

Philadelphia Gas Works

Thomas E. Knudsen
Chief Financial Officer



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November 2, 2001

ORIGINAL

HAND DELIVERY

James McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg., 2nd Fl.
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works
Docket No. R-00005654

Dear Secretary McNulty,

In accordance with the PUC's February 22, 2001 Order approving the Joint Petition for Full Settlement in the above-referenced proceeding,¹ enclosed is PGW's "Monthly Progress Report" for October 2001 concerning implementation of the unmodified conditions imposed by the Commission in PGW's Interim Rates proceeding. The report is being served on all parties of record.

If the Commission requires further clarification on this report, please contact me immediately or contact our counsel of record, Daniel Clearfield.

**DOCUMENT
FOLDER**

Very truly yours,

Thomas Knudsen/TJKM

Thomas Knudsen
Interim President and
Chief Executive Officer for:
Philadelphia Gas Works

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SECRETARY'S BUREAU

- cc: As per Certificate of Service
- Veronica Smith, Esq., Deputy Executive Director
- Karen Moury, Esq., Law Bureau
- Robert Rosenthal, Bureau of Fixed Utility Services
- Mitch Miller, Bureau of Consumer Services
- Glenn Bartron, Bureau of Audits
- Joe Farley, Bureau of Consumer Services

¹ "[T]he Commission's approval of the terms and conditions set forth in the Joint Petition is expressly conditioned upon PGW's acceptance of the unmodified conditions in the November 22, 2000 Order." February 22, 2001 Order at Ordering ¶11.

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Philadelphia Gas Works

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ORIGINAL

**Monthly Progress Report to the
Pennsylvania Public Utility Commission**

Docket No. R-00005654

**DOCUMENT
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November 2, 2001

PGW Commitment #1²

“PGW will commit to its "Transition to Excellence" plan for improvement and make a demonstration throughout the interim rate period that it is providing safe and adequate service.”

RESPONSE:

October 2001

The “Transition to Excellence” program has elements that have been completed as set forth in the prior reports. Other ongoing elements are described below:

Regulatory

On October 4, 2001, the PUC entered an Order concerning PGW's 2001 base rate case at Docket No. R-00006042. The PUC authorized PGW to increase base rates by \$28,067,000. On October 12, 2001, the PUC entered a Tentative Order modifying its October 4, 2001 Order by reducing PGW's base rate increase to \$22,558,000 over and above the interim relief (for a total increase of \$33,558,000). On October 19, 2001, PGW filed a Petition for Rehearing and Reconsideration in regards to both the Order and Tentative Order. The intervening parties filed comments on October 29, 2001.

Customer Service Oversight is ongoing with a comprehensive Customer Service Initiative (CSI) Program that began on June 25, 2001. PGW met with the PUC's Bureau of Consumer Services staff on October 30, 2001, and provided an update on its efforts. At the meeting, PGW questioned the need to outsource telephone calls based on the performance improvements to BCS staff standards in the Call Center. PGW also presented an analysis of the bids and a comparison of the price per call by the potential contractors versus PGW's price per call. BCS staff stated that they would review the information presented.

Nearly 360 interrogatories have been received from the hearing examiner and the Philadelphia Public Advocate concerning PGW's FY 2002 Operating Budget filed with the Philadelphia Gas Commission. PGW has responded to the majority of these requests and is currently working on providing responses to the remaining data requests. The Philadelphia Gas Commission has scheduled hearings on PGW's Operating and Capital Budget in early November, with final approval expected in late December 2001 or January 2002.

² Unmodified condition of Ordering Paragraph #4, 11/22/00 Order.

Strategy and Planning

PGW filed the updated Strategic Plan & Financial Forecast with the Philadelphia Gas Commission in September as required. Public hearings are scheduled before the Philadelphia Gas Commission in November 2001.

The tentative Labor Agreement was approved by the general membership of the Gas Works Employee Union Local 686 on October 2, 2001.

Stabilization

Programming changes have been implemented or are currently in testing for 90% of the improvements previously identified in the Billing System stabilization project plan. In order to have the ability to comply with BCS payment arrangement guidelines, implementation of the new Payment Arrangement module will be completed in early December 2001. PGW continues to review business processes to identify system and training issues that must be addressed to realize additional efficiencies. Any system issues identified are reviewed and, if viable, are scheduled for future implementation.

Call Center

PGW has made major strides in improving the productivity and efficiency in its Call Center. Every week at the PGW website (www.pgworks.com) new information will be posted on the number of calls received, the number of calls answered, and the average waiting time. These numbers will be displayed on graphs which will also show the goals that have been set by PGW and the PUC so that visitors to the site can easily see what's being done to make dealing with PGW a fast and more pleasant experience.

PGW Commitment #2³

“PGW must achieve a 1% replacement rate in its mains replacement program, as provided for in the Company’s base case capital budget.”

Response:

October 2001

PGW is proceeding with the above project and is on schedule to reduce its inventory of cast iron pipe by the 1% rate. The Distribution Department continues to develop and review a list of prioritized targeted main replacements based on the determinants of the Navigant Study. With the assistance of the Engineering Department, appropriate designs are being completed and construction plans drawn.

To date, PGW and Outside Contractor crews have replaced, abandoned or rehabilitated approximately four (4) miles of cast iron main. Twenty-three percent (23%) of the total project is complete. PGW anticipates successful project completion by the end of Fiscal Year 2002.

³ Unmodified condition of Ordering Paragraph #5, 11/22/00 Order.

PGW Commitment #3⁴

“PGW must commit to correcting the problems with its BCCS system, particularly the need to rectify the budget billing problems, providing quarterly reports to the PUC's Bureau of Consumer Services, on the progress it is making in correcting its BCCS problems.”

Response:

October 2001

The third quarterly report is due January 4, 2002. PGW will report on its BCCS problem corrections for the months of October – December 2001 in that report.

⁴ Unmodified condition of Ordering Paragraph #6, 11/22/00 Order.

PGW Commitment #4⁵

"PGW must proceed with its LNG Liquefaction Replacement Program to ensure supply and reliability are maintained."

Response:

October 2001

The pouring of the concrete supports for equipment and pipe racks has continued throughout the month, with only a few remaining to be completed. A few pieces of equipment have been delivered to the job site and placed on their foundations. Coated pipe material for the underground fire water piping is scheduled for delivery in the beginning of November. CBI has issued a contract for the electrical and instrumentation installation portion of the project. Factory inspections of major equipment have continued through this month. Total project is approximately 70% complete with plant start-up scheduled for Spring 2002.

⁵ Unmodified condition of Ordering Paragraph #7, 11/22/00 Order.

PGW Commitment #5⁶

"PGW must show improvements in its customer service functions and report on its progress to the Commission on a quarterly basis. Such reports should include: monthly call center access reports for customer service and collection call centers (to include average speed of answer, average abandonment time, number of abandoned calls, average delay in queue and the percentage of calls answered); monthly consumer dispute reports (to include number of customer disputes filed, number and percentage of disputes responded to in under thirty days, and the average response time), the number and percentage of residential bills which PGW failed to render during the relevant billing cycles; the number and percentage of residential meters for which PGW has failed to obtain actual or customer supplied readings during the prior six months; and, monthly reports showing the number and percentage of missed customer service appointments."

Response:

October 2001

The third quarterly report is due January 4, 2002. PGW will report on its BCCS problem corrections for the months of October – December 2001 in that report.

⁶ Unmodified condition of Ordering Paragraph #8, 11/22/00 Order.

PGW Commitment #6⁷

“In addition to the management arrangements referred to above, PGW shall convene a "best practices" working group. The purpose of the working group is to solicit cost cutting steps from other entities such as natural gas distribution companies (NGDCs), industry associations and comparable municipal organizations. ”

Response:

October 2001

PGW is moving to structure a “best practices” working group by department. To date the following groups have been assembled and are collecting data or have association relationships as follows:

Customer Affairs: Receipt of PA Benchmarking™ 2001 "Customer Services Best Practices Survey" Final Report is expected in November 2001.

Distribution: PSE&G Peer Review Group

Operations: AGA Best Practices Group

Fleet Operations: Chatham Consulting Group Benchmarking Survey - triennial

For the latter three groups -- Distribution, Operations, and Fleet Operations -- PGW reviews all the recommendations provided and implement those that improve productivity, efficiency and cost control. PGW also evaluates newly introduced products and services to ascertain their applicability to PGW's operations.

⁷ Unmodified condition of Ordering Paragraph #11, 11/22/00 Order.

PGW Commitment #7⁸

“In addition to the management arrangements referred to above, PGW must commit to address and implement the management, operational, service and other improvement measures ultimately recommended in the management audit, unless otherwise directed by the Commission.”

Response:

October 2001

The Progress Report on the Stratified Management and Operations Audit was filed with the PUC. The updated plans are in the process of implementation by the pertinent PGW departments as detailed in the Progress Report.

⁸ Unmodified condition of Ordering Paragraph #12, 11/22/00 Order.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of PGW's compliance filing and supporting documents upon the participants listed below in accordance with the requirements of § 1.54 (relating to service by a participant).

VIA FIRST CLASS MAIL

Tanya McCloskey, Esq.
Steve Keene, Esq.
Office of Consumer Advocate
5th Floor, Forum Place Bldg.
555 Walnut Street
Harrisburg, PA 17101-1921

Angela Jones, Esq.
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North 2nd Street
Harrisburg, PA 17101

Steven Gray, Esq.
Office of Small Business Advocate
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300 North 2nd Street
Harrisburg, PA 17101

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PA Public Utility Commission
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Harrisburg, PA 17105-3265

Charis M. Burak, Esquire
McNEES, WALLACE, NURICK
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Harrisburg, PA 17108-1166

Philip Bertocci, Esq.
Community Legal Services
1424 Chestnut Street
Philadelphia, PA 19102

Craig A. Doll, Esq.
25 North Front St., 2nd Floor
Harrisburg, PA 17101-1606

Date: November 2, 2001



Kevin J. Moody, Esquire

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Philadelphia Gas Works

Thomas E. Knudsen
Chief Financial Officer



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Fax: (215) 684-6101
E-mail: thomas.knudsen@pgwotks.com

December 3, 2001

ORIGINAL

HAND DELIVERY

James McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg., 2nd Fl.
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works
Docket No. R-00005654

Ku.?

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If the Commission requires further clarification on this report, please contact me immediately or contact our counsel of record, Daniel Clearfield.

Very truly yours,

Thomas Knudsen
Interim President and
Chief Executive Officer for:
Philadelphia Gas Works

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- Joe Farley, Bureau of Consumer Services

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¹ "[T]he Commission's approval of the terms and conditions set forth in the Joint Petition is expressly conditioned upon PGW's acceptance of the unmodified conditions in the November 22, 2000 Order." February 22, 2001 Order at Ordering ¶1.

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Philadelphia Gas Works

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Monthly Progress Report to the Pennsylvania Public Utility Commission

Docket No. R-00005654

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December 3, 2001

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PGW Commitment #1²

“PGW will commit to its "Transition to Excellence" plan for improvement and make a demonstration throughout the interim rate period that it is providing safe and adequate service.”

RESPONSE: **November 2001**

The “Transition to Excellence” program has elements that have been completed as set forth in the prior reports. Other ongoing elements are described below:

Regulatory

Pending before the PUC are the parties’ comments to the Tentative Order of October 12, 2001 concerning PGW's 2001 base rate case at Docket No. R-0006042, PGW’s Petition for Rehearing and Reconsideration as to both the PUC’s October 4, 2001 Order and Tentative Order, and the intervening parties’ answers thereto. On November 5, 2001, PGW filed a Motion for Leave to File a Reply to the Answers to PGW’s Petition for Rehearing and Reconsideration. PGW’s Reply was attached to the Motion. The Office of Trial Staff and Office of Consumer Advocate filed answers to PGW’s Motion for Leave on November 7 and 13, 2001, respectively. The PUC is scheduled to rule on these matters at its December 6, 2001 Public Meeting.

On November 30, 2001, PGW filed its First Quarterly Gas Cost Rate filing to be effective December 1, 2001. The filing decreased the GCR from \$4.3724 per Mcf to \$3.1307 per Mcf.

Customer Service Oversight is ongoing with a comprehensive Customer Service Initiative (CSI) Program that began on June 25, 2001. PGW last met with the PUC's Bureau of Consumer Services staff on October 30, 2001, and provided an update on its efforts. As a result of that meeting, PGW filed a Petition for Amendment of the August 9, 2001, Commission Order to outsource a portion of the call center function to enable PGW to achieve the industry standard of answering 80% of the non-emergency calls within 30 seconds. On November 9, 2001, the PUC granted the petition and amended the Order to allow PGW an extension of 47 days, or until January 2, 2002, to complete the outsourcing process.

² Unmodified condition of Ordering Paragraph #4, 11/22/00 Order.

Regulatory(continued)

Nearly 360 interrogatories have been received from the hearing examiner and the Philadelphia Public Advocate concerning PGW's FY 2002 Operating Budget filed with the Philadelphia Gas Commission. PGW has responded to these data requests. The Philadelphia Gas Commission held hearings on PGW's Operating and Capital Budgets on November 8, 9, 14 and 15. Briefs are due on November 28, 2001. Final approval is expected in January 2002.

Strategy and Planning

PGW filed its updated Strategic Plan & Financial Forecast with the Philadelphia Gas Commission in September 2001 as required. In November 2001, public hearings were held before the Philadelphia Gas Commission. PGW is awaiting the final disposition by the Philadelphia Gas Commission on both the combined budgets and the Strategic Plan.

Stabilization

Programming changes have been implemented or are currently in testing for all the improvements previously identified in the Billing System stabilization project plan. In order for PGW to have the ability to comply with BCS payment arrangement guidelines, implementation of the new Payment Arrangement module will be completed in January 2002. PGW continues to review business processes to identify system and training issues that must be addressed to realize additional efficiencies. Any system issues identified are reviewed and, if viable, are scheduled for future implementation.

Call Center

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PGW Commitment #2³

“PGW must achieve a 1% replacement rate in its mains replacement program, as provided for in the Company’s base case capital budget.”

Response:

November 2001

PGW is proceeding with the above project and is on schedule to reduce its inventory of cast iron pipe by the 1% rate. The Distribution Department continues to develop and review a list of *prioritized targeted main replacements based on the determinants of the Navigant Study*. With the assistance of the Engineering Department, appropriate designs are being completed and construction plans drawn.

To date, PGW and Outside Contractor crews have replaced, abandoned or rehabilitated approximately six (6) miles of cast iron main. Thirty-three percent (33%) of the total project is complete. PGW anticipates successful project completion by the end of Fiscal Year 2002.

³ Unmodified condition of Ordering Paragraph #5, 11/22/00 Order.

PGW Commitment #3⁴

“PGW must commit to correcting the problems with its BCCS system, particularly the need to rectify the budget billing problems, providing quarterly reports to the PUC's Bureau of Consumer Services, on the progress it is making in correcting its BCCS problems.”

Response:

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The third quarterly report is due January 4, 2002. PGW will report on its BCCS problem corrections for the months of October – December 2001 in that report.

⁴ Unmodified condition of Ordering Paragraph #6, 11/22/00 Order.

PGW Commitment #4⁵

"PGW must proceed with its LNG Liquefaction Replacement Program to ensure supply and reliability are maintained."

Response:

November 2001

The majority of equipment and pipe rack concrete supports are complete. Additional equipment, most notably the cold box, has been delivered to the job site and placed on their foundations. Installations of pipe racks have commenced and many pipe spool pieces have been fabricated off-site at the field contractor's shop. All pipe material for the underground fire water piping has been delivered and a significant portion of the loop has been fabricated and placed in the ground. Factory inspections of major equipment have been completed. Total project is approximately 73% complete with plant construction at approximately 30% complete. Plant start-up is scheduled for Spring 2002.

⁵ Unmodified condition of Ordering Paragraph #7, 11/22/00 Order.

PGW Commitment #5⁶

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Response:

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PGW is moving to structure a “best practices” working group by department. To date the following groups have been assembled and are collecting data or have association relationships as follows:

Customer Affairs: Receipt of PA Benchmarking™ 2001 "Customer Services Best Practices Survey" Final Report is expected in early December.

Distribution: PSE&G Peer Review Group

Operations: AGA Best Practices Group

Fleet Operations: Chatham Consulting Group Benchmarking Survey - triennial. In addition, a visit to Washington Gas Company is scheduled in December for a Fleet Operation's working group to review a similar NGDC's fleet management operating system and work processes.

For the latter three groups -- Distribution, Operations, and Fleet Operations -- PGW reviews all the recommendations provided and implement those that improve productivity, efficiency and cost control. PGW also evaluates newly introduced products and services to ascertain their applicability to PGW's operations.

⁷ Unmodified condition of Ordering Paragraph #11, 11/22/00 Order.

PGW Commitment #7⁸

“In addition to the management arrangements referred to above, PGW must commit to address and implement the management, operational, service and other improvement measures ultimately recommended in the management audit, unless otherwise directed by the Commission.”

Response:

November 2001

The Progress Report on the Stratified Management and Operations Audit was filed with the PUC. The updated plans are in the process of implementation by the pertinent PGW departments as detailed in the Progress Report.

⁸ Unmodified condition of Ordering Paragraph #12, 11/22/00 Order.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of PGW's "Monthly Progress Report" upon the participants listed below in accordance with the requirements of § 1.54 (relating to service by a participant).

VIA FIRST CLASS MAIL

Tanya McCloskey, Esq.
Steve Keene, Esq.
Office of Consumer Advocate
5th Floor, Forum Place Bldg.
555 Walnut Street
Harrisburg, PA 17101-1921

Angela Jones, Esq.
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North 2nd Street
Harrisburg, PA 17101

Steven Gray, Esq.
Office of Small Business Advocate
Commerce Building, Suite 1102
300 North 2nd Street
Harrisburg, PA 17101

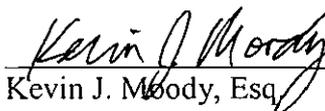
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Office of Trial Staff
PA Public Utility Commission
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Craig A. Doll, Esq.
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Harrisburg, PA 17101-1606

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Kevin J. Moody, Esq.

Dated: December 3, 2001

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

R-00005654

NOTICE OF PETITION by Philadelphia Gas Works,
Philadelphia Facilities Management Corporation, at No. 557
M.D. 2000, Commonwealth Court of Pennsylvania, from
the order of the Commission dated November 22, 2000 in
the above-captioned proceeding.

B-00003848

Filed: December 7, 2000

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OFFICE OF CONSUMER ADVOCATE

555 Walnut Street 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048

IRWIN A. POPOWSKY
Consumer Advocate

FAX (717) 783-7152
E-Mail: paoca@ptd.net

December 10, 2001

Ku.?

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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Re: Pa. Public Utility Commission
v.
Philadelphia Gas Works
Docket Nos. Docket No. R-00005654 and R-00016378

Dear Secretary McNulty:

Enclosed for filing please find an original and three copies of the Petition for Enforcement of Settlements of the Office of Consumer Advocate in each of the above-referenced proceedings.

Copies of this document have been served upon all parties as evidenced by the attached Certificate of Service.

Sincerely yours,

Stephen J. Keene
Senior Assistant Consumer Advocate

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Enclosure

cc: All parties of record
Honorable Marlane R. Chestnut, Administrative Law Judge
Karen Moury, Esq., Law Bureau
Robert Rosenthal, Fixed Utilities Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Pennsylvania Public Utility Commission :

v. :

Philadelphia Gas Works :

Pennsylvania Public Utility Commission :

v. :

Philadelphia Gas Works, 1307(f) :

Docket No. R-00005654

PA.P.U.C.
SECRETARY'S BUREAU

DOCKETED

DEC 13 2001

Docket No. R-00016378

PETITION FOR ENFORCEMENT OF SETTLEMENTS

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I. INTRODUCTION

On November 30, 2001, Philadelphia Gas Works ("PGW" or "Company") filed its Quarterly Update to its Gas Cost Rate ("GCR") to become effective December 1, 2001. The tariff supplement filed reduced PGW's GCR from \$4.3724/Mcf to \$3.1307/Mcf effective December 1, 2001.

The Office of Consumer Advocate ("OCA") has reviewed the Company's Quarterly Update filing and has identified an error in that filing that has the effect of increasing the Company's gas costs by \$7 million in the 2002 GCR period.

The Company has used this Quarterly Update as an opportunity to try to reinsert \$7 million for bad debt expense allowance into its GCR. The Company claims that it is authorized to do so by the Joint Petition for Full Settlement of Philadelphia Gas Works'

Petition for the Establishment of Interim Rates and Related Appeal (“Interim Rates Settlement”) entered into between PGW and the Commission’s Law Bureau.

The OCA submits that PGW’s attempt to collect an additional \$7 million in bad debt expense through its GCR is in violation of the Interim Rates Settlement, the Settlement of PGW’s 2002 GCR proceeding, and is simply an attempt to circumvent the Commission’s decision in PGW’s recently concluded base rate proceeding with respect to the appropriate level of bad debt expense. Therefore, the OCA respectfully requests that the Commission direct PGW to *immediately* remove the \$7 million bad debt expense allowance from its GCR.

II. THE COMPANY’S ATTEMPT TO RECOVER AN ADDITIONAL \$7 MILLION FOR BAD DEBT EXPENSE IN ITS 2002 GCR VIOLATES THE INTERIM RATES SETTLEMENT AND THE SETTLEMENT OF PGW’S 2002 GCR PROCEEDING.

In Schedule 1 of PGW’s Quarterly Update, the Company includes a \$7 million expense in its GCR costs for “Interim Settlement Bad Debt Allowance.” Quarterly Update, Sch. 1. In the transmittal letter, the Company explains that the \$ 7 million is to be included in the “Reserve Fund” created by the Interim Rates Settlement. The OCA submits that the Interim Settlement does not permit PGW to collect \$7 million for bad debt expense in the current GCR period. The \$7 million for bad debt allowance authorized by the Interim Rates Settlement has already been collected by the Company during its 2001 GCR period.

The Interim Rates Settlement between PGW and the Commission’s Law Bureau came about as a result of the Company’s appeal of the Commission’s Order in

PGW's Interim Rates proceeding at Docket No. R-00005654. In that proceeding, the Company had sought an interim base rate increase of \$65 million. After an expedited proceeding, the Commission entered an order awarding PGW an \$11 million interim rate increase. After PGW appealed this decision to the Commonwealth Court, the Company entered into settlement negotiations with the Law Bureau that resulted in the Interim Rates Settlement. That Settlement resolved various contested issues that the Company had raised in its appeal. Pertinent to the instant issue, the Interim Rates Settlement allowed the Company to increase its **2001 GCR** to recover an additional \$7 million for additional bad debt expense. Interim Rates Settlement at 2, 7. The recovery of the \$7 million was to be compressed so as to be fully recovered by the end of PGW's 2001 GCR period. Interim Rates Settlement at 7. The Interim Rates Settlement also allowed PGW to hold in reserve any additional GCR over-recovery from the 2001 GCR period to be used as necessary to meet Bond Ordinance covenant requirements, debt service and/or timely payment of obligations when due, through January 2002.¹ Interim Rates Settlement at 8. Thus, the total maximum relief through the GCR provided by the Interim Rates Settlement was up to \$25 million (\$7 million for bad debt expense plus \$18 million for over-recovery of GCR costs).²

The Company has already recovered the \$7 million for bad debt expense during the 2001 GCR period. See, Quarterly Update, Sch. 8. Now the Company is

¹ In its Quarterly Update, the Company has reported that the total GCR over-recovery for the 2001 GCR period was \$10.58 million. Pursuant to the Interim Rates Settlement, this is the total amount that can be placed into the reserve account.

