



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

IN REPLY PLEASE  
REFER TO OUR FILE

January 12, 2015

Secretary Rosemary Chiavetta  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Petition of Philadelphia Gas Works for Approval of Demand-Side  
Management Plan for FY 2016-2020 and Philadelphia Gas Works  
Universal and Energy Conservation Plan for 2014-2016 52 Pa. Code § 62.4  
– Request for Waivers  
Docket No. P-2014-2459362

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement's (I&E)  
**Answer to Petition** in the above-captioned proceeding.

Copies are being served on parties as identified in the attached certificate of  
service. If you have any questions, please contact me at (717) 787-8754.

Sincerely,

Gina L. Lauffer

Prosecutor

Bureau of Investigation and Enforcement  
PA Attorney I.D. #313863

Enclosure  
GLL/sea

cc: Certificate of Service  
Bohdan Pankiw, Chief Counsel  
Cheryl Walker-Davis

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Philadelphia Gas Works for :  
Approval of Demand-Side Management :  
Plan for FY 2016-2020 :  
:  
and : Docket No. P-2014-2459362  
:  
Philadelphia Gas Works Universal and :  
Energy Conservation Plan for 2014-2016 :  
52 Pa. Code § 62.4 – Request for Waivers :

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Answer to Petition** dated January 12, 2015, either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

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A handwritten signature in black ink, appearing to read 'G. Lauffer', written in a cursive style.

Gina L. Lauffer  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney I.D. #313863

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Pennsylvania Public Utility Commission</b>	:	
	:	
	:	
v.	:	<b>Docket No. P-2014-2459362</b>
	:	
<b>Philadelphia Gas Works</b>	:	

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**THE BUREAU OF INVESTIGATION & ENFORCEMENT'S  
ANSWER TO PHILADELPHIA GAS WORKS'  
PETITION FOR APPROVAL OF PHASE II OF THE DEMAND SIDE  
MANAGEMENT PLAN**

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**I. Introduction**

On December 23, 2014, Philadelphia Gas Works (“PGW” or “Company”) filed a Petition for Approval of Phase II of the Demand-Side Management Plan (“Petition”). This Petition, filed at Docket No. P-2014-2459362, serves as a request to institute Phase II of PGW’s initial five-year Demand-Side Management Plan (DSM), which was approved by the Commission in conjunction with a settlement of a base rate proceeding on July 29, 2010 (Docket Nos. P-2009-2097639 and R-2009-2139884). Phase I of the Company’s DSM expires on August 31, 2015, and by way of the Petition, the Company now seeks approval to implement Phase II of the DSM for a term of five years, beginning on September 1, 2015 and ending on August 31, 2020.

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), pursuant to at 52 Pa. Code §5.61,

entitled “*Answers to complaints, petitions, motions and preliminary objections,*” hereby timely submits the following Answer in opposition to the Petition.

Furthermore, I&E petitions the Commission to grant its own request to suspend PGW’s Petition for investigation by I&E and for assignment of the proceeding to the Office of Administrative Law Judge (“OALJ”) for the scheduling of Evidentiary Hearings culminating in the issuance of a Recommended Decision.

**A. The Collaborative Stakeholder Process**

The Commission must thoroughly review PGW’s proposal, and it is premature to request an expedited process by which to consider Phase II of the DSM. The Company’s allegation that the program “has already been launched, start-up costs incurred”<sup>1</sup> cannot be considered at the expense of the proper level of regulatory review. The development and refinement of the Phase II details are critical to the evaluation of the Company’s proposal. Instead of allowing for the full investigation of its Phase II Plan, PGW proposes to engage in “collaborative stakeholder process.”<sup>2</sup> PGW provides very little information about the process proposed, and it does not even designate whether ratepayers will be considered as “stakeholders” within the process. With the limited information available, the initial establishment of only a collaborative process does not appear to allow for any investigation or sufficient public input. As a result, the record in this matter will be incomplete and not be able to be used as a basis for a recommendation. For

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<sup>1</sup> Petition, Paragraph 50

<sup>2</sup> Petition, Paragraph 51-53

these reasons, PGW's request for a collaborative stakeholder process should be denied and the issue of scheduling should be reserved for a Prehearing Conference before the assigned Presiding Officer.

