or pay timely) for gas service and who will avoid termination in the winter months.

9. The Order clearly granted PGW waiver request as PGW proposed it: "PGW's request to require a flat security deposit from its customers whose service is restored... is granted."²² There is nothing in the "Disposition" paragraph or in the ordering paragraphs that change or qualify this statement.²³ Legally, therefore, PGW's request to demand a double deposit during October through April was granted and is presently in force.

²¹ Opinion and Order at 30.

²² Opinion and Order at 30.

²³ The ordering paragraph merely states that PGW's petition "is granted in part, and denied, in part, consistent with this Opinion and Order." *Id.* at 61.

10. Notwithstanding the clear holding of the PUC, the Bureau of Consumer Services has a different interpretation of the Commission's decision. BCS has communicated to PGW that, in its view, the double deposit may only be assessed "after" the winter heating season and has refused to uphold several informal complaints where PGW has demanded such a deposit in October. Its position apparently is based on the fact that in the "Positions of the Parties" section of the Final Order, PGW's position was incorrectly described as "propos[ing] a deposit of \$250 unless the customer is restoring service after the winter moratorium period, then a \$500.00 deposit would be required."²⁴

11. The BCS interpretation is clearly incorrect because the Order plainly granted PGW's request. A review of all of PGW's pleadings make absolutely clear that it was requesting the authority double deposit for the period October 1 through April 30, which includes the winter moratorium period (December 1 through March 31). The Commission's contrary description of PGW's position was simply an error which should not affect BCS's obligation to comply with the PUC's Order.

12. For example, in PGW's original Petition, its deposit request was stated as follows:

Doubled turn-on deposit for previously terminated services that are restored during October 1 to April 30: Approximately 10,000 turn-ons for previously terminated residential heating and non-heating services occur annually during this period. Retaining a deposit of \$500.00 for the 8,200 heating customers and \$200.00 for the 1,800 non-heating customers for one year equals approximately \$4.2 million $((\$500 \times 8,200) + (\$200 \times 1,800))$. After factoring the return of the deposit to the historical number of customers who do not pay late (50%), the net effect for this group of customers will be \$2.1 million.²⁵

²⁴ *Id.* at 27 (emphasis added).

²⁵ *Petition for Limited Waiver or Modification of PUC Chapter 56 Rules and Administrative Interpretations*, Appendix A (Gyory Affidavit) at 8. *Accord*, Appendix B, Proposed Revisions to Chapter 56 of Title 52 of the Pa. Code.

13. To the same effect, PGW's proposed specific modifications to Chapter 56 clearly stated that its double deposit request would apply from October through April of each year, including the winter heating season.

§ 56.32. Credit standards. [additions underlined]

* * *

(2) Residential heating customers - a deposit of \$250 is required, unless the customer is restoring service after termination during the period of October 1 to April 30, then, a deposit of \$500 is required.²⁶

14. Moreover, each and every PGW pleading carefully disclosed that its double deposit request was for the period October 1 through April 30.²⁷ Accordingly, there is simply no basis for BCS's suggestion that the Company's request was to be permitted to charge a double deposit for some period after the winter moratorium or that the Order granted something different than they requested.

15. Indeed, to grant this important concession only for the non-winter termination period would be completely inconsistent with the reasons PGW asked for this waiver in the first place. As PGW explained previously, customers who are applying in the period October 1 through April 30 have the ability to immediately stop paying their utility bill and PGW is not able to terminate most of them because of the winter moratorium. The evidence in the record shows that the shortest period of time by which PGW can terminate a customer after the first

²⁶ *PGW Petition*, Appendix B at B-1 - B-2 (emphasis added).

²⁷ *See, e.g.*, PGW Brief at 35 ("A second aspect of PGW's proposal is that the standard deposit amount be doubled for previously terminated customers applying for service in the winter months. The reason for this should be obvious: customers who are applying in the period October 1 through April 30 have the ability to immediately stop paying their utility bill and PGW will not be able to terminate them because of the winter moratorium"). *Accord*, PGW Exceptions at 22, fn. 76.

provision of service is 80-82 days.²⁸ Thus, a customer starting service in October could exact over 6 months of free service from the Company and its timely paying customers without any fear of loss of service. Indeed, PGW identified at least 15,000 customers (representing \$5.3 million in billings) who simply stopped paying entirely last winter and were only subject to termination months later after the winter termination moratorium was lifted.²⁹ Additional evidence, as pointed out in PGW's exceptions supporting a double deposit during October through March includes the following:

- PGW has a massive number of customers who start service but who do not pay their bills or do not pay on time. Since the beginning of the fiscal year, PGW had some 68,000 customers initiate service (excluding those who were enrolled in CRP, who immediately entered into some kind of payment arrangement or had some other issue with respect to their account);³⁰
- Of this 68,000 starting service just this year, 18,466 (or 27%) were already in arrears when the record closed;³¹
- PGW only secured 1,500 deposits from this group of customers under existing rules.³²
- For those customers, the Company will not only fail to collect its tariffed charges but also will be required to pay out millions of dollars to purchase the natural gas that they consume. Those costs, of course will be transferred to remaining customers through its GCR, but the cash flow effect of these additional

²⁸ PGW Cross Exam Exh. CP-2; Tr. 804-05. This evidence shows that it takes 50-52 days to effectuate termination counting from the time a customer receives his or her first bill.

²⁹ PGW St. CP-1R at 14.

³⁰ PGW St. CP-1R, Exh. CP/RG-4.

³¹ *Id.*

³² PGW Exceptions at 21.

outlays without corresponding cash receipts will further worsen PGW's financial condition.

16. This is simply intolerable, in light of the serious nature of PGW's plight and the customer's history of repeated instances of non-payment.

17. Moreover, as PGW witness Gyory discusses, in the attached statement, allowing PGW to impose a double deposit only "after" the winter moratorium (whatever that means) substantially reduces the collection and cash low value of the waiver.³³

18. The Company's double deposit proposal, therefore, only makes sense if it is applicable to the period in which customers can initiate service and then, by failing to pay, can secure free service for months, due to the Company's inability systematically to terminate service to delinquent customers during the winter months. Again, as was presented during the hearings, this is not a hypothetical concern. Accordingly, if the PUC's Order is to have any positive effect whatsoever, it is crucial that the Commission immediately clarify and reaffirm that it was authorizing PGW to require a double deposit during the period October 1 through April 30 and direct BCS immediately to recognize and apply that authorization in any informal decisions it issues.

D. The PUC's Decision To Reject PGW's Means Tested Senior Citizen Discount Proposal For New Customers Should Be Reconsidered and Reversed.

19. The Commission's rejection of the means tested SCD is plainly and primarily based on two fundamental misconceptions: (1) that the means tested discount will reduce PGW's cash flow; and (2) that there is some discrepancy between OTS and PGW's cost projections for the revised discount.³⁴ The Commission could only have reached these

³³ Appendix "A" hereto.

³⁴ Opinion and Order at 8-10.

conclusions by overlooking the record evidence in this proceeding, and therefore, reconsideration of this twice ALJ-recommended and (other than OTS) unopposed means tested SCD is warranted.

20. In its Order, the Commission claimed that: “PGW proposes a discount that will reduce its much needed monthly cash flow.”³⁵ This assertion is absolutely and categorically incorrect. To the contrary, and apparently overlooked by the Commission, the evidence revealed that the means tested SCD would not contribute in any material way to the Company’s cash receipts or cash working capital problems.³⁶ While PGW’s proposal will decrease the rates for additional seniors by 20%, the Company will recover this subsidy from remaining customers in its Universal Service Charge. The only effect this “wash” transaction could have on PGW’s cash flow or earnings is if the level of collections from one group of payers (qualifying seniors) would be materially different than the collections experience with the general body of customers. There is no evidence to conclude that there will be any such effect.³⁷ Even if there was a demonstrated difference in the collections rates for the two groups, the difference would be small, considering the average annual incremental cost of the means tested program is under \$400,000, and the total annual average cost is only \$3.4 million through 2020.³⁸

21. Indeed, the SCD could actually enhance PGW’s receipts as a percentage of amounts billed. Those customers receiving the 20% discount may be more likely to pay a higher

³⁵ *Id.* at 8.

³⁶ PGW MB at 58-59.

³⁷ *Id.*; Tr. 641.

³⁸ PGW MB at 59, fn. 197. For example, if there was evidence that seniors paid on average 90% of their bills, compared to the Company-wide average of 92%, the difference for the Company would be just 2% of \$3.4 million or \$60,000.

percentage of their total bills, while the total bill payment percentage of the non-discounted customers would be largely unaffected given the *de minimis* increase in their bills stemming from the small increase each year on average to fund the means tested discounts. Given the strong policy and factual support for the means tested SCD, and the near unanimity of support among the parties to this proceeding, the Commission should approve the discount.

22. Turning to the second misunderstanding reflected in the Commission's Order, there simply is no discrepancy between the OTS and PGW's projected costs of this program. The Commission refers to the OTS raising "substantial reasons to question the accuracy of PGW's estimated cost of a means-tested SCD program of \$365,000 per year."³⁹ The Commission then points to OTS's projection of a cost of \$1.2 million for 2005 and a yearly average cost of \$3.8 million.⁴⁰ The ultimate conclusion in the Order is that "PGW's own numbers call into question the accuracy of its estimates regarding the impact of the proposed means-tested SCD."⁴¹

23. Yet, as the apparently overlooked evidence plainly showed, PGW and OTS's numbers were exactly consistent (with the correction of one error by OTS). As PGW testified, the annual **incremental** cost of the means tested SCD, updated for increased in gas costs, i.e., the amount that is added to the total discount, is \$365,421.00.⁴² PGW did not assert that the revised SCD would cost \$365,000 per year. The average annual total cost of the means tested SCD that will be funded by remaining customers was projected by PGW as \$3.4 million – the same as

³⁹ Opinion and Order at 9.

⁴⁰ *Id.* at 9-10.

⁴¹ *Id.* at 10.

⁴² Tr. 611; PGW MB 58, 61; PGW RB 40.

OTS's figure after the correction of a computational error in its data.⁴³ PGW also explained on the record how and why OTS's projected 2005 cost of \$1.2 million was erroneous⁴⁴ – which was apparently overlooked by the Commission.