² The Interim Rates Settlement also permitted PGW to increase its customer charge to collect an additional \$11 million in base rate revenues, compressed so as to recover the full amount by August 31, 2001.

attempting to recover an additional, unauthorized \$7 million for bad debt expense in its 2002 GCR as well. This in spite of the fact that the settlement of PGW's 2002 GCR proceeding expressly required the Company to remove the \$7 million from its GCR costs. Joint Petition for Complete Settlement of Philadelphia Gas Works' 2001-2002 GCR Proceeding §III.2 ("2002 GCR Settlement"). Thus, the Company, which just took the \$7 million out of its GCR in its September compliance filing made pursuant to the 2002 GCR Settlement, now seeks to reinsert the \$7 million back into its GCR by using its first quarterly update as a vehicle. The OCA submits that this is in violation of the Interim Rates Settlement and the 2002 GCR Settlement, and should be rejected immediately by the Commission.

It is OCA's understanding that the Company relies principally upon Section III.27 of the Interim Rates Settlement in support of its inclusion of an additional \$7 million in its 2002 GCR. Section III, 27 provides:

27. Any additional calculated GCR over-recovery, up to \$18 million (for a total of \$25 million), will be held in a reserve account to be used as necessary to meet Bond Ordinance covenant requirements, *i.e.*, debt service and/or timely payment of obligations when due, through 2002. After the PUC rules on PGW's permanent base rate request or any additional settlement thereof, PGW will make a projection of its debt service and cash obligations through January 2002. To the extent PGW identifies a cash deficiency that would cause a Bond Ordinance covenant violation, PGW will be permitted to utilize the reserve fund (or portion thereof) to cover this deficiency. Any remaining portion of the reserve will be returned to ratepayers through the GCR, subject to PGW's right to request a different treatment. PGW will make an informational filing to the PUC when it determines whether it shall need the reserve fund, no later than December 31, 2001, which shall be reviewed and approved by the PUC with its conclusions communicated by secretarial letter within ten (10) days of its filing.

Interim Rates Settlement §III.27. In particular, the OCA understands that PGW relies upon the parenthetical “(for a total of \$25 million)” in the first sentence of this paragraph as authority to recover an additional \$7 million in its 2002 GCR. The Company claims that the \$7 million that it recovered for bad debt expense in its 2001 GCR has already been spent and that it has an absolute right under the Interim Rates Settlement to include an additional \$7 million in the reserve fund along with the over-recoveries from the 2001 GCR period.³ The OCA submits that such a reading of this section of the settlement cannot stand in light of the language of the Interim Rates Settlement and Order approving that Settlement, as well as the 2002 GCR Settlement.

Section III.23 is the part of the Interim Rates Settlement that authorizes PGW to collect an additional \$7 million for bad debt expense through its GCR. This Section provides:

23. As part of its previously authorized GCR revision opportunity in March, 2001, the non-gas cost portion of PGW’s GCR rate will be increased to produce \$7 million, compressed so as to be collected by August 31, 2001, the end of PGW’s current GCR period, in order to recover additional bad debt expense associated with gas costs in excess of the level assumed in the Interim Rate Proceeding. This amount will not be reconciled against actual gas costs. The bad debt expense will be subject to review and revision in PGW’s pending base rate proceeding.

Interim Rates Settlement §III.23.

³ As noted in Footnote 1 above, the Company did not reach its ceiling of \$18 million of over-recoveries in the 2001 GCR period authorized by the Interim Rates Settlement. It had a total over-recovery of \$10.58 million as of August 31, 2001. This is the total amount to be held in the reserve account.

The Interim Rates Settlement clearly states that the \$7 million bad debt allowance is to be fully recovered by the end of PGW's 2001 GCR period, August 31, 2001. There is nothing in this section that would authorize an additional \$7 million to be recovered through the 2002 GCR. In fact, the Order approving the Interim Rates Settlement makes it clear that the \$7 million increase in the GCR is only temporary and that the appropriate level of bad debt expense will be addressed in the Company's permanent base rate proceeding. In fact the Commission specifically stated:

As to the assertions concerning the permanent inclusion of a factor in PGW's GCR to recover the bad debt expense, the Commission notes that the Joint Petition expressly states that its provisions constitute a negotiated resolution of the issues and are of no precedential value in subsequent proceedings. *We assure the parties that our approval for the recovery of a portion of bad debt expense through the GCR under the limited and specific circumstances described in the Joint Petition does not reflect any intent to permit such treatment in future GCR proceedings.* (emphasis added).

Interim Rates Settlement Order at 6 (Order entered February 22, 2001).

The issue of the appropriate level of bad debt expense was extensively litigated by the parties in the base rate proceeding at Docket No. R-00006042 and addressed in the Commission's October 4, 2001 Opinion and Order and the Commission's December 6, 2001 Order on Reconsideration. The Company's attempt to include an additional \$7 million in its 2002 GCR for bad debt expense would circumvent the Commission's determination in the base rate case.

The Commission's Order approving the Interim Rates Settlement also provides some guidance with respect to PGW's contention that the parenthetical language

in Section III.27 creates a \$25 million reserve account and that PGW could only get to \$25 million by including an additional \$7 million in its 2002 GCR. In the Order approving the Interim Rates Settlement, the Commission characterized the reserve account as a “potential \$18 million ‘reserve fund.’” Therefore, the Company’s argument that it needs an additional \$7 million from this year’s GCR should be rejected. It is clear that the only amount that should be held in the reserve account is the \$10.58 million of actual over-recoveries experienced by the Company as of August 31, 2001, the end of its 2001 GCR period.

Finally, in the Settlement of PGW’s 2002 GCR proceeding, the Company was specifically required to remove the \$7 million of bad debt expense. 2002 GCR Settlement §III.2. The OCA submits that the Company’s inclusion of this \$7 million back into the GCR as part of its first quarterly update is in violation of the 2002 GCR Settlement. The Company should be required to immediately remove the \$7 million from its GCR.

III. CONCLUSION

For the reasons set forth above, the OCA respectfully requests that the Commission enforce the Interim Rates Settlement and the 2002 GCR Settlement by directing PGW to immediately remove the \$7 million bad debt allowance from its GCR.

Respectfully submitted,



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Senior Assistant Consumer Advocate

Counsel for:
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Dated: December 10, 2001

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CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works
Docket Nos. R-00005456 and R-00016378

I hereby certify that I have this day served a true copy of the foregoing document, Petition for Enforcement of Settlements, 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 10th day of December, 2001.

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66652

DATE: December 11, 2001
SUBJECT: R-00005654 & R-00016378
TO: Law Bureau
FROM: James J. McNulty, Secretary

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DOCUMENT
FOLDER

Pa. Public Utility Commission
v.
Philadelphia Gas Works

Attached is a copy of a Petition for Enforcement of Settlements, filed by Office of Consumer Advocate in connection with the above docketed proceedings.

This matter is assigned to your Bureau for appropriate action.

Attachment

cc: FUS

was

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December 12, 2001

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Re: PA Public Utility Commission v. Philadelphia Gas Works,
Docket No. R-00005654

Dear Secretary McNulty:

Philadelphia Gas Works ("PGW") respectfully submits this informational filing and request to utilize the Interim Settlement reserve account funds consistent with the Joint Petition for Full Settlement entered into with the Public Utility Commission's ("PUC") Law Bureau, dated February 8, 2001, and the PUC's February 22, 2001, Order in the above-referenced matter adopting that settlement. In this correspondence and the attached materials, PGW sets forth its need for and right to the use of \$17.58 million in reserve account funds, and requests that the Commission issue a Secretarial letter approving the same.¹

Background

In August 2000, PGW filed a Petition requesting \$52 million in interim rate relief, pending the filing and completion of its first full base rate case under the Commission's jurisdiction. On November 22, 2000, the Commission entered an Order granting PGW an interim increase of \$11 million, subject to various conditions.

PGW challenged the PUC's November 22, 2000 Order by filing a Petition for Review with the Commonwealth Court on December 7, 2000. Subsequent to the filing of its Petition for Review, PGW, the City of Philadelphia and the PUC Law Bureau entered into a proposed settlement of the appeal, and, consequently, a Joint Petition for Full Settlement of PGW's

¹ Pursuant to the terms of the approved Joint Petition for Full Settlement, the PUC must notify PGW via Secretarial letter of its decision on the Company's request within ten (10) days of this filing. Joint Petition at ¶ 27.

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Petition for the Establishment of Interim Rates and Related Appeal ("Joint Petition") was filed on February 8, 2001.

The Joint Petition proposed a package of steps designed to meet PGW's projected cash needs during the 2001 winter and through January 2002. First, it proposed that PGW be permitted to increase its customer charges so as to produce \$11 million in additional base rate revenue by August 31, 2001.² Second, PGW was permitted to increase the non-gas cost portion of its GCR rate to produce \$7 million in annual revenues by August 31, 2001, in order to recover additional bad debt expenses resulting from dramatic increases in the cost of gas.³ Third, the Joint Petition sought the Commission's approval of several gas purchasing and operational steps designed to enable PGW to husband cash to meet its obligations through January 2002.⁴ Finally, PGW and the Law Bureau agreed that a one time amount of \$7 million, plus "[a]ny additional calculated GCR over-recovery, up to \$18 million (for a total of \$25 million),⁵ will be held in a reserve account to be used as necessary to meet Bond Ordinance covenant requirements . . . through January 2002."⁶

² Joint Petition at ¶ 22.

³ *Id.* at ¶ 23.

⁴ *Id.* at ¶ 25-26.

⁵ The Settlement clearly contemplates that PGW would be permitted to create a reserve fund consisting of the \$7 million non-gas cost amount plus any calculated gas cost over-recovery. (This \$7 million, one-time fund is not the same as the additional annual allowance for bad debt referred to above.) *See*, Joint Petition at ¶¶ 23-27. Based upon these paragraphs, the Company held out from its December 1, 2001 GCR update \$17.6 million, which it will return to ratepayers if the PUC declines to authorize the Company to hold on to the reserve fund.

⁶ *Id.* at ¶ 27. The Joint Petitioners recognized that PGW has at least three (3) relevant bond covenants which are as follows:

- a) A covenant that requires PGW to maintain funds that are 150% of its annual debt service obligation;
- b) A covenant that requires PGW and its owner, the City of Philadelphia to charge rates that permit PGW to have sufficient cash to pay its obligations during each fiscal year when they are due; and
- c) A covenant that requires PGW and the City to take the necessary steps to maintain and operate the Gas Works.

The Joint Petition envisioned that, after the Commission had ruled on PGW's permanent base rate request, PGW would project its debt service and cash obligations through January 2002, and determine whether it would need any of the reserve funds to meet its bond covenant obligations through the first month of 2002. If PGW was in need of additional cash to make it through this period, the Company was required to make an informational filing with the PUC requesting the reserve account funds by December 31, 2001.⁷ As indicated above, the Commission was required to approve the request and notify PGW via Secretarial letter within ten (10) days of its filing.⁸ The Joint Petitioners agreed that PGW would retain any authorized amount for cash flow purposes, while any unused portion of the reserve account would be returned to the ratepayers through the GCR, subject to PGW's right to request a different treatment.⁹

On February 22, 2001, the Commission entered an Order approving the Joint Petition as to each and every one of its terms and conditions.

On January 5, 2001, PGW filed its permanent base rate request seeking an additional \$65 million in base rate revenues, inclusive of the interim relief. On October 4, 2001, the Commission entered an Order granting PGW \$39 million in rate relief (including the interim relief), and then, on October 12, 2001, issued a Tentative Order proposing to further reduce PGW's rate increase level to \$33.6 million. On December 6, 2001, the PUC ruled on PGW's reconsideration petition, making a final determination to permit the Company to increase its base rates by \$33.6 million.

Additionally, pursuant to PUC order, PGW filed its December 1, 2001, quarterly GCR update, reflecting a \$10.58 million over collection of purchased gas costs.¹⁰ The Company's actual overcollection account also included the \$ 7 million in allowed non-gas costs. Thus, as per the terms of the approved Interim Rate Settlement, the reserve account, including the \$10.58 million over-recovery and the \$7 million non-gas cost cash flow allowance, totals \$17.58 million. As PGW's December 1 filing indicates, the Company held out this amount from the GCR refund mechanism pending PUC review of this filing.

Id. at ¶ 10.

⁷ *Id.* at ¶ 27.

⁸ *Id.*

⁹ *Id.*

¹⁰ *See Philadelphia Gas Works v. Pa. PUC*, Docket No. R-00016378, Quarterly Update (December 1, 2001) at Schedule 8.

Request to Retain the Reserve Account Funds to Satisfy Bond Covenants

PGW hereby requests to retain the Interim Settlement reserve fund – \$17.58 million – because it satisfies the requirements set forth in the Joint Petition. As demonstrated in Appendix “A” hereto, the affidavit of PGW’s Joseph Bogdonavage, PGW Senior Vice President for Finance, at the level of rate relief allowed by the Commission (\$33.6 million), the Company will not be capable of satisfying all of its cash obligations, in full, when they come due. As the analysis shows, the Company will not have sufficient cash from rate revenues and available lines of credit¹¹ to pay for such items as debt service, commodity purchase invoices, and pipeline demand charges. As Mr. Bogdonavage’s schedules clearly demonstrate, PGW is projecting that it will have an \$18.4 million deficiency on January 28, 2002, which will only be addressable by the PUC authorizing the use of the entire \$17.6 million reserve fund.¹²

This situation has only been exacerbated by the considerably warmer than normal weather that the company has experienced this November. As Mr. Bogdonavage’s affidavit indicates, PGW’s sales in November have been crippled by weather that is 44% warmer than normal. The December trend is similar.

As discussed above, the creation of the reserve fund by the Joint Petition was part of a package of cash flow steps designed to ensure that the resolution of the Interim Rate Proceeding would leave the Company with sufficient cash through January 2002 to meet its bond covenants and to continue to operate as a going concern. Rather than permit PGW to raise its rates on an interim basis by a possible \$25 million, the PUC approved the creation of the reserve account, to

¹¹ PGW submits that the Joint Petition did not envision it having to search for or generate revenues beyond operating revenues and available lines of credit by resorting to financially dubious, and/or extraordinary one-time fixes. The entire point of the Interim Settlement was to assist PGW in securing some semblance of financial health on a going forward basis, and not to force or encourage it to take or rely on the types of expedient financial steps that contributed to its financially precarious condition. Indeed, in its November 22, 2000 Order on PGW’s request for interim relief, the Commission joined in the criticism of PGW’s history of avoiding rate increases by employing such one-time fixes. See November 22, 2000, Order at 10-11.

¹² As the affidavit explains, PUC authorization of the reserve account will permit PGW to borrow from its Capital Fund to cover the rest of its deficiency because it will have the necessary assurance that it will be able to reimburse the Capital Fund at the end of the year if PGW can not actually incur the capital expenditures up to the level from which it has borrowed from the fund. Reimbursing the Fund for non-expended amounts is a requirement of PGW’s bond indenture.

be used if needed to satisfy its bond covenants through the winter of 2001-02. As the PUC recognized in approving the Interim Settlement, a key PGW bond covenant is the covenant requiring it to have sufficient revenues to pay all of its obligations when they come due. Appendix A shows that, without the ability to utilize the reserve account, PGW will not be able to satisfy this bond covenant. Consequently, under the terms of the Joint Petition, PGW is entitled to retain the reserve account funds as necessary to cover the projected deficiency and meet its bond covenants.¹³ Moreover, as shown in Appendix A, the deficiency facing PGW requires the use of the entire gas cost over collection of \$10.58 million and the entire, one time non-gas cost cash flow allowance (\$7 million), for a total of \$17.58 million.¹⁴

¹³ Joint Petition at ¶ 27. It is fortuitous that PGW currently has sufficient proceeds from bond sales to be useful under the circumstances. Surely the fiscal well being of the Company should not be dependent on where it is in its cycle of bond issuances.

¹⁴ The establishment of a maximum \$25 million reserve fund comprised of a certain amount of calculated over-recovery and an additional \$7 million of non-gas cost revenues is plainly stated on the face of the Settlement – each and every term of which was approved by the Commission. Paragraph 27 of the Settlement states that “any additional calculated GCR over-recovery, up to \$18 million (for a total of \$25 million), will be held in a reserve account . . .” (emphasis added). First, the Joint Petition states that “[a]ny additional calculated GCR over-recovery, up to \$18 million” will be held in a reserve account. *Id.* (emphasis added). By the use of the term “additional” in reference to a calculated over-recovery, the parties clearly contemplated that the reserve account would hold something more than a potential maximum calculated over-recovery of \$18 million. Second, after identifying the potential \$18 million in “additional calculated GCR over-recovery,” the Joint Petition includes a parenthetical noting that the total, maximum reserve account would be \$25 million. Clearly, the \$25 million total was reached by adding the potential \$18 million in calculated over-recovery and the \$7 million in one time, non-gas cost GCR revenue. Thus, as per the Settlement, the reserve account balance is derived by taking whatever calculated overcollection PGW actually experiences (not exceeding \$18 million) and adding \$7 million to that figure; here, \$17.58 million. While certain parties have already filed pleadings suggesting that PGW is reinserting the \$7 million in bad debt expense allowance approved in the Joint Petition, these assertions mischaracterize PGW’s actions in increasing its GCR and are not consistent with the approved Settlement. As per the Joint Petition (¶ 23) and the order approving it, PGW already received PUC permission to collect and retain the \$7 million in bad debt expense. Under these parties’ assertions, PGW would now be placing those funds back into a reserve fund and seeking – again – the Commission’s approval to keep that which it is already authorized to retain. Clearly, such suggestions have no merit. Moreover, \$7 million, already approved, has been spent on bad debt expenses. Those same funds cannot also be used a second time for cash flow to avoid a bond covenant violation through January 2002.

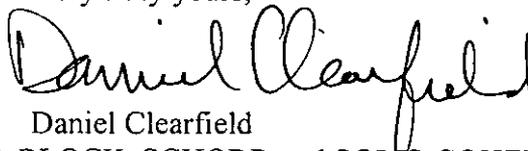
James McNulty
December 12, 2001
Page 6

The PUC's approval of the use of such funds is consistent with and required by its approval of the Interim Settlement, and, absent retention of such funds, PGW does not have the cash from revenues sufficient to allow the Company to meet its obligations through January 2002 and avoid a breach of its bond covenants. Nonetheless, even if permitted to retain these funds, PGW will still be required to borrow from the restricted Capital Fund to meet its January obligations. Mr. Bogdonavage explains that these borrowings must be paid back as soon as possible because PGW cannot assure that it can utilize these proceeds consistent with the requirements of its bond indenture. Moreover, the PUC order approving the Settlement specifically indicated that the reserve fund would be available if "no other sources or revenue [were] reasonably available."¹⁵ As Mr. Bogdonavage explains, bond proceeds are not revenues.

Accordingly, PGW respectfully requests that the Commission issue a Secretarial letter authorizing the Company to continue to retain the reserve fund. As the fund has been held out of PGW's current GCR factor, no further filing or change in rates is necessary to effectuate this action.

PGW stands ready to provide additional information or discuss the filing with the Staff and would be delighted to attend a meeting or conference call with Commission Staff if such is deemed to be appropriate.

Very truly yours,



Daniel Clearfield

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DC/jlg

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Robert Rosenthal, Director FUS

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¹⁵ February 22, 2001 Order at 5.

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).

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Dated: December 12, 2001


Daniel Clearfield, Esquire

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Pennsylvania Public Utility
Commission**

v.

Philadelphia Gas Works

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Docket No. R-00005654

VERIFIED STATEMENT OF JOSEPH R. BOGDONAVAGE

My name is Joseph R. Bogdonavage. I am the Senior Vice President of Finance for the Philadelphia Gas Works ("PGW"). I have previously presented testimony before the Pennsylvania Public Utility Commission in support of the Philadelphia Gas Works' request for a \$65 million increase in base rates.

The purpose of this Verified Statement is to provide the Commission with the informational filing anticipated in the Joint Petition for Full Settlement of PGW's Petition for the Establishment of Interim Rates and Related Appeal ("Joint Petition") filed in the above-captioned matter and approved by the Commission by Order entered February 22, 2001. As per the terms of the Joint Petition, the informational filing is to project PGW's debt service and cash obligations through January 2002 and to set forth the Company's need for the use of the reserve account established by the Joint Petition.

As detailed herein, based upon the level of rate relief that the Commission has indicated it will allow, PGW will not be able to satisfy its cash obligations through January 2002 without the use of the entire \$17.58 million reserve account. It is my recommendation that the Commission approve PGW's use of the Joint Petition reserve account. In reviewing the following information, the Commission should be cognizant of the fact that: (1) although an annual base rate increase has been authorized; PGW will not collect significant revenues from that increase through January 2002, and (2) the weather in November was 44% warmer than normal, the trend in December is similar and fiscal YTD is 34% warmer than normal. These lost sales have significantly affected PGW's cash flow in December and January and reduced, by nearly \$7 million, earnings thus far and year-end cash balances as currently projected.

Background

In settling the Interim Base Rate request and withdrawing the appeal of the Commission's November 22, 2000 Order, Management and the City of Philadelphia well understood the danger PGW was facing. With only an \$18 million interim rate relief, of which only \$11 million was permanent, there was a high probability that Fiscal and

Calendar year-end cash balances were going to be inadequate. A trade-off Management and the City made was the availability of the reserve account in lieu of a larger annual, interim rate increase. This anticipated cash flow deficiency in the winter of 2001-02 has been exacerbated by the experienced warm weather, which has made a difficult problem even worse. If the current warmer than normal weather were to continue, PGW will face dire circumstances.

The reserve account must be retained because PGW has substantial obligations in December and January which can not be met by any other source of revenues or cost cutting. The Company's present budget already contains a cost reduction and efficiency effort, totaling \$25 million over three years. It is maintaining those cost saving efforts, but cannot cut any more costs to generate cash, without seriously damaging programs and service improvement initiatives (many of which have been required by PUC order). Moreover, the Joint Petition did not require cost reductions as a prerequisite to retaining the reserve account.

Other possible sources of cash to which reference is frequently made are additional loans by banks or loans or infusions of equity by the City. However, the existing, \$45 million City loan is fully extended and the City is not in a position to extend any additional funds to PGW. In addition, the Commission-approved Settlement contemplates PGW's use of the reserve account in the absence of other revenue sources reasonably available. A loan from the City or any third party is not a revenue source. Further, PGW's commercial paper program will be fully extended at \$97 million by December, 2001.¹

Importantly, even if the Company is permitted to retain the reserve account its present analysis nonetheless shows that it will have a huge negative cash balance – \$18.4 million on January 25 when the monthly gas bill is due and an \$8.4 million negative balance at month end. This means that, even if it is able to retain the reserve account (by keeping its present GCR slightly higher by roughly \$0.29/Mcf), PGW still will have \$8.4 million less than it needs to make all of its payments at the end of January. To fund these deficiencies, therefore, PGW will be forced to utilize a portion of its remaining Restricted Capital Fund even though it is not in a position to satisfy the prerequisites for borrowing from that Fund.² Assuming that the PUC permits PGW to retain the reserve

¹ Notably, by fiscal year end, PGW's outstanding commercial paper letter of credit will be restricted to \$80 million, placing an additional burden of \$20 million on the company's cash flow that was not anticipated in February, 2001.