### **B. Phase II of the DSM**

A key stated goal of PGW's DSM plan is to help its customers save money,<sup>3</sup> but its implementation will result in additional, unwarranted costs for ratepayers. PGW anticipates that it will spend a total of \$25 million dollars over the next five years to fund Phase II,<sup>4</sup> comprised of an estimated \$22.7 million for the continuation of conservation programs and \$2.3 million for an Efficient Fuel Switching load management program. It is important to remember that when PGW states that it plans to invest a total of \$25 million, it means that ratepayers will pay an additional \$25 million in rates. PGW is regulated as a cash flow company. It has no shareholders and all funds for operations are provided by ratepayers. In addition, the Company seeks recovery of the administrative, operational, and evaluation costs of Phase II.<sup>5</sup>

Even more concerning is that PGW seeks to implement two new areas of cost, a conservation adjustment mechanism ("CAM") and performance incentives.<sup>6</sup> PGW proposes that customers pay associated costs via a new Efficiency Cost Recovery Surcharge (ECRS), which would be applicable to all

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<sup>3</sup> Philadelphia Gas Works' Demand-Side Management Plan, Phase II p. 2

<sup>4</sup> Petition, Paragraph 29

<sup>5</sup> Id. Paragraph 30

<sup>6</sup> Id.

volumes of gas delivered.<sup>7</sup> Notwithstanding concerns regarding these two new areas of costs, which are addressed below, it is important to note that I&E is not aware of any situation where a mechanism like this has ever been approved by the Commission for use in the gas industry.

In addition, in the event that the benefits of the Phase II Plan can be identified and the net costs determined, the allocation of these costs must then be reviewed based on sound regulatory principles. The Company claims that “the costs of the non-low income programs will be recovered only from the customer classes that receive the benefits of the measures installed.”<sup>8</sup> The threshold issue is; what benefits are being received by the Company’s ratepayers? Allocation of costs is based on the determination of this issue.

Finally, based on the Petition alone, and absent the opportunity to conduct an investigation, I&E is without sufficient information to assess the veracity of many of the averments PGW sets forth in its Petition. However, the Petition has set forth enough information to raise significant concerns about the prudence of proposed costs elements associated with Phase II, proposed performance incentives to accrue to PGW and whether the Low-Income Multifamily Efficiency program fails to provide benefits to customers with the greatest financial need.

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<sup>7</sup> Id.

<sup>8</sup> Petition, Paragraph 32.

## ANSWER

### **II. Background**

1. Admitted.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted in part, denied in part. It is admitted that PGW filed five implementation plans since the Commission's approval of DSM Phase I Plan. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in Paragraph 5.

6. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 6.

7 (a-g). After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 7 (a-g).

8. Admitted in part, denied in part. It is admitted that regulated utilities should help customers use energy in the most efficient and cost-effective manner possible. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in Paragraph 8.



9. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 9.

### **III. PGW's Proposed Phase II Five-Year Plan**

10. Denied. I&E is without sufficient knowledge or information to conclude that PGW's DSM should continue. It is further denied that Phase II, as set forth in the Petition and its exhibits, which are herein incorporated, enhance efficiency and fairness of the programs. By way of further response, I & E avers that at least two facets of PGW's Phase II program, the CAM and the accrual of DSM performance incentives to PGW are imprudent costs that unjust and unreasonable in contravention of the Pennsylvania Public Utility Code.<sup>9</sup>

11. Admitted.

12. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 12.

13(a-e). I&E is unable to admit or deny the contents of PGW's beliefs as described in Paragraph 13. By way of further response, and after reasonable investigation, I&E is without information sufficient to form a belief as to whether the Plan achievements described in Paragraphs 13(a-e) have or will materialize.

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<sup>9</sup> 66 Pa. C.S. § 1301

14. Denied. By way of further response, I&E avers that permitting Phase II to move forward with the proposed conservation recovery mechanism (“CAM”) is contrary to the public interest.

