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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PENNSYLVANIA PUBLIC UTILITY  
COMMISSION

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S OFFICE

Docket No. M-00021612 -

v.

PHILADELPHIA GAS WORKS

P-00032061

**PHILADELPHIA GAS WORKS' PETITION FOR  
RESCISSION and AMENDMENT OF FINAL ORDER**

Philadelphia Gas Works ("PGW"), by and through its counsel, respectfully submits this Petition for Rescission and Amendment of Final Order pursuant to Section 703(g) of the Public Utility Code and Section 5.41 of the Commission's regulations. 66 Pa. C.S. § 703(g); 52 Pa. Code § 5.41. By this Petition, PGW respectfully requests that the Commission exercise its discretion to amend its March 31, 2003 Final Opinion and Order in PGW's Restructuring Proceeding so as to authorize the continuation of the Company's Senior Citizen Discount ("SCD"), on a means-tested basis, consistent with the consensus arrived at among PGW, the Mayor and City Council of the City of Philadelphia after consultation with local senior citizen advocacy groups.

Importantly, since the issuance of the Commission's Final Order, Philadelphia City Council passed two ordinances<sup>1</sup> addressing the SCD. One provided that all individuals age 65 and older are to receive a 20% discount after PGW's restructuring, and the second required PGW, in any proposed rate filing with the Commission, to request approval of a continuation of the SCD as it existed prior to the restructuring. These ordinances, which became law without the

<sup>1</sup> See Ordinance approved April 10, 2003 (Bill No. 030123); Ordinance approved April 10, 2003 (Bill No. 030138) (Attachment "A" hereto).

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signature of the Mayor, are an expression of legislative intent to enhance the financial assistance provided to customers over 65 years old.

Subsequent to the passage of these Ordinances, City Council, the City Administration, and PGW, in consultation with representatives of senior advocacy groups, negotiated a revised SCD which incorporates this expression of legislative policy while respecting the Administration's desire to target the discount to seniors who need assistance in paying their gas bill. The agreed upon plan is means tested: a 20% SCD would be available for newly applying seniors<sup>2</sup> 65 years of age or older, whose household income regardless of family size does not exceed 250% of the federal poverty level for a two person family (currently \$30,000.00). (Low-income seniors who qualify for PGW's CRP-CAP program, that provides discounts to people with income no higher than 150% of poverty, could, in the alternative, qualify to receive assistance through that program.) PGW estimates that keeping the program open to new applicants on this basis will increase the amount of senior discount by approximately \$366,000.00 in the first year, but will still result in a 50% reduction in the overall cost of the Senior Citizen Discount by the year 2020, compared to the subsidy level if the SCD continued to be available to all seniors regardless of income level.

Potentially offsetting this modest additional cost is the fact that, although not part of the consensus program, PGW is proposing that income eligible seniors enrolling in the SCD would be required to apply for federally funded grant assistance programs. Despite the fact that LIHEAP and Crisis grant payments have provided more than \$71 million in energy assistance to PGW customers, and revenue to PGW, in the last 3 years alone, approximately 34% of all income eligible individuals – including senior citizens – fail to apply. Requiring new SCD

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<sup>2</sup> For clarity, no change is being proposed in the Discount provided to existing customers, i.e., customers who have entered the program before September 1, 2003.

income eligible applicants to also apply for LIHEAP grants may permit PGW and its customers to realize additional federal LIHEAP funding, which will be used to offset the Senior Discount amount that other customers will be asked to pay in their rates.

Since the question of whether to continue the SCD is largely one of policy and inter- and intra-class fairness, the City Administration and City Council's collective determination that a means-based SCD is not objectionable, and, in fact, represents an important and appropriate social benefit that should be available to City seniors, is of telling importance. Moreover, by focusing the benefit on customers who are most likely in need of such assistance, the concern about giving a subsidy to well-off seniors who do not need the help is eliminated. Accordingly, PGW submits that the Commission should defer to the expression of the public's will in deciding whether and how the PUC should exercise its authority, under Section 2212(r)(1) of the Natural Gas Choice and Competition Act ("Gas Choice Act"), regarding senior citizen discounts.<sup>3</sup> Finally, given the fact that the Commission never found,<sup>4</sup> and the Company never argued, that a forward-applying SCD, and the rates supporting it, were unjust and unreasonable, there exists no impediment to the Commission amending its Final Order to allow a means-based SCD without further evidentiary proceedings so as to permit the discount to continue to be offered, albeit on a mean-tested basis.<sup>5</sup>

Therefore, PGW requests that the Commission amend its Final Order to allow PGW to offer its current 20% SCD on a continuing basis on and after September 1, 2003 to new

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<sup>3</sup> 66 Pa. C.S. § 2212(r)(1): "The commission may approve a program designed to provide discounted rates for natural gas distribution and supply services to senior citizens residing in the service territory of a city natural gas distribution operation provided that such rates and the terms of such program are just and reasonable."

<sup>4</sup> Opinion and Order (March 21, 2003) at 44-45.

applicants, 65 years of age or older, whose income level represents 250% of the Federal poverty level for a two person household (currently \$30,300.00). In further support of this Petition, PGW avers as follows:

1. Section 703(g) of the Public Utility Code states that the Commission “may, at any time, after notice and after opportunity to be heard . . . rescind or amend any order made by it.” 66 Pa. C.S. § 703(g). The decision to so amend an order is within the discretion of the Commission.<sup>6</sup> As the Commission has held, a petition under Section 703(g) “may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code to rescind or amend a prior order in whole or in part.”<sup>7</sup>

2. The current Petition is prompted by the “change in circumstances”<sup>8</sup> arising from the enactment by the Council of the City of Philadelphia of two ordinances declaring the legislative policy of the City regarding the continuation and form of PGW’s SCD<sup>9</sup> and a subsequent agreement among key stakeholders on a compromise version of the SCD that

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<sup>5</sup> Nonetheless, the record in this proceeding contains evidence supporting this Petition. See PGW Exh. CC-2, Report 2 at pp. 11; PGW Exh. CC-4 at 21.

<sup>6</sup> *West Penn Power Co. v. Pa. P.U.C.*, 659 A.2d 1055, 1065 (Pa. Cmwlth. 1995).

<sup>7</sup> *Pa. P.U.C. v. Jackson Sewer Corporation*, 2001 Pa. PUC LEXIS 44, \*6 (citing *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. PUC 553 (December 17, 1982)).

<sup>8</sup> *Id.* Notably, this Petition does not present the typical problem associated with petitions of this nature where parties “raise the same questions which were specifically decided against them.” *Id.* Rather, in this instance, the Commission approved PGW’s proposed treatment of the SCD, and PGW is asking the Commission to exercise its discretion and amend its Order based on the public policy nature of the issue and the safeguards inherent in the democratic process. *Accord Public Advocate v. Philadelphia Gas Com’n*, 674 A.2d 1056, 1063 (Pa. 1996) (citizens unhappy with annual payment to City and City rate-setting ordinance had recourse via electoral process).

<sup>9</sup> Ordinances 030123 and 030138 (Attached hereto as Attachment “A”).

recognizes PGW's original concern about the cost and fairness of a universally available Discount.

3. The Commission should take judicial notice of the legislative findings in Bill Nos. 030123 and 030138. Council has found that: nearly 80% of Philadelphia's households with senior citizens are PGW customers; the vast majority of Philadelphia's seniors have difficulty affording the basic necessities of life and nearly 30% are at or below 150% of the federal poverty line; 97,000 Philadelphia seniors have a disability and are therefore more at risk to harm caused by insufficient heat; and finally, while 127,000 households are eligible for the SCD, only 80,000 have chosen to apply for it, demonstrating that the SCD is utilized on the basis of perceived necessity, and is not subject to substantial abuse.<sup>10</sup>

4. PGW's initial proposal in this matter, to discontinue the current SCD as of September 1, 2003 (the restructuring implementation date), was driven by the concern that a generally available SCD unreasonably increased the rates for non-senior residential, commercial and industrial firm customers without adequate justification. This was consistent with the recommendations of the PUC's Management Auditors who had recommended that the SCD be eliminated and that any discounts be need based.<sup>11</sup> While the Company planned to end the SCD for new participants, its proposal called for the SCD to continue for current participants, as required by Section 2212(r)(2) of the Gas Choice Act. Under PGW's plan, the most needy senior citizens who would have otherwise been SCD eligible would, in the future, receive

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<sup>10</sup> Bill No. 030123 at § 1.

<sup>11</sup> PUC Management Audit Report at VIII-38. The advantages of a needs based approach were also discussed by H. Gil Peach, Ph.D., in his analysis of PGW's SCD. PGW Exh. CC-4 at 21.

assistance through the new, Commission-approved, CRP-CAP Program.<sup>12</sup> This approach was reasonable in light of the fact that a large portion of the burden of the SCD is born by non-senior residential customers who already find themselves challenged to pay their gas bills.

5. In an attempt to accommodate the important concerns of Philadelphia City Council, while acknowledging the legitimate concerns that led PGW initially to propose a means-tested SCD – City Council, the City Administration, and PGW, after consultation with representatives of senior advocacy groups — have successfully negotiated a compromise plan. The compromise plan would continue the SCD for new applicants, age 65 or older, at the present 20% level, but limit it to seniors whose household income regardless of family size does not exceed 250% of the federal poverty level for a two person household (currently \$30,300.00). This is similar to the plan that is presently offered by the Philadelphia Water Department<sup>13</sup> and directs the benefit to seniors who are the most likely to be in need of energy assistance but who would not qualify for PGW's existing low income assistance program.

6. The compromise plan is also supported by the record evidence in this proceeding. PGW's expert, H. Gil Peach, Ph.D., who reviewed the Company's universal service programs and SCD, reported that 250% of the federal poverty level is an appropriate demarcation point for providing assistance to the needy in this context.<sup>14</sup>

7. PGW estimates that keeping the program open to new applicants on the basis described above will result in approximately 1,300 new participants in the program in the first

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<sup>12</sup> An important part of PGW's proposal in the Restructuring Proceeding was its commitment to place all low-income seniors in the existing CRP-CAP program which provides substantial discounts to customers based on ability to pay.

<sup>13</sup> The Water Department's program currently sets the income level at 200% of the poverty level.

<sup>14</sup> PGW Exh. CC-2, Report 2 at 11.

year, increasing the amount of senior discount by approximately \$366,000 annually. Even if the SCD program remains open on the means tested basis proposed herein, the number of participants and cost of the SCD will continue to decline over the next 17 years from the present estimate of 80,000 participants to 49,000 by 2020, with a corresponding reduction in net cost of over \$8.5 million per year (from \$17.3 million to \$8.4 million annually).<sup>15</sup>

8. Additionally, PGW is proposing that income eligible seniors enrolling in the SCD would be required to apply for federal assistance programs. As indicated above, despite the fact that LIHEAP and Crisis grant payments have provided more than \$71 million in energy assistance to PGW customers, and revenue to PGW, in the last 3 years, alone, approximately 34% of all income eligible individuals – including senior citizens – fail to apply. Moreover, PGW's data tends to show that a number of customers who presently are eligible to participate in PGW's CRP-CAP program also fail to do so. PGW believes it reasonable to assume that some portion of these non-participants are seniors. It is also reasonable to assume that there are seniors whose income level makes them eligible for CRP-CAP who will be more comfortable applying for the SCD as opposed to CRP-CAP. Accordingly, requiring that an SCD applicant also apply for federal energy assistance funding creates the potential that PGW will garner additional LIHEAP funds that would otherwise be lost. If PGW does enjoy an increase in the level of LIHEAP and Crisis grant payments, it will use the additional grants as an offset to the SCD discount charged to remaining customers through its Universal Service Charge, thereby providing an immediate offset to the modest additional rate charges to non-SCD customers that will result from continuing the SCD on a means-tested basis.<sup>16</sup>

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<sup>15</sup> See, Verified Statement of Cristina Attachment "B" hereto.

<sup>16</sup> Coltro Verified Statement, ¶ 8.

9. With the negotiation of this proposal representing the consensus positions of not only PGW, but also the City Administration and City Council, the democratically elected voices for the people of Philadelphia have spoken and rendered a very strong statement in favor of the Commission exercising its discretion in Section 2212(r)(1) of the Gas Choice Act to continue the SCD on a going forward basis in the manner proposed. In reaching this policy determination, the City stakeholders factored the vast array of considerations impacting their decision and, as the democratic representatives of those who would be asked to support the continuation of the SCD, concluded that the health, safety and welfare of the City's large low and lower-income senior citizen population outweighed the other economic and competitive policy considerations supporting a complete elimination of this benefit.

10. The Commission should recognize the important role of the City stakeholders as the people's voice, give their views great weight, and defer to this consensus in determining whether to authorize a SCD for PGW pursuant to Section 2212(r)(1) of the Act.<sup>17</sup> Indeed, the change in circumstances emanating from Council's expression of the people's will and the subsequent negotiation of a consensus agreement justifies an amendment to the Commission's Final Order concerning the SCD. There is absolutely no evidence in the record suggesting that PGW's current SCD is unjust and unreasonable, and the Commission did not so find in its Final Order.<sup>18</sup> The PUC determination was rendered principally on policy grounds.