² By the end of December, the Company will have already borrowed considerably more from the Capital Fund than it has committed to expend on capital improvements to year end (i.e., at the end of December, approximately \$33 million will have been borrowed with committed construction of only \$18 million). Additional borrowing from the Capital Fund (without a clear source of reimbursement) puts the Company at risk of being in legal violation of its bond indenture. Such borrowing, even if the Company could continue to do so without risking a bond indenture violation, is not a source of revenue that was

account, PGW will legitimize its Capital Fund borrowing by expending funds on construction or repaying the unspent amounts from the extra dollars produced by the reserve account. I am compelled to point out that, even if the PUC permits PGW to retain the reserve account, it is now projecting a cash flow shortfall at the end of FY 2002, with a negative cash balance of \$ 4.1 million. A negative cash position – which could end up being much worse if the weather continues – must be corrected if the Company is to continue to meet its financial obligations.

The first alternative to reduce a cash deficiency is to cut back on the capital spending, thereby compromising such programs as main replacement and the LNG refurbishment – which are safety and reliability related – that the Commission ordered us to continue. It must be understood that, by the end of January 2002, PGW will have drawn \$27 million more than it has committed to have spent to that date from the Capital Fund (assuming that it utilizes an additional \$20 million from the Capital Fund to make its January payments).³ Without assurances of liquidity as PGW moves through the year, Management will have no choice but to cut back on capital expenditures to balance spending with borrowing. To not so balance (i.e., to borrow more from the Capital Fund than expended on capital projects without the ability to reimburse the fund) by fiscal year end would be a violation of the Bond indenture. PGW continues to skate on the thinnest of ice. Use of the reserve account is essential to assist the Company to get by its most immediate crisis – the payment of obligations in December and January of 2001-02. Please note that PGW is currently evaluating its options and the defensive measures it needs to take just to survive. Among those options is the use of certain "one-time fixes" to repair this serious deficiency. Even if those options become available to assist in year end cash flow, it is likely that some additional base rate relief will also be necessary before next winter.

Cash Flow Analysis

I have attached Exhibit A, PGW's Estimated Actual FY 2002 Cash Receipts and Disbursements in support of the above assertions. This schedule was based on PGW's FY 2002 Operating Budget which was filed on August 3, 2001 with the Philadelphia Gas Commission, amended to recognize base rate relief of \$33.6 million and a projected GCR rate of \$3.13. This schedule shows that its anticipated year-end cash balance will be a negative \$4.1 million.

Exhibit B shows daily cash balances through January. This schedule indicates that PGW's cash balance, at the end of December, will be just \$20.1 million (which could

contemplated by the Company when it entered into the Interim Settlement. Such borrowing should not be required in lieu of the reserve account.

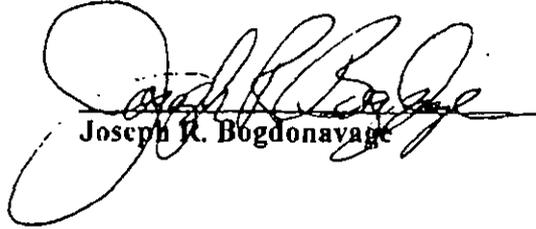
³ This figure is reached by: (adding \$33 million in borrowing from the Capital Fund through December 2001 + \$20 million in borrowing from the Fund in January 2002) less \$26 million in anticipated spending on committed construction through January, 2002 = \$27 million in excess borrowing.

only be attained by borrowing \$33 million from the Capital Fund). As shown in Exhibit B-1, on January 2, 2002, PGW is confronted with a \$24.3 million debt service payment that it will be unable to make. In addition, this schedule shows that on January 25, 2002, PGW has a \$32.7 million natural gas invoice and \$1.9 million in payroll and other disbursements, with only \$16.3 million available to make these payments. The result is an \$18.4 million deficit that must be made up from some source or the Company will not be able to pay these obligations. (The end of the month deficiency is \$8.4 million.)

To summarize, PGW has no choice but to make additional borrowings from the Capital Fund to make these payments. Management needs the reserve account in order to have adequate assurances that, in borrowing an additional \$20 million from the Capital Fund it will be able to incur expenditures for capital or pay the funds back, as required by the bond indenture. If we are not able to retain the reserve account we will nonetheless be forced to borrow the same amount from the Capital Fund. At that point, PGW will have to restrict capital spending or resort to one-time (and costly) fixes not contemplated by the Settlement.

I verify, pursuant to the penalties contained in 18 Pa. C.S. § 1804 (relating to unsworn falsification to authorities) that the preceding statement and attachments hereto are true and correct to the best of my knowledge, information and belief.

Submitted By:



Joseph R. Bogdonavage

Dated: December 12, 2001

Estimated weather 4200 degree days
 City Loan \$45.0 MM Fully Outstanding @ 8/31/01
 \$3.5 MM Rate Increase Effective Oct 2001 - \$3.5 GCR 12/1/01
 TXCP \$100.0 M with \$77.0 M Outstanding @ 8/31/02
 Reduced expenses per union contract settlement
 Pre-Draw Capital Funding during the Fiscal Period

BASE CASE ACTUAL WEATHER THRU 12/15/01 RETAIN \$17.6 MM GCR

**BUDGET OF CASH RECEIPTS AND DISBURSEMENTS
 FISCAL YEAR ENDING AUGUST 31, 2002
 (All items in Dollars)**

	ACTUAL	ACTUAL	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	TOTAL
12/12/01	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	
OPENING BALANCE - CASH INCLUDES \$7.0 TXCP RECEIPTS	51.7	80.7	33.7	34.7	120.1	(53.4)	34.8	328.6	356.4	366.0	354.4	315.8	81.7
Gas	32.2	40.3	43.7	42.0	57.0	68.8	74.4	71.6	60.4	45.2	36.7	35.4	612.3
Other	3.7	0.3	0.5	1.6	1.8	1.6	1.5	1.5	1.5	1.5	1.5	2.9	17.0
Drawn from Capital Funds - Principal (\$90.6MM)	12.9	20.0	0.0	0.0	0.0	10.0	0.0	7.9	0.0	10.0	0.0	0.0	60.8
Drawn from Capital Funds - Interest	3.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.7	1.7
Drawn from Lease Funds - Principal (\$9.0MM)	3.0	0.0	0.0	0.0	0.0	2.0	0.0	0.0	0.0	0.0	1.6	0.0	3.8
Drawn from Lease Funds - Interest	3.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.2
Advance (Repayment) of Capital Fund	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Pension Draw	0.0	0.0	0.0	9.2	2.2	2.3	2.3	2.3	2.3	2.3	2.4	2.4	27.8
City Loan	11.9	32.2	7.1	1.8									53.0
Rate Relief	0.0	0.0	0.0	0.0	0.0	3.6	3.9	3.6	3.2	2.4	2.0	1.8	20.8
TOTAL RECEIPTS	57.7	50.7	51.3	55.6	60.9	83.3	62.1	87.1	67.4	61.3	46.4	45.5	797.4
TOTAL	50.4	94.4	55.0	58.9	81.0	83.0	68.9	115.7	123.8	127.3	103.8	81.3	799.1
DISBURSEMENTS													
Labor	10.3	11.1	12.1	11.8	12.8	19.0	11.1	11.3	11.5	10.4	11.4	10.9	135.5
Natural Gas	26.3	27.8	26.9	37.0	43.0	47.3	37.4	34.5	50.2	28.5	23.2	23.6	387.9
Debt Service	0.0	3.8	0.0	0.1	24.3	6.8	9.0	4.0	1.7	1.4	36.2	16.4	94.8
TXCP - Interest	3.5	0.1	0.7	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.2	2.9
Repayment of City Loan	14.5	36.7	1.8	0.0									53.0
Cost Savings/Reduction		0.0	0.0	(0.6)	(0.7)	(0.8)	(0.8)	(1.0)	(1.1)	(1.2)	(1.3)	(1.4)	(9.0)
City Fee	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	18.2	0.0	0.0	18.2
Other Disbursements	7.5	8.1	11.2	9.8	9.5	10.5	10.3	10.3	10.2	10.3	10.3	10.4	118.8
TOTAL DISBURSEMENTS	58.7	87.7	54.2	58.3	84.4	75.2	59.2	59.4	57.8	67.9	60.0	63.4	602.2
MONTHLY CASH FLOW	(11.0)	8.0	(2.9)	(2.7)	(28.4)	13.1	23.9	27.7	14.6	(6.5)	(20.8)	(14.9)	(4.8)
CUMULATIVE CASH FLOW	(11.0)	5.0	2.0	(0.6)	(29.1)	(15.0)	7.9	35.7	50.3	43.7	19.1	(4.8)	
OPENING TXCP	78.0	78.0	75.0	78.5	97.0	97.0	97.0	97.0	97.0	92.0	81.0	82.0	78.0
TXCP ISSUED DURING MONTH	0.0	0.0	3.5	18.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	22.0
TXCP ISSUED PAID DOWN DURING MONTH	0.0	3.0	0.0	0.0	0.0	0.0	0.0	0.0	5.0	5.0	5.0	5.0	23.0
ENDING TXCP	78.0	75.0	78.5	97.0	97.0	97.0	97.0	97.0	92.0	87.0	82.0	77.0	77.0
OPENING BALANCE - CASH	1.7	0.7	3.7	4.2	20.1	(8.4)	4.8	28.8	58.4	66.0	54.4	15.8	1.7
MONTHLY CASH FLOW	(11.0)	8.0	(2.9)	(2.7)	(28.4)	13.1	23.9	27.7	14.6	(6.5)	(20.8)	(14.9)	(4.8)
NET TXCP ACTIVITY MONTHLY	0.0	(3.0)	3.5	18.5	0.0	0.0	0.0	0.0	(5.0)	(5.0)	(5.0)	(5.0)	(11.0)
ENDING BALANCE - CASH	0.1	3.7	4.2	23.1	(8.4)	4.8	28.6	56.4	66.0	54.4	15.8	(4.1)	(4.1)
CITY LOAN AVAILABLE - END OF MONTH	0.0	2.6	7.1	1.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
CITY LOAN UTILIZED - END OF MONTH	45.0	42.4	37.9	43.2	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0
CASH POSITION NET OF TXCP AND CITY LOAN	(11.9)	(108.2)	(117.5)	(121.9)	(150.4)	(137.2)	(113.4)	(85.0)	(71.0)	(77.5)	(111.2)	(126.1)	

CASH FORECAST
DECEMBER 2001
(\$000's)

12/10/01

TXCP BEGINNING OF MONTH(000'S) 78,500
ADDITIONS(PAYDOWN)(000'S) 18,500
TXCP END OF MONTH(000'S) 97,000

CITY LOAN AVAILABLE	ACTUAL	DATE	OPENING BALANCE	RECEIPTS				DISBURSEMENTS		
				GAS	CITY LOAN	TXCP	OTHER	REGULAR	SPECIAL	
1,775		12/03/01	M	4,200	2,150	1,775		90	370	(1)FED(2) 515
0		12/04/01	T	7,330	2,150			90	370	
0		12/05/01	W	9,200	2,150			90	370	(1)PA (1)PHILA 100 100
0		12/06/01	TH	10,870	2,150			90	370	
0		12/07/01	F	12,740	2,150		Pension Draw	9,200	90	(1) 1,300
0		12/10/01	M	22,510	2,150			90	370	(5) 2,700 (1)FED(2) 540
0		12/11/01	T	21,140	2,150			90	370	
0		12/12/01	W	23,010	2,150			90	370	(1)PHILA 100
0		12/13/01	TH	24,780	2,150			90	370	
0		12/14/01	F	26,850	2,150			90	370	(1) 3,400
0		12/17/01	M	25,120	2,150			90	370	(1)FED/P (1)FED(2) 100 540
0		12/18/01	T	26,350	2,150			90	370	
0		12/19/01	W	28,220	2,150			90	370	(1)PHILA 100
0		12/20/01	TH	29,990	2,150			90	370	(5)PA SLS (5) 900 8,100
0		12/21/01	F	22,860	2,150			90	370	(1) 1,300
0		12/24/01	M	23,430	2,150			90	370	(1)FED(2) 540
0		12/25/01	T	24,780	Holiday					
0		12/26/01	W	24,780	2,150			18,500	90	370 (1)PHILA 100 (5) 28,200 (18) 2,500
0		12/27/01	TH	16,330	2,150			90	370	
0		12/28/01	F	18,200	2,150			90	370	(1) 1,300
0		12/31/01	M	18,770	2,150			90	370	(1)FED(2) 540
		TOTAL			43,000	1,775	18,500	11,000	7,400	50,975
0		01/01/02	T	20,100						

RECEIPTS KEY

- A. PHA
- B. STATE FUEL GRANT
- C. NATURAL GAS REFUND
- D. CITY LOAN
- E. DRAWDOWN
- F. LBS
- G. INTEREST
- H. TXCP
- I. PENSION FUND
- J. OTHER
- K. CAPITAL LEASE

DISBURSEMENTS KEY

- 1. PAYROLL
- 2. TAXES
- 5. NATURAL GAS
- 18. HOSP. & INS.
- 2100. PENSION FUNDING
- 38. CITY FEE
- 50. DEBT SERVICE
- 51. SALES TAX

CITY LOAN 1,775
BEG BAL 1,775
DRAWS 1,775
PAYBACK 0
BALANCE 0

TOTAL DISBURSEMENTS	
1	10,575
2	0
5	37,000
18	2,500
38	0
50	0
51	900
OTHER	7,400
TOTAL	58,375

TOTAL RECEIPTS	
(GAS) RECEIPTS	43,000
CITY LOAN	1,775
(OTHER) RECEIPTS	11,000
TXCP	18,500
TOTAL RECEIPTS	74,275

CASH FORECAST
JANUARY 2002
(\$000's)

12/10/01

TXCP BEGINNING OF MONTH(000'S) 97,000
ADDITIONS/(PAYDOWN)(000'S) 0
TXCP END OF MONTH(000'S) 97,000

CITY LOAN AVAILABLE	ACTUAL	DATE	OPENING BALANCE	R E C E I P T S			D I S B U R S E M E N T S		
				GAS	CITY LOAN	TXCP	OTHER	REGULAR	SPECIAL
0		01/01/02	T 20,100	Holiday					
0		01/02/02	W 20,100	2,513			77	345 (50)	24,300 (1)PHILA 100
0		01/03/02	TH (2,055)	2,513			77	345	
0		01/04/02	F 190	2,513			77	345 (1)PA (1)	100 1,800
0		01/07/02	M 735	2,513			77	345 (1)FED(2)	540
0		01/08/02	T 2,440	2,513			77	345	
0		01/09/02	W 4,885	2,713			77	345 (1)PHILA	100
0		01/10/02	TH 7,030	2,713			77	345 (5)	2,200
0		01/11/02	F 7,275	2,713			77	345 (1)	3,700
0		01/14/02	M 6,020	2,713			77	345 (1)FED/P (1)FED(2)	100 540
0		01/15/02	T 7,825	2,713			77	345	(1)PHILA 100
0		01/16/02	W 10,270	2,713			77	345	
0		01/17/02	TH 12,615	2,713			77	345	
0		01/18/02	F 15,060	2,713			77	345 (51)PA SLS (5)	1,000 6,100
0		01/21/02	M 6,805	Holiday					
0		01/22/02	T 6,805	2,713			77	345 (1)FED(2) (1)PHILA	540 100
0		01/23/02	W 8,710	2,713			77	345	
0		01/24/02	TH 11,055	2,713		Pension Draw 2,300	77	345 (18)	2,500
0		01/25/02	F 13,300	2,913			77	345 (5) (1)	32,700 1,800
0		01/28/02	M (18,355)	2,913			77	345 (1)FED(2)	540
0		01/29/02	T (16,250)	2,913			77	345	
0		01/30/02	W (13,805)	2,913			77	345	(1)PHILA 100
0		01/31/02	TH (11,060)	2,928			77	345	
		TOTAL		56,888	0	0	3,917	7,245	82,160
0		02/01/02	F (6,400)						

RECEIPTS KEY

- A. PHA
- B. STATE FUEL GRANT
- C. NATURAL GAS REFUND
- D. CITY LOAN
- E. DRAWDOWN
- F. LBS
- G. INTEREST
- H. TXCP
- I. PENSION FUND
- J. OTHER
- K. CAPITAL LEASE

DISBURSEMENTS KEY

- 1 PAYROLL
- 2 TAXES
- 5 NATURAL GAS
- 18 HOSP. & INS.
- 2109 PENSION FUNDING
- 38 CITY FEE
- 50 DEBT SERVICE
- 51 SALES TAX

BEG BAL CITY LOAN 0
DRAWS 0
PAYBACK 0
BALANCE 0

TOTAL DISBURSEMENTS

1 11,360
2 0
5 43,000
18 2,500
38 0
50 24,300
51 1,000
OTHER 7,245
TOTAL 89,405

TOTAL RECEIPTS

(GAS) RECEIPTS 56,888
CITY LOAN 0
(OTHER) RECEIPTS 3,917
TXCP 0
TOTAL RECEIPTS 60,905

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December 13, 2001

VIA HAND DELIVERY

James J. McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street, 2nd Floor
P.O. Box 3265
Harrisburg, PA 17102

DOCUMENT
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01 DEC 13 PM 3:42
PA.P.U.C.
SECRETARY'S BUREAU

Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works, Docket No. R-00005654 and Pennsylvania Public Utility Commission v. Philadelphia Gas Works, 1307(f); Docket No. R-00016378

Dear Secretary McNulty:

Enclosed for filing please find the original and three copies of Philadelphia Gas Works' Answer and Motion to Dismiss the Petition for Enforcement of Settlements by the Office of Consumer Advocate, in the above-referenced matter. As evidenced by the attached Certificate of Service, all parties of record have been served in the manner indicated.

If you have any questions regarding this filing, please contact me.

Sincerely,

Daniel Clearfield

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DC/jlg
Enclosures

cc: Parties of Record w/enc.
Karen Moury, Deputy Chief Counsel w/enc.
Robert Rosenthal, Director, FUS w/enc.
Robert Bennett, FUS w/enc.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKETED

DEC 19 2001

Pennsylvania Public Utility Commission

v.

Docket No. R-00005654

Philadelphia Gas Works

Pennsylvania Public Utility Commission

v.

Docket No. R-00016378

Philadelphia Gas Works, 1307(f)

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SECRETARY'S BUREAU

**PHILADELPHIA GAS WORKS' ANSWER AND MOTION
TO DISMISS THE PETITION FOR ENFORCEMENT OF
SETTLEMENTS BY THE OFFICE OF CONSUMER ADVOCATE
AND REPLY TO THE COMMENTS/EXCEPTIONS OF CEPA**

I. INTRODUCTION

Philadelphia Gas Works ("PGW") respectfully submits this Answer and Motion to Dismiss the Office of Consumer Advocate's ("OCA") Petition for Enforcement of Settlements and Reply to the Comments/Exceptions of the Consumer Education and Protective Association ("CEPA"). OCA and CEPA inaccurately assert that PGW is contravening its Interim Rate and the 2001-2002 GCR Settlement by reinserting into its GCR \$7 million previously authorized by this Commission to account for bad debt expense.

In fact, all that PGW has done¹ is to have complied with and followed the terms of the settlement it reached with the PUC Law Bureau, which steps were already approved by the Commission. In the Joint Petition for Full Settlement of PGW's Petition for the Establishment of

¹ PGW actually only filed its informational filing and request for retention of the Interim Settlement Reserve Fund on December 12, 2001 – after the OCA and CEPA made their filings. These parties apparently felt compelled to make a preemptive filing without even seeing PGW's submission, which filing is not authorized in any way by the exclusive process set forth in the Interim Settlement for the use of the reserve funds.

Interim Rates and Related Appeal, the Law Bureau and PGW agreed both to an annual increase of \$7 million for bad debt expense (which was subsequently to be subsumed into PGW's permanent base rate award) and to the creation of a reserve account, of potentially \$25 million, to assist PGW with its cash flow needs through January 2002.² The reserve account would consist of any calculated GCR over-recovery, up to \$18 million, plus a one time hold back of \$7 million to create a maximum potential reserve of \$25 million.³ This reserve account was approved by the Commission.⁴ Clearly, the 2001 bad debt expense allowance cannot be the same as the winter 2002 cash flow bond covenant reserve fund – but that is the entire basis on which OCA and CEPA have claimed that PGW is improperly trying to collect a \$7 million bad debt expense allowance twice.

Moreover, the pleadings are completely unnecessary and unauthorized. In the cover letter to PGW's December 1, 2001 Quarterly GCR Update, PGW explained exactly how it was complying with the Interim Rate Settlement, holding back the calculated over-recovery of \$10.58 million plus the \$7 million in one time, non-gas cost cash flow hold back for a total reserve account of \$17.58 million, pending PGW's submission of its informational filing requesting authorization to retain the funds. PGW clearly stated that if the Commission found that PGW had not shown the need for the reserve funds, or any portion of them, it would then revise its GCR filing, stop collecting the \$7 million and return whatever has been collected to ratepayers. Given the Company's tremendous need for the funds, as documented in its December 12, 2001

² Joint Petition at ¶¶ 23-24 and 27.

³ *Id.* The Settlement then holds that, if PGW identifies a potential bond covenant violation through January, 2002 "PGW will be permitted to utilize the reserve fund (or portion thereof) to cover this deficiency." *Id.*

⁴ Opinion and Order (February 22, 2001) at ¶ 1. There, the Commission approved "each and every one of [the Joint Petition's] terms and conditions."

filing, PGW firmly believed it would make the necessary showing to retain the entire reserve account, and, by holding the reserve funds out of its Quarterly Update, simply sought to avoid the need to change its rates multiple times, avoiding the customer confusion and Company expense that would accompany such changes.⁵

Thus, under no circumstances are the present filings necessary, as PGW has not violated either settlement referenced by the OCA and CEPA, and the Company has agreed that it will make any changes necessary if the Commission grants it only a portion of the reserve account. Accordingly, the Commission should dismiss the OCA's Petition and deny CEPA's Comments/Exceptions.

II. PGW IS NOT SEEKING TO RECOVER AN ADDITIONAL \$7 MILLION FOR BAD DEBT EXPENSE IN ITS 2002 GCR AS CLAIMED BY OCA AND CEPA.

Throughout its Petition, the OCA asserts that PGW is attempting to "collect \$7 million for bad debt expense in the current GCR period." Petition at 2. CEPA makes similar assertions in its Exceptions. However, these parties' claims are plainly incorrect. The fundamental flaw in the OCA and CEPA's analysis is their belief that the one time allowance of \$7 million in the cash flow reserve account established by the Interim Settlement and approved by the Commission is the same \$7 million annual rate allowance that PGW was permitted to collect on a compressed basis for bad debt expense under that settlement. No logical reading of the Interim Settlement supports this position.

The Joint Petition proposed a package of steps designed to meet PGW's projected cash needs during the 2001 winter and through January 2002. First, it proposed that PGW be permitted to increase its customer charges so as to produce \$11 million in additional base rate

⁵ Amazingly, CEPA contends PGW's Quarterly GCR Update and its attempt to retain the reserve account as contemplated by the Interim Settlement will "impose new hardships" on customers. Comments at 2. CEPA makes this claim despite the fact that PGW further reduced customers' rates when it filed its December 1 GCR update.

revenue by August 31, 2001.⁶ Second, PGW was permitted to increase the non-gas cost portion of its GCR rate to produce \$7 million in annual revenues by August 31, 2001, in order to recover additional bad debt expenses resulting from dramatic increases in the cost of gas.⁷ Third, the Joint Petition sought the Commission's approval of several gas purchasing and operational steps designed to enable PGW to husband cash to meet its obligations through January 2002.⁸ Finally, PGW and the Law Bureau agreed that a one time amount of \$7 million, plus "[a]ny additional calculated GCR over-recovery, up to \$18 million (for a total of \$25 million),"⁹ will be held in a reserve account to be used as necessary to meet Bond Ordinance covenant requirements . . . through January 2002."¹⁰

The OCA's Petition and CEPA's Exceptions are entirely based on the misinformed notion that PGW cannot attempt to retain the \$7 million non-gas cost portion of the reserve account because it has already collected the \$7 million in annual revenues to account for heightened bad debt expense. But, turning to the language and purpose of the Interim Settlement, these two \$7 million allowances cannot be the same. First, as the parties admit, the

⁶ Joint Petition at ¶ 22. CEPA attempts to provide a detailed commentary on the negotiations behind the Joint Petition. Notably, CEPA did not actually participate in those negotiations.