24. Thus, as there is no real difference between PGW and the OTS's numbers, there is no basis to call into question or doubt the accuracy of PGW's estimates, and its cost testimony provides a very sound basis on which to reconsider and approve the means tested SCD. Moreover, another key fact supporting the revised SCD that went unmentioned in the Commission's Order is the very minimal cost to be absorbed by the non-participant customers. Using the OTS's own schedule, PGW's Ms. Coltro demonstrated that the \$3.4 million average annual cost of the program over the period 2003-2020 translates to an additional cost for non-SCD participants of **just \$1.88 per year for non-heating customers and \$5.81 per year for heating customers.**⁴⁵

25. With such minimal annual costs to non-participant customers, with the myth of the revised SCD's negative cash flow impact debunked, and with the perceived but non-existent inconsistency between OTS and the Company's numbers explained, and with the argument by

⁴³ PGW MB 58, n. 194. OTS Exh. 1, Sch. 1, "16 Year Avg." had to be corrected to reflect that the 2005 amount reflected the first three (3) years of discount, and, therefore, should have been divided by 18 years. Tr. 642-43.

⁴⁴ The FY 2005 cost for the means tested SCD is not \$1.2 million. OTS apparently overlooked Ms. Coltro's explanation of this figure during her cross examination: the 2005 figure on PGW Exh. CP/CC-2 includes the first three years of the discount. Tr. 642-43. The figures, taken from a study by Dr. H. Gil Peach conducted for the Restructuring Proceeding (*see* PGW Exh. SCD/CC-4), covered the period of 2002-2020. On PGW Exh. CP/CC-2, the cost difference is displayed beginning in 2005, with that year's figure incorporating 2002-04's costs also. Tr. 642-43. When the figure is broken down to account for the multiple years and adjusted for increased gas costs, the annual incremental increase in cost is exactly what PGW has claimed: approximately \$365,000.

⁴⁵ PGW MB 61.

OCA and the parties represented by CLS supporting the means tested programs, no reason exists for this Commission not to grant reconsideration and approve the strong policy consensus embodied by the proposed means tested SCD.

E. The Commission Improperly Upset the Standard Requiring Just and Reasonable Rates, and Engaged In Single Issue and Retroactive Ratemaking When It Denied PGW's Proposed Residential Field Visit Charge.

26. Despite the ALJ's recommendation that PGW be permitted to collect a \$10 residential field visit charge when attempting to make personal contact with a customer before terminating that customer's service, the Commission rejected this charge.⁴⁶ In doing so, the Commission concluded that PGW had failed to establish the cost basis for this charge, and how the cost basis for the residential charge would differ from the related late fees and reconnection fees that PGW was authorized to charge.⁴⁷ While this finding might be relevant if PGW were proposing such a charge for the first time, the Commission apparently overlooked that PGW has been collecting its Field Visit charge ever since it came under the jurisdiction of the PUC. The costs and the revenue from this charge were included in all of the Company's base rate proceedings. Indeed in those cases PGW proposed to partially recover its costs of field activity through this charge and recognized the total revenue the charge produced in setting overall rates.⁴⁸

27. The Commission's decision to single out this one charge for disallowance, without recognizing that it was denying PGW the right to collect close to \$1 million in annual

⁴⁶ Opinion and Order at 12.

⁴⁷ *Id.*

⁴⁸ PGW MB at 78.

revenue⁴⁹ violates the legal principals requiring just and reasonable rates, and prohibiting both single-issue ratemaking and retroactive ratemaking. By considering one cost item and revenue source in isolation, the Commission deprived the Company of the ability to match general levels of expense with general levels of revenues. This general matching of expenses and revenues permits shortfalls in one area or another to be made up by better performance in other areas, yielding a revenue requirement that covers all permitted cost elements, thereby yielding overall just and reasonable rates. This is the essence of general ratemaking, which is the preferred method for establishing utility rates. Therefore, the Commonwealth Court has held that single issue ratemaking is prohibited where it impacts on matters generally considered in the context of an overall base rate case.⁵⁰

28. The cost component at issue here – field visit expense – is often considered along with the cost components relating to late payments adjustments and service reconnections. Each of these components typically is established in a base rate proceeding, and each covers a separate and distinct cost-causing function.⁵¹ Each of these cost components was considered and established in PGW’s prior rate proceedings. Most recently, in PGW’s 2002 base rate case PGW’s overall revenue requirement was established to include charges to cover field visits, late payments and service reconnections, respectively.⁵² Importantly, even before PGW came under the Commission’s authority, Section 14-2 of the pre-restructuring tariff provided for separate

⁴⁹ *Id.*

⁵⁰ *Pennsylvania Industrial Energy Coalition v. Pennsylvania Public Utilities Commission*, 653 A.2d 1336 (Pa. Comwlth. 1995); *affirmed*, 543 Pa. 307, 670 A.2d 1152 (1996).

⁵¹ PGW Brief at 77.

⁵² PGW St. Cp-1 at 16; *Pa. PUC v. PGW*, R-00017034; PGW brief at 78. Indeed, that case was the product of a settlement in which the PUC approved the agreement to permit PGW to collect an additional \$36million in annual rates. *Id.*

charges for the Residential Field Charge, late payment charges, and service restoration charges.⁵³

As a result of the proper approval of the field visit charge in the 2002 base rate case, PGW collected revenues that counted toward its allowed revenue requirement. Once the Commission improperly halted this charge in October of 2003,⁵⁴ PGW underearned on its allowed base rates. In other words, had the Commission not permitted PGW in the 2002 rate case to charge for residential visits, PGW would have been entitled to recover its costs for making these visits in some other charge associated with its base rates.

29. By separately identifying and isolating from all rate elements a single rate element – field visit charges – and removing the revenue component associated with the expense without providing for a different mechanism within the revenue-generating structure to recover this expense, the Commission clearly has violated the prohibition against single issue ratemaking. As this Commission recently stated in finding that PGW’s proposed CRRC violated this very prohibition:

Single issue ratemaking is similar to retroactive ratemaking and, in general, is prohibited if it impacts on a matter that is normally considered in a base rate case...[citing *PIEC v. Pa. PUC*, 653 A.2d 1336 (Pa. Cmwlth. 1995)]. This prohibition is based on the ratemaker’s obligation to consider *all* of a utility’s revenues and costs in the balancing process to achieve just and reasonable rates. Moreover, *review of expense items in isolation could result in confiscatory rates* [citing *National Fuel v. Pa. PUC*, 464 A.2d 546 (Pa. Cmwlth. 1983)] (emphasis added).⁵⁵

The Commission went on to state in that Opinion:

⁵³ PGW St. CP-1 at 16.

⁵⁴ *Compliance Tariffs of Philadelphia Gas Works in Response to the Commission Restructuring Order as modified on reconsideration*, Docket No. M-00021612, (Oct. 10, 2003).

⁵⁵ *PaPUC v. PGW*, Opinion and Order issued July 8, 2004, at 14.

If PGW needs additional revenues to meet its obligations, we must review Company expenses, revenues and savings *as a whole*. By examining the larger picture, we also can consider the effect on the various rate classes. (emphasis added).⁵⁶

30. There can be no doubt but that this Commission, however inadvertently, has singled out a rate element from all other rate elements normally (and actually) considered in a base rate case and has upset the required balance between classes of costs and revenues that is essential to establishing just and reasonable rates. In short, the Commission has confiscated PGW property – adequate base rate revenues – in violation of the teachings contained in *National Fuel*, supra. Nor can this Commission cure its violation merely by asserting that PGW can raise the issue in its next base rates case.⁵⁷ This “solution” does not address the current problem – inadequate revenues to cover established base rate element expenses. If the Commission wishes to persist in denying this charge, it must then authorize PGW to increase its general distribution rates by the same annual amount that PGW currently foregoes by not assessing this charge.

31. The Commission’s disposition of the field visit charge also violates the legal prohibition against retroactive ratemaking. Ratemaking is prospective in nature,⁵⁸ and generally rests on the principal that customers who use utility service should pay for its production rather than require future customers to pay for past use.⁵⁹ Here, the Commission retroactively and unilaterally has decided to reset PGW’s previously established base rates without regard to PGW’s previously established element costs, and has done so outside of a new base rate

⁵⁶ *Id.* at 15.

⁵⁷ Opinion and Order at 12.

⁵⁸ *Columbia Gas of Pennsylvania v. Pennsylvania Public Utility Commission*, 613 A.2d 74 (Pa. Comwlth. 1992).

⁵⁹ *Popowsky v. Pa. PUC*, 695 A.2d 448 (1997).

proceeding. Again, this is very much the same procedure that the Commission condemned as *proscribed retroactive ratemaking in its CRRC Opinion and Order.*⁶⁰ Unless the Commission is willing to authorize PGW retroactively to collect all the revenues it would have collected by assessing this charge in its next base rate preceding this future remedy does not leave PGW whole.⁶¹

32. The Commission apparently inadvertently overlooked these considerations when it issued its very brief disposition of this matter in its recent decision disallowing the field service charge.⁶² Consistent with its standard for reconsideration, this Commission can and should revisit this issue and reverse its erroneous disposition.

F. The Commission Improperly Denied PGW's Proposed Liens and Judgments Tariff Revision.

33. PGW sought approval of Tariff Section 2.4.C.6, which would have required applicants for service with existing liens or civil judgments against them for unpaid PGW balances to enter into payment arrangements before service would be reconnected. The Commission decided against this provision, on the theory that existing PGW practices were sufficient.⁶³

⁶⁰ CRRC Opinion and Order at 15-18.

⁶¹ Also, the fundamental fairness concept inherent in due process of law requires this Commission to apply a uniform standard consistently across the cases that come before it. This requirement is especially stringent when the Commission evaluates the requests made by the identical party – PGW – that appeared previously before the Commission on related issues. It would be fundamentally unfair, and therefore a violation of due process of law, were this Commission to disallow (as it did) the adoption of a CRRC as impermissible single-issue and retroactive ratemaking, but then itself engage in this same conduct by retroactively disallowing a single rate element – field visit charges – that had previously been approved as part of an overall base rate case.

⁶² Opinion and Order at 12-13.

⁶³ Opinion and Order at 16-17.

34. In rendering this disposition of the issue, the Commission utterly failed to evaluate whether the proposal would have an even more favorable result than the existing PGW practices, and also failed to weigh the benefits of this proposal in light of its teachings in its Order denying PGW a CRRC mechanism.