11. In addition, the proposed plan plainly is a reasonable approach to continuing the SCD. As a general proposition, there is ample precedent for extending a discount for services to

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<sup>17</sup> Giving substantial consideration to the policy decisions of the City of Philadelphia on this issue is generally consistent with the General Assembly's recognition of the City's important, ongoing role in determining the "mission" of PGW. 66 Pa. C.S. § 2212(s).

<sup>18</sup> Opinion and Order at 44-45.

senior citizens at the proposed income levels. Significantly, Pennsylvania's PACE and PACENET programs offer seniors assistance with prescription drug costs. Recently the Department of Aging has proposed that the PACENET program be available to seniors with approximately the same 250% of federal poverty level income limits proposed here.<sup>19</sup> Other examples include Pennsylvania's Senior Citizen Property Tax Assistance Act,<sup>20</sup> which provides property tax or rent rebates primarily to persons age 65 or older, as well as programs which mandate discounts on automobile insurance for persons age 55 or older and reduced fees for seniors obtaining motor vehicle registrations and dog licenses.<sup>21</sup> In each of these instances, the benefit of discounted fees for service are, directly or indirectly, recovered from the remainder of the citizenry. The intra- and inter-class cross subsidies caused by the special senior rates in the above instances have been authorized because the General Assembly or the State Administration, as representative of all citizens, has determined that the subsidies are justified and reasonable as a means of assisting the Commonwealth's seniors.

12. Moreover, by focusing the benefit on customers who clearly can justify such assistance – seniors whose income is at a level that equates to 250% of the current federal poverty level (for a two person household) – the concern about giving a subsidy to well-off seniors who do not need the help is eliminated. Seniors with annual income of just \$30,300.00 (the dollar amount which equates to 250% of the poverty level for a two person household) clearly are not affluent. Moreover, the recent proposed revision to the income eligibility

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<sup>19</sup> A bi-partisan initiative spear-headed by Governor Rendell and announced on May 29, 2003, proposed to offer PACENET benefits to seniors up to the 250% threshold. *See* Pennsylvania Department of Aging website at [www.aging.state.pa.us/aging/CWP](http://www.aging.state.pa.us/aging/CWP).

<sup>20</sup> 72 P.S. § 4751-1 et seq.

<sup>21</sup> *See generally*, Pennsylvania Department of Aging Web site at [www.aging.state.pa.us/aging/CWP](http://www.aging.state.pa.us/aging/CWP).

requirements for the State's prescription drug subsidy plan provides conclusive evidence that providing benefits to seniors with incomes up to this level is consistent with the Commonwealth's view of an appropriately targeted senior benefit program. In light of the above, a means-based SCD – with a 250% of the current federal poverty level income cut-off – clearly is justified.

13. When the issue before the Commission involves balancing the appropriateness of providing a subsidy to one group of customers with the cost imposed on the remaining ratepayers, great weight should be assigned to the views of the elected representatives of those customers. The compromise proposal represents a clear determination that the benefits to low-income seniors of continuing the discount on a means tested basis outweigh the modest additional cost that will be imposed on remaining ratepayers to make this support available. Ultimately, the members of City Council and the City Administration are the elected representatives of those ratepayers who will be asked to support the SCD, and accordingly, as the Pennsylvania Supreme Court has recognized, if the ratepayers are dissatisfied with the policy adopted by their representatives, they have the democratic process as a means of expressing their displeasure and securing change.<sup>22</sup>

14. PGW's proposal that the Commission adopt the consensus position of the key City stakeholders is in no way inconsistent with the Gas Choice Act or the Commission's assumption of jurisdiction over PGW. Rather, the Company is simply arguing that in the Commission's exercise of its discretion under Section 2212(r)(1), when deciding whether *it* will authorize a Senior Citizen Discount in PGW's service territory on a going forward basis, it

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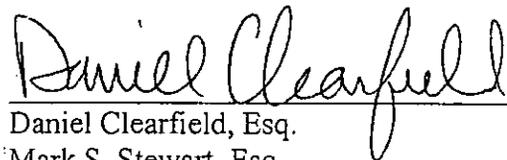
<sup>22</sup> *Public Advocate*, 674 A.2d at 1063.

should consider strongly the views of the City, derived through its legislative and executive representatives.

WHEREFORE, PGW respectfully requests that the Commission amend its Final Order of March 21, 2003, in the above-captioned matter as follows:

1. Rescind the portions of its Final Order of March 31, 2003 to the extent that it approved the closing of the Senior Discount Program to new participants, as of September 1, 2003;
2. Order the continued availability to new participants of a 20% Senior Citizen Discount, for those applicants who are age 65 or older and whose household income is no higher than 250% of the federal poverty level for a two person family, which presently equates to \$30,300.00, and who meet the other requirements discussed herein;
3. Direct PGW, within ten (10) days of the entry of said order, to file revisions to its Gas Service Tariff, Pa. PUC No. 2 (PGW Restructuring Tariff) to implement the amendment of the PUC's March 31, 2003 Order, as requested herein, for service on or after September 1, 2003; and
4. Order any other relief determined by the Commission to be in the public interest..

Respectfully submitted,



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Date: July 7, 2003

# ATTACHMENT A

# City of Philadelphia



(Bill No. 030123)

## AN ORDINANCE

Requiring that any proposed rate filing with the Pennsylvania Public Utility Commission on behalf of the City's natural gas distribution operation include a proposal to continue the existing senior citizen discount; requiring that if any such filing was made prior to the date this Ordinance became law, such filing shall be amended to include a proposal to continue the senior citizen discount; and authorizing and directing the execution of an amendment to the City's agreement with the Philadelphia Facilities Management Corporation to conform with the requirements of this Ordinance; all under certain terms and conditions.

WHEREAS, The City, through gas rates approved by the Philadelphia Gas Commission, has provided a senior citizen discount since 1974; and

WHEREAS, Under the Natural Gas Choice and Competition Act, the Public Utility Commission ("PUC") now approves rates for the provision of natural gas by the City's natural gas distribution operation, based upon its review of a proposed rate filing made on behalf of such operation; and

WHEREAS, The Natural Gas Choice and Competition Act expressly "grandfathers" the City's current senior citizen discount for senior citizens receiving such discount as of a specified date, and it further expressly authorizes the PUC to "approve a program designed to provide discounted rates for natural gas distribution and supply services to senior citizens residing in the service territory of a city natural gas distribution operation provided that such rates and the terms of such program are just and reasonable" (66 Pa. C.S. §2212(r)); and

WHEREAS, The City therefore may include in its proposed rate filings with the PUC a proposal to continue the senior citizen discount under its existing terms, and Council finds that the inclusion of such a proposal to continue the senior citizen discount would be in the best interests of the health, safety and welfare of the residents of Philadelphia, and, in particular, would be a vitally important benefit to the City's seniors; and

WHEREAS, The Natural Gas Choice and Competition Act provides that nothing in that Act "shall be construed to abrogate or limit the executive or legislative powers of a city that owns a city natural gas distribution operation to legislate or otherwise determine the powers, functions, budgets, activities and mission of the city natural gas distribution operation" (66 Pa. C.S. §2212(s)); and

WHEREAS, Council enacts this Ordinance governing the powers, functions, activities

# City of Philadelphia

BILL NO. 030123 continued

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and mission of the City's natural gas distribution operation pursuant to the legislative powers granted exclusively to it under the Philadelphia Home Rule Charter, and pursuant to the powers preserved to it under the Natural Gas Choice and Competition Act; now, therefore

## *THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

### SECTION 1. Legislative Findings. City Council hereby finds that:

(a) Of the 159,000 Philadelphia households which include senior citizens, approximately 127,000 of these households use natural gas for heating; and

(b) The vast majority of Philadelphia's senior citizens have difficulty affording the basic necessities of life, and almost 30% of Philadelphia's senior citizens have incomes which are at or below 150% FPL (Federal Poverty Level), a universally recognized standard of acute energy assistance need; and

(c) Ninety-seven thousand (97,000) Philadelphia senior citizens, almost one half of Philadelphia's senior citizens population, have a disability, and are therefore more vulnerable to harm caused by insufficient heat or lack of heat caused by natural gas service terminations; and

(d) Even those senior citizens who are not disabled are more vulnerable than most other adult customers to hypothermia and other physical harms caused by insufficient heat or lack of heat caused by natural gas service terminations; and

(e) Ninety-three percent (93%) of PGW senior citizen customers are heating customers; and

(f) Approximately one third of Philadelphia's senior citizen customers live alone, and run the health risks associated with isolation; and

(g) Pursuant to an Ordinance of City Council approved December 14, 1973 (Bill No. 1021) ("1973 Ordinance") the City of Philadelphia has for approximately thirty years provided for a 20% senior citizen discount for PGW customers aged 65 and older who wish to apply for the benefit; and

(h) PGW estimates that its Senior Citizen Discount program provides benefits of approximately \$20 million per year to 80,000 seniors by reducing the cost of natural gas service that since 2000 has increased by approximately 40%; and

(i) While 127,000 Philadelphia households receiving gas service include a Senior Citizen, only 80,000 have chosen to apply for the Senior Citizen Discount

# City of Philadelphia

BILL NO. 030123 continued

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program, demonstrating that PGW's SCD program is utilized on the basis of perceived necessity, is not subject to substantial abuse, and does not need to be means tested; and

(j) For over 30 years, younger PGW customers have supported through their gas rates a 20% Senior Citizen Discount, with the justifiable expectation that they would receive the same discount when they reached age 65; and

(k) Senior Citizen Discounts are common for public utilities that are publicly owned by municipalities or other such public authorities, and have been recognized by courts to be just and reasonable; and

(l) For all these reasons, continuing the senior citizen discount under its existing terms would be in the best interests of the health, safety and welfare of the residents of Philadelphia.

SECTION 2. Whenever a proposed rate filing is made to the Public Utility Commission ("PUC") on behalf of the City's natural gas distribution operation, such proposed rate filing shall include a proposal to continue the discount afforded to senior citizens under the same terms that the senior citizen discount was last approved by the Philadelphia Gas Commission:

SECTION 3. If any proposed rate filings have been made to the PUC on behalf of the City's natural gas distribution operation before this Ordinance became law, the entity making such filing shall, within one week after this Ordinance became law, file an amendment to such proposed rate filing that conforms with the requirements of Section 2 of this Ordinance.

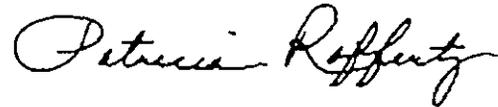
SECTION 4. Council hereby authorizes and directs the Mayor to enter into an amendment to the City's agreement with the Philadelphia Facilities Management Corporation ("PFMC"), as authorized by Ordinance approved December 29, 1972 (Bill No. 455), as amended, to require that any proposed rate filing made by PFMC to the PUC on behalf of the City's natural gas distribution operation shall conform with the requirements of Sections 2 and 3 of this Ordinance.

# City of Philadelphia

BILL NO. 030123 continued

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on April 10, 2003. The Bill was Signed by the Mayor on April 24, 2003.



Patricia Rafferty  
Chief Clerk of the City Council

# City of Philadelphia



(Bill No. 030138)

## AN ORDINANCE

Enacting a new Chapter 19-2000 of The Philadelphia Code, entitled "Discounted Rates for Natural Gas Distribution and Supply Services for Senior Citizens," reaffirming and re-enacting a Senior Citizens Discount for senior citizen customers of the Philadelphia Gas Works.