**A. Phase II Plan: Proposed DSM Programs**

15. Admitted.

16. Admitted.

17. Admitted.

**B. Phase II Plan: Proposed Enhanced ELIRP and Requested Waivers**

18. Admitted in part, denied in part. It is admitted that PGW proposes to continue the CRP Home Comfort Program and that the Commission issued a directive by way of Order in USECP 2014-2016. To the extent that averments regarding PGW’s proposal are consistent with such Order, they are admitted. To the extent that such averments are inconsistent with the Order, they are denied. By way of further response, and as outlined in the Phase II Plan<sup>10</sup>, PGW has proposed to expand the CRP Home Comfort Program with a Low-Income Multifamily Efficiency (“LIME”) program. The LIME program purports to retrofit publicly subsidized, low-income multifamily housing, but raises two key concerns: the manner in which the housing is designated as low income and how the costs are proposed to be recovered.

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<sup>10</sup> See pp. 85-96

First, the Company wants to recover the costs through the Universal Services and Energy Efficiency Surcharge.<sup>11</sup> Such recovery is problematic because the monetary beneficiary is neither the CRP (CAP) customer nor the subsidizers or the CRP subsidy (the population who pays for the difference between the costs to serve CAP customers and the CAP customers asked to pay amount). Furthermore, the program is not an entirely geared towards the low income population, as explained below.

More specifically, the LIME will target low-income multifamily buildings with at least 50% of resident at or below 150% FPL, which means potentially 50% of the funding will be spent on housing of above 150%. These buildings are already receiving subsidization through the government by virtue of their HUD Section 8 or Low Income Housing Tax Credit (LIHTC) status and PGW proposes to further subsidize these buildings at ratepayer's expense.

**C. Phase II Plan: New Load Management Efficient Fuel Switching Program**

19. Admitted.

20. Admitted in part, denied in part. It is admitted that PGW proposes to launch an Efficient Fuel Switching Program. By way of further response, and after reasonable investigation, I&E is without information sufficient to form a belief as to whether the program will produce the benefits alleged in Paragraph 20.

21. Admitted.

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<sup>11</sup> Id. at p. 89

22. Admitted.

23. Admitted.

24. Admitted.

25. Admitted in part, denied in part. It is admitted that PGW intends to limit participation in its Efficient Fuel Switching Program. By way of further response, and after reasonable investigation, I&E is without information sufficient to form a belief as to whether the program will produce the benefits alleged in Paragraph 25.

26. Admitted in part, denied in part. It is admitted that PGW anticipates the enumerated benefits of the Efficient Fuel Switching Program. By way of further response, and after reasonable investigation, I&E is without information sufficient to form a belief as to whether the program will produce the benefits alleged in Paragraph 26.

27. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 27.

28. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 28.

#### **IV. Costs of the DSM Phase II**

29. After reasonable investigation, I&E is without knowledge or information sufficient to form a belief as to the truth of the averments contained in

Paragraph 29. I&E admits that this averment accurately represents PGW's projections.

30. Admitted. The averment accurately represents the terms of the Company's request.

31. Admitted. The averment accurately represents the terms of the Company's request. 32. Admitted. The averment accurately represents the terms of the Company's request.

33. Admitted.

#### **A. Conservation Adjustment Mechanism ("CAM")**

34. Admitted in part, denied in part. It is admitted that PGW is not seeking any lost margin recovery associated with Phase I of its DSM program and that it now proposes future lost margin recovery through implementation of the CAM in Phase II. It is denied that CAM implementation will directly result in the reduction of on-site natural gas usage.

35 (a-d). Admitted in part, denied in part. It is admitted only that PGW sets forth justification for its request for CAM approval based on the allegations contained in Paragraphs 35 (a-d). It is denied that CAM implementation is actually justified or that would produce the benefits to customers as alleged in Paragraphs 35 (a-d). By way of further answer, CAM implementation would be detrimental to ratepayers. Specifically, most ratepayers will not receive limited funding earmarked for reduced throughput, and instead of benefitting themselves

from reduced throughput, such ratepayers will be expected to fund PGW's lost margin associated with Phase II.