⁷ *Id.* at ¶ 23.

⁸ *Id.* at ¶ 25-26.

⁹ Emphasis added. The Settlement clearly contemplates that PGW would be permitted to create a reserve fund consisting of the \$7 million non-gas cost amount plus an calculated gas cost over-recovery. *See*, Joint Petition at ¶ 23-25. CEPA asserts that the Reserve Account is capped at a maximum of \$18 million, but it cannot explain away the words on the face of the Joint Petition which expressly state that "a total of \$25 million will be held in a reserve account." *Id.* at ¶ 27. Based upon these paragraphs in the settlement, the Company held out from its December 1, 2001 GCR Update \$17.6 million, which it will return to ratepayers if the PUC declines to authorize the Company to hold on to the Reserve Account funds. CEPA acknowledges this very reading of the Joint Petition in the first sentence of footnote 9 to its Exceptions.

¹⁰ *Id.* at ¶ 27 (emphasis added).

\$7 million in annual revenues that PGW was permitted by the PUC to collect on a compressed basis by August 31, 2001, were to help the Company absorb increased bad debt expense in that budget year. To the contrary, the \$7 million in non-gas cost reserve account funds are explicitly to be used for cash flow or debt coverage purposes should PGW need the monies to avoid a breach through January 2002. Obviously, funds that were expressly intended to address bad debt expense in FY 2000-01 cannot also be utilized to address cash flow and debt service coverage in FY 2001-2002.¹¹

Second, and equally fatal to the parties' assertion, PGW has already received Commission approval for the \$7 million in revenues for bad debt expense and collected and applied the same. Consequently, the Company would never have agreed to take \$7 million that it had already secured and was already authorized to retain and put those monies back into a reserve account, the funds in which it has yet to receive PUC approval to retain. PGW would literally be giving away money that it had already been authorized to collect and that is not subject to refund.¹²

Based on these flaws alone, the Commission should dismiss the parties' filings. Moreover, the plain language of the Interim Settlement – as quoted but apparently overlooked by OCA and CEPA – compels dismissal. The PUC Law Bureau and PGW clearly agreed that the reserve account would have a maximum potential total of \$25 million, consisting of PGW's

¹¹ OCA makes much of the fact that PGW characterizes the \$7 million non-gas cost portion of the reserve account as "interim settlement bad debt allowance." (Schedule 6) That characterization was used merely as a means of helping the parties identify the \$7 million as distinguished from the gas cost over/under billing. OCA failed to note that the same \$7 million was characterized two schedules later (Schedule 8) as "Interim Settlement Adjustment") where it was clear that it was not referring to the gas cost over-collection.

¹² As CEPA notes, per ¶ 24 of the Joint Petition, the \$7 million in allowed bad debt expense was not reconcilable. To the contrary, ¶ 27 clearly states that PGW must return to customers any portion of the potential \$25 million reserve account that it cannot justify retaining, subject to its right to request a different treatment.

calculated over-recovery, up to \$18 million, plus an additional \$7 million in one time, non-gas cost revenues. Joint Petition at ¶ 27. As the amount of overcollection that PGW can possibly retain via the fund is \$18 million, the only way to reach the maximum total of \$25 million in reserve account funds is if the account is also comprised of this one time \$7 million in revenues. Thus, as PGW has shown that the OCA's Petition and CEPA's Exceptions are untenable under both the language and purpose of the Interim Settlement, the Commission should reject them and directly address the Company's informational filing thereunder.¹³

III. PGW HAS VIOLATED NEITHER THE INTERIM NOR THE 2002 GCR SETTLEMENT, AND IT HAS PROPERLY FOLLOWED THE PROCEDURE TO RETAIN THE INTERIM SETTLEMENT RESERVE ACCOUNT FUNDS.

As detailed above, the OCA and CEPA's entire claim is based on the misperception that PGW is trying to collect a second \$7 million in bad debt expense. PGW has demonstrated that this position is wholly contradicted by the Interim Settlement. Accordingly, the parties cannot support their claim that the Company has violated the Interim Settlement.

Likewise, OCA and CEPA's argument that PGW has violated the 2002 GCR Settlement is based entirely on their belief that PGW agreed to remove the Interim Settlement \$7 million of bad debt expense from its 2002 GCR, but has now reinserted it back into the GCR through the December Quarterly Update. However, once again, the \$7 million permitted by the Commission to be held in the reserve account to address the Company's cash flow and bond covenant needs through January 2002 is not the same as the \$7 million for bad debt expense that the PUC has already authorized PGW to retain and that it has already collected and applied. Thus, as the underpinning of the parties' claim has been shown to be a fallacy, they cannot show that PGW

¹³ On December 12, 2001, PGW filed the informational filing called for in the Interim Settlement, requesting that it be permitted to retain the entire Reserve Account in order to avoid cash deficiencies by the end of January 2002 that will result in violations of its bond covenants. The OCA and CEPA did not wait to consider and respond to PGW's filing, instead choosing to file their pleadings as some sort of preemptive strike.

has violated the 2002 GCR Settlement and the Commission should dismiss the OCA's Petition and deny CEPA's Exceptions.

IV. THE OCA AND CEPA FILINGS ARE UNNECESSARY AND UNAUTHORIZED.

PGW filed its informational filing on December 12, 2001, consistent with the terms of the Interim Settlement. The Commission has ten (10) days to review and approve PGW's request to retain the funds. Notably, the manner in which PGW filed its December Quarterly GCR Update and its reserve account informational filing was completely consistent with the terms of the Interim Settlement. To the contrary, these parties' pleadings are not contemplated by the Settlement – as they preempt PGW's filing to which the OCA, CEPA and other interested parties are certainly able to respond to the Commission (either in support or opposition).

The pleadings are also not authorized by PUC regulations involving quarterly updates. The regulation clearly indicates that: [q]uarterly filings shall become effective on one day's notice and, unless otherwise ordered by the Commission, shall be subject to review by the Commission and challenged by interested parties only on the utility's next annual Section 1307(f) proceeding.¹⁴ The only order by the PUC clearly establishes that the review of the reserve account issues shall take place in the context of PGW's informational filing.

Finally, the Petition and Exceptions will only serve as procedural distractions to the Commission and the parties, and have caused unnecessary expense to PGW. The Interim Settlement process expressly provides for a prompt review and disposition of the matter, encompassing by necessity any claims raised by OCA and CEPA, and that process should be followed by the Commission. Accordingly, the Commission should dismiss the OCA's Petition and CEPA's Exceptions.

¹⁴ 52 Pa. Code § 53.64(5)(iv).

V. CONCLUSION

For the reasons set forth above, PGW respectfully requests that the Public Utility Commission dismiss the OCA's Petition for Enforcement of Settlements, deny CEPA's Comments/Exceptions to PGW's December 1, 2001 Quarterly Update, and timely review and approve the Company's reserve account informational filing consistent with the terms of the previously approved Interim Settlement.

Respectfully submitted,



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Date: December 13, 2001

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CERTIFICATE OF SERVICE

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

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Larry Speilvogel
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Dated: December 13, 2001


Daniel Clearfield, Esquire

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December 17, 2001

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

Filed by Federal Express

Re: Philadelphia Gas Works December 12, 2001 Reserve Fund Filing.
Docket No. R-00005654

Dear Secretary McNulty:

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

Enclosed please find for filing an original and three (3) copies of the Comments of CEPA et al. to Philadelphia Gas Works' December 12, 2001 Filing for Authorization to Use Reserve Fund.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with copies of these Exceptions/Comments.

Very truly yours,

Philip A. Bertocci
PHILIP A. BERTOCCI

DOCUMENT
FOLDER

Attorney for CEPA et al.

cc: Certificate of Service
Karen Moury, Esquire, Law Bureau
Robert Rosenthal, Fixed Utilities Service

Enclosures

ORIGINAL

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**Pennsylvania Public Utility
Commission**

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Docket No: R-00005654

v.

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Philadelphia Gas Works

DEC: 19 2001

**COMMENTS OF CEPA ET AL.
TO PHILADELPHIA GAS WORKS' DECEMBER 12, 2001
FILING FOR AUTHORIZATION TO USE RESERVE FUND**

Four low income consumer organizations, Consumers Education and Protective Association (CEPA), Association of Community Organizations for Reform Now (ACORN), Tenants' Action Group (TAG) and Action Alliance of Senior Citizens of Greater Philadelphia (collectively "CEPA et al.") hereby respectfully submit the following Comments to the Philadelphia Gas Works' December 12, 2001 Filing for Authorization to Use Reserve Fund (hereinafter "Reserve Fund Filing").

I. Introduction.

**DOCUMENT
FOLDER**

On December 12, 2001, PGW made this Reserve Fund Filing at this docket pursuant to the Interim Settlement in its 2000 Interim Base Rate Increase case, approved by the Commission on February 22, 2001. In the Filing, PGW seeks authorization to obtain an additional \$17.56 million from customers above what would be normally permitted through its existing base rates and gas cost adjustment. The \$17.58 million

represents \$10.58 million in FY2001 GCR revenues overcollected from customers in FY2001 and not refunded, and a \$7 million claim not yet collected but described as a “hold back” or a “one time non-gas cost cash flow allowance.”¹ As set forth in PGW’s GCR Quarterly Update (R-00016378) filed November 30, 2001 and effective on one day’s notice, PGW unilaterally commenced collecting these funds on December 1, 2001, “pending a determination by PGW of the need to utilize the reserve and a PUC determination authorizing such use.”² The effect of this appropriation was that PGW’s updated GCR was fixed at \$3.1307/Mcf, rather than approximately \$2.8407/Mcf. This difference means approximately \$2.42 per month more on an annualized basis for a typical PGW residential heating customer using 100 Mcf per year.³

This Reserve Fund Filing raises two separate issues. The first issue is whether “retention” and/or “hold back” of any part of the claimed \$17.58 million is necessary in order for PGW to avoid a “cash deficiency” in January 2002 that would “cause a Bond Ordinance covenant violation,” the sole basis for PGW’s use of the Reserve Fund set forth in the Interim Settlement. See Interim Settlement, at Para. 27. The second issue is whether the Reserve Fund envisaged by the Interim Settlement contains only the calculated FY2001 GCR over-recovery of \$10.58 million, or whether, as PGW claims, it also includes a \$7 million “one time non-gas cost cash flow allowance” that may be collected through PGW’s FY2002 GCR.

CEPA et al. contend that the answer to both these questions is negative. To allow

¹ Informational Letter from Daniel Clearfield, Esquire, December 12, 2001 to James J. McNulty, Secretary (hereinafter “Letter”), Reserve Fund Filing, at 5.

² Transmittal Letter from Daniel Clearfield, Esquire, November 30, 2001 to James J. McNulty, Secretary (Docket No. R-00016378)

³ Reserve Fund Filing, Verified Statement of Joseph R. Bogdonavage (hereinafter “Bogdonavage”), at 2.

PGW to retain the \$10.58 million FY2001 GCR over-recovery is to provide PGW with an unavowed base rate increase, on top of the \$33.6 million permanent base rate increase which the Commission has provided for FY2002 on the basis of a careful application of the “just and reasonable” standard and the rate setting methodology set forth in the Management Agreement. In that case, the Commission thoroughly considered what level of PGW’s alleged cash needs were recoverable in base rates. See Pa. P.U.C. v. PGW, R-00006042, Opinion and Order (October 4, 2001), at 24-27; Opinion and Order (December 5, 2001), at 27-31. Moreover, as regards the non-reconcilable \$7 million “cash flow allowance,” to allow the Company to collect on this claim is to allow it to set its own rates, to unilaterally rewrite the Interim Settlement, to subvert Commission regulations providing for GCR Quarterly Updates on one day’s notice, and to allow violation of due process principles in the fixing of rates and charges.

II. The Commission Should Not Authorize PGW to Retain the \$10.6 Million FY2001 GCR Over-Recovery.

The \$10.58 million FY2001 GCR over-recovery represents funds collected through PGW’s FY2001 (September 1, 2000 - August 31, 2001) Gas Cost Rate that were greater than the Company’s Tariff authorized fuel and non-fuel costs. Under PGW’s Tariff, as under Section 1307 of the Public Utility Code, these costs are generally reconcilable at year end, with any over-recovery being credited to customers in the calculation of the succeeding year’s Gas Cost Rate. The Interim Settlement, however, contained a provision which set forth a potentially different treatment for PGW’s FY2001 GCR over-recovery. As Paragraph 27 of the Interim Settlement states, this

calculated GCR over-recovery, up to \$18 million ... will be held in a reserve account to be used as necessary to meet Bond Ordinance covenant requirements, i.e., debt service and/or timely payment of obligations when due, through January, 2002.... To the extent PGW identifies a cash deficiency that would cause a Bond Ordinance covenant violation, PGW will be permitted to utilize the reserve fund

(or portion thereof) to cover this deficiency. Any remaining portion of the reserve will be returned to ratepayers through the GCR.....

Interim Settlement, Para. 27.

A. Paragraph 27 of the Interim Settlement Should be Narrowly Interpreted.

In applying Interim Settlement Paragraph 27, the Commission should be mindful of the context. The Commission has just recently completed PGW's permanent base rate increase case at Docket No. R-00006042, fixing PGW's permanent base rates consistent with the just and reasonable standard, the Management Agreement and all applicable bond covenants. At Docket No. R-00016378, the Commission has set PGW's FY2002 Gas Cost Rate subject to Quarterly Updates according to PUC procedures. In these cases, the Commission has determined the level of PGW costs including cash working capital which may be appropriately recovered from customers through base rates and the Gas Cost Rate. Through base rates, PGW customers are presently paying what the just and reasonable standard requires and even more; through the gas cost rate, leaving aside the disputed issue of the Reserve Fund, they have paid and are paying what that standard requires.⁴

For this reason, the Commission must construe Paragraph 27 narrowly – and should resist PGW's continued insistence carried over here from its permanent base rate case that this provision be interpreted in terms of the alleged inadequacy of its cash flows to year end FY2002. The key terms in Paragraph 27 are "necessary" and "January, 2002." The Reserve Fund may not be used merely because it would be reassuring from the point of view of the City and PGW's bond holders to do so, or because it would assist

⁴ Since October 13, 2001, PGW customers have been paying base rates pursuant to the Commission's October 4, 2001 Order which would amount to an annual \$39.1 million permanent base rate increase, rather than the \$33.6 million reflected in the Commission's Orders of October 12, 2001, and December 5, 2001.

the City in avoiding shouldering through an equity infusion some share of the burdens of PGW's refurbishment, but because it has been shown to be necessary to avoid a bond covenant default in January, 2002. Therefore, PGW's one-sided speculations about what may or may not happen after January 31, 2002 are irrelevant to this proceeding, and were not covered by the Interim Settlement.

B. PGW's Schedules Do Not Show That Retention is Necessary to Avoid Bond Covenant Violations in January, 2002.

In support of its request for retention of the Reserve Fund, PGW has provided a Schedule dated 12/12/01 entitled "Base Case Actual Weather Thru 12/15/01 Retain \$17.6 MM. GCR" (hereinafter "December 12 Cash Flow").⁵ Although much of the data contained in this schedule is irrelevant for the matter before the Commission, the general character of the December 12 Cash Flow becomes apparent when it is compared to a virtually contemporaneous Schedule dated 12/7/01 entitled "Budget of Cash Receipts and Disbursements Fiscal Year Ending August 30, 2002" (hereinafter "December 7 Cash Flow"). The December 7 Cash Flow was submitted on December 10, 2001 to Philadelphia City Council President Anna Verna as part of a monthly status report associated with Philadelphia Bill No. 000583 –\$45 Million Temporary Financing."⁶

The December 12 Cash Flow was created specifically to support PGW's request to the PUC for retention of the Reserve Fund. Just as in its base rate case, PGW sought to transfer all risks to customers, and to shield the City as owner from bearing any of the financial burdens of PGW's refurbishment, so, here, PGW presents a distorted worse

⁵ For convenience, this December 12 Cash Flow has been attached hereto as Exhibit A.

⁶ A copy of this Schedule together with the documents accompanying it are attached hereto as Exhibit B.

case scenario in an attempt to justify saddling PGW customers not merely with normal burdens, but also with the burdens of providing additional insurance against weather risks and the risks that the Company will not achieve its cost savings goals. Thus, the December 12 Cash Flow assumes a substantially warmer than normal winter (4200 degree days), in comparison to the December 7 Cash Flow which assumes a normal 4555 degree day year.⁷ Presumably as a result of this altered weather forecast, PGW forecasts \$16 million less in revenues by year end, while at the same time, despite reduced consumption linked to warmer weather, anticipating only a \$1 million reduction in natural gas costs.^{8 9}

For the issue before the Commission, the most important information contained in these contrasting Cash Flows concerns the use of available borrowing resources by PGW in the period between November 1, 2001 and February 1, 2002, especially the scheduling of draws from Capital Funds. Draws from Capital Funds are an important part of PGW's cash flow considerations, because as demonstrated on the December 7 Cash Flow prepared for City Council, PGW routinely contemplates draws on these funds at strategic

⁷ Other points of comparison include: (1) The December 7 Cash Flow reflects a GCR of \$3.05/Mcf throughout the year, in contrast with the December 12 Cash Flow, which reflects three months at \$4.37/Mcf succeeded by \$3.13/Mcf effective 12/1/01; (2) The December 7 Cash Flow contains "actual" figures for September, October and November, 2001, while the December 12 Cash Flow contains "actual" figures only for September and October.

⁸ To calculate the total Gas Receipts on the December 7 and December 12 Schedules, add the Total Gas Receipts and the Total Rate Relief Receipts. For December 12, this addition produces \$633.1 million; for December 7, \$649.1million, a difference of \$16 million. In contrast, total Total Natural Gas expense is listed as \$388.9 million for December 7 and \$387.9 for December 12.

⁹ In addition, both December 7 and December 12 Cash Flows appear to account for increased revenues from the \$39.1 base rate increase effective October 13, 2001 in irregular ways. The Rate Relief line should account for increased receipts derived from the incremental increase of base rates from the interim \$11 million increase to the permanent \$33.6 million. The December 12 Cash Flow does not begin to register increased receipts from this rate increase until February 2002 – when it seems clear that such an increase would be reflected in Rate Relief receipts beginning at least in November 2001. See also Reserve Fund Filing, Bogdonavage, at 1 ("PGW will not collect significant revenues from that increase through January 2002....").

intervals to meet cash needs.¹⁰ PGW is permitted to use its Capital Fund in this way so long as the amount of money drawn from the Capital Fund is spent on capital projects or returned to the Capital Fund within the same fiscal year that it is drawn down.¹¹ In the December 7 Cash Flow, PGW anticipated drawing \$20 million from Capital Funds in December, 2001, increasing the total draw in FY2002 at that point to \$52.9 million. In the December 12 Cash Flow, PGW does not anticipate a \$20 million draw in December, postponing further draws until after January, 2002. In both Cash Flows, PGW anticipates a total draw by year end of \$60.8 million.

There is no reason why PGW could not avert the January, 2002 cash flow problems depicted on the December 12 Cash Flow by drawing an additional \$20 million from the Capital Fund as initially anticipated. The use of customer funds in the Reserve Fund is not “necessary” in order to avert a technical or actual default on PGW’s bonds or other obligations in January, 2002. The decision to defer this draw until February and beyond is plainly strategic -- in order to fabricate a situation where the Company can argue to the Commission that retention of customer funds from the Reserve Fund is “necessary.”

C. Settlement Paragraph 27 Addresses Available Cash, Not Revenues.

¹⁰ The December 7 Cash Flow shows draws from Capital Funds occurring in September (\$12.9 m.), October (\$20.0 m.) and December (\$20.0 m.).

¹¹ In his Statement, Mr. Bogdonavage states that “[b]y the end of December, the Company will have already borrowed considerably more from the Capital Fund than it has committed to expend on capital improvements to year end (i.e., at the end of December, approximately \$33 million will have been borrowed with committed construction of only \$18 million).” Reserve Fund Filing, Bogdonavage, at 2 n2. To put things in perspective, in its December 7 Cash Flow, PGW informed City Council that it anticipated \$52.9 million in such borrowings, presented as a normal strategic cash management. See Exhibit B. Moreover, the reference to the end of December should not be allowed to create the impression that calendar year end represents some date sensitive restriction on the level of use of Capital Funds; the relevant date is the end of PGW’s fiscal year, August 31, 2002.

PGW further argues that the Interim Settlement did not require use of available draw downs from the Capital Fund, before use of the Reserve Fund could be adjudged “necessary.” The Company thus states that the Reserve Fund was to be retained if “revenues” were not available to avoid a violation of bond covenants in January, 2002. As Mr. Bogdonavage puts it, cash from a draw down from the Capital Fund was not “a source of revenue that was contemplated by the Company when it entered into the Interim Settlement.” Reserve Fund Filing, Bogdonavage at 2, n.2. Mr. Bogdonavage even goes so far as to state that a “loan from the City or any other third party is not a revenue source.” Reserve Fund Filing, Bogdonavage, at 2.

In this respect, however, PGW has misinterpreted the Interim Settlement. Paragraph 27 is clear that the deficiency which was to be addressed in that provision was a “cash deficiency,” not a revenue deficiency. Moreover, even the Commission Order, which in this respect is written more broadly, refers to a cash deficiency.¹²

In addition, PGW has traditionally used borrowed funds to address cash flow problems. The Management Agreement has provided for loans to be made by the City to PGW similar to the present \$45 million City Advance. In addition, PGW’s Tax Exempt Commercial Paper Program has traditionally been used to address cash flow problems. The Interim Settlement should not be read in such a way as to give up hard earned customer cash, when PGW’s traditional resources are still available.

¹² In the part of its Order summarizing the Interim Settlement, the Commission states: “The Joint Petition would also allow PGW to hold in reserve any GCR overcollection that it actually incurs ... to insure that it has sufficient cash to meet its bond covenants through January 2002.” Order, at 4, Pa. P.U.C. v. PGW, R-00005654 (February 22, 2001)(emphases added). To be sure, on page 6 of the Order, the Commission makes reference to PGW’s pursuit of reasonably available “sources of revenue.” In light of the Interim Settlement’s plain references to “cash” as opposed to “revenue” in the technical sense, and in light of the PUC’s own summary at page 4, it is clear that the term revenue is being used in the sense of “resources” and not in a technical sense.

At certain points, PGW also contends that the Interim Settlement requires a showing of the non-availability of "other sources of revenue" in order to obtain authorization to retain the Reserve Fund. Reserve Fund Filing, PGW Letter, at 5, and Bogdonavage, at 2. While a showing of non-availability of other resources to address PGW's January cash flow needs would be part of a showing of the required "necessity," this quotation is taken out of context. Paragraph 29 of the Interim Settlement does not address the Reserve Fund; rather, it addresses the circumstances under which PGW would seek "additional rate relief," *i.e.*, seek rate relief in addition to that being sought in the permanent base rate case filed January 7, 2001 (R-00006042). For this reason also, Paragraph 27 of the Interim Settlement focuses on PGW's available cash resources, not "revenue" narrowly defined.