### *THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. A new Chapter 19-2000 of The Philadelphia Code, entitled "Discounted Rates for Natural Gas Distribution and Supply Services for Senior Citizens," is hereby enacted to read as follows:

#### *CHAPTER 19-2000. DISCOUNTED RATES FOR NATURAL GAS DISTRIBUTION AND SUPPLY SERVICES FOR SENIOR CITIZENS.*

*§19-2001 Legislative Findings. City Council hereby finds that:*

- (1) Of the 159,000 Philadelphia households which include senior citizens, approximately 127,000 of these households use natural gas for heating; and*
- (2) The vast majority of Philadelphia's senior citizens have difficulty affording the basic necessities of life, and almost 30% of Philadelphia's senior citizens have incomes which are at or below 150% FPL (Federal Poverty Level), a universally recognized standard of acute energy assistance need; and*
- (3) Ninety-seven thousand (97,000) Philadelphia senior citizens, almost one half of Philadelphia's senior citizens population, have a disability, and are therefore more vulnerable to harm caused by insufficient heat or lack of heat caused by natural gas service terminations; and*
- (4) Even those senior citizens who are not disabled are more vulnerable than most other adult customers to hypothermia and other physical harms caused by insufficient heat or lack of heat caused by natural gas service terminations; and*
- (5) Ninety-three percent (93%) of PGW senior citizen customers are heating customers; and*

# City of Philadelphia

BILL NO. 030138 continued

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(6) *Approximately one third of Philadelphia's senior citizen customers live alone and run the health risks associated with isolation; and*

(7) *Pursuant to an Ordinance of City Council approved December 14, 1973 (Bill No. 1021)("1973 Ordinance") the City of Philadelphia has for approximately thirty years provided for a 20% senior citizen discount for PGW customers aged 65 and older who wish to apply for the benefit; and*

(8) *PGW estimates that its Senior Citizen Discount program provides benefits of approximately \$20 million per year to 80,000 seniors by reducing the cost of natural gas service that since 2000 has increased by approximately 40%; and*

(9) *While 127,000 Philadelphia households receiving gas service include a Senior Citizen, only 80,000 have chosen to apply for the Senior Citizen Discount program, demonstrating that PGW's SCD program is utilized on the basis of perceived necessity, is not subject to substantial abuse, and does not need to be means tested; and*

(10) *For over 30 years, younger PGW customers have supported through their gas rates a 20% Senior Citizen Discount, with the justifiable expectation that they would receive the same discount when they reached age 65; and*

(11) *Senior Citizen Discounts are common for public utilities that are publicly owned by municipalities or other such public authorities, and have been recognized by courts to be just and reasonable; and*

(12) *The Natural Gas Choice and Competition Act, at 66 Pa. C.S.A. §2212(r), has recognized City Council's power to create a Senior Citizen Discount Program, subject to review by the Pennsylvania Public Utility Commission; and*

(13) *In light of Section 2212(r) of the Natural Gas Choice and Competition Act, it is appropriate at this time that this Council reaffirm its establishment of a Senior Citizen Discount for PGW customers as authorized initially in its Ordinance of December 14, 1973.*

(14) *As stated in Bill No. 030123, introduced by the President of City Council on February 27, 2003, "to continue the senior citizen discount under its existing terms . . . would be in the best interests of the health, safety and welfare of the residents of Philadelphia."*

## §19-2002. Definitions.

(1) *"Eligible Senior Citizen" shall mean a residential customer of record of the Philadelphia Gas Works age sixty-five (65) or older residing in the City of Philadelphia*

# City of Philadelphia

BILL NO. 030138 continued

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*who directly makes payment to the operator of the Gas Works for gas services at his or her residence.*

(2) *"Philadelphia Gas Works" or "PGW" shall mean a group of real and personal assets operated by the Philadelphia Facilities Management Corporation for the sole and exclusive benefit of the City of Philadelphia.*

(3) *"1973 Ordinance" shall mean an Ordinance of City Council approved December 14, 1973 (Bill No. 1021) relating to gas rate discount for Senior Citizens.*

## *§19-2003. Gas Rate Reduction.*

*The Philadelphia Gas Works shall establish and maintain, until and unless terminated by ordinance, a reduction in charges for natural gas distribution and supply services for any eligible senior citizen in the amount of twenty percent (20%) of the charges for heating and non-heating purposes to his or her residence. In order to qualify for this reduction, an eligible senior citizen must first apply to the Philadelphia Gas Works for a rate reduction at least thirty days before the next scheduled meter reading. The reduction shall then take effect at the start of the succeeding billing period. Any senior citizen currently receiving a rate reduction under the terms of the 1973 Ordinance shall continue to receive the reduction without applying under the provisions of this Section.*

SECTION 2. This Ordinance and the 1973 Ordinance shall supersede all statutes or parts of statutes, local, special or general, or regulations, including but not limited to the Natural Gas Choice and Competition Act, 66 Pa. C.S.A. §2201 et. sec., to the extent that they are inconsistent or in conflict with either this Ordinance and the 1973 Ordinance.

SECTION 3. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this Section which can be given effect without the invalid provision or application, and to this end the provisions of this Section are declared to be severable. If any clause, sentence, paragraph or phrase of this Section shall, for any reason, be adjudged by any court of competent jurisdiction, or administrative agency, to be unconstitutional or otherwise invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or phrase thereof so found to be unconstitutional or invalid.

SECTION 4. This Ordinance shall be effective immediately.

# City of Philadelphia

BILL NO. 030138 continued

Certified Copy

CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on April 10, 2003. The Bill was Signed by the Mayor on April 24, 2003.



Patricia Rafferty  
Chief Clerk of the City Council

# ATTACHMENT B

**VERIFIED STATEMENT OF  
CRISTINA COLTRO**

1. My name is Cristina Coltro and my business address is 800 W. Montgomery Ave, Philadelphia, PA 19122. I am employed by the Philadelphia Gas Works ("PGW" or the "Company") as the Manager of Universal Service Programs. I testified in PGW's Restructuring Proceeding on the subject of the Senior Citizen Discount ("SCD") and PGW's low income assistance program (CRP/CAP). My resume appears as an attachment to my testimony in that proceeding (PGW St. 8).

2. The purpose of this Affidavit is to explain and support PGW's proposal to continue its Senior Citizen Discount ("SCD") on and after September 1, 2003, on a means tested basis, which proposal is the subject of PGW's SCD Petition.

3. PGW's decision to modify its SCD proposal in its restructuring plan and to seek Commission approval of that modification has been prompted by the change in circumstances arising from the enactment by the Council of the City of Philadelphia of two ordinances declaring the legislative policy of the City regarding the continuation and form of PGW's SCD<sup>1</sup> and a subsequent agreement among key stakeholders on a compromise version of the SCD that recognizes PGW's original concern about the cost and fairness of a universally available Discount.

4. The compromise plan (set out in the Resolution attached as Attachment "B" to PGW's SCD Petition) would continue the SCD for new applicants, age 65 or older, at the present 20% level, but limit it to seniors whose household income was no greater than 250% of the federal poverty level for a two person household, currently \$30,300. This is similar to the plan that is presently offered by the Philadelphia Water Department (the Water Department's income cut-off is 200% of poverty) and directs the benefits to seniors who are the most likely to be in need of energy assistance but who would not qualify for PGW's existing low income assistance program. I understand that the income limit is also similar to the recently proposed income eligibility requirements for the PACE and PACENET Drug Discount Plan, although the PACENET eligibility level would be lower (\$22,800) for a one person household.

5. PGW estimates that keeping the program open to new applicants on the basis described above results in approximately 1,300 new participants in the SCD program in the first year, increasing the amount of senior discount recovered from remaining customers by approximately \$366,000 annually.

6. Under the means tested program proposal, the number and cost of the SCD will continue to decline over the next 18 years from the present estimate of 80,000 participants to 49,000 by 2020, with a corresponding reduction in net cost of over \$8.6 million per year (from \$17 million to \$8.4 million annually).

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<sup>1</sup> See Ordinances 030123 and 030138 which are attached Attachment "A" to PGW's SCD Petition.

7. Additionally, PGW is proposing that income eligible seniors enrolling in SCD (those enrollees with income at or below 150% of the federal poverty level) would be required to apply for low-income federal assistance programs. This requirement would provide an increased revenue source since, despite the fact that LIHEAP and Crisis grant payments have provided more than \$71 million in energy assistance to PGW customers, and revenue to PGW, in the last 3 years, alone, approximately 34 % of all income eligible individuals—including senior citizens—fail to apply.

8. PGW's data demonstrates that a significant number of customers who presently are eligible to participate in PGW's CRP/CAP program fail to enroll. It is clear that some portion of these non-participants are seniors. It is also reasonable to assume that there is a significant group of seniors whose income level make them eligible for CRP/CAP who are more comfortable applying for the SCD as opposed to CRP/CAP. Accordingly, requiring that an SCD applicant also apply for federal energy assistance funding is likely to incent seniors to apply for LIHEAP and Crisis grants resulting in additional federal funds above current levels. If, as a result of this requirement, PGW does experience an increase in the level of LIHEAP and Crisis grant payments, it will use the additional grants as an offset to the SCD discount charged to remaining customers through its Universal Service Charge. This offset will provide a decrease in the amount of the modest additional rate charges to non-SCD customers that will result from continuing the SCD on a means tested basis.

9. PGW's SCD proposal is a reasonable approach to continuing the SCD. There is ample precedent for extending a discount for services to senior citizens at the proposed income levels. Significantly, Pennsylvania's PACE and PACENET programs offer seniors assistance with prescription drug costs. I understand that, recently, the Department of Aging has proposed that the PACENET program be available to seniors with approximately the same 250% of Federal poverty level income proposed here.<sup>2</sup> Other examples include the Pennsylvania Senior Citizen Property Tax Assistance Act, which provides property tax or rent rebates to seniors 65 years or older, a Pennsylvania law mandating discounts on automobile insurance for persons age 55 or older and a requirement that seniors may obtain motor vehicle registrations and dog licenses at reduced fees.<sup>3</sup> In each of these instances, the discounted fees for service are, directly or indirectly, recovered from the remaining citizens.

10. Moreover, by focusing the benefit on customers who clearly can justify such assistance—seniors whose income is at a level that equates to 250% of the current federal poverty level (for a two person household) -- the concern about giving a subsidy to well-off seniors who don't need the assistance is addressed. Senior households with annual income of just \$30,300 are not affluent.

---

<sup>2</sup> A bi-partisan initiative spear-headed by Governor Rendell and announced on May 29, 2003 proposed to offer PACENET benefits to seniors up to the 250% threshold. See Pennsylvania Department of Aging website at [www.aging.state.pa.us/aging/CWP](http://www.aging.state.pa.us/aging/CWP).

<sup>3</sup> See generally, Pennsylvania Department of Aging Web site at [www.aging.state.pa.us/aging/CWP](http://www.aging.state.pa.us/aging/CWP).

I hereby verify that I am authorized to make this verification on behalf of Philadelphia Gas Works and that the information contained in the foregoing is true and correct to the best of my knowledge, information and belief and is made subject to the penalties relating to unsworn falsification to authority as prescribed 18 Pa.C.S. § 4904.



---

Cristina Coltro



1424 Chestnut Street, Philadelphia, PA 19102-2505  
Phone: 215.981.3700, Fax: 215.981.0434  
Web Address: www.clsphila.org

November 12, 2003

RECEIVED  
03 NOV 17 AM 11:03  
A.P.U.C.  
SECRETARY'S BUREAU

Honorable Allison K. Turner  
Administrative Law Judge  
1302 Philadelphia State Office Building  
1400 West Spring Garden Street  
Philadelphia, PA 19130

By FAX

Re: Philadelphia Gas Works Senior Citizen Discount  
Docket Nos. P-00032961; M-00021612

DOCUMENT

*P-00032061*

Dear Judge Turner:

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

Enclosed please find CEPA et al.'s Prehearing Memorandum with regard to PGW's Senior Citizen Discount.

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

Very truly yours,

PHILIP A. BERTOCCI

Attorney for CEPA et al.

cc: Certificate of Service  
James J. McNulty, Secretary

Enclosures

RJP

## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of CEPA et al.'s Prehearing Memorandum concerning the Philadelphia Gas Works' Petition to Modify Senior Citizen Discount Program upon the participants listed below in accordance with the requirements of § 1.54 (relating to service by a participant).

Date: November 12, 2003

### Via First Class U.S. Mail and E-Mail

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Philadelphia, PA 19122  
E-mail: [david.griesing@pgworks.com](mailto:david.griesing@pgworks.com)



-----  
PHILIP A BERTOCCI, ESQUIRE

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**DOCKETED**  
NOV 24 2003

Pennsylvania Public Utility Commission :

v. :

Philadelphia Gas Works :

M - 00021612

P-00032061

**DOCUMENT**

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

The Consumers Education and Protective Association, the Association of Community Organizations for Reform Now, Tenants' Action Group and Action Alliance of Senior Citizens of Greater Philadelphia (hereinafter "CEPA et al."), through counsel, pursuant to the Pre-Hearing Order issued on November 10, 2003 hereby submit this Pre-Hearing Memorandum concerning PGW's proposed Modification of the Senior Citizen Discount Program.

**I. Procedural History**

On July 7, 2003, the Philadelphia Gas Works (PGW) filed a Petition for Rescission and Amendment of the Commission's Order of March 31, 2003 in PGW's Restructuring Proceeding (M - 00021612) regarding the Senior Citizen Discount (SCD). PGW now proposes to continue the SCD on a needs-tested basis for Senior Citizen PGW customers who apply for the SCD after September 1, 2003. The Gas Choice Act Section 2212(r)(1)

provides that the Commission may approve such a program provided that the rate is just and reasonable.

Replies were filed to the Petition by OTS, OCA and CEPA et al.

On October 2, 2003, the Commission declined to grant the Petition without further development of the record. The matter was assigned to the OALJ for hearing and preparation of a Recommended Decision on an expedited basis.

On October 23, 2003, an initial prehearing conference was scheduled for November 12, 2003. On November 10, 2003, Administrative Law Judge Allison K. Turner issued an Order requiring Prehearing Memoranda and proposed schedules to be submitted to the ALJ by 12:00 noon on November 12, 2003.

## **II. Issues.**

For CEPA et al. the issues in this case are:

- (1) whether PGW's proposed SCD is "just and reasonable" and
- (2) whether the proposed SCD complies with the Gas Choice Act Section 2212(s) and with the SCD modification enacted by the governing body of the City of Philadelphia.

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

### **III. Service of Documents.**

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

Philip A. Bertocci  
COMMUNITY LEGAL SERVICES, INC.  
1424 Chestnut Street, 4<sup>th</sup> Floor  
Philadelphia, PA 19102  
(215) 981-3702

### **IV. Witnesses**

CEPA et al anticipate that they will submit testimony, but have not at this stage identified the specific witness(es). CEPA et al. reserve the right to present direct, rebuttal and surrebuttal testimony, as may be necessary, and will notify the presiding Judge and the parties as soon as such witness(es) may be identified.