36. Denied. Strict proof of the reasonableness of the CAM is demanded.

37. Admitted only to the extent the averment describes the proposed recovery.

#### B. Performance Incentives

38. Admitted.

39. Denied. It is denied that the performance incentives as proposed in PGW's Petition are supported. By way of further response, PGW's performance incentive is self-serving in that PGW itself calculates its own incentive target, and then proposes to reward itself for meeting that target at its customers' expense by assessing the incentive as a cost of the Phase II Plan. Furthermore, because PGW already proposes to recover the lost margin associated with the reduced throughput of a limited number of ratepayers at the expense of those who do not benefit from reduced throughput programs via CAM charges, such ratepayers would now be forced into the unfair position of paying the costs to incentivize the very conduct that is already costing them additional expense.

40. Admitted only to the extent the averment describes the Company's proposal

41. Admitted only to the extent the averment describes the Company's proposal.

42. Denied. It is denied that the performance incentive will protect the interest of ratepayers both for the reasons outlined in Paragraph 39 of this Answer and because PGW does not propose any uses of incentive proceeds that benefit its customers, or promote safety.

## **V. Benefits of the Phase II DSM Programs**

43. Admitted only to the extent the averment describes the Company's proposal.

44. Admitted only to the extent the averment describes the Company's proposal.

45. Admitted only to the extent the averment describes the Company's proposal.

46. Admitted only to the extent the averment describes the Company's proposal.

47. Admitted only to the extent the averment describes the Company's proposal.

48. After reasonable investigation, I&E is without information sufficient to form a belief as to whether the program will produce the benefits alleged in Paragraph 48.

49. After reasonable investigation, I&E is without information sufficient to form a belief as to whether the program will produce the benefits alleged in Paragraph 49.

50. After reasonable investigation, I&E is without information sufficient to form a belief as to whether the program will produce the all of the benefits alleged

in Paragraph 50. By way of further response, it is denied that implementation of the proposed CAM and the performance incentives will protect rate payers; on the contrary, such proposals appear to harm ratepayers through the assessment of unfair and imprudent costs.

## **VI. Proposed Schedule/Procedure**

51. It is admitted that PGW requests that the Petition be subject to a collaborative stakeholder process instead of assignment to the Office of the Administrative Law Judge for evidentiary hearings. It is denied that circumventing the evidentiary hearing process is appropriate in this matter, which subjects ratepayers to a brand new cost adjustment mechanism and to funding the proposed incentive costs.

52. After reasonable investigation, I&E is without information sufficient to form a belief as to PGW's goal in circumventing the evidentiary hearing process.

53. Admitted in part, denied in part. It is admitted that PGW proposes the schedule outlined in Paragraph 53, but it is denied that the collaborative process is appropriate in this matter.

## **VII. Approvals Required for Phase II Plan**

54. This averment represents a Prayer for Relief to which no response is required. By way of further explanation, it is denied that the Phase II Plan is just, reasonable, prudent, cost effective, or in the public interest. On the contrary, and for the reasons specified in this Answer, the Phase II Plan, as filed, contravenes



Chapter 22 of the Public Utility Code and Sections 1301, 1319, 1501, and 1505(b)  
of the Code.

### **VIII. Conclusion**

WHEREFORE, for the reasons stated herein, the Bureau of Investigation and Enforcement respectfully requests that the Pennsylvania Public Utility Commission Deny Philadelphia Gas Works' Petition for Phase II of the Demand-Side Management Plan as filed because it lacks sufficient detail to determine if the benefit to ratepayers justifies the claimed costs. Additionally, the Bureau of Investigation and Enforcement respectfully requests that the Commission Deny Philadelphia Gas Works' request to implement only a collaborative process, and instead suspend Philadelphia Gas Works' Petition for investigation and for assignment of the proceeding to the Office of Administrative Law Judge ("OALJ") for the scheduling of Evidentiary Hearings culminating in the issuance of a Recommended Decision.

Respectfully submitted,



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Dated: January 12, 2015