D. PGW's Should Not Be Allowed to Obtain Reconsideration of Cash Working Capital Issues for FY2002 Through Paragraph 27 of the Interim Settlement.

In this filing, PGW has sought to persuade the Commission to look beyond the narrow issues presented by Paragraph 27 of the Interim Settlement, and to authorize retention of the Reserve Fund out of more generalized concerns for PGW's "financial health." Reserve Fund Filing, Letter, at p.4, n.11. Thus, Mr. Bogdonavage suggests that allowing PGW to retain the Reserve Fund will "legitimize its Capital Fund borrowing by expending funds on construction or repaying the unspent amounts from the extra dollars produced by the reserve account." Reserve Fund Filing, Bogdonavage, at 3. In essence, the Company is asking the Commission to authorize retention of the Reserve Fund, so that it will have more cash working capital throughout the remainder of Fiscal Year 2002. The terms of the Interim Settlement do not authorize the Commission to allow retention of ratepayer funds on such grounds.

Indeed, to make such a decision on these grounds would be to allow the Company an “emergency rate increase” by another name, without requiring it to make a formal showing of its necessity. The mechanism established by the Interim Settlement was a simple one, designed to answer a limited, narrow question not requiring a wide ranging review of the Company’s long term forecasts in the light of constantly changing circumstances.

The Commission should not allow the Company to lead it down the path breathlessly outlined in this Reserve Fund Filing. As has been demonstrated, even without the possibility for discovery, cross examination and hearing, the December 12 Cash Flow is a one-sided snapshot in which PGW has quite arbitrarily altered some variables to serve its purposes, while leaving other variables unchanged. Everything is aligned with one unspoken premise: whatever PGW is believed to actually or potentially lack is up to customers through rates to provide. However, the Commission has already stated that “[t]he Management Agreement does not assume that customer rates will cover all PGW’s capital and cash needs as if no other sources of capital or revenues are available to PGW.” Pa. P.U.C. v. PGW, R-00006042, Opinion and Order (December 5, 2001), at 29.

III. The Commission Should Deny PGW’s Claim for a \$7 Million “One Time Non-Gas Cost Cash Flow Allowance.”

As CEPA et al. explained in their Comments/Exceptions ... to Philadelphia Gas Works’ December 1, 2001 Quarterly Update to Its Gas Cost Rate, the inclusion of \$7 million as “Interim Settlement Bad Debt Allowance” is totally unwarranted because such an allowance was not provided for in the Interim Settlement. In this Reserve Fund

Filing, PGW continues to assert its entitlement to this \$7 million as part of the Reserve Fund. The CEPA et al. Comments/Exceptions will not be repeated here, but are incorporated herein by reference and attached hereto as Exhibit C.

However, due to the continually shifting manner in which PGW characterizes the \$7 million allowance, some brief further comment is necessary.

The Reserve Fund Filing now defines the \$7 million as a “one-time non-gas cost cash flow allowance” which, although not an overcollection itself, was envisaged to be included in the “actual overcollection account.” Reserve Fund Filing, Letter, at 3, 5. This is also an improbable claim, for all the reasons contained in CEPA et al.’s Comments/Exceptions and for several more.

The lack of specification concerning the claimed \$7 million allowance in the Interim Settlement strongly supports the inference that no such allowance has ever existed. The Interim Settlement addressed matters arising out of PGW’s Interim Base Rate Increase case (R-00005654) and PGW’s FY2001 GCR (R-00005619). The \$7 million Bad Debt Allowance provided in the Interim Settlement was clearly defined as to amount, rationale, and the means of recovery explicitly designated – a \$7 million non-reconcilable addition to PGW’s FY2001 GCR recoverable only between February 22, 2001 and August 31, 2001 meant to allow recovery of added bad debt associated with the natural gas price run up. Interim Settlement, Para. 23. The potential FY2001 GCR potential overcollection was also clearly defined, associated with FY2001 GCR costs actually overcollected and its means of recovery clearly specified. Interim Settlement, Para. 27.

In contrast, if PGW’s theory is correct, the “one-time non-gas cost cash flow

allowance” has none of these characteristics. The Interim Settlement does not specify how the so-called \$7 million cash flow allowance was determined, what the \$7 million is for, or even how it is to be collected. Unlike the \$10.58 million, PGW could not “retain” what it had not collected. On December 1, 2001, PGW settled the last question by itself, simply by inserting the allowance as a “hold back” in a GCR “update” to an original GCR filing which contained no mention of this eventuality or claim.

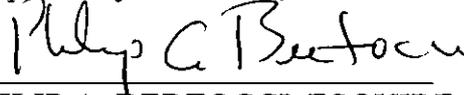
No reasonable interpretation of the Interim Settlement supports inclusion of this \$7 million allowance in the Reserve Fund.

IV. Conclusion.

CEPA et al. respectfully request the Commission to send a clear message to the City and PGW management that for FY2002 at least, the Commission has provided in rates all that it is just and reasonable for the Commission to provide. To allow PGW to retain all or part of the Reserve Fund is to allow PGW to transform a narrow contingency fund into a insurance fund which pays off even before the weather and cash flow eventualities insured against have actually occurred. PGW should not be allowed or encouraged to continually return to the Commission with fabricated claims of the type at issue here, rather than look to its own resources to share in the risks and the costs of refurbishing PGW. For these reasons, CEPA et al. request that the Commission deny PGW’s request to retain the \$10.6 million Reserve Fund, deny PGW’s request to continue “holding back” the fictitious “non-gas cost cash flow allowance,” order PGW to update its GCR to eliminate this both this overcollection

retention and "hold back," and grant such other relief as is just and proper.

Respectfully submitted,



PHILIP A. BERTOCCHI, ESQUIRE
EDWARD A. MCCOOL, ESQUIRE

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

December 17, 2001

EXHIBIT A

DECEMBER 12, 2001 CASH FLOW

Estimated weather 4200 degree days
 City Loan \$45.0 MM Fully Outstanding @ 8/31/02
 \$33.6M Rate Increase Effective Oct 2001-\$3.13 GCR 12/1/01
 TXCP \$100.0 M with \$77.0 M Outstanding @ 8/31/02
 Reduced expenses per union contract settlement
 Pre-Draw Capital Funding during the Fiscal Period

BASE CASE ACTUAL WEATHER THRU 12/15/01 RETAIN \$17.8 MM GCR

**BUDGET OF CASH RECEIPTS AND DISBURSEMENTS
 FISCAL YEAR ENDING AUGUST 31, 2002**

	ESTIMATE (Millions of Dollars)													
	ACTUAL	ACTUAL	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	TOTAL
12/12/01	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug		
OPENING BALANCE - CASH INCLUDES 97.0 TXCP RECEIPTS	\$1.7	\$0.7	\$3.7	\$4.2	\$20.1	(\$8.4)	\$4.8	\$28.6	\$58.4	\$66.0	\$54.4	\$15.8	\$1.7	
Gas	32.2	40.9	43.7	43.0	57.0	68.8	74.4	71.8	60.4	45.2	38.7	36.4	612.3	
Other	0.7	0.6	0.5	1.8	1.8	1.8	1.5	1.5	1.5	1.5	1.5	2.9	17.0	
Drawn from Capital Funds - Principal (\$80.9MM)	12.9	20.0	0.0	0.0	0.0	10.0	0.0	7.9	0.0	10.0	0.0	0.0	60.8	
Drawn from Capital Funds - Interest	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.7	1.7	
Drawn from Lease Funds - Principal (\$3.8MM)	0.0	0.0	0.0	0.0	0.0	2.0	0.0	0.0	0.0	0.0	1.8	0.0	3.8	
Drawn from Lease Funds - Interest	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.2	
Advance (Repayment) of Capital Fund	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Pension Draw	0.0	0.0	0.0	0.2	2.3	2.3	2.3	2.3	2.3	2.3	2.4	2.4	27.8	
City Loan	11.8	32.2	7.1	1.8									53.0	
Rate Relief	0.0	0.0	0.0	0.0	0.0	3.6	3.9	3.8	3.2	2.4	2.0	1.9	20.8	
TOTAL RECEIPTS	57.7	93.7	51.3	55.8	60.9	88.3	82.1	87.1	67.4	61.3	46.4	45.5	797.4	
TOTAL	59.4	94.4	55.0	58.9	81.0	80.0	86.8	115.7	123.8	127.3	100.8	81.3	789.1	
DISBURSEMENTS														
Labor	10.3	11.1	12.1	11.8	12.6	11.0	11.1	11.3	11.5	10.4	11.4	10.9	135.5	
Natural Gas	26.3	27.8	28.9	37.0	43.0	47.3	37.4	34.5	30.2	28.5	23.2	23.8	387.9	
Debt Service	0.0	3.8	0.0	0.1	24.3	6.9	0.0	4.0	1.7	1.4	36.2	16.4	94.8	
TXCP - Interest	3.5	0.1	0.2	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.2	2.9	
Repayment of City Loan	14.5	38.7	1.8	0.0									53.0	
Cost Savings/Reductions	0.0	0.0	0.0	(0.6)	(0.7)	(0.6)	(0.9)	(1.0)	(1.1)	(1.2)	(1.3)	(1.4)	(9.0)	
City Fee	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	18.2	0.0	0.0	18.2	
Other Disbursements	7.5	8.1	11.2	9.8	9.9	10.5	10.3	10.3	10.2	10.3	10.3	10.4	118.8	
TOTAL DISBURSEMENTS	58.7	87.7	54.2	58.3	89.4	75.2	58.2	59.4	52.8	67.9	80.0	80.4	802.2	
MONTHLY CASH FLOW	(1.0)	6.0	(2.9)	(2.7)	(28.4)	13.1	23.9	27.7	14.6	(6.5)	(33.6)	(14.9)	(4.8)	
CUMULATIVE CASHFLOW	(1.0)	5.0	2.0	(0.6)	(29.1)	(15.9)	7.9	35.7	50.3	43.7	10.1	(4.8)		
OPENING TXCP	78.0	78.0	18.0	75.0	78.5	97.0	97.0	97.0	97.0	97.0	92.0	87.0	82.0	78.0
TXCP ISSUED DURING MONTH	0.0	0.0	3.5	18.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	22.0
TXCP ISSUED PAID DOWN DURING MONTH	0.0	3.0	0.0	0.0	0.0	0.0	0.0	0.0	5.0	5.0	5.0	5.0	5.0	23.0
ENDING TXCP	78.0	75.0	78.5	97.0	97.0	97.0	97.0	97.0	92.0	87.0	82.0	77.0	77.0	
OPENING BALANCE - CASH	1.7	0.7	3.7	4.2	20.1	(8.4)	4.8	28.6	56.4	66.0	54.4	15.8	1.7	
MONTHLY CASH FLOW	(1.0)	6.0	(2.9)	(2.7)	(28.4)	13.1	23.9	27.7	14.6	(6.5)	(33.6)	(14.9)	(4.8)	
NET TXCP ACTIVITY MONTHLY	0.0	(3.0)	3.5	18.5	0.0	0.0	0.0	0.0	(5.0)	(5.0)	(5.0)	(5.0)	(1.0)	
ENDING BALANCE - CASH	0.7	3.7	4.2	20.1	(8.4)	4.8	28.6	56.4	66.0	64.4	15.8	(4.1)	(4.1)	
CITY LOAN AVAILABLE - END OF MONTH	0.0	2.6	7.1	1.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
CITY LOAN UTILIZED - END OF MONTH	45.0	42.4	37.8	43.2	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	
CASH POSITION NET OF TXCP AND CITY LOAN	(119.7)	(109.2)	(117.5)	(121.9)	(150.4)	(137.2)	(113.4)	(85.6)	(71.0)	(77.6)	(111.2)	(128.1)		

EXHIBIT B

DECEMBER 7, 2001 CASH FLOW

Philadelphia Gas Works

Thomas E. Knudsen
President and Chief Executive Officer



December 10, 2001

800 West Montgomery Avenue, Philadelphia, PA 19122

Telephone: (215) 684-6051 - Fax (215) 684-6997

Email: Thomas.Knudsen@pgworks.com

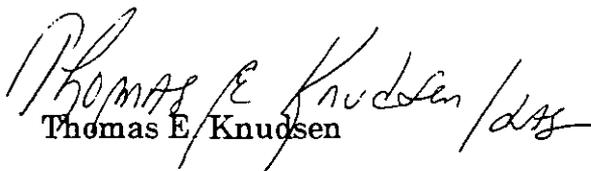
The Honorable Anna Verna
City Council President
City of Philadelphia
Room 490, City Hall
Philadelphia, PA 19107

**Re: Bill No. 000583 - \$45 Million Temporary Financing
Monthly Status Reports**

Dear Councilwoman Verna:

In accordance with Bill No. 000583, enclosed please find twenty (20) copies of PGW's FY 2001 Collection Status Report for April through November 2001, Budget of Cash Receipts and Disbursements for the FY ending August 2002, and the Cost Savings Report for the month ended September 20, 2001.

Sincerely,


Thomas E. Knudsen

/das

Enclosures

Cc: All Members of Philadelphia City Council (via hand delivery)
All Philadelphia Gas Commissioners
G. Christian Kimmerle, PGC
Janet Parrish, Esq., PGC
Philip Bertocci, Esq., Public Advocate
Jancie Davis, Finance Director
Charles McPherson, City Council Chief Financial Officer
William Ivers, City Council Technical Staff

Normal weather 4555 degree days
 City Loan \$45.0 MM Available & Fully Outstanding
 \$33.6M Rate Increase Effective Oct 2001
 TXCP \$100.0 M with \$80.0 M Outstanding 8/31/02
 Reduced expenses per union contract settlement
 Pre-Draw Capital Funding during the Fiscal Period

BUDGET OF CASH RECEIPTS AND DISBURSEMENTS
 FISCAL YEAR ENDING AUGUST 31, 2002
 (Millions of Dollars)

	12/7/01												TOTAL
	ACTUAL	ACTUAL	ACTUAL	ESTIMATE									
	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	
OPENING BALANCE - CASH INCLUDES 97.0 TXCP RECEIPTS	\$1.7	\$0.7	\$3.7	\$4.2	\$42.0	\$18.3	\$23.2	\$49.5	\$79.8	\$90.4	\$68.7	\$30.3	\$1.7
Gas	32.2	40.9	42.8	43.0	60.0	72.2	77.6	74.1	61.8	45.3	39.1	36.2	
Other	0.7	0.6	0.3	1.6	1.6	1.6	1.5	1.5	1.5	1.5	1.5	1.5	625.1
Drawn from Capital Funds - Principal (\$80.9MM)	12.9	20.0	0.0	20.0	0.0	0.0	0.0	7.9	0.0	0.0	0.0	0.0	16.8
Drawn from Capital Funds - Interest	0.0	0.0	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	60.8
Drawn from Lease Funds - Principal (\$3.8MM)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.9
Drawn from Lease Funds - Interest	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3.8
Advance (Repayment) of Capital Fund	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2
Pension Draw	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
City Loan	11.9	32.2	22.5	1.8	2.3	2.3	2.3	2.3	2.3	2.3	2.4	2.4	27.8
Rate Relief	0.0	0.0	0.0	0.0	3.1	3.7	4.0	3.8	3.2	2.3	2.0	1.9	68.4
TOTAL RECEIPTS	57.7	93.7	65.9	75.6	67.0	81.8	85.3	89.6	88.8	51.4	46.8	45.2	24.0
TOTAL	59.4	94.4	69.6	79.9	109.0	100.2	108.5	139.2	148.4	141.8	115.5	75.5	828.8
DISBURSEMENTS													830.5
Labor	10.3	11.1	11.9	11.9	12.8	11.0	11.1	11.3	11.5	10.4	11.4	10.9	
Natural Gas	26.3	27.8	28.9	35.0	44.0	48.8	37.9	34.5	30.2	28.5	23.2	23.8	135.4
Debt Service	0.0	3.8	0.0	0.1	24.3	8.9	0.0	4.0	1.7	1.4	38.2	18.4	388.8
TXCP Interest	3.5	0.1	0.2	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.2	94.8
Repayment of City Loan	14.5	36.7	17.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2.9
Union/Management Reductions													
City Fee	0.0	0.0	0.0	(0.8)	(0.7)	(0.8)	(0.9)	(1.0)	(1.1)	(1.2)	(1.3)	(1.4)	68.4
Other Disbursements	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	(9.0)
TOTAL DISBURSEMENTS	7.5	8.1	10.6	9.8	10.2	10.8	10.6	10.3	10.4	10.5	10.5	10.7	120.0
MONTHLY CASH FLOW	(1.0)	6.0	(2.9)	19.2	(23.6)	4.8	26.4	30.3	15.6	(16.7)	(33.5)	(15.4)	819.7
CUMULATIVE CASH FLOW	(1.0)	5.0	2.0	21.3	(2.4)	2.5	28.8	59.1	74.7	58.0	24.6	9.1	
OPENING TXCP	78.0	78.0	75.0	78.5	97.0	97.0	97.0	97.0	97.0	92.0	87.0	82.0	78.0
TXCP ISSUED DURING MONTH	0.0	0.0	3.5	18.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	22.0
TXCP ISSUED PAID DOWN DURING MONTH	0.0	3.0	0.0	0.0	0.0	0.0	0.0	0.0	5.0	5.0	5.0	5.0	23.0
ENDING TXCP	78.0	75.0	78.5	97.0	97.0	97.0	97.0	97.0	92.0	87.0	82.0	77.0	77.0
OPENING BALANCE - CASH	1.7	0.7	3.7	4.2	42.0	18.3	23.2	49.5	79.8	90.4	68.7	30.3	1.7
MONTHLY CASH FLOW	(1.0)	6.0	(2.9)	19.2	(23.6)	4.8	26.4	30.3	15.6	(16.7)	(33.5)	(15.4)	
NET TXCP ACTIVITY MONTHLY	0.0	(3.0)	3.5	18.5	0.0	0.0	0.0	0.0	(5.0)	(5.0)	(5.0)	(5.0)	9.1
ENDING BALANCE - CASH	0.7	3.7	4.2	42.0	18.3	23.2	49.5	79.8	90.4	68.7	30.3	9.8	(1.0)
CITY LOAN AVAILABLE - END OF MONTH	0.0	2.6	7.1	1.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	9.8
CITY LOAN UTILIZED - END OF MONTH	45.0	42.4	37.9	43.2	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	0.0
CASH POSITION NET OF TXCP AND CITY LOAN	(119.7)	(109.2)	(117.5)	(100.0)	(123.7)	(118.8)	(92.5)	(82.2)	(46.8)	(63.3)	(96.7)	(112.2)	45.0

PHILADELPHIA GAS WORKS
STATEMENT OF INCOME COMPARISON
MONTH ENDED SEPTEMBER 30, 2001
(Dollars in Thousands)

OPERATING REVENUES **\$4,250,000** **17%**

Non Heating **(\$451,000)** **(7%)**

The average price per Mcf for interruptible customer gas usage was 92 cents or 18% lower than originally budgeted due to the declining cost of alternate fuel supplies and combined with an 11% decrease in sales primarily accounted for the decline in revenues.

Transportation Service **-\$52,000** **-30%**

The volume of gas being transported for customers was greater than expected accounting for the major portion of the increased revenues.

Heating Revenues **\$4,528,000** **27%**

Heating revenues rose mainly due to additional gas usage by firm customers combined with a higher actual Gas Cost Rate (GCR) in place (\$4.3724 per Mcf vs. \$3.0542) than budgeted. Degree days for the month were 51, compared to the normal level of 38 degree days.

Appliance & Other Revenues **(\$60,000)** **(6%)**

Revenues associated with customer repair requests and bill paid turn-ons and shut-offs did not attain the budgeted level.

Unbilled Gas Adjustment **(\$ 282,000)** **67%**

The volume of gas used by customers but not yet billed declined during the month contributing to the underrun.

Other Operating Revenues **\$ 463,000** **45%**

Revenues associated with finance charges assessed on delinquent customer balances were significantly higher than the budgeted level reflecting the higher than anticipated customer accounts receivable balances.

PHILADELPHIA GAS WORKS
STATEMENT OF INCOME COMPARISON
OPERATING EXPENSES (CONT'D)
PAGE 2

OPERATING EXPENSES (\$3,722,000) (14%)

Natural Gas (\$2,707,000) (25%)

Natural gas costs declined by \$2.7 million from the projected level primarily due to lower than anticipated pipeline commodity prices.

Gas Processing (\$143,000) (17%)

The major portion of the decline reflects decreased operating and maintenance activities (labor, material, purchased services and contracted maintenance) at the production plants.

Field Services (\$454,000) (19%)

Lower labor expenses and associated material costs mainly reflect the reduced departmental requirements to meet the customer appliance repair workload.

Collection (\$334,000) (30%)

The reduction principally reflects lower expenses associated with outside collection activities. PGW is in the process of assigning written-off accounts and the dunning of delinquent residential accounts to third party collection agencies for further collection action.

Customer Service (\$105,000) (9%)

The major portion of the reduction is associated with reduced labor and overtime requirements for departmental personnel handling customer inquiries in the customer service centers and in PGW's telephone call center. In addition, outside purchased services related to PGW's Weatherization program are out-of-phase with budget expectations.

Customer Accounting (\$31,000) (15%)

A delay in the hiring of personnel to fill existing departmental budgeted positions accounts for the major portion of the decreased costs.

Marketing \$33,000 15%

The increased expenditures primarily reflect the Philadelphia Gas Commission's interim spending plan authorization to hold departmental spending to last years' actual level pending final approval of PGW's FY 2002 Operating Budget. Marketing costs for the month are considerably below PGW's originally filed FY 2002 Operating Budget.

PHILADELPHIA GAS WORKS
STATEMENT OF INCOME COMPARISON
OPERATING EXPENSES (CONT'D)
PAGE 3

Administrative & General **(\$211,000)** **(10%)**

A reduction in personnel levels across the entire administrative and general area significantly lowered labor costs. The Philadelphia Gas Commission's interim spending plan authorization held A&G expenditures to last years' actual level pending final approval of PGW's FY 2002 Operating Budget. Costs in the A&G area are considerably below PGW's originally filed FY 2002 Operating Budget.

Health Insurance **(\$207,000)** **(9%)**

Premiums for employee health insurance are slightly less than anticipated for the month. The revised FY 2002 projection for employee health insurance coverage (active and retired) is expected to total \$31.1 million.

Capitalized Fringe Benefits **\$127,000** **(23%)**

Capitalized Administrative & General Charges **\$335,000** **(46%)**

These allocated costs are currently below the budgeted level as overall capital spending has been less than expected during the month of September 2001. Capital spending (net) totaled \$3.8 million for the month, \$2.3 million below the expected level of \$6.1 million.

Taxes **(\$141,000)** **(30%)**

Payments associated with PGW's payroll taxes are out-of-phase with the budget. In addition, reduced personnel and lower overtime requirements contributed to decreased payroll costs and associated taxes.

Interest Expense **(\$308,000)** **(6%)**

Other Interest **(\$265,000)** **(30%)**

Reduced interest expense on PGW's commercial paper program, principally due to a reduced level of notes outstanding currently \$78.0 million and lower interest rates, is responsible for the decreased costs.

Transferred to City Equity **\$8,360,000**

The net loss of \$7,000 during the month of September 2001 was an improvement of nearly \$8.4 million over the budgeted loss.

Currently through the early part of December 2001 actual degree days are 575, compared to a normal level of 878 degree days a decline of 303 degree days or 35%. This decline in degree days contributes to a 1.75 BCF decline in sales and a nearly \$6.0 million in decrease in operating margin.