### **V. Schedule.**

PGW has proposed a schedule which is acceptable to CEPA et al.

### **VI. Public Input Hearings**

In light of the fact that there were numerous and extensive public input hearings associated with the City Council deliberations, and of the expedited nature of these proceedings, CEPA et al. are not requesting Public Input Hearings.

**VII. Possibility of Settlement**

CEPA et al. will participate in settlement discussions to explore the possibility of a full or partial settlement in this proceeding.

Respectfully submitted,



---

PHILIP A. BERTOCCHI, ESQUIRE

Attorney for CEPA et al.

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

November 12, 2003



McNees Wallace & Nurick LLC  
attorneys at law

ORIGINAL

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

November 12, 2003

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

**VIA HAND DELIVERY**

**Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works;  
Docket Nos. P-00032061 & M-00021612**

Dear Secretary McNulty:

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

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

DOCUMENT  
FOLDER

Very truly yours,

MCNEES WALLACE & NURICK LLC

By *Charis Mincavage*  
Charis Mincavage

Counsel to the Philadelphia Industrial and  
Commercial Gas Users Group

Enclosures

CM/lhe

c: Administrative Law Judge Allison Turner (via e-mail and first class mail)  
Certificate of Service

RECEIVED

NOV 12 2003

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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*[Signature]*

ORIGINAL

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC  
UTILITY COMMISSION

v.

PHILADELPHIA GAS WORKS

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Docket No. M-00021612

Docket No. P-00032061

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FOLDER

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

---

Pursuant to Administrative Law Judge ("ALJ") Allison Turner's November 10, 2003 Prehearing Order, the Philadelphia Industrial and Commercial Gas Users Group ("PICGUG") hereby submits this Prehearing Memorandum in the above-captioned proceeding.

**I. HISTORY OF THE PROCEEDING**

On July 7, 2003, Philadelphia Gas Works ("PGW") filed its Petition for Rescission and Amendment ("Petition") of the Pennsylvania Public Utility Commission's ("PUC" or "Commission") March 31, 2003 Order, regarding the status of PGW's Senior Citizen Discount ("SCD"). Specifically, PGW seeks to continue the SCD on a needs-tested basis rather than on the basis requested before and approved by the Commission. On October 2, 2003, the Commission declined to grant PGW's Petition without development of a record. For that reason, the PUC assigned this proceeding to ALJ Turner for hearing and preparation of a Recommended Decision ("R.D.") on an expedited basis. On October 20, 2003, PICGUG filed a Petition to Intervene in this proceeding. A description of PICGUG is set forth in Paragraph 4 of PICGUG's Petition to Intervene.

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**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

## **II. ANTICIPATED ISSUES AND SUB-ISSUES**

PICGUG is concerned with any modification to PGW's SCD, which could impact the rates and services of large commercial and industrial customers. PICGUG anticipates reviewing these issues during this proceeding, and PICGUG reserves the right to raise further issues and to respond to issues raised by other parties.

## **III. PROPOSED WITNESSES**

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

## **IV. PROPOSED SCHEDULE AND DISCOVERY RULES**

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

V. **POSSIBILITY OF SETTLEMENT**

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

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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

Counsel to the Philadelphia Industrial and  
Commercial Gas Users Group

Dated: November 12, 2003

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**CERTIFICATE OF SERVICE**

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

**VIA E-MAIL AND FIRST CLASS MAIL**

Johnnie Simms, Esq.  
Office of Trial Staff  
Pennsylvania Public Utility Commission  
The Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

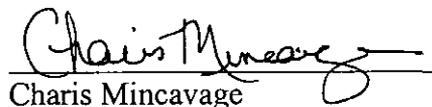
Tanya McCloskey, Esq.  
Stephen Keene, Esq.  
Office of Consumer Advocate  
555 Walnut Street, Forum Place - 5<sup>th</sup> Fl.  
Harrisburg, PA 17120

Philip A. Bertocci, Esq.  
Community Legal Services, Inc.  
1424 Chestnut Street, 3<sup>rd</sup> Floor  
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Steven C. Gray, Esq.  
Office of Small Business Advocate  
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Daniel Clearfield, Esq.  
Mark S. Stewart, Esq.  
Wolf, Block, Schorr and Solis-Cohen LLP  
212 Locust Street  
Suite 300  
Harrisburg, PA 17101

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

  
Charis Mincavage

Dated this 12<sup>th</sup> day of November, 2003, in Harrisburg, Pennsylvania.

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NOV 12 2003

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU



ORIGINAL

## 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 19, 2003

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

DOCUMENT

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NOV 19 2003

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Re: Pennsylvania Public Utility Commission  
v.  
Philadelphia Gas Works  
Docket No. M-00021612  
Petition for Rescission and Amendment  
Docket No. P-00032061

Dear Secretary McNulty:

Enclosed for filing please find an original and three (3) copies of the Office of Consumer Advocate's Notice of Intervention in the above-referenced proceeding.

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

Sincerely yours,

Christy M. Appleby  
Assistant Consumer Advocate

Enclosure

cc: All parties on record

70269

RJP  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Pennsylvania Public Utility Commission,

v.

Philadelphia Gas Works

Petition for Rescission and Amendment

Docket Nos. M-00021612

P-00032061

NOTICE OF INTERVENTION

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Pursuant to 52 Pa. Code §§ 5.71-74, the Office of Consumer Advocate hereby gives Notice of Intervention in the above-captioned proceeding. A copy of all correspondence and notices, documents, orders or other communications with respect to the above-captioned proceeding should be addressed to the following:

Stephen J. Keene  
Senior Assistant Consumer Advocate  
Christy M. Appleby  
Assistant Consumer Advocate  
Office of Consumer Advocate  
5th Floor, Forum Place  
555 Walnut Street  
Harrisburg, PA 17101-1923

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DEC 18 2003  
DOCUMENT

Respectfully submitted,

*Christy M. Appleby*  
Christy M. Appleby  
Assistant Consumer Advocate

DATED: November 19, 2003

PUBLIC STATEMENT OF THE  
OFFICE OF CONSUMER ADVOCATE  
PURSUANT TO 71 P.S. SECTION 309-4(e)

Act 161 of the Pennsylvania General Assembly, 71 P.S. § 309-2, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers before the Pennsylvania Public Utility Commission (PUC or Commission). In accordance with Act 161, and for the following reasons, the Consumer Advocate determined to file a Notice of Intevention and participate in proceedings before the Commission involving Philadelphia Gas Works (PGW) Petition for Rescission and Amendment of Final Order filed on July 7, 2003 under Docket Nos. M-00021612 and P-00032061.

On July 21, 2003, the Office of Consumer Advocate filed an Answer to PGW's Petition for Rescission and Amendment of Final Order. The OCA's Answer generally supported PGW's proposed modifications to the SCD. OCA Answer at 3. The OCA believes that the means test will serve to allocate assistance resources to those who are most in need. Id. The OCA was also an active party in the proceeding which resulted in the Final Order in question at Docket No. M-00021612.

PGW has provided a Senior Citizen Discount (SCD) since 1974. PGW Petition, App. A. Prior to the effective date of the Final Order of March 31, 2003, Restructuring Order at Docket No, M-00021612, the SCD provided a twenty percent discount senior citizens who are customers of PGW. The previous SCD had no income eligibility requirements.

In the March 31, 2003 Restructuring Proceeding Order, the Commission ordered that the SCD be closed to new entrants effective September 1, 2003. March 31 Order at 42-45. Existing SCD customers would be grandfathered by allowing them to remain in the SCD

program. Subsequently, however, the Philadelphia City Council passed Ordinances 030123 and 030138 regarding the continuation of PGW's SCD. PGW Petition a 4.

In its Petition, PGW proposed to modify the senior discount to incorporate a means test. The new program would continue the SCD for new applicants 65 or older at the twenty percent level, but applicants would be limited to those seniors whose annual income, regardless of family size, does not exceed 250 percent of the federal poverty level for a two person household, which is currently \$30,300.00 per year. PGW Petition at 6. Low-income seniors with income below 150% of the federal poverty level and who qualify for PGW's Customer Responsibility Program (CRP or Customer Assistance Program) could, alternatively, receive assistance through the CRP-CAP. PGW Petition at 2.

The objective of the Consumer Advocate in filing a Notice of Intervention in this matter is to protect the interests of the customers in the Company's service territory. The Consumer Advocate will seek to ensure that the Senior Citizen Discount is in compliance with statutory provisions, regulations and Commission Orders as well as any applicable ordinances.

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CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission

v.

Philadelphia Gas Works  
Docket No. M-00021612

PGW Petition for Rescission and Amendment  
Docket No. P-00032061

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

I hereby certify that I have this day served a true copy of the foregoing document, Office of Consumer Advocate's Notice of Intervention, 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 19<sup>th</sup> day of November, 2003.

SERVICE BY INTEROFFICE MAIL

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Richard Kanaskie, Esq.  
Office of Trial Staff  
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P.O. Box 3265  
Harrisburg, PA 17105-3265

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Philadelphia, PA 19122

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Cambridge, MA 02140

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J. Kennedy Associates Inc.  
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Roswell, GA 30075

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Francioso & Francioso  
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Hamilton, NJ 08619

Amy Hamilton  
Exelon Business Services Co.  
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PO Box 8699  
Philadelphia, PA 19101-8699

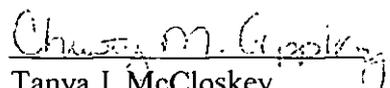
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Edward A. McCool, Esq.  
Community Legal Services, Inc.  
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Philadelphia, PA 19102-2505

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PO Box 1642  
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1424 Chestnut Street, Philadelphia, PA 19102-2505  
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November 26, 2003

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

Filed by Federal Express

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NOV 26 2003

Re: Philadelphia Gas Works Senior Citizen Discount  
Docket Nos. M - 00021612; P - 00032061

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

DOCUMENT

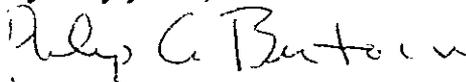
Dear Secretary McNulty:

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

Enclosed please find for filing an original and three (3) copies of CEPA et al.'s Petition to Intervene in the above-captioned matter.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with copies of this Petition to Intervene by First Class U.S. Mail.

Very truly yours,



PHILIP A. BERTOCCHI

Attorney for CEPA et al.

cc: Certificate of Service

Administrative Law Judge Allison K. Turner (by fax)

RJP

Enclosures

127

Kent D. Murphy, Esquire  
Assistant General Counsel  
Exelon Business Services, Co.  
2301 Market Street, S23-1  
Philadelphia, PA 19102

David Griesing, Esquire  
Philadelphia Gas Works  
800 W. Montgomery Avenue  
Philadelphia, PA 19122

*Philip A. Bertocci*

---

PHILIP A BERTOCCI, ESQUIRE

**ORIGINAL RECEIVED**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

NOV 26 2003

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

In Re: Petition for Rescission : M - 00021612  
and Amendment of : P - 00032061  
Philadelphia Gas Works :

**DOCKETED**

DEC 18 2003

**Petition to Intervene of Consumers Education and Protective Association,  
Association of Community Organizations for Reform Now,  
Tenants' Action Group and  
Action Alliance of Senior Citizens of Greater Philadelphia**

**DOCUMENT**

The Consumers Education and Protective Association (CEPA), the Association of Community Organizations for Reform Now (ACORN), Tenants' Action Group (TAG) and Action Alliance of Senior Citizens of Greater Philadelphia (hereinafter "CEPA et al."), through counsel, pursuant to 52 Pa. Code § 5.71, hereby file this Petition to Intervene in the above-captioned proceeding, and in support thereof aver as follows:

1. The Consumers Education and Protective Association ("CEPA") is a non-profit advocacy organization based in Philadelphia, Pennsylvania. CEPA is a membership organization composed of eastern Pennsylvania moderate and low income residents, many of whom are residential Philadelphia Gas Works (hereinafter "PGW") customers. CEPA is located at 6048 Ogontz Avenue, Philadelphia, PA 19141.

2. The Association of Community Organizations for Reform Now ("ACORN") is a non-profit membership organization which advocates on behalf of low income

persons concerning consumer and community economic development issues. Many of ACORN's members are PGW residential customers. ACORN is located at 846 N. Broad Street, Philadelphia, PA 19130.

3. The Tenants' Action Group ("TAG") is a non-profit advocacy organization composed of moderate and low income tenants, many of whom are either PGW residential customers or dependent on PGW gas service. TAG is located at 21 S. 12<sup>th</sup> Street, 12<sup>th</sup> Floor, Philadelphia, PA 19107.

4. The Action Alliance of Senior Citizens of Greater Philadelphia ("Action Alliance") is a non-profit membership organization of senior citizens, many of whom are PGW residential customers on whom they rely for their heating, cooking and hot water needs. Action Alliance is located at 1201 Chestnut Street, 5<sup>th</sup> Floor, Philadelphia, PA 19107.