35. As a matter of first principles, all parties and the Commission itself admit that it is in the best interests of PGW, its customers and all stakeholders for PGW to increase its percentage of collections. The parties opposing PGW's request for a CRRC, and ultimately the Commission itself, collectively criticized PGW management for not having in place in a timely manner adequate enforcement and other mechanisms to ensure that deadbeat customers would pay their bills, instead of spreading the risk of non-payment onto paying customers.⁶⁴

36. In fact, the Commission in the Opinion and Order in the CRRC case expressly noted that "PGW can improve its bad debt recovery by utilizing available recovery procedures, including terminations *and liens*."⁶⁵

37. This Commission must fully reconsider its disposition of this issue in light of its admonishments to PGW in the CRRC ruling. PGW has proposed a reasonable and potentially very effective method to increase collections at a reduced expense: target the deadbeats that PGW had to take to court to secure a judgment and/or a lien, and make these people enter into payment plans before service can be restored. The Commission's mandated approach would require PGW to expend larger sums seeking evictions and property sales (both real and personal), usually at great expense, in order to coax payment of outstanding judgments and liens. As between a relatively cost-effective method and a relatively cost-prohibitive method to coax

⁶⁴ See Opinion and Order, P-00042090 (July 8, 2004), generally.

⁶⁵ *Id.* at 17.

payment from the worst of the deadbeats, PGW's approach is plainly the better alternative. Moreover, permitting customers to pay off lien or judgment related outstanding arrearages as a payment agreement is obviously a more attractive option than losing one's home through a foreclosure or having property sold at a sheriff's sale to satisfy a judgment.

38. The Order appeared to reject PGW's proposal on the ground that the court and not the Commission has jurisdiction over liens and judgments.⁶⁶ But part of PGW's proposal included a promise to adhere to PUC rules whenever a customer agreed to a payment agreement to payoff his/her obligation as a condition of reinstating service.⁶⁷ Thus, the Commission would have all the authority it would need to enforce the payment agreement.⁶⁸

39. The law – both federal and here in Pennsylvania – requires that the Commission exhibit rationality when rendering economic decisions. Irrationality violates fundamental due process requirements, and cannot withstand judicial scrutiny.⁶⁹

40. This Commission must re-examine this disposition in the light of its decision in the CRRC case and in light of applicable federal and Pennsylvania due process precedents. It then must grant PGW's eminently reasonable and cost-effective approach to the issue of judgments and liens.

⁶⁶ Opinion and Order at 17.

⁶⁷ PGW MB at 80-81.

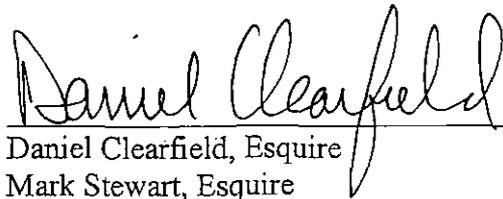
⁶⁸ The PUC also repeated the finding of the ALJ that PGW did not need this additional collection tool because its lien program is already successful. But the success PGW has experienced relies on an unpredictable level of customer home sales and re-mortgaging (PGW Exceptions at 37). Requiring payment when a customer wants again to obtain service is much more predictable and quicker – and fundamentally fair.

⁶⁹ See, *Nixon v. Dept. of Public Welfare*, 576 Pa. 385, 839 A.2d 277 (2003) (invalidating certain regulations that bore no rational relationship to the government interest in question).

G. Conclusion

WHEREFORE, PGW respectfully requests that the Commission reconsider its opinion and order entered October 27, 2004 in the above docket and issue an order consistent with this motion.

Respectfully submitted,



Daniel Clearfield, Esquire
Mark Stewart, Esquire
William Mosca, Esquire
Wolf, Block, Schorr & Solis-Cohen LLP
212 Locust Street, Ste. 300
Harrisburg, PA 17101
717-237-7160

Of Counsel:
Gregory Stunder, Esq.
Philadelphia Gas Works
800 West Montgomery Ave
Philadelphia, PA 19122

Date: November 12, 2004

RECEIVED
2004 NOV 12 PM 4:06
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Investigation into Financial and
Collections Issues Regarding
Philadelphia Gas Works

: Docket Nos. P-00042090
: R-00049157
: M-00021612
: P-00032061

SECRET
BUREAU

2004 NOV 12 PM 1:05

RECEIVED

VERIFICATION OF
RANDY GYORY

1. My name is Randy Gyory and I am employed by Philadelphia Gas Works ("PGW") as Vice President of Customer Affairs. In this capacity, I have responsibility for assuring that PGW's customer care functions, including its Customer Service Call Center and its call center functions within the Company's Collection Division, provide good service to PGW's customers. It is also within my responsibilities to assure that PGW has the resources to collect outstanding account receivables from the Company's customers.

2. I have reviewed the order of the PUC entered on October 27, 2004 and have conducted an analysis of the value in terms of additional collections and cash flow that I believe will be produced as a result of the waivers which the PUC decided to grant to the Company. That analysis appears on Attachment 1. That overall value is \$4.9 million. Please note that more than half of the calculated value is from the PUC's granting of PGW's request that it be permitted to demand a \$500 deposit from previously terminated customers when such a customer reapplies for service during the period October 1 through April 1, as well requested. If this deposit authority is changed to only allow PGW to demand such a deposit "after" the winter termination moratorium period it will have substantially less value to the Company.

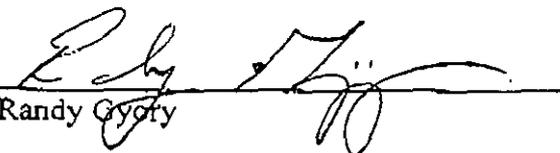
3. With respect to the \$500 deposit waiver, I have been informed by the PUC's Bureau of Consumer Services that it interprets the Commission's order to permit such a deposit only "after" the winter moratorium period and application of the deposit should also consider if any payments have been made by the customer after termination. If these limitations are placed on the application of the \$500 deposit, it will not only severely limit PGW's ability to secure payments from customers who have been *shutoff for non-payment* but will also provide PGW with no means of securing the cost of gas delivered to these very same customers, thus

significantly reducing the cash flow effect of the waiver,. BCS is currently ruling against PGW in any mediation in which PGW has demanded such a double deposit, even though the winter moratorium period has not begun.

VERIFICATION

I hereby state that the facts set forth in the attached Verified Statement, accompanying PGW's Petition for Reconsideration and Clarification, are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: November 12, 2004


Randy Gyory

RECEIVED
2004 NOV 12 PM 4: 06
SECRETARY'S BUREAU

PGW Waiver Approval Summary

WAIVER CONTENT & VALUE ASSESSMENT SEPTEMBER 30TH 2004 RULING					
REF#	REVISION	JUSTIFICATION	DERIVATION	VALUE \$MM	
	1	Payment of full balance and related charges requirement for Level 4 customers who have been shut-off for non-payment.	-FY03 91% of PARS were broken within 12 mos. - Cost of serving customers - Ultimate uncollectible expense	-% of shut-offs that are L4 is an est. 1,300 accounts (FY04) -Of the 1,300 accounts 25% will not reconnect; 878 accounts @ \$20 average arrears amount less 10% = \$0.5M	\$ 0.5
	2	Winter moratorium shut-off waiver for Level 4's during October 1 through April 1	-Current abuse of winter moratorium -Cost of serving customers during high usage period -Emphasize responsibility to pay during CWIP period	-Assume could shut off 10% of total L4's = 130 accounts for 4 winter months @ average monthly balance of \$475 for L4's -50% collection rate -Does not include senior citizens or medical certification	\$ 0.1
	3	Double deposit for customers previously shut-off (double deposit) during October 1 through April 30	-Currently cannot universally demand a deposit for all customers only select groups - FY04 50% of customer base has exhibited late payer behaviors suggesting risk for potential long-term uncollectible expense - Enhances changes of securing payment	- 33K customers are projected to be shut-off during the FY04 Non-Cwip period - Est. 1/3 restore leaving 20K customers - 3,000 stay-off (FY03 Cold Weather Survey results) - 17,000 customers remain of which 1/3 are CRP - 11,000 customers remain - 11,000 customers (82% heating, 18% non-heating) = 9,000 customers X \$500 (double deposit) ; 2,000 customers X additional \$200 (double deposit) = \$4.9 M	\$ 2.5
	7	Eliminate 48 Hour Notice During Non-CWIP Period	- 2 service visits vs. 1 service visit - Expiration on notices is more likely due to 48 hour posting requirement - District office, PGW payment channels and banks are available to all customers	-Cost avoidance of multiple shut-off visits based on (\$1MM) -2004 est. 33K shut-offs; est. 18K shut-off visits would be reduced -currently 58 full-time people are assigned to 48 hour activities -48 hour activities represent 1/4 of daily work week order type - Reduce valuation by 25% or 1/4 of the year that is CWIP period	\$ 0.8
	8	Adjust 30 day maximum period (during non CWIP period) to 60 day maximum period	- Repetitive issuance and field service costs associated with repetitive field collection events	Assume an increase in the cost effectiveness of collections by 10% -- \$70K per day for 35-4 day weeks (140 days) @10%	\$ 1.0
				TOTAL	\$ 4.9 M

CERTIFICATE OF SERVICE

I hereby certify that I have on 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 E-MAIL & FIRST CLASS MAIL

Tanya McCloskey, Esq.
James Mullins, Esq.
Steve Keene, Esq.
Office of Consumer Advocate
5th Floor, Forum Place Bldg.
555 Walnut Street
Harrisburg, PA 17101-1921
E-mail: TmcCloskey@paoca.org
Skeene@paoca.org

Johnnie Simms, Esq.
Richard A. Kanaskie, Esq.
Office of Trial Staff
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
E-mail: josimms@state.pa.us

Steven Gray, Esq.
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North 2nd Street
Harrisburg, PA 17101
E-mail: sgray@state.pa.us

Richard Lelash
18 Seventy Acre Road
Redding, CT 06896
E-mail: lplash@sprintmail.com

William Kitsch
1233 Stanwood Street
Philadelphia, PA 19111

Greg Stunder, Esquire
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
E-mail: greg.stunder@pgworks.com

Charis Mincavage, Esquire
McNEES, WALLACE, NURICK
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
E-mail: Cmincavage@mwn.com