Collection Status Report
April through November 2001

April 2001

Residential service terminations suspended due to increased gas cost during winter 2000-2001. .

Collection activity

\$2.62 Million in payments

38 Non Payment Shut Offs

Lien & Judgments

\$0.6 Million

April 20, 2001 Began internal Residential Telephone dunning campaign.
124,409 accounts \$85.5 million outstanding

May 2001

Residential service terminations suspended due to increased gas cost.

Collection activity

\$3.6 Million in payments

253 Non Payment Shut Offs

Lien & Judgments

\$1.0 Million

Continued residential dunning campaign
\$5.0 million collected through May 11, 2001

June 2001

Residential service terminations suspended due to increased gas cost.

Collection activity

\$2.8 Million in payments

366 Non Payment Shut Offs

Lien & Judgments

\$0.7 Million

Final report on the internal residential dunning campaign
\$8.8 million, or 10%, of portfolio collected through June 8, 2001

June 23, 2001 - Began modified terminations of Residential delinquent accounts owing over \$750.00 over 90 days old.

Collection Status Report
April through November 2001

July 2001

Collection activity
 \$3.4 Million in payments
Lien & Judgments
 \$0.6 Million

Modified residential shut off campaign.
706 Residential shut offs 313 Non Residential shut offs

July 9 Out-source delinquent residential customer
 \$24.5 million 71,355 accounts

August 2001

Collection activity
 \$2.6 Million in payments
Lien & Judgments
 \$1.7 Million

Modified residential shut off campaign.
2,548 Residential shut offs 330 Non Residential shut offs

Outsourcing campaign completed, final results
 \$6.9 million, or 28%, of portfolio collected through August 20, 2001

September 2001

Collection activity
 \$1.3 Million in payments
Lien & Judgments
 \$.4 Million

Modified residential shut off campaign.
2,557 Residential shut offs 162 Non Residential shut offs

Outsourcing campaign
 September 21, 2001
 Out-source delinquent residential accounts which are 60+ days in arrears
 and not scheduled for termination.
 37, 087 accounts for \$26.3 million

**Collection Status Report
April through November 2001**

October 2001

Collection activity
\$1.8 Million in payments
Lien & Judgments
\$.9 Million

Modified residential shut off campaign.
2,797 Residential shut offs 35 Non Residential shut offs

Outsourcing campaign report
\$2.9 million, or 11%, of portfolio collected through October 28, 2001

November 2001

Collection activity
\$1.5 Million
Lien & Judgments
\$0.7 Million

This represents dollars collected at the settlement table the report on the overall Program will be provided in December, 2001.

Residential Non Payment Shut Off
1,800 Residential shut off in November

Outsourcing campaign report
\$1.0 million, or 9%, of portfolio collected through November 30, 2001, This pilot will close on 12/12/01 and a final report is due at the end of the month.

Off Account Survey
Total residential account shut off for non payment from June through November 15, 2001, were 9,200 of which 6,365 residential heating accounts are still off. These accounts are being surveyed to determine how they are coping without gas service. Results of this survey will be provided in December, 2001.

EXHIBIT C

**CEPA ET AL.'S COMMENTS/EXCEPTIONS TO
PGW'S DECEMBER 1, 2001 QUARTERLY UPDATE TO ITS GAS COST RATE**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket Number
v.	:	R-00016378
Philadelphia Gas Works	:	

**COMMENTS/EXCEPTIONS OF CEPA ET AL.
TO PHILADELPHIA GAS WORKS' DECEMBER 1, 2001
QUARTERLY UPDATE TO ITS GAS COST RATE**

Four low income consumer organizations, Consumers Education and Protective Association (CEPA), Association of Community Organizations for Reform Now (ACORN), Tenants' Action Group (TAG) and Action Alliance of Senior Citizens of Greater Philadelphia (collectively "CEPA et al.") hereby respectfully submit the following Comments/Exceptions to the Philadelphia Gas Works' December 1, 2001 Quarterly Update to its Gas Cost Rate.

I. Introduction.

On Schedule 1 of its November 30, 2001 Quarterly GCR Update Filing (hereinafter "Quarterly Update"), PGW has listed \$7 Million as an "Interim Settlement Bad Debt Allowance" which has been added to or included in the Company's Total Net Applicable Raw Material Expense ("C-E Factor"). In the cover letter accompanying this Quarterly Update, PGW claims incorrectly that the February 2001 Interim Settlement provided for the creation of "a Reserve Fund consisting of the \$7 million increase to the

non-gas portion of PGW's GCR and any GCR overcollection accumulated for the 2000-01 GCR ... up to a maximum of \$25 million."¹ In fact, the Interim Settlement provided for a Reserve Fund consisting only of a potential GCR overcollection of the traditional elements in PGW's FY2000-01 GCR. The immediate result of this totally unwarranted addition of \$7 million is to increase the amount of the updated GCR above the rate otherwise allowable.² The effects on residential customers of the inclusion of this additional \$7 million in the GCR are three-fold. All impose new hardships on PGW customers, whom PGW attempts once more to saddle with the full costs of PGW's refurbishment without any significant equity contribution by the City of Philadelphia, the owner of this historically mismanaged utility.

First, residential customers who already are paying over 30% more than they paid in early November, 2001, would be required to pay this additional \$7 million through their monthly bills. Second, PGW is poised to argue that the PUC must allow the Company to use this additional \$7 million, rather than presently existing rate and available non-rate sources, in tandem with the \$10.58 million in FY2001 over-recovery, to meet alleged bond covenant requirements in January, 2002. Third, in the event that the PUC allows this added \$7 million to be so utilized, PGW, not satisfied with a forced loan from customers, will argue that the \$7 million is non-reconcilable, and therefore not refundable to customers as an over-recovery through the FY2003 GCR.

The claims set forth in the Quarterly Update are very surprising. PGW's claims

¹ Letter dated November 30, 2001 from Daniel Clearfield, Esquire, PGW counsel to James McNulty, Secretary, PA Public Utility Commission. For the full text of the Interim Settlement, see Joint Petition for Full Settlement of PGW's Petition for the Establishment of Interim Rates and Related Appeal, Pa. PUC v. PGW, R-00005654.

² Except to protest the inclusion of the \$7 million Bad Debt Allowance in the GCR and the Reserve Fund, CEPA et al. take no position at this time concerning the legal sufficiency of the methodology utilized by PGW in formulating this Quarterly Update.

contradict statements which PGW itself made in the days leading up to Commission approval of the Interim Settlement on February 22, 2001. At that time, PGW stated that the “creation of a ‘reserve fund’ of up to \$18 million” was provided in the Interim Settlement to be “available only if PGW develops a GCR over collection...”³ The PUC itself confirmed this commitment in its February 22, 2001 Order approving the Interim Settlement: “We assure the parties that our approval for the recovery of a portion of bad debt expense through the GCR under the limited and specific circumstances described in the Joint Petition does not reflect any intent to permit such treatment in future GCR proceedings.”⁴ PGW now claims that the Interim Settlement permits inclusion of a \$7 million Bad Debt Allowance in the FY2002 GCR, that the authorized Reserve Fund is now set at a maximum of \$25 million, and that the Reserve Fund includes \$7 million which has not been overcollected yet, but which PGW purposely seeks now to “overcollect”!

CEPA et al. oppose the inclusion of this \$7 million in the Reserve Fund because it is contrary to law and to the settlement agreements which resolved PGW’s Interim Base Rate Increase proceeding (R-00005654) and PGW’s FY2002 Gas Cost Rate proceeding (R-00016378).

II. The Interim Settlement Does Not Authorize Inclusion of a \$7 million “Interim Settlement Bad Debt Allowance” in PGW’s FY2002 GCR.

The Interim Settlement was a Settlement arising from a Commonwealth Court appeal by PGW of the Interim Base Rate Increase case *Pa. PUC v. PGW*, R-00005654. In its November 22, 2000 Order in that case, the PUC had awarded PGW an \$11 million

³ Response of Philadelphia Gas Works to the Comments and Objections to the Joint Petition for Full Settlement, at p.5 (*Pa. PUC v. PGW*, R-00005654).

⁴ Order, at p. 6 (*Pa. PUC v. PGW*, R-00005664).

Interim Base Rate Increase, subject to certain operational conditions. PGW had refused to accept the conditions as originally formulated by the PUC, and as a consequence had temporarily foregone any interim base rate increase pending resolution of its appeal to the Commonwealth Court.⁵ At the same time, under the pressure of an unprecedented run up in natural gas costs, PGW had obtained two substantial increases in its Gas Cost Rate (GCR), one effective November 22, 2000 and the second effective January 2, 2001. The increases in the Gas Cost Rate, especially with subsequent moderation of natural gas prices, were more than enough to allow PGW to fully recover PGW's Tariff authorized fuel and non-fuel GCR costs and ultimately resulted in an over-recovery of those costs of \$10.58 million in FY2001.

In the course of settlement negotiations with PUC staff, PGW persuaded the Commission that the Interim Base Rate Increase was insufficient because unprecedented increases in natural gas costs reflected in the increased Gas Cost Rate would inevitably exert tremendous upward pressure on PGW's bad debt expense. Under PGW's Tariff, bad debt expense had been traditionally treated not as a fuel cost, or even as one of the few, specified non-fuel costs recoverable through the Company's GCR, but as an expense provided for in base rates. The settlement negotiations between Commission staff and PGW thus had to address at least three problems: (1) how to provide PGW with an \$11 million Interim Base Rate Increase for FY2001, when that \$11 million had to be generated between March 1, 2001, PGW's last heating season high usage month, and the end of PGW's fiscal year on August 31, 2001; (2) how to provide additional revenues to address the unprecedented run up in bad debt expense thought likely to occur as a result

⁵ Although the Interim Settlement was docketed on the PUC record at both R-00005654 (Interim Base Rate Case) and R-00005619, there was never an appeal from the PUC Final Order in R-00005619. The Interim Settlement was docketed at both numbers because one of the terms of the Base Rate Case Settlement required use of the Gas Cost Rate mechanism as a vehicle for recovery of \$7 million that could not be recovered under the circumstances before August 31, 2001 through base rates.

of the GCR increases; (3) how to address PGW's concerns that it might experience cash flow problems in January, 2002.

To resolve the first problem, the base rate issue, the Interim Settlement provided for a Base Rate Increase of \$11 million to be recovered through an increase in the monthly Customer Charge from \$8 to \$11.66, effective March 1, 2001. Interim Settlement, Para. 22.

To address the second problem, the perceived need to generate sufficient revenue to cover the increase in bad debt caused by the natural gas cost run up, and not captured in the interim base rate increase itself, the Interim Settlement provided for an additional \$7 million to be recovered through PGW's FY2001 GCR in the period March 1, 2001 through August 31, 2001. As set forth in the Interim Settlement:

As part of its previously authorized GCR revision opportunity in March, 2001, the non-gas portion of PGW's GCR rate will be increased to produce \$7 million, compressed so as to be collected by August 31, 2001, the end of PGW's current GCR period, in order to recover additional bad debt expense associated with gas costs in excess of the level assumed in the Interim Rate Proceeding. This amount will not be reconciled against actual gas costs. The bad debt expense will be subject to review and revision in PGW's pending base rate proceeding.

Interim Settlement, Para 23.

These provisions clearly demonstrate that the \$7 million was a temporary provision, improvised under unusual circumstances, in which the Gas Cost Rate was used as an instrument to collect a cost which was not recoverable under PGW's Tariff as either a fuel or a non-fuel cost. The \$7 million was to be collected by August 31, 2001; it was not reconcilable or potentially reconcilable, unlike other GCR revenues. The \$7 million was explicitly designated as "not reconcilable"; as such, the \$7 million was not,

technically speaking, capable of over-recovery, nor could it constitute part of any “over-recovery” in that limited sense.⁶ Moreover, as the Interim Settlement envisaged, the reason for the creation of this temporary recovery mechanism (the legal and practical unavailability of a further Interim Base Rate increase to generate these funds in PGW’s FY2001) would be remedied in PGW’s Permanent Base Rate Increase case, the “pending base rate proceeding” at Docket No. R-00006042. In that proceeding, provision would be made according to the Management Agreement for the establishing base rates allowing just and reasonable recovery of PGW’s bad debt expense.

To address the third problem, the hypothetical cash flow shortage in January, 2002, the parties agreed that if there was a FY2001 GCR over-recovery associated with the traditional elements whose costs are recovered through PGW’s GCR, that over-recovery would not be immediately credited to ratepayers in the FY2002 GCR, but rather would be retained by the Company until January, 2002, and could be then spent under certain conditions upon authorization of the Commission. Thus, the Interim Settlement states:

Any additional calculated GCR over-recovery, up to \$18 million (for a total of \$25 million), will be held in a reserve account to be used as necessary to meet Bond Ordinance covenant requirements, i.e., debt service and/or timely payment of obligations when due, through January, 2002. After the PUC rules on PGW’s permanent base rate request or any additional settlement thereof, PGW will make a projection of its debt service and cash obligations through January, 2002. To the extent PGW identifies a cash deficiency that would cause a Bond Ordinance covenant violation, PGW will be permitted to utilize the reserve fund (or portion thereof) to cover this deficiency. Any remaining portion of the reserve will be returned to rate payers through the GCR, subject to PGW’s right to request a different treatment....

⁶ The Interim Settlement recognizes that PGW was being authorized to collect \$7 million more through its FY2001 GCR than would otherwise be permitted, because the \$7 million was in addition to the fuel and non-fuel costs recoverable through the GCR under PGW’s Tariff. In that sense, the \$7 million designated for recovery in FY2001 was an “over-recovery” – but not an “over-recovery” which was subject to reconciliation or even potentially subject to reconciliation.

Interim Settlement, Para. 27.

CEPA *et al.* do not dispute PGW's contention that in FY2001, PGW over-recovered through its GCR \$10.58 million applying rates designed to cover the fuel and non-fuel costs enumerated in its Tariff for recovery through the GCR, and also recovered the additional \$7 million FY2001 bad debt expense allowance provided for in the Interim Settlement. This \$10.58 million constitutes the Reserve Fund provided in Paragraph 27 of the Interim Settlement. If PGW had over-recovered by the same means an additional \$7.42 million in FY2001 from the same sources as the \$10.58 million, this sum also would be part of the designated potential "additional calculated GCR over-recovery" to be included in the Reserve Fund. However, the \$7 million provided specifically for FY2001 bad debt expense is not to be included in the Reserve Fund under Paragraph 27.

In addition to the context as described above, the specific language of Paragraph 27 does not support PGW's contentions to the contrary.

First, Paragraphs 23 and 24 of the Interim Settlement addressed the \$7 million bad debt allowance, and provided for its collection through the GCR during the balance of FY2001. Paragraphs 23 and 24 refer only to FY2001, and make no connection between the \$7 million and any Reserve Fund.⁷

⁷ Paragraphs 23 and 24 of the Interim Settlement provide as follows:

23. As part of its previously authorized GCR revision opportunity in March, 2001, the non-gas cost portion of PGW's GCR rate will be increased to produce \$7 million, compressed so as to be collected by August 31, 2001, the end of PGW's current GCR period, in order to recover additional bad debt expense associated with gas costs in excess of the level assumed in the Interim Rate Proceeding. This amount will not be reconciled against actual gas costs. The bad debt expense will be subject to review and revision in PGW's pending base rate proceeding.

24. Depending upon PGW's next GCR update, the \$7 million non-gas costs will either be subsumed within any calculated over-recovery or will be separately billed as an increase to the existing, or then authorized, GCR factor.

The subject of Paragraph 27 establishing the Reserve Fund is not the \$7 million, but “[a]ny additional calculated GCR over-recovery, up to \$18 million...” As PGW itself stated, this Paragraph addresses the “second part of the Joint Petition’s financial package...[that is] the creation of a “reserve fund,” of up to \$18 million....”⁸ It is this additional over-recovery which is to be “held in a reserve account...” Interim Settlement, Para. 27. There is no mention in this Paragraph of the \$7 million Bad Debt Allowance collected through the FY2001, nor of any potential \$7 million Bad Debt Allowance to be collected through the FY2002 GCR and deposited in this Reserve Fund.⁹

Second, PGW may be anticipated to argue that the parenthetical expression “(for a total of \$25 million)” establishes that the Reserve Fund was envisaged to contain up to \$25 million, including the \$7 million. This argument gives the phrase an import which it never had. As has been demonstrated, both the historical context and detailed analysis of the relevant Interim Settlement provisions all weigh against this interpretation. Moreover, this phrase is also susceptible to an interpretation which harmonizes absolutely with the rest of the Interim Settlement. This phrase expresses the intention of the drafters to make it as clear as possible that if there should occur an over-recovery of costs associated with PGW’s traditional GCR fuel and non-fuel elements even up to \$18 million, that whole amount would be included in the Reserve Fund and not subject to reduction by the amount of the FY2001 \$7 million Bad Debt Allowance. The phrase forecloses the interpretation that the \$7 million, which PGW collected unconditionally

⁸ Response of Philadelphia Gas Works to the Comments and Objections to the Joint Petition for Full Settlement (filed February 20, 2001) at p. 5 (Pa. PUC v. PGW, R-00005654).

⁹ Moreover, if such mention is considered implicit, and if there were no need to use the \$7 million in January 2002, then by the terms of Paragraph 27, it would have to be returned to ratepayers unless the PUC otherwise ordered. However, return of this \$7 million to ratepayers would be inconsistent with the provisions of Paragraph 23 which clearly state that the \$7 million is not reconcilable, that is, not to be credited to ratepayers to the extent that it is in excess of the amounts necessary to cover PGW’s Tariff authorized fuel and non-fuel expenses recoverable through the GCR.

and on a non-reconcilable basis in FY2001, and which was calculated to improve PGW's cash position by \$7 million at the FY2001 year end, should be counted against the \$18 million referred to in Paragraph 27. In short, the phrase simply will not bear the weight which PGW arbitrarily and after the fact attaches to it.

Third, the Reserve Fund is by its terms for use in January 2002, if at all. It presupposes an over-recovery which was to have occurred by FY2001 year end. The \$10.58 million over-recovery from FY2001 fits that description. No reference is made to any potential GCR over-recovery occurring in the first quarter of FY2002 or throughout FY2002. See PGW Quarterly Update, Schedule 6. PGW is now arguing for the existence of a \$7 million Bad Debt Allowance, to be collected over the 12 months beginning on December 1, 2001. This supposed element in the Reserve Fund is inconsistent with the designated and limited purpose of the Reserve Fund, for the reason that most of the \$7 million would not be available for use in January 2002, because it would not have yet been recovered.

III. Inclusion of the \$7 Million Is Contrary to the Terms of FY2002 GCR Settlement.

The FY2002 GCR Settlement approved by the Commission on September 7, 2001, confirms CEPA et al.'s contention that the Interim Settlement envisaged the \$7 million FY2001 GCR Bad Debt Allowance as a one year measure, confined to FY2001.¹⁰ Indeed, PGW's belated attempt to include a \$7 million Bad Debt Allowance as an update in its FY2002 GCR is contrary to the terms of the GCR Settlement. Paragraph 2 of the "terms" portion of the Settlement states:

¹⁰ PUC Order entered September 11, 2001, adopting ALJ's Recommended Decision, Pa. PUC v. PGW, R-00016378.

Removal of \$7.0 Million of Interim Rate Settlement Bad Debt Expense and Compression Factor. The revised factor of \$4.3724 described in Paragraph 1 above reflects the removal of the \$7.0 million of bad debt expense authorized as part of PGW's settlement with the Commission in Pa. PUC v. Philadelphia Gas Works, Docket No. R-00005654, and the compression factor authorized by the Commission in Pa. PUC v. Philadelphia Gas Works, docket No. R-00005619.

FY2002 GCR Settlement, Para. III (2). The removal of the \$7 million bad debt expense cost, which had been already recovered in FY2001, implicitly recognized that the right to collect such a bad debt allowance through the GCR had terminated permanently with the end of PGW's FY2001 on August 31, 2001.

The reduction of gas cost projections by \$70 million, pending further probable reductions as of December 1, 2001, together with elimination of the compression and of the \$7 million bad debt expense promptly on September 1, 2001, were described by PGW as diminishing the burden on ratepayers at the earliest occasion. Indeed, PGW itself chose in its Supporting Statement filed with the Joint Petition for Complete Settlement of the Philadelphia Gas Works' 2001-2002 GCR Proceeding to emphasize this benefit of the Settlement:

(c) Removal of \$7.0 Million of Interim Rate Settlement Bad Debt Expense and Compression Factor. The proposed Settlement is also in the Company's and public interest because the September 1, 2001 update described in Paragraph (b) above has the effect of removing the \$7.0 million of bad debt expense authorized as part of PGW's settlement with the Commission in Pa. PUC v. Philadelphia Gas Works, Docket No. R-000054654, and the compression factor authorized by the Commission in Pa. PUC v. Philadelphia Gas Works, Docket No. R-000005619. Again, these reduction will occur on September 1, 2001 three months earlier than if the case had been litigation [sic] to a PUC decision.¹¹

¹¹ Philadelphia Gas Works' Statement in Support of the Unopposed Joint Petition for Complete Settlement of its 2001-2002 GCR Proceeding, p. 4, at Appendix C of Joint Petition for Complete Settlement of Philadelphia Gas Works' 2001-2002 GCR Proceeding,, Pa. PUC v. Philadelphia Gas Works, R-00016378.

This statement demonstrates once more that the Interim Settlement provided, and was understood to provide a \$7 million Bad Debt Allowance only for FY2001. Consistent with this negotiated agreement, termination of the FY2001 GCR compression and the elimination of the \$7 million Bad Debt Allowance were bound to occur as soon as a FY2002 GCR became effective. There is nothing in PGW's justification of this Settlement which suggests that the benefits to customers to be derived from removal of the \$7 million Bad Debt Allowance from the GCR were only ephemeral, a temporary maneuver occurring in relatively low consumption months, and that this \$7 million would be restored as a FY2002 Bad Debt Allowance to be included in the Reserve Fund.

In sum, by the terms of the FY2002 GCR Settlement, the \$7 million Bad Debt Allowance was recognized to have terminated at the FY2001 year end, with the same finality as the termination of a rate compression at the onset of a new rate period.

IV. PGW's Tariff Does Not Permit the Inclusion of a "Bad Debt Allowance" in the "C-E" Factor.

Under the Gas Choice Act, PGW's Tariff remains in effect until restructuring, unless amended upon request of PGW, and PUC approval with notice and opportunity to be heard. 66 Pa.C.S. §§2212(d). Section 11 of PGW's current Tariff, which provides for PGW's Gas Cost Clause, does not include bad debt expense within allowable "gas costs." See Tariff Gas - Pa. P.U.C. No. 1, Supplement No. 15, Sixth Revised Page No.71, Sections 11.2 and 11.3. Moreover, although PGW's Tariff allows for recovery of certain non-gas costs through the GCR, only non-gas costs which have been specifically authorized by the tariff and "annually authorized by the Commission" may be recovered through the GCR.

PGW was authorized by Commission order on notice and hearing to recover \$7

million in non-reconcilable Bad Debt Expense through the FY2001 GCR. But no such authorization exists for the FY2002 GCR. See Tariff Gas - Pa. P.U.C. No. 1, Supplement No. 12, Third Revised Page No. 172, Section 11.5. It is therefore inappropriate for PGW to include such Bad Debt Expense as an "update," when the FY 2002 GCR itself does not authorize inclusion of such an expense in the GCR.