5. The aforementioned consumer organizations will be represented in this proceeding by the following counsel:

Philip A. Bertocci, Esquire  
Laura Moskowitz, Esquire

COMMUNITY LEGAL SERVICES, INC.  
1424 Chestnut Street, 4<sup>th</sup> Floor  
Philadelphia, PA 19102  
(215) 981-3702; (215) 981-0435 (FAX)  
[pbertocci@clsphila.org](mailto:pbertocci@clsphila.org) (E-mail)

6. On March 31, 2003, the Pennsylvania Public Utility commission (PUC) entered an Order approving in part and modifying in part the Philadelphia Gas Works' (PGW)

Restructuring Filing. As part of PGW's Restructuring Filing, PGW proposed to close its existing Senior Citizen Discount (SCD) Program to new participants after September 1, 2003. The PUC's March 31 Order approved this proposal. On July 7, 2003, in accordance with actions taken by the Governing Body of the City of Philadelphia, PGW's owner, PGW filed a Petition for Rescission and Amendment, which seeks to modify the SCD Program to allow continuation of the SCD on a means-tested basis. On October 9, 2003, the PUC entered an Order referring PGW's Petition to the Office of Administrative Law Judge for purposes of an expedited hearing and the issuance of a Recommended Decision. On November 10, 2003, administrative Law Judge Allison K. Turner issued an Order under PUC Docket numbers M – 00021612 and P – 00032061 initiating a proceeding on the proposed SCD modifications.

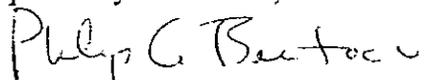
7. CEPA, ACORN, TAG and Action Alliance of Senior Citizens of Greater Philadelphia (collectively "CEPA et al.") are membership and/or advocacy organizations composed of low and moderate income residents of the City of Philadelphia. Their members regard the historic PGW Senior Citizen Discount program as an important part of the City's social safety net, providing necessary protection otherwise not available to many low income and vulnerable senior citizens. Many of these members have supported through rates PGW's SCD with the expectation that at age 65, they too would become eligible for participation in the program. Others have reached the age of 65 and/or have attempted to apply for the SCD since September 1, 2003 and but for the passage of the

Natural Gas Choice and Competition Act and/or the PUC's March 31, 2003 Order, would presently be participating in the SCD. For these reasons, CEPA et al.'s members interests will be impacted by any PUC determination regarding PGW's SCD. As low and moderate income customers and as Senior Citizens, CEPA et al. have a significant interest in this proceeding that is not represented by any other party of record. See 52 Pa.Code §5.72.

8. Permitting the intervention of CEPA et al. in this proceeding will not delay any on-going proceedings nor prejudice any existing party or the public interest. The public interest is best served by permitting the intervention of CEPA et al.

WHEREFORE, CEPA et al. respectfully request that this Petition to Intervene be granted.

Respectfully submitted,



---

PHILIP A. BERTOCCI, ESQUIRE

Attorney No. 32329

LAURA MOSKOWITZ, ESQUIRE

Attorney No. 90817

Attorneys for CEPA et al.

COMMUNITY LEGAL SERVICES, INC.

1424 Chestnut Street, 4<sup>th</sup> Floor

Philadelphia, Pa 19102

Date: November 26, 2003

(215) 981-3702

ORIGINAL

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the Petition to Intervene of CEPA et al. on the participants listed below in accordance with the requirements of § 1.54 (relating to service by a participant).

RECEIVED

Date:

NOV 26 2003

Via First Class U.S. Mail

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Johnnie Simms, Esquire  
Office of Trial Staff  
Pennsylvania Public Utility Commission  
The Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Daniel Clearfield, Esquire  
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Harrisburg, PA 17108-66

1424 Chestnut Street, Philadelphia, PA 19102-2505  
Phone: 215.981.3700, Fax: 215.981.0434  
Web Address: www.clsphila.org

December 1, 2003

DOCUMENT

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

Filed by Federal Express

RECEIVED

Re: Philadelphia Gas Works Senior Citizen Discount  
Docket Nos. M - 00021612; P - 00032061

DEC 01 2003

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

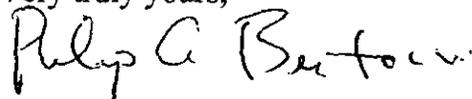
Dear Secretary McNulty:

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

Enclosed please find for filing an original and three (3) copies of CEPA et al.'s Petition to Allow PGW to Enroll Additional Income Eligible Senior Citizens in Senior Citizen Discount Program, in the above-captioned matter.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with copies of this Petition by First Class U.S. Mail.

Very truly yours,

  
PHILIP A. BERTOCCI

Attorney for CEPA et al.

cc: Certificate of Service  
Administrative Law Judge Allison K. Turner

Enclosures

156

**ORIGINAL RECEIVED**

DEC 01 2003

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

**In Re: Petition for Rescission  
and Amendment of  
Philadelphia Gas Works**

: M - 00021612  
:  
: P - 00032061  
:

**DOCKETED**  
FEB 09 2004

**Petition of CEPA et al. to Allow the Philadelphia Gas Works to Enroll Additional  
Income Eligible Senior Citizens in the Senior Citizen Discount Program**

The Consumers Education and Protective Association (CEPA), the Association of Community Organizations for Reform Now (ACORN), Tenants' Action Group (TAG) and Action Alliance of Senior Citizens of Greater Philadelphia (hereinafter "CEPA et al."), through counsel, pursuant to 52 Pa. Code § 5.41, hereby file this Petition to Allow the Philadelphia Gas Works to Enroll Additional Income Eligible Senior Citizens in the Senior Citizen Discount Program.

Without an Order allowing such enrollment, the intentions of PGW, the Mayor of Philadelphia and Philadelphia City Council to achieve a seamless transition from an open enrollment Senior Citizen Discount (SCD) to a means- tested SCD for post September 1, 2003 applicants would be frustrated. Unless income eligible customers are allowed to enroll immediately, there would be a gap in protection during the current heating season for several hundred of needy Senior Citizen applicants who would have been able to enroll in the means-tested program on or after September 1, 2003 if the means tested

**DOCUMENT**

program had been in place as intended.<sup>1</sup> This request is also consistent with the concerns of the Commission, which in its October 9, 2003 Order determined that this proceeding should be conducted on an expedited basis. October 9, 2003 Opinion and Order, at 4,5.

In support of their petition, CEPA et al. aver as follows:

1. CEPA et al. is composed of several non-profit advocacy and membership organizations whose primary mission is to advocate on behalf of low income persons with regard to consumer issues in Philadelphia. One of the co-petitioners is Action Alliance of Senior Citizens, many of whose members are PGW residential customers for their heating, cooking and/or hot water needs.

2. On March 31, 2003, the Pennsylvania Public Utility Commission (PUC) entered an Order approving in part and modifying in part the Philadelphia Gas Works' (PGW) Restructuring Filing. As part of PGW's Restructuring Filing, the municipally owned PGW proposed to close its existing Senior Citizen Discount (SCD) Program to new participants after September 1, 2003. The PUC's March 31, 2003 Order approved this proposal.

3. After the entry of the Commission's March 31, 2003 Order, the Governing Body of the City (Philadelphia City Council and the Mayor) commenced discussions concerning whether and how PGW's historical open enrollment SCD should be modified. A red thread running through these discussions was the concern not to allow SCD protections to

---

<sup>1</sup> PGW reports that as of mid-November, 2003, 78 PGW Senior Citizen customers had since September 1, 2003, attempted to apply for the SCD. November 24, 2003 e-mail from Daniel Clearfield, Esquire to ALJ Turner.

needy seniors to lapse for new senior applicants for the 2003-2004 heating season. PGW's July 7, 2003 Petition for Rescission and Amendment of Final Order (hereinafter "Petition"), and the Ordinances and Resolutions attached thereto clearly reflect this concern both on the part of PGW and of the City's Governing Body.

4. In passing Bill No. 030123, which became law on April 24, 2003, Philadelphia City Council exhibited a concern with maintaining the continuity of Senior Citizen Discount protections, when it required that PGW amend any proposed filings curtailing the historical SCD "within one week after this Ordinance became law." Petition, Attachment A, Bill No. 030123, Section 3. The June 5, 2003 Resolution which was adopted as a result of negotiations between Philadelphia City Council and the Mayor of Philadelphia also expressed this concern that the protections offered by the means-tested SCD be in place for the 2003-2004 heating season. Petition, Attachment C. Accordingly, City's Council's June 5, 2003 Resolution required that PGW file its Petition for Rescission and Amendment of Final Order on or before a date certain, July 7, 2003.

5. In its Petition, PGW seconded the views of City Council and the Mayor as expressed in the Resolution. PGW itself acknowledged the need to assure continuity between the pre-September 1 and post September 1 periods to "permit the [SCD]... discount to continue to be offered, albeit on a means tested basis." Petition, at 3. For this reason, under the pressure of time, the Company unsuccessfully sought to persuade the Commission that there was sufficient basis in the existing record to grant its Petition

without additional hearings. PGW stressed that the Gas Choice Act did not preclude the continuation of a SCD in some form for non-grandfathered senior citizens and recognized the authority of the Governing Body of the City initially to balance the cost of providing a subsidy to vulnerable senior citizens against the burdens imposed on customers who had not yet reached senior citizen status. Petition, at ¶¶10-13. In the Petition's Prayer for Relief, PGW further requested that the Commission direct amendment to PGW's Gas Service Tariff, Pa.PUC No. 2 to provide for the availability of a means-tested SCD for new applicants for "service on or after September 1, 2003." Petition, at 11.

6. Although PGW, the City's Governing Body (Mayor and Council) and the Commission did not ultimately succeed in accomplishing the review of PGW's July 7, 2003 Petition before September 1, 2003, the Commission, PGW and most parties continue to recognize the desirability of taking steps to avert to the maximum extent possible any harms to needy seniors arising from the necessity to develop the evidentiary record sufficiently to support the PUC's final ruling on PGW's Petition. For this reason, the Commission's October 9, 2003 Order specified that the review was to be conducted upon an "expedited" basis. Opinion and Order, at 4,5.

7. A Prehearing Conference was held on November 12, 2003 and the ALJ's Prehearing Order No. 1 was issued on November 25, 2003. With apparent reluctance, the ALJ set out an exceedingly compressed schedule. That schedule provides:

(A) for only two weeks between the filing of PGW's Testimony and the

filing of Intervener and/or Opponents' Testimony;

(B) for only one week from the date of submission of that Testimony until the Hearing;

(C) for only two weeks, including Christmas week for Main Briefs; and

(D) for only one week, including New Year's for Reply Briefs.

This schedule does not permit sufficient time for any party to take the steps necessary to assure that the issues receive adequate development, and that there is appropriate time for briefing. Moreover, because the schedule requires significant activity during the Holiday Season extending into the first week of the New Year, it imposes significant hardship on counsel.

8. Even with this strenuous schedule, the goal of protecting the several hundred income eligible seniors will not be realized. It appears unlikely that the Commission will not render a final decision until early February at best, after the heating season is more than half over. Without interim implementation of the means-tested SCD, needy income eligible seniors will be unprotected for at least the two coldest and most costly months of the heating season.

9. In Prehearing Order No. 1, the ALJ repeats the observation that she made at the Prehearing Conference that if PGW could put the new means-tested SCD in place on an interim basis, she could allow a more "relaxed" hearing schedule. Prehearing Order No. 1, at 3.

10. On November 24, 2003, PGW, as promised, made a report to the ALJ on interim implementation. In that report, the Company stated that it would agree to put the means-tested SCD into effect on an interim basis immediately. As a caveat, it specified that it would not itself be able to publicize the existence of the means-tested SCD unless or until its Petition was approved. The Company has also stated to CEPA et al.'s counsel that income eligible seniors enrolled in SCD on an interim basis would not be dismissed from the program in the event that the Petition is denied in whole or in part.

11. CEPA et al. submit that PGW's offer provides the basis for the establishment of a less compressed schedule, in which the issues raised by PGW's Petition may be addressed at a more deliberate pace. On the basis of this offer, CEPA et al. propose that a schedule more like the one contained in PGW's Prehearing Memorandum would be appropriate.

12. Other considerations also weigh in favor of allowing PGW to provide a means-tested SCD on an interim basis:

(A) Virtually all parties recognize the immediate need in this heating season for SCD benefits on the part of those several hundred persons eligible for the means tested program. In a time when natural gas costs and PGW rates have been rising rapidly, these customers would be spared hardship and worry associated with gas bills which can be paid only through considerable sacrifice, if at all.

(B) The relief requested is not injurious to the public interest. Precisely

because the request for interim implementation is based on an offer by PGW, it expresses the desires of publicly elected municipal officials and the associated assurance that interim implementation is in the public interest.

(C) Finally, as set forth in PGW's Petition, and supported in its prefiled testimony, it is more likely than not that PGW will prevail on the merits of its Petition.

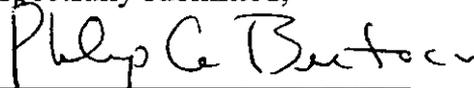
WHEREFORE, for all the foregoing reasons, CEPA et al. request that the ALJ/Commission:

(A) allow PGW to implement its proposed means-tested SCD immediately on an interim basis as offered;

(B) revise the current hearing schedule on the basis of the proposal contained in PGW's Prehearing Memorandum;

(C) grant such other relief as is just and proper.