Philip Bertocci, Esq.
Edward A. McCool, Esq.
Community Legal Services
1424 Chestnut Street
Philadelphia, PA 19102
Fax: (215) 981-0434
E-mail: pbertocci@clsphila.org

Robert D. Knecht
Industrial Economics Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140
E-mail: rdk@indecon.com

Christopher Craig, Esq.
Senator Fumo's Office
Main Capital
Room B48
Harrisburg, PA 17120
E-Mail: ccraig@fumo.com

RECEIVED
2004 NOV 12 PM 4: 06
SECRETARY'S BUREAU

Renardo L. Hicks, Esq.
Anderson Gulotta & Hicks, PC
1110 N. Mountain Rd.
Harrisburg, PA 17112
Email: rhicks@aghweb.com

Barbara Greening, Esq.
1904 Green Street
Philadelphia, PA 19130

Adrienne Glenn
6342 Ardleigh Street
Philadelphia, PA 19138-1002

Edward Morrison
767 Cinnaminson Street
Philadelphia, PA 19128

Ward Smith, Esquire
Exelon Business Services Company
2301 Market Street, S23-1
Philadelphia, PA 19103
ward.smith@exeloncorp.com

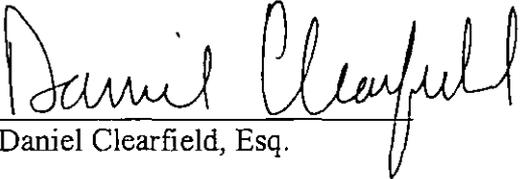
Philip L. Hinerman, Esq.
A. Wesley Bridges, Esq.
Fox Rothschild LLP
2000 Market Street, 10th Fl.
Philadelphia, PA 19103-3291
E-mail: phinerman@foxrothschild.com
abridges@foxrothschild.com

James P. Leonard, Esq.
Cooper Leonard & Schaffer, LLC
1525 Locust St., 13th Fl.
Philadelphia, PA 19102
E-mail: cooperleonardsch@aol.com

Barbara R. Alexander
83 Wedgewood Drive
Winthrop, ME 04364
E-mail: barbalex@ctel.net

Roger D. Colton
Fisher Sheehan & Colton
34 Warwick Rd.
Belmont, MA 02478-2841
roger@FSCOnline.com

Dated: November 12, 2004


Daniel Clearfield, Esq.

DATE: November 15, 2004

SUBJECT: P-00042090, R-00049157, M-00021612, P-00032061

TO: Office of Special Assistants

FROM: James J. McNulty, Secretary *KB*

DOCKETED
DEC 27 2004

Investigation into Financial and Collection Issues Regarding the
Philadelphia Gas Works

Attached is a copy of a Petition for Reconsideration and Clarification of the Order Entered October 27, 2004, filed by Philadelphia Gas Works in connection with the above docketed proceeding.

This matter is assigned to your Office for appropriate action.

Attachment

cc: BCS

ksb

**DOCUMENT
FOLDER**



OFFICE OF SMALL BUSINESS ADVOCATE
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, Pennsylvania 17101

William.R. Lloyd, Jr.
Small Business Advocate

November 16, 2004

(717) 783-2525
(717) 783-2831 (FAX)

HAND DELIVERED

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P. O. Box 3265
Harrisburg, PA 17105-3265

DOCUMENT
FOLDER

RECEIVED
NOV 16 PM 3:18
SECRETARY'S BUREAU

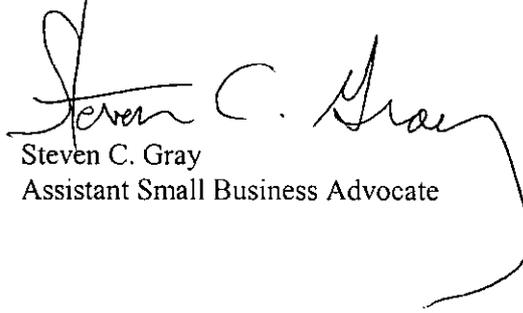
**Re: Investigation into Financial and Collections Issues
Regarding the Philadelphia Gas Works
Docket Nos. P-00042090, R-00049157, M-00021612, P-00032061**

Dear Secretary McNulty:

Enclosed for filing are the original and three copies of the Office of Small Business Advocate Answer to Philadelphia Gas Works' Petition for Reconsideration and Clarification in the above-docketed proceeding. As evidenced by the enclosed certificate of service, a copy has been served on all active parties in this case.

If you have any questions, please contact me.

Sincerely,


Steven C. Gray
Assistant Small Business Advocate

Enclosures

- cc: Hon. Wendell F. Holland, Chairman
- Hon. Robert K. Bloom, Vice Chairman
- Hon. Glenn Thomas, Commissioner
- Hon. Kim Pizzingrilli, Commissioner

Bohdan Pankiw, Chief Counsel
Law Bureau

Cheryl Walker Davis, Director
Office of Special Assistants

Parties of Record

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

INVESTIGATION INTO FINANCIAL AND	:	DOCKET NOS. P-00042090
COLLECTION ISSUES REGARDING THE	:	R-00049157
PHILADELPHIA GAS WORKS	:	M-00021612
	:	P-00032061

**OFFICE OF SMALL BUSINESS ADVOCATE
ANSWER TO PHILADELPHIA GAS WORKS'
PETITION FOR RECONSIDERATION AND CLARIFICATION**

SECRETARY'S BUREAU

2004 NOV 16 PM 3:38

RECEIVED

Pursuant to 52 Pa. Code § 5.572(e), the Office of Small Business Advocate ("OSBA") answers the Philadelphia Gas Works' ("PGW" or the "Company") Petition for Reconsideration and Clarification ("Petition") that was filed on November 12, 2004.

The General Response of the OSBA to the Petition

The OSBA is without sufficient knowledge or information upon which to form a belief as to the truth of many of the factual averments in the Petition. Furthermore, some of the averments are conclusions of law to which no response is required. Nevertheless, the OSBA does not oppose the Petition except for two specific matters raised in paragraphs 6 and 30.

DOCKETED
MAR 04 2005

The Response of the OSBA to Numbered Paragraph 6

6. The OSBA generally supports PGW's various requests for waivers or modifications of the Chapter 56 rules to the extent that such waivers are just, reasonable, and appropriate. Furthermore, the OSBA takes no position on the specifics of any particular request for waiver or modification.

**DOCUMENT
FOLDER**

However, in Footnote 20 to numbered Paragraph 6, the Company stated:

In addition, the PUC's rejection of PGW's request that PO [sic] it be permitted to terminate customers on Fridays (Opinion and Order at 38) appeared to misinterpret the Commission's legal authority to waive the statutory provision. While the Commission acknowledged that the Friday shut-off ban was antiquated and acknowledge [sic] that it had the authority *under* Section 2212(c) to waive the statute for PGW, it stated without explanation that 'PGW's argument does not rise to the level that would cause us to consider waiving section 1503(a)(1) of the code.' *Id.* Why not? PGW demonstrated that this *single change* would allow it to increase its collections by \$2.5 million. (PGW Exceptions at 28-29). (emphasis in original)

Section 2212(c) states that the PUC may 'waive or suspend' the application to PGW 'of any provision of this title.' 66 Pa. C.S. § 2212(c). ***The only criteria for this request in the section is that it must be initiated by a request by PGW.*** Considering the evidence of justification and need and the Commission's own acknowledgment of the reasonableness of PGW's request, it is hard to understand how the Commission could have declined to authorize this waiver. (emphasis added)

Petition, at 11, footnote 20.

The Company's interpretation of the criteria necessary for the Commission's use of 66 Pa. C.S. § 2212(c) illustrates why PGW's overbroad reading of Section 2212(c), if accepted by the Commission, would violate the Pennsylvania Constitution.

Section 2212(c) authorizes PGW to request a suspension or waiver of "the application of any provision of this title [66 Pa. C.S.]." However, the Pennsylvania legislature did not articulate the standards by which the PUC is to decide whether to grant or deny a specific request for suspension or waiver.

Section 1922(e) of 1 Pa. C.S. requires a statute to be construed with the presumption that the General Assembly did not intend to violate the Constitution. PGW argues that Section 2212(c) allows the Commission to write a separate Public Utility Code solely for PGW, and to do so with no standards set by the legislature, as long as the Company makes the request for the suspension or waiver. Construing Section 2212(c) as broadly as supported by PGW would be contrary to the presumed legislative intent because such a construction would render the statute unconstitutional.

As set forth in *PPL Energyplus, LLC v. Commonwealth of Pennsylvania*, 814 A.2d 861 (Pa. Cmwlth. 2003), any delegation of power or discretion to an administrative agency is unconstitutional if the legislature fails to provide the necessary standards for the exercise of that power or discretion. The Commonwealth Court decided that the delegation in *PPL Energyplus* was constitutional because the Commission could exercise its discretion to impose sections of 66 Pa. C.S. on electric generation suppliers only “when such requirements are necessary to maintain the quality of service, to protect the public or to ensure the safety and reliability of electric service.” *PPL Energyplus*, at 865.

In contrast, PGW’s interpretation would make the PUC’s discretion under §2212(c) unfettered — and, therefore, unconstitutional under *PPL Energyplus* — because there are no comparable standards in Section 2212(c) to guide the PUC in deciding whether or not to grant a particular suspension or waiver.

The Response of the OSBA to Numbered Paragraph 30

30. The averments of Paragraph 30 are denied, except for the averments of Paragraph 30 that contain conclusions of law to which no response is required, and except for the averments of Paragraph 30 that are summaries of PGW's request for relief to which no response is required.

By way of further answer, the Company responded to the Commission's denial of the residential field visit charge by demanding:

If the Commission wishes to persist in denying this charge, it must then authorize PGW to increase its general distribution rates by the same annual amount that PGW currently foregoes by not assessing this charge.

Petition, at 23. Under *Duick v. Pennsylvania Gas and Water Company*, 56 Pa. PUC. 553 (1982), the Commission expects "new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission." *Id.*, at 559. PGW's alternative proposal to place the sum total of the residential field visit charge into the Company's general distribution rates is not a new and novel *argument*, but rather a new and novel *remedy*. This proposal was not part of the Company's original filing, and appeared for the first time in this Petition. Therefore, it is inappropriate for PGW to raise the argument as support for the granting of a Petition for Reconsideration. Furthermore, if the Company wishes to make this change in its general distribution rates, it must make a tariff filing under 66 Pa. C.S. § 1308(a) and provide proper notice.