V. Conclusion.

For the foregoing reasons, PGW's Quarterly Update is contrary to applicable law and the Settlement Agreements arduously negotiated by the parties. It is CEPA et al.'s view that the claim for a Bad Debt Allowance has been inserted in this Quarterly Filing in flat disregard of the plain meaning of established agreements and law. In this respect, this action by PGW represents an abuse of provisions allowing GCR Quarterly Updates on one day's notice, without opportunity for prior comment by interested parties.

CEPA et al. therefore request that the Commission require PGW immediately to file an amended Quarterly Update from which the claim for a \$7 million Bad Debt Allowance has been removed and to make such other order as is just and proper.¹²

Respectfully submitted,


PHILIP A. BERTOCCI, ESQUIRE
EDWARD A. McCOOL, ESQUIRE
Attorneys for CEPA et al.

December 10, 2001

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

¹² 52 Pa.Code §53.64(i)(5)(iv) provides that the Commission has discretion to review a Quarterly Update upon filing, as necessary to protect customers and assure that rates are just and reasonable.

VERIFICATION

I, Philip A. Bertocci, Esquire, attorney for the CEPA et al., hereby state that document attached to these Comments as Exhibit B is a true and correct copy of the document which was provided to me by the Philadelphia Gas Works and that I expect to be able to prove the same at a hearing held in this matter. I understand that this statement is made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).

Date: 12/17/01

Philip A. Bertocci.

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission

v.

Philadelphia Gas Works

Docket Number: R-00005654

I hereby certify that I have this day served a true copy of the foregoing document, the Comments of CEPA et al. to Philadelphia Gas Works' December 12, 2001 Filing for Authorization to Use Reserve Fund 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 17th day of December, 2001.

SERVICE BY FIRST CLASS U.S. MAIL

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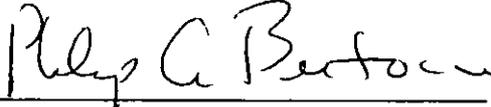
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PHILIP A. BERTOCCI, ESQUIRE

RECEIVED
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PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

December 19, 2001

James J. McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17102

Filed by Federal Express

DOCKETED
DEC 21 2001

Re: PA Public Utility Commission v. Philadelphia Gas Works, Docket No. R-00005654
PA Public Utility Commission v. Philadelphia Gas Works, Docket No. R-00016378

CEPA ET AL. LETTER SUPPORTING OCA'S ANSWER
TO PGW'S MOTION TO DISMISS

DOCUMENT
FOLDED

Dear Mr. McNulty:

We represent four low income consumer organizations, Consumers Education and Protective Association (CEPA), Association of Community Organizations for Reform Now (ACORN), Tenants' Action Group (TAG) and Action Alliance of Senior Citizens of Greater Philadelphia (collectively "CEPA et al.") in the above-captioned matters.

This letter is written in support of the Office of Consumer Advocate's Answer to PGW's *Motion to Dismiss the Petition for Enforcement of Settlements* by the Office Consumer Advocate (hereinafter "Motion"). In the Motion, filed December 13, 2001, PGW also requested that the Commission deny CEPA et al.'s Comments/Exceptions to PGW's November 30, 2001 Quarterly Update. Motion, p. 8. All of these filings addressed the issue whether PGW appropriately included a claim for \$7 million characterized as an "Interim Settlement Bad Debt Allowance" on Schedule 1 of its Quarterly Update. The effect of the inclusion of that \$7 million as a "hold back" in PGW's Quarterly Update is to implement on one day's notice a GCR which is approximately \$.12/Mcf. higher than it otherwise would be.

CEPA et al. have already extensively discussed the grounds for their opposition to PGW's inclusion of the \$7 million "hold back" in its November 30, 2001 Quarterly GCR Update both in CEPA et al.'s original December 10, 2001 Comments/Exceptions and also in the Comments of CEPA et al. to Philadelphia Gas Works' December 12, 2001 Filing for Authorization to Use Reserve Fund, filed on December 17, 2001 at Docket No. R-00005654. In this letter, we shall limit ourselves to four brief points:

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1. The so-called Interim Settlement Bad Debt Allowance as an element of PGW's FY2002 GCR is a fiction because no trace of such an allowance appears in the Interim Joint Settlement. For that reason, the allowance changes identity overnight. In the November 30, 2001 Quarterly Update Filing, PGW explicitly and unambiguously characterized the \$7 million as an "Interim Settlement Bad Debt Allowance." After consumer parties challenged this allowance, it reappeared in the December 12, 2001 Reserve Fund Filing as a "one time non-gas cost cash flow allowance." There is nothing in the Interim Settlement which indicates the existence of a "cash flow allowance," states that it is a "one time" allowance for FY2002, identifies the FY2002 GCR as the vehicle for recovery of the allowance, or provides that it may be considered a "gas cost" for GCR update purposes and implemented on one day's notice. These facts compel the conclusion that the allowance does not exist and has never existed.

2. PGW implicitly recognizes that in making this \$7 million claim, it is skating not just on thin ice, but on mere frost particles on the top of the pond. It is quick to assure the Commission that should the Commission find, as it must, that this imposition of \$7 million is not justified by the Interim Settlement, it will "return the appropriate portion of the reserve fund to customers by revising downward its GCR factor on a going forward basis." Quarterly Update, Transmittal Letter, at 2; Motion, at 2, 3. The Commission should decline to give PGW the slightest credit for agreeing to undo what it did not have the slightest right to do in the first place.

3. Notwithstanding PGW's protestations, inclusion of the \$7 million "cash flow allowance" in the Quarterly Update Filing was a violation of the GCR Settlement (Docket No. R-00016378). PGW's claim of a \$17.58 million Reserve Fund is made up of two components – \$10.58 million which PGW has already collected in FY2001, and the \$7 million, which PGW admits has not been collected. It is one thing to "hold back" return of the \$10.58 million, pending Commission decision whether retention is appropriate; it is another to impose a new \$7 million charge on customers, admittedly not a gas cost, with no legal justification (even pending Commission "review") through the filing of a Quarterly Update.¹

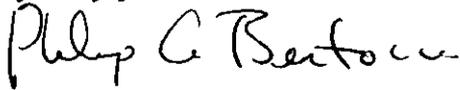
4. Under such circumstances, prompt protests by CEPA et al. and OCA were entirely appropriate. They were certainly not precluded or preempted by the Interim Settlement, which does not specify whether or how the PUC's Quarterly Update procedures were to be used in the implementation of Interim Settlement Paragraph 27. While normally, protests related to Quarterly Updates are deferred until the end of the

¹ See Joint Petition for Complete Settlement of Philadelphia Gas Works' 2001-2002 GCR Proceeding, at Para. III, 5, 6. These paragraphs provide for the update to reflect the "most recent gas cost projections" and make no provision for potential inclusion of a new non-gas cost such as the "non-gas cash flow allowance."

GCR year, this practice reflects the generally reconcilable character of natural gas adjustment collections and well defined practices concerning their projection. The alleged \$7 million non-gas cash flow allowance is not reconcilable and can not claim any legal basis for its existence. PUC regulations at 52 Pa.Code §53.64(i)(5)(iv) explicitly preserve the Commission's discretion to intervene before the year is out when necessary to prevent abuse of the GCR update mechanism.

Consumer advocates can not be faulted for promptly protesting by Petition, Comments or Exception, or Formal Complaint the use of the Quarterly Update to implement a non-gas cost not authorized by regulation, Interim Settlement or by law.

Very truly yours,



PHILIP A. BERTOCCI, ESQUIRE
EDWARD A. MCCOOL, ESQUIRE

Attorneys for CEPA et al.

cc: Certificate of Service

Karen Moury, Esquire, Law Bureau
Robert Rosenthal, Fixed Utilities Service

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works
Docket Numbers: R-00005654, R-000016378

I hereby certify that I have this day served a true copy of the foregoing letter 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 19th day of December, 2001.

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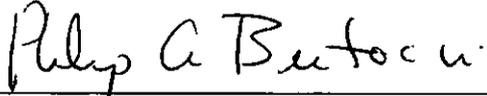
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ORIGINAL

DOCKETED
DEC 20 2001

December 18, 2001

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VIA HAND DELIVERY

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01 DEC 18 PM 4:20
PA.P.U.C.
SECRETARY'S BUREAU

Re: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works
Docket No. R-00005654

DOCUMENT
FOI DEF

Dear Mr. McNulty:

The Office of Consumer Advocate ("OCA") is in receipt of Philadelphia Gas Works' ("PGW" or "Company") informational filing and request to utilize the Interim Settlement reserve account funds dated December 12, 2001 ("December 12 Informational Filing"). In this filing, the Company seeks authorization to retain an additional \$17.58 million of ratepayer dollars collected through the GCR mechanism. The \$17.58 million is made up of a \$10.58 million GCR over-recovery from the 2001 GCR period (September 1, 2000 through August 31, 2002) and a \$7 million bad debt allowance that the Company inserted into its GCR for the 2002 GCR Period (September 1, 2001 through August 31, 2002). The Company added the \$7 million to its current GCR expense when it made its December 1, 2001 GCR quarterly update.

PGW's filing is made pursuant to the Settlement between the Commission's Law Bureau and PGW which resolved the Interim Rates Proceeding at Docket No. R-00005654 and related appeal. The Commission approved the Interim Rates Settlement in an Order entered February 22, 2001. Pursuant to the Interim Rates Settlement, the Company was permitted to hold in a reserve account any calculated GCR over-recovery, up to \$18 million, that it obtained during the 2001 GCR period (September 1, 2000 - August 31, 2001). According to the Company's December 1, 2001 quarterly update to its GCR, PGW

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had a GCR over-recovery of \$10.58 million as of August 31, 2001.¹ The remainder of the \$17.58 million reserve account that the Company is seeking to retain comes from an additional \$7 million bad debt allowance that the Company added to its 2002 GCR expense when it filed its December 1, 2001 quarterly update.

Initially, the OCA would note that it opposes PGW's attempt to include an additional \$7 million in bad debt allowance as part of its 2002 GCR. For the reasons set forth fully in the OCA's Petition to Enforce the Settlements, the OCA submits that the Company is not entitled to include this \$7 million in its 2002 GCR. The OCA hereby incorporates its Petition by reference and attaches a copy as Appendix A hereto. When the \$7 million in additional bad debt is removed, the correct amount to be held in the reserve account is \$10.58 million.

The Interim Rates Settlement between PGW and the Law Bureau provides that any GCR over-recovery as of August 31, 2001, will be held in a reserve account to be used to meet necessary bond coverages and payment of obligations. Interim Rates Settlement ¶27. The Interim Rates Settlement sets forth a specific standard which must be met before PGW is authorized to use this fund:

After the PUC rules on PGW's permanent base rate request or any additional settlement thereof, PGW will make a projection of its debt service and cash obligations through January 2002. To the extent PGW identifies a *cash deficiency* that would cause a Bond Ordinance covenant violation, PGW will be permitted to utilize the reserve fund (or portion thereof) to cover this deficiency. Any remaining portion of the reserve will be returned to ratepayers through the GCR, subject to PGW's right to request a different treatment. PGW will make an informational filing to the PUC when it determines whether it shall need the reserve fund, by no later than December 31, 2001, which shall be reviewed and approved by the PUC with its conclusions communicated by secretarial letter within ten (10) days of its filing.

Interim Rates Settlement ¶27 (emphasis added). The settlement did not give PGW automatic access to the reserve account. Instead, the Company could only utilize the money held in reserve if it could demonstrate that it had a "cash deficiency" that would cause a bond ordinance covenant violation.

Included with the Company's informational filing requesting to retain the reserve account was a cash flow analysis entitled "PGW's Estimated Actual FY2002 Cash Receipts and Disbursements." Bogdonavage St. at 3; Exhibit A. This schedule is based upon PGW's FY2002 Operating Budget which was filed with the Philadelphia Gas Commission ("PGC") on August 3, 2001. *Id.* The Company then amends that budget to reflect \$33.6 million in permanent base rate relief and a projected GCR rate of

¹ See, Philadelphia Gas Works v. Pa.P.U.C., Docket No. R-00016378, Quarterly Update filed December 1, 2001, Schedule 8.

\$3.13 per Mcf that went into effect with the Company's December 1, 2001 quarterly update. The Company has also made an adjustment to reflect actual weather through December 15, 2001, that reduces its estimated weather degree days to 4200. Importantly, the Company removed a \$20 million draw from its capital fund budgeted for December 2001 and instead takes \$10 million draws in February and June respectively. Compare PGW Exhibit A to OCA Appendix B. Under this analysis, the Company shows a negative cash position at the end of January. Based upon this analysis, the Company seeks to retain the reserve account.

Of critical importance, OCA Appendix B is a budget filing made by PGW with the Philadelphia Gas Commission on or about December 10, 2001. In that filing, based on its previously existing budget, PGW had planned to withdraw \$20 million from its capital fund in December 2001. With the December 2001 draw from the capital fund, PGW is not in a negative cash position at the end of January, 2002. It should also be noted that it is not uncommon for the Company to borrow from its capital fund early in the fiscal year when receipts are typically lower than disbursements. Not only did the Company's Operating Budget filed with the PGC contemplate a \$20 million draw from the capital fund in December, but the Company made actual draws of \$33 million from the capital fund in September and October 2001, even though it has only \$26 million in anticipated capital expenditures through January 2002. Bogdonavage St., footnote 3; Exhibit A.

The OCA submits that it is not clear from the Interim Settlement and the accompanying Order whether the Commission intended to allow PGW to retain the reserve account if the Company's revenues, absent cash from any other source such as the capital fund, were insufficient to meet the Company's debt service. In the Commission's Order approving the Interim Settlement entered February 22, 2001, the Commission stated:

Moreover, the potential additional \$18 million "reserve fund" is available to PGW only if PGW develops a GCR over-collection and only if it is needed to satisfy bond debt service (after PGW pursues in good faith all other sources of revenue reasonably available). If not needed, the reserve (if it exists) will be refunded to ratepayers in accordance with existing GCR rules.

February 22 Order at 6. [emphasis and explanation in the original].

The OCA was not a party to the Interim Rates Settlement. It is not clear from the language of the Settlement and Commission's Order approving the settlement whether, in assessing PGW's eligibility to retain the reserve account, it was appropriate for PGW to eliminate the budgeted \$20 million draw from the capital fund in December which results in PGW's cash deficiency in January of \$8.4 million. If it was the Commission's intent to consider all sources of cash, then the \$20 million draw in December should be included and PGW will not have a cash deficiency in January 2002. However, if it was not the Commission's intent to require the Company to rely upon borrowing from the capital fund to meet its debt service and cash obligations in January 2002, then the Company will have a cash deficiency in January

2002 and would be eligible to retain at least the \$8.4 million associated with the cash deficiency, and possibly the entire \$10.58 million in the reserve account.

The OCA submits that the Commission must carefully review this request to determine the intent of the Interim Settlement between Law Bureau and PGW. The GCR overcollection that has been placed in the reserve account reflects overpayments by ratepayers of natural gas costs that are generally returned to ratepayers under Section 1307(f). For the Company to retain these dollars, the OCA submits that its request and its circumstances must strictly meet the terms and intention of the Settlement.

Sincerely,



Stephen J. Keene

Tanya J. McCloskey

Senior Assistant Consumer Advocates

Attachments

cc: Parties of Record
Karen Moury, Deputy Chief Counsel
Robert Rosenthal, Director FUS

66800

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01 DEC 18 PM 4: 20
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SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

01 DEC 18 PM 4:17

Pennsylvania Public Utility Commission :

v. :

Philadelphia Gas Works :

Pennsylvania Public Utility Commission :

v. :

Philadelphia Gas Works, 1307(f) :

Docket No. R-00005654

Docket No. R-00016378

PETITION FOR ENFORCEMENT OF SETTLEMENTS

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I. INTRODUCTION

On November 30, 2001, Philadelphia Gas Works ("PGW" or "Company") filed its Quarterly Update to its Gas Cost Rate ("GCR") to become effective December 1, 2001. The tariff supplement filed reduced PGW's GCR from \$4.3724/Mcf to \$3.1307/Mcf effective December 1, 2001.

The Office of Consumer Advocate ("OCA") has reviewed the Company's Quarterly Update filing and has identified an error in that filing that has the effect of increasing the Company's gas costs by \$7 million in the 2002 GCR period.

The Company has used this Quarterly Update as an opportunity to try to reinsert \$7 million for bad debt expense allowance into its GCR. The Company claims that it is authorized to do so by the Joint Petition for Full Settlement of Philadelphia Gas Works'

Petition for the Establishment of Interim Rates and Related Appeal (“Interim Rates Settlement”) entered into between PGW and the Commission’s Law Bureau.

The OCA submits that PGW’s attempt to collect an additional \$7 million in bad debt expense through its GCR is in violation of the Interim Rates Settlement, the Settlement of PGW’s 2002 GCR proceeding, and is simply an attempt to circumvent the Commission’s decision in PGW’s recently concluded base rate proceeding with respect to the appropriate level of bad debt expense. Therefore, the OCA respectfully requests that the Commission direct PGW to *immediately* remove the \$7 million bad debt expense allowance from its GCR.

II. THE COMPANY’S ATTEMPT TO RECOVER AN ADDITIONAL \$7 MILLION FOR BAD DEBT EXPENSE IN ITS 2002 GCR VIOLATES THE INTERIM RATES SETTLEMENT AND THE SETTLEMENT OF PGW’S 2002 GCR PROCEEDING.

In Schedule 1 of PGW’s Quarterly Update, the Company includes a \$7 million expense in its GCR costs for “Interim Settlement Bad Debt Allowance.” Quarterly Update, Sch. 1. In the transmittal letter, the Company explains that the \$ 7 million is to be included in the “Reserve Fund” created by the Interim Rates Settlement. The OCA submits that the Interim Settlement does not permit PGW to collect \$7 million for bad debt expense in the current GCR period. The \$7 million for bad debt allowance authorized by the Interim Rates Settlement has already been collected by the Company during its 2001 GCR period.

The Interim Rates Settlement between PGW and the Commission’s Law Bureau came about as a result of the Company’s appeal of the Commission’s Order in

PGW's Interim Rates proceeding at Docket No. R-00005654. In that proceeding, the Company had sought an interim base rate increase of \$65 million. After an expedited proceeding, the Commission entered an order awarding PGW an \$11 million interim rate increase. After PGW appealed this decision to the Commonwealth Court, the Company entered into settlement negotiations with the Law Bureau that resulted in the Interim Rates Settlement. That Settlement resolved various contested issues that the Company had raised in its appeal. Pertinent to the instant issue, the Interim Rates Settlement allowed the Company to increase its *2001 GCR* to recover an additional \$7 million for additional bad debt expense. Interim Rates Settlement at 2, 7. The recovery of the \$7 million was to be compressed so as to be fully recovered by the end of PGW's 2001 GCR period. Interim Rates Settlement at 7. The Interim Rates Settlement also allowed PGW to hold in reserve any additional GCR over-recovery from the 2001 GCR period to be used as necessary to meet Bond Ordinance covenant requirements, debt service and/or timely payment of obligations when due, through January 2002.¹ Interim Rates Settlement at 8. Thus, the total maximum relief through the GCR provided by the Interim Rates Settlement was up to \$25 million (\$7 million for bad debt expense plus \$18 million for over-recovery of GCR costs).²

The Company has already recovered the \$7 million for bad debt expense during the 2001 GCR period. See, Quarterly Update, Sch. 8. Now the Company is

¹ In its Quarterly Update, the Company has reported that the total GCR over-recovery for the 2001 GCR period was \$10.58 million. Pursuant to the Interim Rates Settlement, this is the total amount that can be placed into the reserve account.

² The Interim Rates Settlement also permitted PGW to increase its customer charge to collect an additional \$11 million in base rate revenues, compressed so as to recover the full amount by August 31, 2001.

attempting to recover an additional, unauthorized \$7 million for bad debt expense in its 2002 GCR as well. This in spite of the fact that the settlement of PGW's 2002 GCR proceeding expressly required the Company to remove the \$7 million from its GCR costs. Joint Petition for Complete Settlement of Philadelphia Gas Works' 2001-2002 GCR Proceeding §III.2 ("2002 GCR Settlement"). Thus, the Company, which just took the \$7 million out of its GCR in its September compliance filing made pursuant to the 2002 GCR Settlement, now seeks to reinsert the \$7 million back into its GCR by using its first quarterly update as a vehicle. The OCA submits that this is in violation of the Interim Rates Settlement and the 2002 GCR Settlement, and should be rejected immediately by the Commission.

It is OCA's understanding that the Company relies principally upon Section III.27 of the Interim Rates Settlement in support of its inclusion of an additional \$7 million in its 2002 GCR. Section III, 27 provides:

27. Any additional calculated GCR over-recovery, up to \$18 million (for a total of \$25 million), will be held in a reserve account to be used as necessary to meet Bond Ordinance covenant requirements, *i.e.*, debt service and/or timely payment of obligations when due, through 2002. After the PUC rules on PGW's permanent base rate request or any additional settlement thereof, PGW will make a projection of its debt service and cash obligations through January 2002. To the extent PGW identifies a cash deficiency that would cause a Bond Ordinance covenant violation, PGW will be permitted to utilize the reserve fund (or portion thereof) to cover this deficiency. Any remaining portion of the reserve will be returned to ratepayers through the GCR, subject to PGW's right to request a different treatment. PGW will make an informational filing to the PUC when it determines whether it shall need the reserve fund, no later than December 31, 2001, which shall be reviewed and approved by the PUC with its conclusions communicated by secretarial letter within ten (10) days of its filing.

Interim Rates Settlement §III.27. In particular, the OCA understands that PGW relies upon the parenthetical “(for a total of \$25 million)” in the first sentence of this paragraph as authority to recover an additional \$7 million in its 2002 GCR. The Company claims that the \$7 million that it recovered for bad debt expense in its 2001 GCR has already been spent and that it has an absolute right under the Interim Rates Settlement to include an additional \$7 million in the reserve fund along with the over-recoveries from the 2001 GCR period.³ The OCA submits that such a reading of this section of the settlement cannot stand in light of the language of the Interim Rates Settlement and Order approving that Settlement, as well as the 2002 GCR Settlement.

Section III.23 is the part of the Interim Rates Settlement that authorizes PGW to collect an additional \$7 million for bad debt expense through its GCR. This Section provides:

23. As part of its previously authorized GCR revision opportunity in March, 2001, the non-gas cost portion of PGW’s GCR rate will be increased to produce \$7 million, compressed so as to be collected by August 31, 2001, the end of PGW’s current GCR period, in order to recover additional bad debt expense associated with gas costs in excess of the level assumed in the Interim Rate Proceeding. This amount will not be reconciled against actual gas costs. The bad debt expense will be subject to review and revision in PGW’s pending base rate proceeding.

Interim Rates Settlement §III.23.

³ As noted in Footnote 1 above, the Company did not reach its ceiling of \$18 million of over-recoveries in the 2001 GCR period authorized by the Interim Rates Settlement. It had a total over-recovery of \$10.58 million as of August 31, 2001. This is the total amount to be held in the reserve account.

The Interim Rates Settlement clearly states that the \$7 million bad debt allowance is to be fully recovered by the end of PGW's 2001 GCR period, August 31, 2001. There is nothing in this section that would authorize an additional \$7 million to be recovered through the 2002 GCR. In fact, the Order approving the Interim Rates Settlement makes it clear that the \$7 million increase in the GCR is only temporary and that the appropriate level of bad debt expense will be addressed in the Company's permanent base rate proceeding. In fact the Commission specifically stated:

As to the assertions concerning the permanent inclusion of a factor in PGW's GCR to recover the bad debt expense, the Commission notes that the Joint Petition expressly states that its provisions constitute a negotiated resolution of the issues and are of no precedential value in subsequent proceedings. *We assure the parties that our approval for the recovery of a portion of bad debt expense through the GCR under the limited and specific circumstances described in the Joint Petition does not reflect any intent to permit such treatment in future GCR proceedings.* (emphasis added).