Respectfully submitted,



PHILIP A. BERTOCCHI, ESQUIRE  
LAURA MOSKOWITZ, ESQUIRE

Counsel for CEPA et al.

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

December 1, 2003

VERIFICATION

I, PEDRO RODRIGUEZ hereby state that I am authorized to make this verification, that the facts contained in the foregoing pleading are true and correct to the best of my knowledge, information and belief, 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).

Signed:

  
PEDRO RODRIGUEZ

Executive Director  
Action Alliance of Senior Citizens  
of Greater Philadelphia

Date:

11/25/2003

## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the Petition of CEPA et al. on the participants listed below in accordance with the requirements of § 1.54 (relating to service by a participant).

Date: December 1, 2003

### Via First Class U.S. Mail

Johnnie Simms, Esquire  
Office of Trial Staff  
Pennsylvania Public Utility Commission  
The Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Daniel Clearfield, Esquire  
Alan Kohler, Esquire  
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Charis Mincavage, Esquire  
McNees, Wallace & Nurick  
100 Pine Street, PO Box 1166  
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# RECEIVED

DEC 01 2003

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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Exelon Business Services, Co.  
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Philadelphia, PA 19102

David Griesing, Esquire  
Philadelphia Gas Works  
800 W. Montgomery Avenue  
Philadelphia, PA 19122

*Philip A. Bertocci*

---

PHILIP A. BERTOCCI, ESQUIRE



ORIGINAL

OFFICE OF SMALL BUSINESS ADVOCATE

Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, Pennsylvania 17101

William R. Lloyd, Jr.  
Small Business Advocate

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

December 1, 2003

**HAND DELIVERED**

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

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SECRETARY'S BUREAU

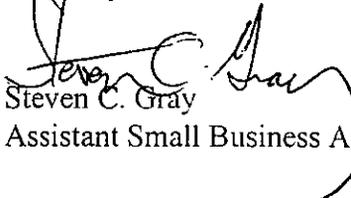
**Re: Pennsylvania Public Utility Commission v.  
Philadelphia Gas Works Docket No. M-00021612  
Petition for Rescission and Amendment  
Docket No. P-00032061**

Dear Secretary McNulty:

I am delivering for filing today the original plus three copies of the Office of Small Business Advocate Answer to CEPA Petition, filed in the above captioned proceeding.

A copy has been served today on all known parties in this proceeding. A Certificate of Service to that effect is enclosed.

Sincerely,

  
Steven C. Gray  
Assistant Small Business Advocate

For: William R. Lloyd, Jr.  
Small Business Advocate

Enclosures

cc: Hon. Allison K. Turner  
Administrative Law Judge

Parties of Record

Robert D. Knecht

12/1/03

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**ORIGINAL**

PENNSYLVANIA PUBLIC UTILITY  
COMMISSION

v.  
PHILADELPHIA GAS WORKS

DOCKET NO. M-00021612

PETITION FOR RESCISSION AND  
AMENDMENT

**DOCUMENT  
FOLDER**

DOCKET NO. P-00022061

2003 DEC - 1 PM 4: 10  
SECRETARIES BUREAU

**RECEIVED**

**DOCKETED**  
DEC 26 2003

**OFFICE OF  
SMALL BUSINESS ADVOCATE  
ANSWER TO CEPA PETITION**

On December 1, 2003, the Consumers Education and Protective Association, the Association of Community Organizations for Reform Now, the Tenants' Action Group, and the Action Alliance of Senior Citizens of Greater Philadelphia ("CEPA et al.") filed its Petition of CEPA et al. to Allow the Philadelphia Gas Works to Enroll Additional Income Eligible Senior Citizens in the Senior Citizen Discount Program ("Petition"). The Office of Small Business Advocate ("OSBA") herein submits its Answer to the Petition.

In general, the OSBA believes that the essence of the Petition has merit, in that the expedited schedule for Commission review of this proposal will not be sufficient to give this issue the attention that it deserves. The Petition would temporarily allow newly eligible senior citizen customers of the Philadelphia Gas Works ("PGW") municipal utility to avail themselves of a variation of PGW's previous Senior Citizen Discount ("SCD") program. In exchange for a temporary implementation of a means-tested SCD program, the Petition requests that ALJ Turner and the Pennsylvania Public Utility Commission ("Commission") create a hearing schedule that will allow the issues surrounding the SCD to be fully developed and examined.

In response to the CEPA et al. Petition, the OSBA answers as follows:

1. The averments of Paragraph No. 1 of the Petition are admitted.
2. The averments of Paragraph No. 2 of the Petition are admitted.
3. The OSBA has no direct knowledge of any discussions that have occurred between the Philadelphia City Council and the Philadelphia Mayor's Office. No copy of PGW's Petition for Rescission and Amendment, or any Ordinances and Resolutions were attached to the version of the CEPA et al. Petition received by the OSBA. The PGW Petition for Rescission and Amendment, and any Ordinances and Resolutions are the best evidence of the contents of those documents, and the documents speak for themselves. Therefore the averments of Paragraph No. 3 of the Petition are denied.
4. The OSBA has no direct knowledge of any negotiations that have occurred between the Philadelphia City Council and the Philadelphia Mayor's Office. No copy of any Ordinances and Resolutions were attached to the version of the CEPA et al. Petition received by the OSBA. Therefore the averments of Paragraph No. 4 of the Petition are denied.
5. The PGW Petition for Rescission and Amendment is the best evidence of the content of that Petition, and the document speaks for itself. Therefore the averments of Paragraph No. 5 of the Petition are denied.
6. The averments of Paragraph No. 6 of the Petition are admitted in part and denied in part. It is denied that there is any harm that can come to the "needy seniors" of PGW

because of the necessity to develop a sufficient evidentiary record. The remaining averments of Paragraph No. 6 of the Petition are admitted.

7. The averments of Paragraph No. 7 of the Petition are admitted.

By way of further response, the OSBA states its agreement with the Petition at Paragraph No. 7, regarding the procedural schedule set forth in ALJ Turner's November 26, 2003 Prehearing Order No. 1:

This schedule does not permit sufficient time for any party to take the steps necessary to assure that the issues receive adequate development, and that there is appropriate time for briefing.

The OSBA observes that the issues involved in the PGW's SCD Petition are serious and deserve a thorough review. From the Commission's perspective, this proposed program represents a first of its kind. See PGW Statement No. 2, at page 9. Therefore, Commission approval of this program may very well set important precedents for other Pennsylvania NGDC's. Moreover, based on PGW's analysis, the proposed program when fully implemented will have an incremental annual cost of some \$6.4 million by 2020. See Exhibit SCD/CC2, at page 2. These issues cannot be adequately evaluated under the proposed schedule.

As to the claims of CEPA et al. with respect to the substance of the program (e.g., the definition of needy as distinguished between seniors and non-seniors, the magnitude of the benefits, etc.), the OSBA may disagree about the appropriateness of adding a new SCD program, which the customers of PGW must fund. The OSBA may also disagree with CEPA about the design of the proposed SCD program that is the subject of PGW's July 5<sup>th</sup> Petition for Rescission. However, these potential disagreements highlight the need for a more thorough review, not a compressed hearing

schedule that will not produce a sufficiently developed record upon which the ALJ and the Commission can base a rational and considered decision.

8. The OSBA denies that “needy income eligible seniors will be unprotected” during the Winter heating season. By way of further response, the OSBA is aware that PGW has a number of low income assistance programs of which the residential customers of PGW can take advantage. The remaining averments in Paragraph No. 8 of the Petition are admitted.

By way of further response, the OSBA concludes that it is reasonable to make a tradeoff, as originally suggested by the ALJ during the PreHearing Conference on November 12, 2003, to allow eligible senior citizen customers of PGW to obtain the benefits of a SCD program in exchange for a reasonable hearing schedule that will allow the parties to fully address the underlying issues.

As CEPA et al. observes in its Petition, PGW reports that as of mid-November only 78 senior citizen customers have attempted to apply for the means-tested SCD program. Compared to current enrollment in the grandfathered SCD program of 77,000, the additional cost related to new participants, while not necessarily just and reasonable, is at least relatively modest. See Exhibit SCD/CC2. The advantages of a thorough review of the proposed program outweigh the potential additional costs of implementing an unreasonable program on an interim basis.

9. The averments of Paragraph No. 9 of the Petition are admitted.
10. The averments of Paragraph No. 10 of the Petition are admitted in part and denied in part. The OSBA has no direct knowledge of any conversations between PGW counsel and CEPA et al.’s counsel regarding whether income eligible senior citizens will be retained in the SCD program if PGW’s Petition is ultimately denied by the

Commission. Therefore this specific averment of Paragraph No. 10 of the Petition is denied. The remaining averments of Paragraph No. 10 of the Petition are admitted.

11. The averments of Paragraph No. 11 of the Petition are admitted in part and denied in part.

By way of further response, a simple review of the current case procedural status demonstrates the problems inherent with any highly compressed hearing schedule.

- The OSBA filed Set I of its Interrogatories on November 13<sup>th</sup>, 2003. According to the ALJ's schedule, Answers to those Interrogatories should have been received on November 24<sup>th</sup>, but as yet nothing has been provided by PGW;
- PGW filed its Direct Testimony electronically on November 25<sup>th</sup>, 2003. However, as PGW stated in its email message that contained the truncated Direct Testimony: "Some of the attachments are available in hard copy only. A hard copy will follow via first class mail." To date, the OSBA has not received that complete copy via regular mail. The OSBA did contact PGW for a full copy, and received via hand delivery a copy of certain Appendices late Wednesday afternoon. This material was sent via FedEx to the OSBA witness for Friday delivery (so that he could begin drafting Testimony over the extended holiday weekend), but that delivery was not completed until earlier this morning due to problems with the courier service over the holiday weekend; and
- The OSBA is about to file Set II of its Interrogatories to PGW, but according to the ALJ's hearing schedule, PGW has ten calendar days in which to respond. This will

be days after the Direct Testimony of the OSBA is due on Monday, December 8, 2003.

The point here is not to complain that PGW or its counsel are non-responsive or in any way impeding the progress of this case. The point *is* that this is exactly the type of problem that arises with a highly compressed schedule. One delay in a set of Interrogatory responses or one problem with the delivery of Testimony, and the whole proceeding becomes prejudiced and disjointed. Moreover, as CEPA et al. points out, even with an expedited schedule, a Commission decision will not be sufficiently timely to affect participation in the program this winter.

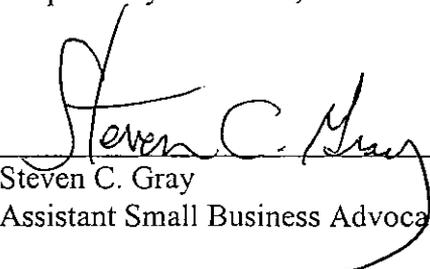
Furthermore, even the PGW proposed schedule is inadequate to address the issues set forth in this proceeding. Instead, the OSBA agrees with the statements of OTS counsel at the Prehearing Conference wherein a full, non-expedited schedule should be constructed for this proceeding. See Prehearing Transcript, at page 20. If an SCD program is put into place on a temporary basis, and in light of the minimal financial impact upon current PGW customers, there should be no downside to implementing a schedule that would allow all Parties to conduct full discovery on this matter, and allow the submission of Testimony that would be complete and truly responsive to the issues raised by PGW's proposed program.

12. (A) The averments of Paragraph No. 12(A) of the Petition are denied.
12. (B) The averments of Paragraph No. 12(B) of the Petition are admitted in part and denied in part. The OSBA admits that the relief requested is in the public interest in that it will allow the full development of a record upon which the ALJ and Commission will base their decisions. The remaining averments of Paragraph No. 12(B) of the Petition are denied.
12. (C) The averments of Paragraph No. 12(C) of the Petition are denied.

WHEREFORE, for the reasons stated herein, the OSBA generally supports the relief requested by the Petition of CEPA et al. and requests that the ALJ and Commission:

- Allow PGW to implement a means-tested SCD program on an interim basis; and
- Revise and expand the current hearing schedule so that the PGW Petition proceeding can be conducted on a full and timely basis.

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

Dated: December 1, 2003

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY :  
COMMISSION :  
 :  
v. : DOCKET NO. M-00021612  
 :  
PHILADELPHIA GAS WORKS :  
 :  
 :  
PETITION FOR RESCISSION AND AMENDMENT : DOCKET NO. P-00032061

CERTIFICATE OF SERVICE

I certify that I am serving a copy of the Answer on behalf of the Office of Small Business Advocate, by FAX and first class mail upon the persons addressed below:

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Administrative Law Judge  
Pa. Public Utility Commission  
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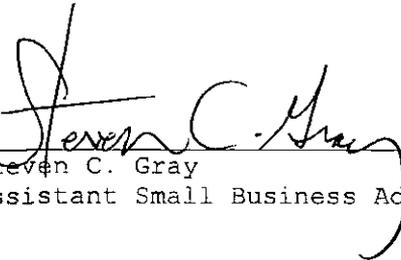
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\_\_\_\_\_  
Steven C. Gray  
Assistant Small Business Advocate

Date: December 1, 2003



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

IN REPLY PLEASE  
REFER TO OUR FILE

December 2, 2003

ORIGINAL

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

SECRETARY'S BUREAU  
PA PUC

2003 DEC - 8 PM 3: 16

RECEIVED

Re: Pennsylvania Public Utility Commission :  
v. : Docket No. M-00021612  
Philadelphia Gas Works :  
Petition for Rescission and Amendment : Docket No. P-00032061  
of Philadelphia Gas Works :

Dear Secretary McNulty:

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

Copies are being served upon all active parties of record.