In addition, there is no basis in the record to allocate a *residential-only* field service visit charge to the Company's *business* customers. In fact, the Commission specifically ruled that:

We did not intend to address cost allocation within this Investigation. Cost allocation is an issue best left to a base rate proceeding.

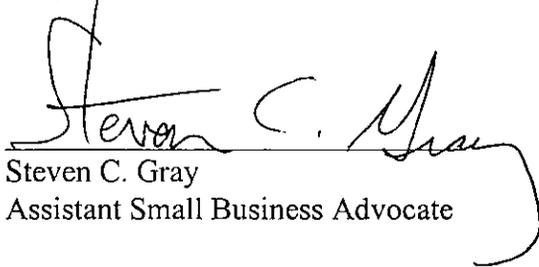
Investigation into Financial & Collections Issues Regarding PGW, Docket No. P-00042090, at 24 (Order entered October 27, 2004).

Conclusion

Therefore, the Office of Small Business Advocate requests that the Commission:

- (1) Deny the Petition's request to use 66 Pa. C.S. §2212(c) to waive the statutory ban on Friday shut-offs, and
- (2) Deny the Petition's request to place the sum total of the residential field visit charge into general distribution rates.

Respectfully submitted,



Steven C. Gray
Assistant Small Business Advocate

For:

William R. Lloyd, Jr.
Small Business Advocate

Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101
(717) 783-2525
(717) 783-2831

Dated: November 16, 2004

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SECRETARY'S BUREAU

2004 NOV 16 PM 3:18

RECEIVED

Investigation into Financial and	:	Docket Nos.	P-00042090
Collection Issues Regarding the	:		R-00049157
Philadelphia Gas Works	:		M-00021612
	:		P-00032061

CERTIFICATE OF SERVICE

I certify that I am serving a copy of the Office of Small Business Advocate Answer to Philadelphia Gas Works' Petition for Reconsideration and Clarification, by e-mail and/or first class mail upon the persons addressed below:

Hon. Charles E. Rainey, Jr.
Administrative Law Judge
Pa. Public Utility Commission
Rm. 1302, Philadelphia State Office Bldg.
1400 West Spring Garden Street
Philadelphia, PA 19130
(215) 560-2105
(215) 560-3133 (fax)
crainey@state.pa.us

Daniel Clearfield, Esquire
Alan C. Kohler, Esquire
Wolf, Block, Schorr & Solis-Cohen
Locust Court Building, Suite 300
212 Locust Street
Harrisburg, PA 17101
(717) 237-7160
(717) 237-7161 (fax)
dclearfield@wolfblock.com
akohler@wolfblock.com

Gregory J. Stunder, Esquire
Philadelphia Gas Works
800 West Montgomery Avenue
Philadelphia, PA 19122
(215) 684-6878
(215) 684-6798 (fax)
greg.stunder@pgworks.com

Philip A. Bertocci, Esquire
Laura Moskowitz, Esquire
Community Legal Services, Inc.
1424 Chestnut Street 4th Floor
Philadelphia, PA 19102-2505
(215) 981-3702
(215) 981-0435 (fax)
pbertocci@clsphila.org

Stephen J. Keene, Esquire
Aron J. Beatty, Esquire
Office of Consumer Advocate
555 Walnut Street 5th FL Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048
(717) 783-7152 (fax)
skeene@paoca.org

Johnnie E. Simms, Director
Office of Trial Staff
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105
(717) 787-1976
(717) 772-2677 (fax)
josimms@state.pa.us

David Kleppinger, Esquire
Charis Mincavage, Esquire
McNees, Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
(717) 232-8000
(717) 237-5300 (fax)
dkleppinger@mwn.com
cmincavage@mwn.com

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

Anna C. Verna, President
City Council
City of Philadelphia
Room 494, City Hall
Philadelphia, PA 19107

Richard W. LeLash
18 Seventy Acre Road
Redding, CT 06896
(203) 438-4659
(203) 431-9625 (fax)
lelash@sprintmail.com

Renardo L. Hicks, Esquire
Anderson, Gulotta & Hicks, P.C.
1110 N. Mountain Road
Harrisburg, PA 17112
(717) 541-1194
(717) 541-5434 (fax)
rhicks@aghweb.com

Scott J. Rubin, Esquire
3 Lost Creek Drive
Selinsgrove, PA 17870
(570) 743-2233
(570) 743-8145 (fax)
scott@publicutilityhome.com

Kent D. Murphy, Esquire
Assistant General Counsel
Exelon Business Services
2301 Market Street S23-1
Philadelphia, PA 19103
(215) 841-4941
(215) 568-3389 (fax)
kent.murphy@exeloncorp.com

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

James P. Leonard, Esquire
City Council of Philadelphia
Cooper Leonard & Schaffer
1525 Locust Street, 13th Floor
Philadelphia, PA 19102

Barbara Greening, Esquire
1904 Green Street
Philadelphia, PA 19130

Christopher B. Craig, Esquire
Senate Democratic Appropriations Committee
Room 545, Main Capitol Building
Harrisburg, PA 17120
(717) 787-5662
(717) 783-5210 (fax)
ccraig@fumo.com

Philip L. Hinerman, Esquire
Fox Rothschild
2000 Market Street
Tenth Floor
Philadelphia, PA 19103-3291
(215) 299-2000
(215) 299-2150 (fax)
phinerman@foxrothschild.com

Lance Haver, Director
Mayor's Office of Consumer Affairs
116 City Hall
Philadelphia, PA 19107
(215) 686-7598
(215) 686-6215 (fax)

Leslie B. Hope, Senior Attorney
One Parkway, 16th Floor
1515 Arch Street
Philadelphia, PA 19102
(215) 683-5187
(215) 683-5175 (fax)

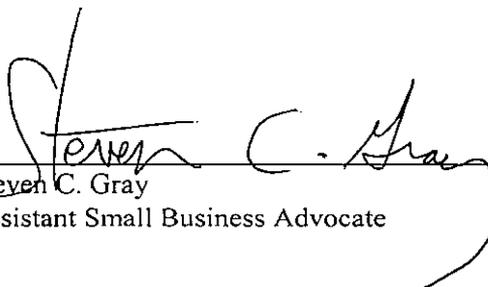
Richard A. Baudino
J. Kennedy & Associates, Inc.
570 Colonial Park Drive, Suite 305
Roswell, GA 30075

Adrienne Glenn
6342 Ardleigh Street
Philadelphia, PA 19138-1002

William Kitsch
1233 Stanwood Street
Philadelphia, PA 19111

Cheryl Walker Davis, Director
Office of Special Assistants
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
cwalkerdav@state.pa.us
(hand delivered)

Bohdan Pankiw, Chief Counsel
Law Bureau
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
bpankiw@state.pa.us
(hand delivered)



Steven C. Gray
Assistant Small Business Advocate

Date: November 16, 2004

ORIGINAL

November 19, 2004

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

Filed by Federal Express

DOCUMENT
FOLDER

Re: Investigation into Financial and Collections Issues Regarding the Philadelphia Gas Works, Docket Nos. P-00042090, R-00049157, M - 00021612, P-00032061

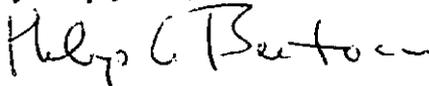
Dear Secretary McNulty:

Community Legal Services, Inc. represents Action Alliance of Senior Citizens of Greater Philadelphia, the Association of Community Organizations for Reform Now (ACORN), and the Tenants' Action Group (TAG) (collectively "Action Alliance et al.") in the above-captioned matter.

Enclosed please find for filing an original and three (3) copies of the Answer of Action Alliance et al. to Petition for Reconsideration and Clarification of Philadelphia Gas Works.

As evidenced by the attached Certificate of Service, all active parties to the proceeding are being served with copies of this Answer by e-mail and/or by First Class U.S. Mail.

Very truly yours,



PHILIP A. BERTOCCI

Attorney for Action Alliance et al.

cc: Certificate of Service
Administrative Law Judge Charles E. Rainey, Jr.

Enclosures

RECEIVED

NOV 19 2004

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

112

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

NOV 19 2004

PENNSYLVANIA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Investigation into Financial and	:	Docket Nos. P-00042090
Collections Issues Regarding the	:	R-00049157
Philadelphia Gas Works	:	M - 0021612
		P-00032061

**ANSWER OF ACTION ALLIANCE et al. TO PETITION FOR
RECONSIDERATION AND CLARIFICATION
OF PHILADELPHIA GAS WORKS**

DOCKETED
MAR 01 2005

A. Introduction.

Pursuant to 52 Pa. Code § 5.572(e), Action Alliance of Senior Citizens of Greater Philadelphia, the Association of Community Organizations for Reform Now (ACORN) and Tenants' Action Group (collectively "Action Alliance et al.") file the following Answer to Philadelphia Gas Works' Petition for Reconsideration and Clarification of the October 27, 2004 Opinion and Order (hereinafter "Order") in the above-captioned proceeding.

PGW's Petition for Reconsideration has been filed pursuant to Section 703(g) of the Public Utility Code, 66 Pa.C.S. § 703(g) and 52 Pa. Code §5.572(a). In considering this Petition, the Commission applies a standard set forth in Duick v. Pa. Gas & Water Co., 56 Pa.P.U.C. 553 (1982):

A Petition for Reconsideration, under the provisions of 66 Pa.C.S. 703(g), may properly raise any matters designed to convince the commission that it should exercise its discretion under this code section to rescind or amend a prior order in

**DOCUMENT
FOLDER**

whole or in part.

In this regard, we agree with the court in the Pennsylvania Railroad Company case, wherein it was said that:

Parties ... cannot be permitted by a second motion to review and reconsider, to raise the same questions, which were specifically decided against them.

What we expect to see raised in such petitions are new and novel arguments not previously heard or considerations which appear to have been overlooked by the Commission.

Duick, 56 Pa.P.U.C. at 559.

Under this standard, it is Action Alliance et al.'s position that reconsideration should be granted, clarification granted, and reconsideration denied as follows:

Reconsideration should be granted: Action Alliance et al. agree that PGW's Petition has satisfied the standard for reconsideration with regard to:

- the part of the Order denying PGW's request for approval of a means-tested Senior Citizen Discount for senior citizen customers of PGW applying for the SCD after September 1, 2003;
- the part of the Order rejecting PGW's Proposed Liens and Judgment Tariff Revision.