DOCUMENT  
FOLDER

Very truly yours,

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

JES/RAK:pae  
c: Parties of Record  
Enclosures

**ORIGINAL**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**In Re: Petition for Rescission  
And Amendment of  
Philadelphia Gas Works**

**: M-0021612  
: P-00032061**

**DOCKETED**

**JAN 28 2004**

**2003 DEC - 8 PM 5: 16  
SECRETARY'S BUREAU  
PA PUC**

**RECEIVED**

**DOCUMENT FOLDER**  
**THE OFFICE OF TRIAL STAFF'S ANSWER  
TO THE PETITION OF CEPA et al**

On December 1, 2003, the Consumers Education and Protective Association, the Association of Community Organizations for Reform Now, the Tenants' Action Group, and the Action Alliance of Senior Citizens of Greater Philadelphia ("CEPA et al") filed the Petition of CEPA et al. to Allow the Philadelphia Gas Works to Enroll Additional Income Eligible Senior Citizens in the Senior Citizen Discount Program ("Petition"). The Office of Trial Staff ("OTS") herein submits its Answer to the Petition.

OTS respectfully opposes CEPA et al's Petition as the Petition is without merit both procedurally and substantively. From a procedural standpoint, during the Prehearing Conference in this proceeding, Administrative Law Judge ("ALJ") Allison K. Turner indicated that the possibility existed that the procedural

schedule could be relaxed if the parties could agree to an interim enrollment of senior citizens.<sup>1</sup> Despite the parties best efforts, a procedural schedule that could be more lenient in timing and allow an interim enrollment of senior citizens could not be achieved by the parties.

While OTS will answer CEPA et al's Petition in an enumerated fashion below, OTS respectfully submits that the following bulleted paragraphs should be considered in ruling upon CEPA et al's Petition:

As previously discussed, an interim enrollment of senior citizens could not be achieved by the parties. One of the reasons an accommodation could not be achieved has to do with "authority". OTS respectfully submits that any issue surrounding new participants in PGW's Senior Citizens Discount Program after September 1, 2003, specifically whether to have a permanent or *interim* enrollment of senior citizens, rests solely with the Pennsylvania Public Utility Commission ("Commission"). In that regard, the Commission's Order in PGW's Restructuring proceeding at docket number M-00021612 specifically addressed the issue of "new participants" and made a ruling on that issue by closing the enrollment of any senior citizens into the Senior Citizens Discount Program after August 31, 2003.

Accordingly, unless and until the Commission overturns or modifies its ruling on the issue of "new participants" into the Senior Discount Program, no party or parties have the authority to contravene the Commission's Final Order by

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<sup>1</sup> See Tr. 28

simply agreeing among themselves as to whether there should be an *interim* enrollment of senior citizens into the Senior Discount Program. Notably, the Commission could have allowed an *interim* enrollment of senior citizens in its October 2, 2003 Opinion and Order addressing PGW's Petition, but elected not to do so. Now CEPA et al, in its zeal to promote the intentions of PGW, the Mayor of Philadelphia and Philadelphia City Council, is attempting to reverse the ruling of the Pennsylvania Public Utility Commission without any basis in law or fact.

At present the citizens in the City of Philadelphia who achieved the age of 65 after August 31, 2003 are being treated no differently than any other senior citizen receiving utility service from a utility under the Commission's jurisdiction. The Commission's CAP Policy Statement at 52 Pa. Code Section 69.265 does not specifically provide universal service benefits for households whose incomes are above 150% of the federal poverty guidelines, and those guidelines include senior citizens. The granting of CEPA et al's Petition on an interim basis will have the effect of overturning, without the Commission's review and approval albeit on an interim basis, the Commission's CAP Policy Statement at 52 Pa. Code Section 69.265 as it relates to providing assistance to households whose incomes are above 150% of the federal poverty guidelines. OTS respectfully submits that CEPA et al's Petition has not provided sufficient reasons for overturning, without the benefit of evidentiary hearings, the Commission's income guidelines and to allow entry into a program based on age and income.

OTS respectfully suggests that another humanitarian viewpoint should be involved in this discussion. In that regard, after decades of having senior citizens regardless of income who obtain the age of 65 automatically qualifying for the Senior Citizen Discount Program, we now only have 76 senior citizens in the City of Philadelphia who have attempted to enroll since its closure to new participants beginning September 1, 2003. The number of 76 is significant in that the notice that the Senior Citizens Program ended for the new participants effective September 1, 2003 obviously reached the general population. This is outstanding when one considers the population of the City of Philadelphia in its totality. By opening the program on an *interim* basis with the potential that it may again be closed by Commission Order is making the senior citizens a “ping pong” in this area and should be rejected. This Petition needs to be resolved as soon as possible and the Commission’s prior ruling must remain intact so that senior citizens, once and for all, will know without any equivocation where the Senior Citizens Program stands with respect to those individuals obtaining the age of 65 after August 31, 2003. The zeal to be helpful on an interim basis is in the long term unhelpful. Without an interim enrollment, those senior citizens like all citizens who are within the 150% federal poverty guidelines will receive assistance.

Accordingly, OTS respectfully requests that CEPA et al Petition be denied, and specifically answer the Petition as follows:

1. Admitted in part. CEPA et al. is purportedly composed of non-profit organizations and one of the co-petitioners is Action Alliance of Senior Citizens. Neither the mission of these groups nor their members have been ascertained.

2. Admitted.

3. OTS is without sufficient knowledge or information to form a belief as to the truth or accuracy of the averments contained in this paragraph. As OTS was not a party to these discussions we cannot comment as to the motivation of the parties.

4. Admitted in part. Bill No. 030123 became law in Philadelphia on April 24, 2003. City Council passed a resolution on June 5, 2003. As OTS was not a party to the negotiations or discussions we cannot comment on the reasoning of the parties in reaching their agreement.

5. Admitted in part. The content of PGW's original petition is admitted. OTS cannot comment on the company's reasons for pursuing this action in this manner.

6. Admitted in part. The Commission's Order directed that the review of the Petition be conducted in an expedited manner. The reasoning and rationale are speculative as no party was involved in the Commission's Order making process.

7. Admitted in part/Denied in part. The schedule presented fairly represents that as provided in ALJ Turner's Prehearing Order No. 1. The ALJ's schedule was in response to the Commission Order for an expedited resolution to this matter. As the proceeding is narrowly defined, there is adequate time in the

schedule to present the evidence and file briefs in support of the parties positions. The Petition does not identify which counsel will suffer significant hardship.

8. Admitted in part/Denied in part. It is admitted that the Commission will not render a decision until sometime in February. It is denied that needy seniors will be unprotected for this portion of the heating season. The company has a fully developed assistance program for all needy customers. Furthermore, there is a provision in the Commission Order at Docket No. M-00991249 (setting forth the Filing Requirements for the restructuring plans that were filed by the natural gas distribution companies pursuant to the Natural Gas and Competition Act) allowing additional relief to needy customers. Attached to that Order as Annex A and identified on page 7 is the provision that “up to twenty percent of the universal service and energy conservation budget may be applied to customers with special needs who are between 150 percent and 200 percent of the federal poverty guidelines”. Needy seniors have protections available for the heating season either through the CRP or this special needs provision.

9. Admitted. By way of further explanation, there is a Commission Order barring PGW from accepting new customers into the Senior Citizen Discount program after September 1, 2003. The authority to amend that position lies solely with the Commission. This Petition is seeking Amendment of a Commission Order and must be treated as such.

10. Admitted in part. PGW reported to the ALJ on the interim implementation of a program that would violate a Commission Order. The company's comments to CEPA et al cannot be ascertained as OTS was not a party to this discussion. By way of further explanation, new seniors enrolled in the Senior Citizen Discount program that would not be dismissed when the Petition is denied are not enrolled on an interim basis. They are enrolled permanently in violation of a Commission Order.

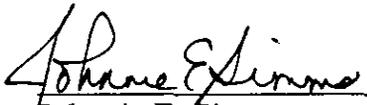
11. Admitted. PGW's proposed schedule is less compressed.

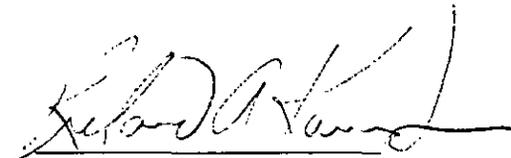
12. Denied. Needy customers are spared hardship through the application of the Customer Responsibility Program and other assistance programs. The proposed program is not in the public interest as it shifts the burden of payment to other customers, some of which may be at an economic disadvantage. Based on evidence provided to this point, the Company has not sufficiently demonstrated that its proposal will result in just and reasonable rates that are non-discriminatory. As a result, it is unlikely that the Company will prevail.

**WHEREFORE**, the Office of Trial Staff respectfully requests that the Pennsylvania Public Utility Commission and the Administrative Law Judge assigned to this matter **deny** CEPA et al.'s Petition to Allow the Philadelphia Gas

Works to Enroll Additional Income Eligible Senior Citizens to the Senior Citizen  
Discount Program as it is not in the public interest.

Respectfully submitted

  
Johnnie E. Simms  
Senior Prosecutor

  
Richard A. Kanaskie  
Prosecutor

DATED: December 8, 2003

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :  
v. : Docket No. M-00021612  
Philadelphia Gas Works :  
Petition for Rescission and Amendment : Docket No. P-00032061  
of Philadelphia Gas Works :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Answer** of the Office of Trial Staff, dated December 8, 2003, either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below:

Charis Mincavage, Esquire ✓ 12  
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Daniel Clearfield, Esquire ✓  
Kevin J. Moody, Esquire  
Wolf, Block, Schorr and  
Solis-Cohen LLP  
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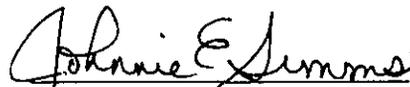
James P. Leonard, Esquire 11  
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Honorable Allison K. Turner  
Administrative Law Judge  
Pa. Public Utility Commission  
1302 Philadelphia State Office Bldg.  
Broad & Spring Garden Streets  
Philadelphia, PA 19130



Johnnie E. Simms  
Senior Prosecutor  
Office of Trial Staff



Richard A. Kanaskie  
Prosecutor  
Office of Trial Staff

Dated: December 8, 2003  
Docket No. M-00021612; P-00032061



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

ORIGINAL  
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REFER TO OUR FILE

December 2, 2003

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SECRETARY'S BUREAU  
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2003 DEC -2 PM 12:30

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James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
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Re: Pennsylvania Public Utility Commission :  
v. : Docket No. M-00021612  
Philadelphia Gas Works :  
  
Petition for Rescission and Amendment : Docket No. P-00032061  
of Philadelphia Gas Works :

Dear Secretary McNulty:

Please be advised that the Office of Trial Staff opposes the Petition of CEPA et al to allow Philadelphia Gas Works to enroll Senior Citizens in the Senior Citizen Discount Program that was closed to new applicants as per Commission Order.

OTS offers this letter as advance notice of its intent to file a Formal Answer in Opposition of this Petition in a timely manner as prescribed by Commission Regulations.

In accordance with Administrative Law Judge Allison K. Turner's Prehearing Order, we are in the process of preparing Direct Testimony in support of our position. This testimony will be filed on December 8, 2003. OTS intends to fully participate in the Evidentiary Hearing scheduled for December 15, 2003.

RJP

All parties of record have been served a copy of this letter as evidenced by the attached Certificate of Service.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Kanaskie". The signature is written in a cursive style with a large, sweeping initial "R".

Richard A. Kanaskie  
Prosecutor

RAK:pa

c: Parties of Record

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Pennsylvania Public Utility Commission :  
v. : Docket No. M-00021612  
Philadelphia Gas Works :  
Petition for Rescission and Amendment : Docket No. P-00032061  
of Philadelphia Gas Works :

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing Letter of the Office of Trial Staff, dated December 2, 2003, either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below:

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Honorable Allison K. Turner  
Administrative Law Judge  
Pa. Public Utility Commission  
1302 Philadelphia State Office Bldg.  
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Richard A. Kanaskie  
Prosecutor  
Office of Trial Staff

Dated: December 2, 2003  
Docket No. M-00021612; P-00032061

RECEIVED

2003 DEC -3 PM 4:22

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December 3, 2003

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

DOCUMENT

Re: PA PUC v. Philadelphia Gas Works,  
Docket No. M-00021612;  
Petition for Rescission and Amendment of Philadelphia  
Gas Works, Docket No. P-00032061

Dear Secretary McNulty:

On behalf of Philadelphia Gas Works, enclosed for filing please find an original and three copies of its Answer to Consumers Education and Protective Association's ("CEPA's") Petition to Permit Interim Implementation of Senior Discount with regard to the above referenced matter.

As evidenced by the Certificate of Service, all parties of record have been served copies of the Exceptions in the manner indicated.

If you have any questions, please contact the undersigned.

Sincerely,



Daniel Clearfield

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DC/lww

Enclosure

cc: Hon. Allison Turner, w/enc.  
Parties of Record w/enc.

DSH:39031.1/PHI211-156208

**CERTIFICATE OF SERVICE**

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

**VIA E-MAIL & FIRST CLASS MAIL**

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Daniel Clearfield, Esq.

Dated: December 3, 2003

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :  
v. : Docket M-00021612  
Philadelphia Gas Works :  
Petition for Rescission and Amendment : Docket P-00032061  
of Philadelphia Gas Works :

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ANSWER OF PHILADELPHIA GAS WORKS TO CONSUMERS  
EDUCATION AND PROTECTIVE ASSOCIATION'S PETITION TO PERMIT  
INTERIM IMPLEMENTATION OF SENIOR DISCOUNT

Philadelphia Gas Works ("PGW") hereby responds to the Petition of Consumers Education and Protective Association's ("CEPA's"), *et al.*, to Allow the Philadelphia Gas Works to Enroll Additional Income Eligible Senior Citizens to Participate in the Senior Discount Program.

1. As previously indicated, PGW understands and appreciates the potential conflicting goals of assuring that needy seniors receive immediate relief from this Winter's high gas bills while, at the same time, providing adequate time for parties to explore PGW's proposal, now that the Public Utility Commission ("PUC" or "Commission") has directed that a hearing process go forward.

2. Accordingly, PGW supports CEPA's request with the following assumptions and clarifications.

a) On an interim basis, PGW will handle taking applications and add customers to the SCD program on a manual basis, using a limited number of trained service representatives. To be able to administer the application and implementation process adequately, PGW's interim

DOCUMENT

implementation plan will not include a publicity campaign or other efforts to notify the public generally of the availability of the means tested SCD plan.

b) From an administrative and customer relations standpoint, PGW believes that the Discount, once extended to an eligible senior household, should not be withdrawn upon completion of the PUC's review and ultimate decision. Moreover, it is questionable that the Discount, once granted to an eligible customer, could be withdrawn if the customer's status had not otherwise changed.

Upon receiving an Order from the ALJ, PGW suggests that it submit the Tariff Pages presented as part of the testimony of PGW witness Coltro (PGW Exh. SCD/CC-5) as a Tariff Supplement for approval by the PUC on one day's notice. For the convenience of the Presiding Officer and the parties, those pages are included herein as Attachment "A."

WHEREFORE, PGW respectfully requests that the Presiding Officer recommend or otherwise certify to the Commission her view that PGW's means tested SCD, as set forth in Attachment "A," hereto be placed into effect on an interim basis until the PUC makes a final, permanent decision on the PGW means tested SCD proposal, subject to the assumptions and clarifications set forth above.

Respectfully submitted,



Daniel Clearfield, Esq.  
Wolf, Block, Schorr and Solis-Cohen LLP  
212 Locust Street, Suite 300  
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(717) 237-7173

Of Counsel:  
Gregory J. Stunder, Esq.  
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Philadelphia, PA 19122

Dated: December 3, 2003

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# ATTACHMENT A

## SENIOR CITIZEN DISCOUNT

### I. PROVISION FOR SENIOR CITIZEN DISCOUNT

- A. A person shall be granted a reduction in monthly charges for Gas Service provided by the Company for Residential purposes if said person satisfies the conditions set forth below:
1. Is 65 years of age or older;
  2. Resides in the City of Philadelphia;
  3. Does or will directly make payment to the Company for Gas Service at his or her residence;
  4. Completes an acceptable application;
  5. Maintains his or her qualification for same.
  6. For persons applying for a Senior Citizen Discount after September 1, 2003, submits satisfactory proof that the applicant's Gross Annual Income, regardless of family size, does not exceed 250% of the federal poverty level for a two person family. The Customer shall provide all documentation necessary for PGW to determine the household Gross Annual Income, including but not limited to proof of household income and character of service requested (Heating or Non-Heating). PGW has the right to verify an Applicant's household Gross Annual Income by means including but not limited to verification through governmental agencies and reviewing credit reports.
- B. The Senior Citizen Discount, as set forth in this Tariff, shall only apply to the Gas which is consumed for Heating and Non-Heating purposes in that portion of the building in which the senior citizen resides. Therefore, if the senior citizen resides in a building that is part Residential and part Commercial or rental (to someone other than the senior citizen), only that portion of the building that is occupied by the senior citizen as a residence will be eligible for the Senior Citizen Discount.

### II. COMPUTATION OF SENIOR CITIZEN DISCOUNT

For eligible Customers, Gas Service provided by the Company will be priced at the full rate then in effect, as authorized by the Commission, and 80% of this amount will be billed to the Customer.

### III. APPLICATION FOR SENIOR CITIZEN DISCOUNT

An application for Senior Citizen Discount must be completed by the Applicant in person at any one of the Company's offices or at such other place as the Company provides.

PHILADELPHIA GAS WORKS

IV. DOCUMENTARY EVIDENCE REQUIRED FOR SENIOR CITIZEN DISCOUNT

A. An Applicant must present:

1. Legal proof of age acceptable to the Company;
2. Documentary evidence acceptable to the Company authenticating Applicant's residence at the address where Gas consumption will be subject to the discount;
3. For persons applying for a Senior Citizen Discount after September 1, 2003, proof that he or she meets the Gross Annual Income requirements as set forth in (A)(6), above.

B. The Company may from time to time require production of documentary evidence or other information deemed satisfactory by the Company so as to review a Customer's continued eligibility for the Senior Citizen Discount.

V. EFFECTIVE DATE OF THE INITIAL SENIOR CITIZEN DISCOUNT BILLING

- A. Applications made at least 30 days prior to the Applicant's next billing period, and which in that 30-day period are fully documented and accepted by the Company, will result in the initial application of the Senior Citizen Discount to the cost of the Gas consumed in such next billing period.
- B. Improper or incomplete applications causing the extension of the above 30-day period, and which delay in the Company's opinion is occasioned by the Applicant, will delay the initial use of the discount until the succeeding billing period next following the acceptance of the application.
- C. The Senior Citizen Discount, after its initial application, will continue in force thereafter so long as it is authorized and the original Applicant, in the opinion of the Company, continues to qualify for it.

VI. CUSTOMER'S GAS PIPING

- A. In order for the Company to quantify the amount of Gas to which the Senior Citizen Discount applies in the event that such Gas quantity cannot ordinarily be determined, arrangements acceptable to the Company must be made by the Customer.
- B. In cases where, at the time of making application, the Customer lives in only a portion of the structure to which Gas is also being supplied to others but through a single meter, and where the Discount does not apply to the others, and, in the opinion of the Company, the Customer's Gas piping can reasonably be changed, the Customer, at his or her expense, shall make the necessary piping rearrangement and the Company will install a separate meter.
- C. When the Customer's Gas piping, in the opinion of the Company, cannot reasonably be changed, the Company, for billing purposes, will estimate the quantity of Gas used by the Customer to which the Senior Citizen Discount will apply. In all other cases, the Customer should make Gas piping rearrangements to allow the Company to directly meter Gas used exclusively for such Customer's account.

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Tel: (717) 237-7160 Fax: (717) 237-7161 www.WolfBlock.com

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E-mail: dclearfield@wolfblock.com

ORIGINAL

December 5, 2003

VIA HAND DELIVERY

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

DOCUMENT

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Re: Petition for Rescission and Amendment of Philadelphia Gas Works, Docket No. P-00032061 + M-00021612

Dear Secretary McNulty:

On behalf of Philadelphia Gas Works, enclosed for filing please find its Objection to Office of Small Business Advocate's Set II, No. 26.

Sincerely,

*Dan Clearfield*  
Daniel Clearfield

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DC/lww

Enclosure

cc: Parties of Record w/enc.

DSH:39077.1/PHI211-156208

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**ORIGINAL**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Pennsylvania Public Utility Commission</b>	:	
	:	
<b>v.</b>	:	<b>Docket M-00021612</b>
	:	
<b>Philadelphia Gas Works</b>	:	
	:	
<b>Petition for Rescission and Amendment of Philadelphia Gas Works</b>	:	<b>Docket P-00032061</b>
	:	

**OBJECTION OF PHILADELPHIA GAS WORKS TO OFFICE OF  
SMALL BUSINESS ADVOCATE'S INTERROGATORIES, SET II, NO. 26**

Philadelphia Gas Works ("PGW"), pursuant to 52 Pa. Code §§ 5.342 and 5.349, objects to the Office of Small Business Advocate's ("OSBA") Interrogatories, Set II, No. 26 (PGW orally communicated its intention to object to this question on December 3, 2003).

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FEB 10 2004

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OSBA II-26 states as follows:

Reference PGW Statement 1, page 7. Ms. Coltro indicates that the USC is recovered from all firm service customers.

a. Please indicate whether PGW's interruptible sales customers receive firm *distribution* service. Please explain your response.

b. Please indicate whether PGW's GTS customers receive firm distribution service. Please explain your response.

c. Please indicate whether PGW considers peak demands of its interruptible sales service and GTS customers in planning its *distribution* system. To the extent that your response does not indicate that PGW plans to meet the demand of its interruptible sales customers in planning its distribution system, please explain your response fully.

d. Please identify every even in which a PGW interruptible sales or GTS customer has been interrupted because of insufficient distribution system capacity. Please provide the date of the event and the reason for the interruption.

e. Please explain fully why interruptible sales and GTS customers should be exempt from contributing to the proposed means tested senior citizen program.

**OBJECTION:** PGW objects to this question because it does not seek information which is relevant to this proceeding or which is reasonably likely to lead to the discovery of relevant information. The question is designed to elicit information which is relevant only to the question of which classes of customers should be responsible for reimbursing PGW for the SCD via its Universal Service Charge (the mechanism by which is now recovered from all customers). That issue was fully litigated – and decided against OSBA – in PGW's Restructuring Proceeding. (March 31, 2003 Order, pp. 62-64). The Commission indicated that any question concerning class responsibility for the USC could only be raised in the context of a base rate proceeding, and OSBA, and all parties are bound by the Commission's final decision on that issue. PGW's

Petition does not propose to revise its base rates or this portion of the PUC's Order and, thus, the issue of allocation of cost responsibility for the USC is not properly part of this proceeding.

Respectfully submitted,



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717-237-7173

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

Date: December 5, 2003

**CERTIFICATE OF SERVICE**

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

**VIA E-MAIL & FIRST CLASS MAIL**

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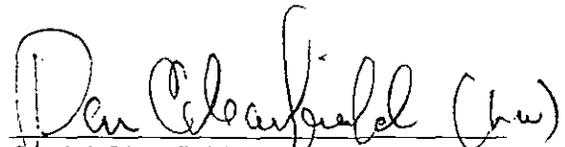
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Daniel Clearfield, Esq.

Dated: December 5, 2003

COMMONWEALTH OF PENNSYLVANIA

DATE: December 5, <sup>2003</sup>~~2002~~  
SUBJECT: P-00032061; M-00021612  
TO: Office of Administrative Law Judge  
FROM: James J. McNulty, Secretary *jt*

**DOCKETED**  
DEC 09 2003

PA PUC vs Philadelphia Gas Works

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**DOCUMENT**

Attached is a copy of Philadelphia Gas Works Answer to Consumers Education and Protective Association's Petition to Permit Interim Implementation of Senior Discount.

A copy of this filing was shipped to your Office earlier this morning. The case is now being formally assigned to your Office for appropriate action.

cc: Office of Trial Staff

ddt



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

IN REPLY PLEASE  
REFER TO OUR FILE

December 15, 2003

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**DOCKETED**  
FEB 10 2004

Re: Pennsylvania Public Utility Commission :  
v. : Docket No. M-00021612  
Philadelphia Gas Works :  
  
Petition for Rescission and Amendment : Docket No. P-00032061  
of Philadelphia Gas Works :

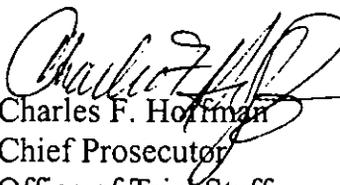
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Dear Secretary McNulty:

Please be advised that the Office of Trial Staff is withdrawing its appearance in the above referenced proceeding.

All parties of record have been served a copy of this letter as evidenced by the attached Certificate of Service.

Sincerely,

  
Charles F. Hoffman  
Chief Prosecutor  
Office of Trial Staff

cc: Parties of Record

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :  
v. : Docket No. M-00021612  
Philadelphia Gas Works :  
Petition for Rescission and Amendment : Docket No. P-00032061  
of Philadelphia Gas Works :

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Letter** of the Office of Trial Staff, dated December 15, 2003, either personally, by first class mail, electronic mail, express mail and/or by fax upon the persons listed below:

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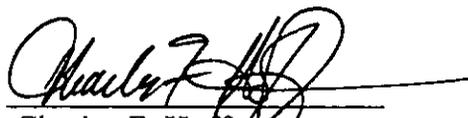
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Honorable Allison K. Turner  
Administrative Law Judge  
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Philadelphia, PA 19130

  
Charles F. Hoffman  
Chief Prosecutor  
Office of Trial Staff

Dated: December 15, 2003  
Docket No. M-00021612; P-00032061