Clarification should be granted: Action Alliance et al. also agree with PGW that the part of the Order discussing the partial waiver of 52 Pa. Code § 56.32 (Credit standards) should be clarified. However, unlike PGW, Action Alliance et al. believe that the clarification is necessary to establish that the Commission did not grant this waiver

request in full, but only granted the request to authorize PGW to request flat double deposits of \$500 (heating) and \$200 (non-heating) as a pre-condition of restoration after March 31, 2005, the end of the 2004-2005 winter termination period. Otherwise, PGW customers whose service is off as of the effective date of the order, would be required, on very short notice, to meet unusually high deposit requirements, in addition to other upfront payment requirements, before the onset of cold weather.

Reconsideration should be denied. Action Alliance et al. oppose reconsideration of all other matters included within PGW's Petition for Reconsideration. The Commission properly gave full consideration to PGW's June 16, 2004 Petition for Limited Waiver or Modification of PUC Chapter 56 Rules and Administrative Interpretations. In that Order, it granted in full or in part PGW's requests for the following waivers: 52 Pa. Code § 56.32 (Credit standards); 52 Pa. Code § 56.95 (Deferred termination when no actual prior contact at account address); 52 Pa. Code § 56.100 (Winter Termination Procedures); 52 Pa. Code § 56.91 (payment of outstanding balance and related charges as condition of restoration of service); and the BCS Guidelines 30 day time limit to terminate service from the date of the termination notice. The Order properly denied PGW's remaining Chapter 56 waiver requests.

In its Order, the Commission also gave full consideration to PGW's request concerning imposition of a Residential Field Visit Charge. Action Alliance et al. oppose

granting reconsideration of the part of the Order addressing this issue.

B. The Commission Should Deny Reconsideration of PGW's Chapter 56 Waiver Requests.

1-6. Denied. The Commission has made clear that in ruling on the Chapter 56 Waiver Requests, it was *necessary with regard to each requested waiver, to balance the financial integrity of the utility against consumer protection rights which are a hallmark of reasonable service.*¹ PGW disagrees with how the Commission has balanced the interests – but in so doing, it makes no new or novel arguments and only repeats the familiar arguments which were made and considered throughout these proceedings.

C. The Commission Should Clarify the Scope of the Waiver Regarding Credit Standards.

7. Denied. The Order grants PGW's request to require a flat deposit (as opposed to a deposit based on calculation of the customer's average monthly bills) from customers seeking restoration of service. The amount of the flat deposit would be either \$250 or a double deposit of \$500 for heating customers, and either \$100 or a double deposit of \$200 for non-heating customers. Whether a deposit or a double deposit is required would depend on the time when PGW is restoring service. When service is being restored "after the winter moratorium period," then a \$500 double deposit (heating) or a \$200 double deposit (non-heating) would be required.² The Order is silent concerning whether

¹ Order, at 24.

² Order, at 27.

deposits will be required as a pre-condition for restoration of service during the cold weather period from November 1 to April 1, without regard to the reasonableness and affordability of the charge for a customer prevented by this requirement from obtaining necessary utility service.

8. Denied. After reasonable investigation, Action Alliance et al. are without sufficient knowledge or information to form a belief as to the truth of the averment.

9. Denied. It is denied that PGW's request to demand a double deposit during October through April was granted and is presently in force. To the contrary, the Order states that a double deposit is "particularly relevant after the winter termination period."³ Moreover, in drafting the Order, the Commission was contemplating a single deposit requirement "unless the customer is restoring service after the winter moratorium period, then a \$500.00 deposit would be required."⁴

10. With regard to the interpretations and actions of the Bureau of Consumer Services with regard to this Order, Action Alliance et al. are after reasonable investigation without sufficient knowledge or information to form a belief as to the truth of the averment. By way of further Answer, since the Order was not issued until October 27, 2004, BCS would have been fully justified in rejecting a request for a double deposit on the grounds that PGW in October had no authority to act in any way different from what

³ Order, at 30.

⁴ Order, at 27.

was then permitted by Chapter 56.

11. Denied. As to the BCS interpretation, if any, Action Alliance et al. are, after reasonable investigation, without sufficient knowledge or information to form a belief as to the truth of the averment. By way of further answer, it is denied that the Commission “plainly granted” PGW’s request and that the Order is “absolutely clear” on this issue.

12. Admitted. By way of further answer, the Commission has the authority to grant PGW’s request in partial and modified form, and probably did so in this case.

13. Admitted. By way of further answer, the Commission has the authority to grant PGW’s request in partial and modified form, and probably did so in this case.

14. Denied. As to the reasons for BCS’s actions concerning PGW deposit demands in October, 2004, Action Alliance et al. are after reasonable investigation, without sufficient knowledge or information to form a belief as to the truth of the averment. As to what the Order has granted concerning deposits, the Order speaks for itself; the Commission has the authority to grant PGW’s request concerning deposits in partial and modified form, and probably did so in this case.

15-18. Denied. These paragraphs do not present new and novel arguments, but rather repeat arguments made by PGW in attempted justification of its deposit requests in the course of the Chapter 56 Waiver proceeding.

D. The Commission’s Decision to Reject PGW’s Means Tested Senior Citizen Discount for New Customers Should be Reconsidered and Reversed.

19-25. Action Alliance et al. support PGW’s request for reconsideration and

reversal of the Commission's decision to reject the Company's means tested Senior Citizen Discount proposal for all the reasons set forth in the PGW Petition.

By way of further answer, the Order misapprehends the record concerning the need for the means tested Senior Citizen Discount (SCD). The Order unjustifiably relies in part on PGW's unproven allegations in another context that households with income above 150% FPG "by definition"⁵ have the ability to pay their bills, to support the Commission's conclusion that the discount would be provided to "senior citizens with the ability to pay full bills."⁶ The Order further justifies its rejection of the SCD proposal on the grounds that "[l]ow income senior citizens are eligible for other programs designed to assist households with lowering or meeting their utility bills."⁷

However, the uncontradicted evidence in the record, supported by expert testimony, demonstrates that households living with incomes up to 250% FPL experience the fundamental characteristic of poverty—difficulty regularly paying sums necessary to obtain the basic necessities of life.⁸ Persons between with household income between 110% FPL and 250%FPL often need more assistance than is currently available. Further uncontradicted evidence of the need for the means tested Senior Citizen Discount was

⁵ PGW Main Brief, at 22.

⁶ Order, at 7, 8.

⁷ Order, at 10.

⁸ Direct Testimony of Hugh Gilbert Peach, Ph.D., November 25, 2003, PGW St. 2, at 5 (Docket Nos. P-00032061, M - 0021612).

testimony showing that a two-person Senior Citizen household with average heating usage and income at 119% FPG would receive no discount under PGW's customer assistance program.⁹

E. The Commission Should Deny Reconsideration of its Rejection of PGW's Proposed Residential Field Visit Charge.

26-32. Denied. PGW's arguments in support of the Residential Field Charge present no new or novel arguments. In the Restructuring Proceeding, the Commission considered a proposed Restructuring Tariff which sought changes in the Restoration or Reconnection Charge, the Excavation Charge and an expansion of the applicability of the \$10 Residential Field Charge.¹⁰ The Commission approved new Tariff provisions concerning the Restoration Fee (which resulted in an increase in that fee) and the Excavation Charge. The Commission rejected the Residential Field Charge as inconsistent with the framework of charges contained in Chapter 56. In this restructuring context, where adjustments were made affecting a number of charges potentially concerning residential customers, arguments concerning "single issue ratemaking" or "retroactive ratemaking" are not applicable.

⁹ Direct Testimony of Pedro Rodriguez on Behalf of CEPA et al., at 12-13 (Docket Nos. P-000032061, M – 00021612).

¹⁰ PGW Gas Service Tariff – Pa.P.U.C. No. 2, Original Pg. 36, Section 5.13.A (Restoration Charge), Section 5.13.C (Excavation Charge), Section 5.14 (Residential Field Charge). For comparison of the Residential Field Charge under PGW's prior Tariff with the charge under consideration here, see Action Alliance et al. Main Brief, at 44-46.

F. The Commission Should Grant Reconsideration of its Rejection of PGW's Proposed Liens and Judgments Tariff Revision.

33-40. PGW requests reconsideration of the Commission's rejection of its proposed Tariff Section 2.4.C.6 which, as originally proposed, would have required applicants for service with existing liens or civil judgments against them for unpaid PGW balances to enter into payment arrangements for the full amount of these liens or judgments. In its Reply Brief, PGW offered to amend proposed Tariff Section 2.4.C.6 to limit the liened amounts that could be required to be paid or arranged to be paid as a condition of service to those liened charges which had accrued within the previous four years.¹¹ This offer was repeated in PGW's Exceptions to the ALJ's Recommended Decision and in the Petition for Reconsideration.¹² This amendment would bring Proposed Tariff Section 2.4.C.6 into compliance with Chapter 56 Section 56.35.

In rejecting PGW's proposed Tariff Section 2.4.C.6 even as modified, the Commission appears to have concluded that the proposed provision would place the PUC in the "position of sanctioning a collections process over which it has no control since the court and not the Commission has jurisdiction over the collection of liens and judgments."¹³

However, this is a misapprehension. The provision would not place the PUC in

¹¹ PGW Reply Brief, at 50.

¹² PGW Exceptions, at 38-39; PGW Petition for Reconsideration, Para. 38.

¹³ Order, at 17.

such a position, any more than a federal court bound under rules of res judicata by a judgment of a state court would appear to “sanction” the processes of the state court. Rather, the PUC would be in the position of implementing a provision which authorizes conditioning service on applicant’s payment or agreement to pay an amount for which the applicant’s liability had been already determined. If the applicant wished to contest the validity or amount of the lien, obtained in accordance with due process, the applicant would have remedies in the court with the authority to docket a statutory lien or determine the amount of a judgment lien (and the ancillary authority to adjust and/or satisfy the lien on the public record), the Philadelphia Court of Common Pleas or the Philadelphia Municipal Court as the case may be.

In the meantime, for the purposes of obtaining service from PGW, the Commission’s only responsibility is to assure that PGW does not require the applicant to pay-for charges associated with the liened gas service which accrued more than four years prior to the date of application for service. As PGW explains, the Company’s proposal “included a promise to adhere to PUC rules whenever a customer agreed to a payment agreement to payoff his/her obligation as a condition of reinstating service. Thus the Commission would have all the authority it would need to enforce the payment agreement.”¹⁴

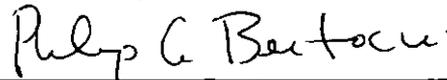
¹⁴ PGW Petition for Reconsideration, Para. 38.

G. Conclusion.

For the foregoing reasons, Action Alliance et al. support PGW's request that the Commission grant reconsideration of the October 27, 2004 Order with respect to the rejection of PGW's proposed means-tested Senior Citizen Discount and with respect to the PGW's proposed liens and judgments Tariff provision. In addition, Action Alliance et al. agree that the part of the Order addressing PGW's proposal concerning requirement of deposits by terminated customers should be clarified as set forth above to specify more clearly the time frame within which a double deposit may be required as a condition of restoration of service.

With regard to all other matters for which PGW has requested reconsideration, Action Alliance et al. request that the Petition be denied.

Respectfully submitted,



PHILIP A. BERTOCCHI, ESQUIRE
LAURA MOSKOWITZ, ESQUIRE

Attorneys for Action Alliance et al.

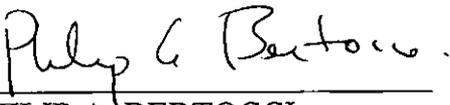
COMMUNITY LEGAL SERVICES, INC.
1424 Chestnut Street, 4th Floor
Philadelphia, PA 19102
(215 981-3702

November 19, 2004

VERIFICATION

I, Philip A. Bertocci, Esquire hereby state that the facts contained in the foregoing Answer are true and correct to the best of my knowledge, information and belief, that I am authorized to make this verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).

Date: November 19, 2004



PHILIP A. BERTOCCI

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon the following parties at the addresses and in the manner described below:

BY E-MAIL AND FIRST CLASS U.S. MAIL ON NOVEMBER 19, 2004

Daniel Clearfield, Esquire
Mark Stewart, Esquire
Wolf, Block, Schorr & Solis-Cohen, LLP
212 Locust Street, Suite 300
Harrisburg, PA 17101
dclearfield@wolfblock.com

Gregory J. Stunder, Esquire
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
greg.stunder@pgworks.com

Johnnie E. Simms, Esquire
Pennsylvania Public Utility Commission
Office of Trial Staff
Commonwealth Keystone Bldg., 2 West
P.O. Box 3265
Harrisburg, PA 17120
josimms@state.pa.us

Steven C. Gray, Esquire
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North 2nd Street
Harrisburg, PA 17101
sgray@state.pa.us

RECEIVED
NOV 19 2004
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Stephen Keene, Esquire
Office of Consumer Advocate
Forum Place Building, 5th Floor
555 Walnut Street
Harrisburg, PA 17101-1921
skeene@paoca.org

David M. Kleppinger, Esquire
Charis Mincavage, Esquire
McNees, Wallace & Nurick
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
cmincavage@mwn.com

Christopher B. Craig, Esquire
Senate Democratic Appropriations
Committee
Room 545, Main Capitol Building
Harrisburg, PA 17120
ccraig@fumo.com

Renardo L. Hicks, Esquire
Anderson, Gulotta & Hicks, PC
1110 N. Mountain Road
Harrisburg, PA 17112
rhicks@aghweb.com

Philip L. Hinerman, Esquire
Fox Rothschild, LLP
2000 Market Street, 10th Floor
Philadelphia, PA 19103-3291
phinerman@foxrothschild.com

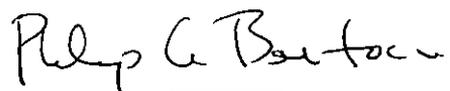
Ward Smith, Esquire
Exelon Business Services Co.
2301 Market Street, P.O. Box 8699
Philadelphia, PA 19101
ward.smith@exeloncorp.com

BY FIRST CLASS U.S. MAIL, POSTAGE PREPAID ON NOVEMBER 19, 2004

William Kitsch
1233 Stanwood Street
Philadelphia, PA 19111

Barbara Greening, Esquire
1904 Green Street
Philadelphia, PA 19130

Adrienne Glenn
6342 Ardleigh Street
Philadelphia, PA 19138-1002



PHILIP A. BERTOCCI

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560 (in PA only)

IRWINA. POPOWSKY
Consumer Advocate

FAX (717) 783-7152
consumer@paoca.org

November 22, 2004

ORIGINAL

DOCUMENT
FOLDER

James J. McNulty, Secretary
PA Public Utility Commission
400 North Street
Keystone Building
Harrisburg, PA 17105-3265

RE: Investigation into Financial and Collections
Issues Regarding the Philadelphia Gas
Works

Docket Nos. P-00042090
R-00049157
M-0001612
P-00032061
P-00042117

Dear Secretary McNulty:

Enclosed are an original and three (3) copies of the Office of Consumer Advocate's Answer to Philadelphia Gas Works' Petition for Reconsideration and Clarification Regarding Chapter 56 Waivers, in the above-referenced proceeding.

Copies have been served upon all parties of record as shown on the enclosed Certificate of Service.

Sincerely,

Tanya J. McCloskey
Tanya J. McCloskey
Senior Assistant Consumer Advocate

Enclosures
cc: All Parties of Record

80417.doc

RECEIVED
NOV 22 2004
PHILADELPHIA BUREAU

NOV 22 2004
PHILADELPHIA

RECEIVED

83

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Investigation into Financial and Collections
Issues Regarding the Philadelphia Gas Works

:
: Docket No. P-00042090
: Docket No. R-00049157
: Docket No. M-0001612
: Docket No. P-00032061
: Docket No. P-00042117
:

DOCKETED
MAR 01 2005

OFFICE OF CONSUMER ADVOCATE'S ANSWER TO
PHILADELPHIA GAS WORKS' PETITION FOR
RECONSIDERATION AND CLARIFICATION
REGARDING CHAPTER 56 WAIVERS

DOCUMENT
FOLDER

Pursuant to Section 5.572 of the Commission's Rules of Administrative Practice and Procedure, the Office of Consumer Advocate files the following Answer to Philadelphia Gas Works' Petition for Reconsideration and Clarification in the above-captioned investigation. The OCA opposes PGW's request for reconsideration and clarification of the merits of the Commission's October 27, 2004 Order in this investigation proceeding. As the Commission found in its October 27, 2004, Order many of the Company's requested waivers of Chapter 56 regulations must be rejected for a host of legal, policy and financial reasons. The OCA submits that nothing in the PGW Petition for Reconsideration and Clarification justifies reconsideration of the Commission's Order at this time.¹

¹ In this Answer, the OCA responds only to the Company's request for reconsideration and clarification of the Commission's Order regarding Chapter 56 Waivers, field visit charges, and liens and judgments.

RECEIVED
2004 NOV 22 PM 2:18
SECRETARY'S OFFICE

I. INTRODUCTION

On October 27, 2004, an Opinion and Order (“*October 27, Order*”) was entered in the above-captioned investigation involving the Philadelphia Gas Works’ (“PGW”) request for waivers of Chapter 56 regulations. In its *October 27 Order*, the Commission rejected a majority of PGW’s proposed Chapter 56 waivers on a variety of factual, legal and policy grounds. The Commission did, however, grant several limited waivers that will assist PGW in improving its collection efforts.

The Company filed a Petition for Reconsideration and Clarification on November 12, 2004. The Company’s Petition contains many unsupported statements and cites to extra-record evidence that the Commission should disregard. The OCA submits that the Commission fully considered the record evidence and the positions of the parties in making its determinations on PGW’s Chapter 56 waiver requests.²

The OCA now files this Answer to the Company’s Petition for Reconsideration and Clarification and, for the reasons set forth below, respectfully requests that the Company’s Petition be denied.

II. ANSWER

A. Legal Standard.

Petitions for rehearing, reconsideration, clarification and amendment to an order must meet certain legal requirements. *Pa.P.U.C. v. T.W. Phillips Gas & Oil Co.*, 75 Pa. P.U.C. 237, 239 (1991). Section 703(f) of the Public Utility Code states:

² See *Investigation into Financial and Collections Issues Regarding the Philadelphia Gas Works*, Docket Nos. P-00042090, R-00049157, M-0021612, and P-00032061 (Opinion and Order entered June 2, 2004)(*June 2 Order*).

(f) Rehearing. – After an order has been made by the commission, any party to the proceedings may, within 15 days after the service of the order, apply for a rehearing in respect of any matters determined in such proceedings and specified in the application for rehearing, and the commission may grant and hold such rehearing on such matters. No application for a rehearing shall in anywise operate as a supersedeas, or in any manner stay or postpone the enforcement of any existing order, except as the commission may, by order, direct. If the application be granted, the commission may affirm, rescind, or modify its original order.

66 Pa.C.S. § 703(f).

Section 703(g) provides :

(g) Rescission and amendment of orders. – The commission may, at any time, after notice and after opportunity to be heard as provided in this chapter, rescind or amend any order made by it. Any order rescinding or amending a prior order shall, when served upon the person, corporation, or municipal corporation affected, and after notice thereof is given to the other parties to the proceedings, have the same effect as is herein provided for original orders.

66 Pa.C.S. § 703(g).

The standard that the Commission applies in considering a request for rehearing or reconsideration under Section 703 of the Public Utility Code was delineated by the Commission in *Duick v. Pa. Gas & Water Co.*, 56 Pa.P.U.C. 553 (1982). There, the Commission stated:

A Petition for Reconsideration, under the provisions of 66 Pa.C.S. 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part.

In this regard, we agree with the court in the Pennsylvania Railroad Company case, wherein it was said that:

Parties ... cannot be permitted by a second motion to review and reconsider, to raise the same questions, which were specifically decided against them.

What we expect to see raised in such petitions are new and novel arguments; not previously heard or considerations which appear to have been overlooked by the Commission.

Duick, 56 Pa.P.U.C. at 559.

For the reasons set forth below, the OCA submits that the Company has failed to meet the standard for reconsideration or clarification of the Commission's *October 27 Order*.

B. Chapter 56 Waiver Requests

1. Universal Deposits

The first Chapter 56 waiver request that PGW seeks reconsideration of is its request to impose mandatory security deposits upon all new applicants for service. Petition for Reconsideration at 8-9. PGW proposes to set a flat deposit fee for *all* new customers, regardless of whether they pose a credit risk or not. Chapter 56 Waiver Petition at 21. PGW proposes to set the deposit for new applicants at twice the average monthly bill for customers – \$250 for heating customers and \$100 for non-heating customers. If an existing heating customer seeks to restore service after termination, a deposit of \$500 would be required. Chapter 56 Waiver Petition, Appendix B. For non-heating customers seeking restoration of service after termination a deposit of \$200 would be required. *Id.*

In the *October 27 Order*, the Commission denied PGW's request to implement a mandatory deposit requirement for all new applicants. *October 27 Order* at 29-30. However, the Commission did permit such a deposit requirement for those customers who had been terminated for non-payment and sought restoration of service. *Id.* at 30. PGW claims that this is inconsistent with the Commission's refusal to allow PGW to impose a mandatory deposit upon *all* new

applicants. Such a contention is misplaced. Chapter 56 expressly permits a utility to require a security deposit as a condition to reconnection of service following termination. 52 Pa.Code §56.41(2). However, Chapter 56 does not allow for a blanket security deposit requirement for all new applicants, regardless of creditworthiness.

PGW argues that the Commission ignored the fact that PGW's service territory has a high percentage of customers that fail to pay or pay too slowly. *Petition for Reconsideration at 9.* This fact is not sufficient to establish a blanket security deposit rule for all new applicants. As the Commission correctly noted:

52 Pa.Code §56.31 unequivocally states that deposit policies are to be based upon the credit risk of the individual and not upon the collective credit reputation or experience in the area where an applicant lives.

October 27 Order at 30.

The Commission fully analyzed the evidence presented by PGW in support of this waiver request and correctly determined that this waiver should not be granted.

2. Payment of Outstanding Balance

PGW seeks reconsideration of the Commission's determination that it is unlawful to require an applicant who applies for service at a particular location to be responsible for an outstanding arrearage as a condition of receiving service. PGW *Petition for Reconsideration at 31.* PGW's request for reconsideration of this waiver request simply repeats arguments already made in its briefs and exceptions. The Company presents no new or novel arguments. Therefore, reconsideration of this waiver request should be denied.

3. Restoration of Service Within 24 Hours

PGW also seeks reconsideration of the Commission's determination that PGW's request to extend the time period for it to restore service to customers after receipt of a medical certificate or payment of outstanding charges or satisfaction of the grounds for termination has occurred. PGW Petition for Reconsideration at 10-11. The Company claims that due to the estimated 20,000 to 30,000 customers that are currently terminated, it would have to hire scores of additional personnel or abandon its termination process entirely in order to comply with the Commission's regulations. Again, PGW overstates the magnitude of the problem. Even if there are 20,000 to 30,000 customers that are currently terminated, certainly they are not all going to seek restoration of service at the same time. PGW should attempt to comply with the Commission's requirements for restoration of service. If indeed the number of restorations becomes overwhelming, PGW can come back to the Commission with a more specific waiver request and present more detailed data about the number of restorations and the burden that compliance with this regulation would impose. Mere speculation and conjecture is not enough to support this waiver request.

C. Field Visit Charge

PGW also seeks reconsideration of the Commission's rejection of the Company's proposal to assess a field charge of \$10.00 when PGW makes a field visit for termination of service. Petition for Reconsideration at 20-24. The Commission determined that the Company did not provide a cost justification for imposition of such a charge. October 27 Order at 12-13.

In its Petition for Reconsideration, the Company claims that the Commission's rejection of the field visit charge constitutes impermissible single-issue, retroactive ratemaking since

the Company imposed a field visit charge under its pre-restructuring tariff. The Company claims that elimination of the charge would deprive PGW of revenues resulting in PGW underearning on its authorized level of base rates.

The Company's claim that it is not being allowed to recover adequate revenues to cover an established base rate element expense is inconsistent with the record in this case. Both the ALJ and the Commission determined that PGW had not provided a cost justification for this charge. Such a cost justification would, presumably, include the expense associated with making field visits and a showing that the costs of termination visits were not recovered through other expenses in base rates. The Commission, therefore, correctly concluded that such a charge was improper unless and until PGW can provide the cost justification for such a charge.

D. Liens and Judgments

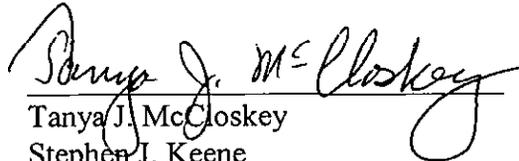
The Company once again seeks reconsideration of the Commission's decision to reject PGW's Tariff Section 2.4.C.6. which would require applicants for service with existing liens or civil judgments against them for unpaid balances to enter into payment arrangements. This is the *third* time that PGW has asked the Commission to consider the same issue. The Commission first considered and rejected this proposal in its compliance order in PGW's restructuring proceeding: Compliance Tariff of Philadelphia Gas Works in response to the Commission Restructuring Order as modified on reconsideration, M-00021612 (Order entered October 10, 2003) at 5. The Commission rejected this proposal again in the *October 27 Order*. *October 27 Order* at 16-17. Once again, PGW brings the same issue before the Commission and once again the result should be the same – the proposed tariff provision should be rejected. The OCA submits that PGW's request

for reconsideration fails to meet the *Duick* standard. PGW has raised nothing new or novel in its Petition for Reconsideration. Therefore, proposed Tariff Section 2.4.C.6 should be rejected.

III. CONCLUSION

For the reasons set forth above, the Office of Consumer Advocate respectfully requests that Philadelphia Gas Works' Petition for Reconsideration and Clarification be denied.

Respectfully submitted,



Tanya J. McCloskey

Stephen J. Keene

Senior Assistant Consumer Advocates

Lori A. Herman

Christy M. Appleby

Assistant Consumer Advocates

Counsel for:

Irwin A. Popowsky

Consumer Advocate

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

*81734

CERTIFICATE OF SERVICE

Re: Investigation into Financial	:	
Collections Issues Regarding the	:	Docket Nos. P-00042090
Philadelphia Gas Works	:	R-00049157
	:	M-00021612
	:	P-00032061

I hereby certify that I have this day served a true copy of the foregoing document, Office of Consumer Advocate's Answer to Philadelphia Gas Works' Petition for Reconsideration and Clarification Regarding Chapter 56 Waivers, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 22nd day of November, 2004.

SERVICE BY E-MAIL and INTEROFFICE MAIL

Richard A. Kanaskie, Esquire
 Johnnie E. Simms, Esquire
 Pennsylvania Public Utility Commission
 Office of Trial Staff
 P.O. Box 3265
 Harrisburg, PA 17105-3265

RECEIVED
 2004 NOV 22 PM 12:19
 SECRETARY'S BUREAU

SERVICE BY E-MAIL and FIRST CLASS DELIVERY

Daniel Clearfield, Esquire
 Mark S. Stewart, Esquire
 Wolf, Block, Schorr and Solis-Cohen LLP
 212 Locust Street, Suite 300
 Harrisburg, PA 17101

Steven Gray, Esquire
 Office of Small Business Advocate
 Suite 1102 Commerce Building
 300 North Second Street
 Harrisburg, PA 17101

David M. Kleppinger, Esquire
 Charis Mincavage, Esquire
 McNees, Wallace & Nurick LLC
 100 Pine Street
 P.O. Box 1166
 Harrisburg, PA 17108-1166

Christopher B. Craig, Esquire
 Main Capitol Building
 Room 545
 Harrisburg, Pa 17120

Renardo L. Hicks, Esq.,
 Anderson, Gullotta & Hicks, PC
 1110 N. Mountain Road
 Harrisburg, PA 17112

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

Mr. Robert D. Knecht
Industrial Economics Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140

Philip A. Bertocci, Esq.
Laura Moskowitz, Esq.
1424 Chestnut Street
3rd Floor
Philadelphia, PA 19102

Roger D. Colton
Fisher, Sheehan and Colton
34 Warwick Road
Public Finance and Genera
Belmont, MA 02478

Michael Bleiweis
243 Banks Road
Easton, CT 06612

Barbara Alexander
83 Wedgewood Ave.
Winthrop, ME 04364

Kent Murphy, Esquire
Ward Smith, Esquire
Amy E. Hamilton, Esquire
Exelon Business Transmission LP
2301 Market Street, S23-1
Philadelphia, PA 19103

Scott J. Rubin, Esq.
3 Lost Creek Drive
Selingsgrove, PA 17870

Richard A. Baudino
J. Kennedy & Associates, Inc.
570 Colonial Park Drive, Suite 305
Roswell, GA 30075

Richard Lelash
Financial & Regulatory
18 Seventy Acre Road
Redding, CT 06896

SERVICE BY FIRST CLASS MAIL

Thomas E. Knudson, President
Philadelphia Gas Works
800 W. Montgomery Drive
Philadelphia PA 19122

James P. Leonard, Esquire
City Council of Philadelphia
Cooper Leonard & Schaffer
1525 Locust Street, 13th Floor
Philadelphia, PA 19102

A. Wesley Bridges, Esquire
Philip Hinerman, Esquire
Fox Rothschild, LLP
2000 Market Street
Tenth Floor
Philadelphia, PA 19103

Helen Richardson
Mondre Energy Inc
1880 John F. Kennedy Boulevard
Suite 1705
Philadelphia, PA 19135

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

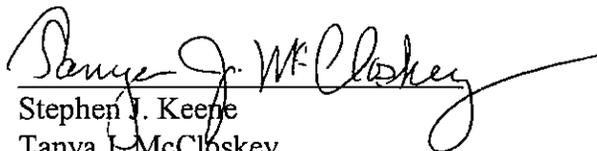
Lance Haver, Director
Mayor's Office of Consumer Affairs
116 City Hall
Philadelphia, PA 19102

Mr. William Kitsch
1233 Stanwood Street
Philadelphia, PA 19111

Ms. Adrienne Glenn
6342 Ardleigh Street
Philadelphia, PA 19138

Barbara Greening, Esq.
Locks Law Firm
1500 Walnut Street, 20th Floor
Philadelphia, PA 19102

Leslie B. Hope, Esquire
Assistant City Solicitor
One Parkway, 16th Floor
1515 Arch Street
Philadelphia, PA 19102



Stephen J. Keene
Tanya J. McCloskey
Senior Assistant Consumer Advocates
Aron J. Beatty
Lori A. Herman
Christy A. Appleby
Assistant Consumer Advocates

Counsel for
Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048
79657