Interim Rates Settlement Order at 6 (Order entered February 22, 2001).

The issue of the appropriate level of bad debt expense was extensively litigated by the parties in the base rate proceeding at Docket No. R-00006042 and addressed in the Commission's October 4, 2001 Opinion and Order and the Commission's December 6, 2001 Order on Reconsideration. The Company's attempt to include an additional \$7 million in its 2002 GCR for bad debt expense would circumvent the Commission's determination in the base rate case.

The Commission's Order approving the Interim Rates Settlement also provides some guidance with respect to PGW's contention that the parenthetical language

in Section III.27 creates a \$25 million reserve account and that PGW could only get to \$25 million by including an additional \$7 million in its 2002 GCR. In the Order approving the Interim Rates Settlement, the Commission characterized the reserve account as a “potential \$18 million ‘reserve fund.’” Therefore, the Company’s argument that it needs an additional \$7 million from this year’s GCR should be rejected. It is clear that the only amount that should be held in the reserve account is the \$10.58 million of actual over-recoveries experienced by the Company as of August 31, 2001, the end of its 2001 GCR period.

Finally, in the Settlement of PGW’s 2002 GCR proceeding, the Company was specifically required to remove the \$7 million of bad debt expense. 2002 GCR Settlement §III.2. The OCA submits that the Company’s inclusion of this \$7 million back into the GCR as part of its first quarterly update is in violation of the 2002 GCR Settlement. The Company should be required to immediately remove the \$7 million from its GCR.

III. CONCLUSION

For the reasons set forth above, the OCA respectfully requests that the Commission enforce the Interim Rates Settlement and the 2002 GCR Settlement by directing PGW to immediately remove the \$7 million bad debt allowance from its GCR.

Respectfully submitted,



Stephen J. Keene
Senior Assistant Consumer Advocate

Counsel for:
Irwin A. Popowsky
Consumer Advocate

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(717) 783-5048

Dated: December 10, 2001

*66644

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works
Docket Nos. R-00005456 and R-00016378

I hereby certify that I have this day served a true copy of the foregoing document, Petition for Enforcement of Settlements, 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 10th day of December, 2001.

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66652

Normal weather 4955 degree days
 City Loan \$45.0 MM Available & Fully Outstanding
 \$30.0M Rate Increase Effective Oct 2001
 TXCP \$100.0 M with \$80.0 M Outstanding 8/31/02
 Reduced expenses per union contract settlement
 Pre-Drew Capital Funding during the Fiscal Period

BUDGET OF CASH RECEIPTS AND DISBURSEMENTS
 FISCAL YEAR ENDING AUGUST 31, 2002
 (Millions of Dollars)

	ACTUAL	ACTUAL	ACTUAL	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	TOTAL	
12/01	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug		
OPENING BALANCE - CASH INCLUDES 97.0 TXCP RECEIPTS	117	90.7	83.7	94.2	842.0	518.3	623.2	549.5	578.8	690.4	659.7	630.3	61.7	
Gas	38.2	40.8	42.9	45.0	60.0	72.2	77.8	74.1	61.6	45.3	38.1	38.2	625.1	
Other	0.7	0.6	0.3	1.5	1.8	1.8	1.5	1.5	1.5	1.5	1.5	2.9	16.8	
Drawn from Capital Funds - Principal (880.9884)	12.9	20.0	0.0	21.0	0.0	0.0	0.0	7.9	0.0	0.0	0.0	0.0	80.8	
Drawn from Capital Funds - Interest	0.0	0.0	0.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.7	1.9	
Drawn from Lease Funds - Principal (83.8M)	0.0	0.0	0.0	0.0	0.0	2.0	0.0	0.0	0.0	0.0	1.9	0.0	3.8	
Drawn from Lease Funds - Interest	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.8	0.0	0.0	0.2	0.2	
Advance (Repayment) of Capital Fund	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Pension Draw	0.0	0.0	0.0	9.2	2.3	2.3	2.3	2.3	2.3	2.3	2.4	2.4	27.8	
City Loan	11.9	32.2	22.5	1.8									88.4	
Rate Relief	0.0	0.0	0.0	0.0	3.1	3.7	4.0	3.8	3.2	2.3	2.0	1.9	24.0	
TOTAL RECEIPTS	57.7	93.7	85.9	75.8	67.0	81.8	86.3	69.8	68.6	51.4	48.8	45.2	628.6	
TOTAL	59.4	94.4	88.6	79.8	109.0	100.2	108.6	139.2	148.4	141.8	115.5	75.5	830.5	
DISBURSEMENTS														
Labour	10.3	11.1	11.9	11.9	12.8	11.0	11.1	11.3	11.5	10.4	11.4	10.9	135.4	
Natural Gas	25.3	27.8	28.9	35.0	44.0	48.8	37.9	34.5	30.2	28.5	23.2	23.8	388.9	
Debt Service	0.0	3.8	0.0	0.1	24.3	0.9	0.0	4.0	1.7	1.4	38.2	18.4	94.8	
TXCP - Interest	3.5	0.1	0.2	0.2	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.2	2.9	
Repayment of City Loan	14.5	30.7	17.2	0.0									68.4	
Union Management Reductions		0.0	0.0	(0.6)	(0.7)	(0.8)	(0.8)	(1.0)	(1.1)	(1.2)	(1.3)	(1.4)	(8.0)	
City Fee	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	18.2	0.0	0.0	18.2	
Other Disbursements	7.5	8.1	10.6	9.8	10.2	10.8	10.6	10.9	10.4	10.5	10.5	10.7	120.0	
TOTAL DISBURSEMENTS	58.7	87.7	88.8	58.4	90.7	77.0	59.0	59.4	53.0	68.1	60.2	60.7	818.7	
MONTHLY CASH FLOW	(1.0)	8.0	(2.9)	19.2	(23.6)	4.8	28.4	30.3	15.6	(16.7)	(33.5)	(15.4)	9.1	
CUMULATIVE CASH FLOW	(1.0)	5.0	2.0	21.3	(2.4)	2.6	28.8	59.1	74.7	58.0	24.6	9.1		
OPENING TXCP	78.0	78.0	78.0	75.0	78.5	97.0	97.0	97.0	97.0	97.0	92.0	67.0	82.0	78.0
TXCP ISSUED DURING MONTH	0.0	0.0	3.5	18.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	22.0	
TXCP ISSUED PAID DOWN DURING MONTH	0.0	3.0	0.0	0.0	0.0	0.0	0.0	0.0	5.0	5.0	5.0	5.0	23.0	
ENDING TXCP	78.0	75.0	78.5	97.0	97.0	97.0	97.0	97.0	92.0	87.0	82.0	77.0	77.0	
OPENING BALANCE - CASH	1.7	0.7	3.7	4.2	42.0	18.3	23.2	48.5	78.8	60.4	68.7	30.3	1.7	
MONTHLY CASH FLOW	(1.0)	8.0	(2.9)	19.2	(23.6)	4.8	28.4	30.3	15.6	(16.7)	(33.5)	(15.4)	9.1	
NET TXCP ACTIVITY MONTHLY	0.0	(3.0)	3.5	18.5	0.0	0.0	0.0	0.0	(5.0)	(5.0)	(5.0)	(5.0)	(1.0)	
ENDING BALANCE - CASH	0.7	3.7	4.2	42.0	18.3	23.2	49.5	79.8	68.4	68.7	30.3	9.8	9.8	
CITY LOAN AVAILABLE - END OF MONTH	0.0	2.5	7.1	1.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
CITY LOAN UTILIZED - END OF MONTH	45.0	42.4	37.9	43.2	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	
CASH POSITION NET OF TXCP AND CITY LOAN	(119.7)	(108.2)	(117.9)	(100.0)	(123.7)	(118.8)	(92.9)	(62.2)	(40.6)	(63.3)	(98.7)	(112.2)		

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CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works
Docket No. R-00005654

I hereby certify that I have this day served a true copy of the foregoing letter, 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 18th day of December, 2001.

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December 19, 2001

DEC 19 2001

A PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

James McNulty, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg., 2nd Floor
400 North Street
Harrisburg, PA 17120

Re: PA Public utility Commission v. Philadelphia Gas Works,
Docket No. R-00005654 Reserve Account Filing

DOCUMENT
FOLDER

Dear Secretary McNulty:

Philadelphia Gas Works ("PGW") respectfully submits its reply to the comments of the Office of Consumer Advocate ("OCA") and the Consumer Education and Protective Association ("CEPA") to PGW's December 12, 2001, informational filing and request to utilize the Interim Settlement reserve account. Beyond their claim that the reserve account should not include the additional \$7 million non-gas cost cash flow addition, which PGW has addressed in a separate pleading, the crux of these parties' comments involves PGW's potential use of its restricted Capital Fund – a fund that is to be used for capital improvements – to remedy its cash deficiency at the end of January 2002 instead of using the reserve account as contemplated by the Interim Settlement.¹

The parties' suggestions that PGW should satisfy its cash needs via borrowing from its restricted Capital Fund are misplaced for at least two reasons. First, the Interim Settlement did

¹ Significantly and laudably, and contrary to the extreme assertions of CEPA, the OCA does not claim that the Capital Fund should be used instead of the reserve account. Rather, OCA takes the position that the Commission should carefully review PGW's informational filing because it alleges that the Interim Settlement is not clear on this point. As detailed in its December 12 filing and herein, PGW believes that the use of the Capital Fund was not contemplated by the Settlement, as the entire point of the creation of the reserve account was that it would be utilized in the face of a cash deficiency and that PGW would not be forced to take steps which would only further undermine its financial position, such as borrowing from the Fund. However, PGW appreciates OCA's forthright approach to this issue.

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not in fact envision requiring PGW to resort to borrowing from its Capital Fund to remedy the very deficiency that the reserve account was expressly established to address. Nothing in the language of the settlement suggests that PGW should be required to take such a step, and the context of the Interim Rate case, in which the parties and the Commission criticized PGW for using just this type of one time fix, suggests exactly the opposite.² The reference to "cash" in the Interim Settlement was in the context of making revenues available from operational sources; and, as the OCA points out, the Order states that the reserve account may be utilized only after all other sources of "revenues" are exhausted. Borrowing from a restricted capital fund does not constitute a source of "revenue" under any reasonable interpretation of the term.

Moreover, at the time of the execution of the Settlement, all parties were aware that PGW was hoping to issue additional bonds in the Spring of 2001 to fund its capital program. Indeed, the package of financial steps in the Settlement were in substantial part designed to assist PGW in establishing a firm financial footing so as to enable it to go to market with the bonds. Since the issuance of the bonds would create a large capital fund that, when conditions permitted, would be available to fund the payment of debt service and other obligations, there would have been no reason to create the reserve account in the first place unless it was to be used to address those obligations.

Second, even if the potential for utilizing the Capital Fund is considered, PGW has explained that, without access to the reserve account, it is not in a position where it would be reasonable to further utilize the Capital Fund at this time. As Mr. Bogdonavage's original affidavit explains, in order for PGW to draw from the Capital Fund, its bond indenture requires that it will actually expend the funds on capital improvements in the Fiscal Year or, if the construction does not occur, be able to replenish the Fund by year end. As carefully detailed by PGW in its filing, without access to the Interim Settlement reserve account, PGW will not be able to draw from the Capital Fund in January and be reasonably certain of its ability to expend the borrowing on capital improvements or replenish the funds. Thus, even considering the Capital Fund, PGW faces a potential bond covenant violation absent its ability to retain the \$17.58 million reserve account, albeit at the end of the fiscal year when it finds itself unable to pay these funds back.³ In essence, the parties' suggestion would have PGW remedy a looming

² CEPA and, to a lesser extent, OCA, both incorrectly assert that PGW has routinely borrowed from its restricted Capital Fund as a means of meeting its cash needs. In fact, prior to 1999, the Company never borrowed from the Capital Fund beyond the level that it actually knew it would expend for construction on a month to month basis or be capable of replenishing. That dubious borrowing scenario is exactly what these parties would have PGW employ rather than using the reserve account which was explicitly designed to address its cash needs.

³ Significantly, while the Interim Settlement called on PGW to project its cash and obligations through January 2002, it does not specify that the bond covenant violation must occur during that period. As stated in the settlement: "To the extent PGW identifies

bond covenant violation in a way that, at this point, creates the potential of causing another bond covenant violation.

Finally, to the extent that the PUC concludes that the language of the Joint Petition requires interpretation, the PUC should interpret the terms of the Settlement in light of PGW's present deteriorating financial condition, which is getting worse by the day. As of this writing PGW is down 450 degree days from normal. That means that it has lost a potential \$9.5 million of income and cash. Future projections fare no better. The Company need lose only 250 more degree days to match its worst year – 1998 – when it lost \$18 million from the bottom line. Second, at the level of base rate increase authorized – \$33.6 million – PGW is projecting a negative cash balance of approximately \$4.5 million, even with retention of the reserve fund. This is in stark contrast to the \$35-40 million in end of year cash that the Company testified it needed to maintain liquidity or the \$10.2 million level that the PUC just found to be a "reasonable" amount. The unfortunate fact is that even with a PUC order authorizing retention of the full reserve account, PGW will quickly be in a position where it will need additional cash and be required to utilize any further available funds in the Capital Fund.⁴ In short, PGW faces yet another cash crisis at the existing fiscal year and through January 2003 which would only be greatly exacerbated if the PUC interpreted the Interim Settlement as not authorizing it to utilize the reserve account. PGW is currently considering its options to address this threatening situation; to the extent that it cannot generate the needed cash or additional revenues we will have no option but to cut back on the capital budget spending for fiscal 2002. In any event, it would not be a reasonable interpretation of the letter or spirit of the Interim Settlement to refuse to acknowledge this substantial crisis and permit the use of the fund at this time.

In further reply to the parties' comments, PGW responds as follows:

a cash deficiency that would cause a Bond Ordinance covenant violation, PGW will be permitted to utilize the reserve fund (or portion thereof) to cover this deficiency." Interim Settlement at ¶ 27. Forcing PGW to use its remaining Capital Fund dollars at this point without assurance that it will be able to retain the reserve fund creates the potential of just such a bond covenant violation.

⁴ Mr. Bogdonavage's cash flow analysis in fact shows a further drawdown of the Capital Fund in February for cash flow purposes and additional drawdowns in April and June to replenish PGW's operating funds used for capital construction. These projections assume that PGW will be able to retain the reserve account; without this ability these drawdowns will be similarly called into question because, without the reserve account, PGW will not have an identified source of funds to repay the Capital Fund for any construction that does not in fact occur.

I. The reserve account is just and reasonable.

CEPA offers the utterly unfounded assertion that allowing PGW to use the reserve account constitutes an “unavowed base rate increase” that exceeds the amount that the Commission determined to be just and reasonable in the base rate case. CEPA Comments at 3. CEPA’s claim ignores the fact that the Commission already approved the Interim Settlement, which called for the creation and potential use of the reserve account – a one time cash infusion and not a base rate increase – and in so doing explicitly found that the terms of the settlement – including the reserve – were just and reasonable.⁵ Accordingly, CEPA’s hyperbolic suggestions are meritless.

II. The proper reserve account balance is \$17.58 million.

Both the OCA and CEPA contest the fact that the Interim Settlement reserve account includes a one time allowance of \$7 million in addition to a maximum of \$18 million from PGW’s calculated over-recovery. As OCA and CEPA incorporated by reference their pleadings on this matter, PGW incorporates by reference its Answer and Motion to Dismiss the Office of Consumer Advocate’s Petition for Enforcement of Settlements and Reply to the Comments/Exceptions of CEPA, a copy of which is attached hereto as Attachment “A.” As noted therein, despite the parties’ attempts to ignore the language of the Interim Settlement, they cannot avoid the fact, which appears on the face of the document, that the total potential reserve account is \$25 million, of which only \$18 million would be derived from the Company’s actual, calculated over-recovery.⁶ Further, PGW has not, as claimed by the parties, sought a second \$7 million for bad debt expense; the Interim Settlement’s bad debt expense allowance was separate and distinct from the \$7 million that was part of the reserve account designed for PGW’s potential cash flow and bond covenant problems.

⁵ Order (February 22, 2001) at 7-8.

⁶ CEPA’s arguments on this point are particularly ironic. At the same time CEPA was hurling accusations at PGW that the schedules attached to its filing were “fabricated” (p. 12) and that it had “arbitrarily altered some variables to serve its purposes” (p. 10), CEPA was omitting crucial language every time it cited ¶ 27 of the Interim Settlement that completely undercut its position. That language stated that a maximum of \$25 million (\$7 million beyond the \$18 million in potential overcollection) would be held in a reserve account. The result of CEPA’s arbitrary alterations of the Settlement’s language is to deceive the Commission into thinking that the Settlement’s reserve account had a maximum of \$18 million – instead of \$25 million as is plainly stated in the document.

III. PGW's supporting schedules clearly show that its retention of the entire reserve account is warranted.

Both parties suggest that the schedules and projections submitted by the Company in accordance with the Interim Settlement may be flawed, relying on an allegedly conflicting filing submitted by PGW to the Philadelphia Gas Commission ("PGC") and Philadelphia City Council. In addition, the OCA suggests that PGW's filing may only justify use of \$8.5 million which is the Company's cash deficiency at the end of January. Both of these suggestions are meritless.

The submission to the PGC and Philadelphia City Council and the presentation to the PUC are easily reconcilable. Attached hereto as Attachment "B" is an affidavit by PGW Senior Vice President Joseph Bogdonavage explaining the two filings and showing that they are, in fact, completely consistent and supportive of PGW's request to retain the reserve account. First, the schedules included with the filing before this Commission accounted for the significantly warmer weather to date (44% warmer in November) which has negatively affected the Company's earnings thus far by nearly \$9.5 million. Accounting for this warmer weather is completely in line with the Interim Settlement which was drafted to address the Company's actual needs through January 2002, as opposed to its needs under some hypothetical weather forecast. Second, the filing with the PGC reflects the potential use of the Capital Fund which, as explained above, was not contemplated by the Interim Settlement. Moreover, the PGC /City Council filing had not incorporated into the analysis most of the effects of the dramatically warmer weather. At the time that that forecast was made, therefore, PGW was projecting that it could reasonably utilize the Capital Fund at the full \$20 million level; the present circumstances no longer make such an assumption reasonable in light of the bond indenture creating the Capital Fund.⁷

PGW's PGC/City Council filing aside, the schedules attached to Mr. Bogdanvage's affidavit clearly show a \$18.5 million deficiency as of January 25, 2002. As explained in that filing, PGW's obligations as of that date, less its available cash, create an \$18.5 million deficiency. PGW's bond covenant obligates it to pay all of its cash obligations when due. Thus, the fact that by the end of the month its total deficiency will be ameliorated somewhat - to \$8.5 - million does not avoid the bond covenant violation that will occur absent access to the reserve account.

⁷ CEPA also makes the plainly inaccurate claim that "PGW's traditional resources are still available." CEPA Comments at 8. CEPA was referring to loans from the City of Philadelphia and the Company's tax exempt commercial paper. However, as PGW expressly stated in the Bogdonavage affidavit attached to its December 12, 2001 filing, the \$45 million City loan is fully extended and the commercial paper program will be fully extended at \$97 million by December 2001. Moreover, by fiscal year end, PGW's outstanding commercial paper letter of credit will be restricted to \$80 million, placing an additional burden of \$20 million on the Company's cash flow.

IV. Summary

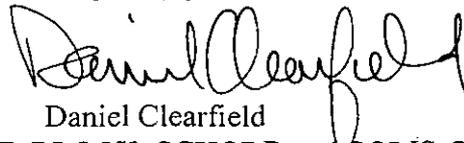
In summary, as the OCA has acknowledged, if the intent behind the Interim Settlement was to not consider potential borrowing from the Capital Fund in assessing PGW's ability to meet its debt service and cash obligations through January 2002, then PGW has clearly shown a cash deficiency and is entitled to the reserve account. As a party to the Interim Settlement who participated in the formulation of its terms, PGW emphatically declares that the intent of the Interim Settlement was not that PGW use its Capital Fund instead of the reserve account. Nothing about the language of the settlement or the context in which it was created supports such a reading. Indeed, the Commission had just criticized such fiscal maneuvers in its November 22, 2000 Order.

Furthermore, PGW knew at the time of the settlement that it had the potential to borrow, however ill-advised, from the Capital Fund. The Company would have achieved nothing through the creation of the reserve account if it would be required to utilize monies from the Fund dedicated for capital projects to pay its debt service, payroll and commodity invoices rather than using the newly established reserve account.

Finally, either way – whether the Company's ability to borrow from the Capital Fund is considered or not – PGW still faces a potential bond covenant violation absent its ability to retain the reserve account. If the Capital Fund is not considered, it is indisputable that PGW cannot meet its obligations through January 2002 and will violate its bond covenants. Likewise, if PGW is forced to borrow from the Capital Fund without the ability to retain the \$17.58 million reserve account, it will not be reasonably certain of its ability to either expend the borrowed monies on capital projects or repay the Fund and will be in jeopardy of a potential bond covenant violation at the end of the Fiscal Year.

Thus, pursuant to the Commission-approved Interim Settlement, and especially in light of the very negative financial results caused by the lack of cold weather to date, PGW has satisfied the requirements to retain the \$17.58 million reserve account, and the Commission should approve the same within the required ten days.

Very truly yours,



Daniel Clearfield

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DC/lww

Enclosure

cc: Parties of Record
Karen Moury, Deputy Chief Counsel
Robert Rosenthal, Director FUS

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).

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Dated: December 19, 2001


Daniel Clearfield, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-00005654
	:	
Philadelphia Gas Works	:	
	:	
Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-00016378
	:	
Philadelphia Gas Works, 1307(f)	:	

**PHILADELPHIA GAS WORKS' ANSWER AND MOTION
TO DISMISS THE PETITION FOR ENFORCEMENT OF
SETTLEMENTS BY THE OFFICE OF CONSUMER ADVOCATE
AND REPLY TO THE COMMENTS/EXCEPTIONS OF CEPA**

I. INTRODUCTION

Philadelphia Gas Works ("PGW") respectfully submits this Answer and Motion to Dismiss the Office of Consumer Advocate's ("OCA") Petition for Enforcement of Settlements and Reply to the Comments/Exceptions of the Consumer Education and Protective Association ("CEPA"). OCA and CEPA inaccurately assert that PGW is contravening its Interim Rate and the 2001-2002 GCR Settlement by reinserting into its GCR \$7 million previously authorized by this Commission to account for bad debt expense.

In fact, all that PGW has done¹ is to have complied with and followed the terms of the settlement it reached with the PUC Law Bureau, which steps were already approved by the Commission. In the Joint Petition for Full Settlement of PGW's Petition for the Establishment of

¹ PGW actually only filed its informational filing and request for retention of the Interim Settlement Reserve Fund on December 12, 2001 – after the OCA and CEPA made their filings. These parties apparently felt compelled to make a preemptive filing without even seeing PGW's submission, which filing is not authorized in any way by the exclusive process set forth in the Interim Settlement for the use of the reserve funds.

Interim Rates and Related Appeal, the Law Bureau and PGW agreed both to an annual increase of \$7 million for bad debt expense (which was subsequently to be subsumed into PGW's permanent base rate award) and to the creation of a reserve account, of potentially \$25 million, to assist PGW with its cash flow needs through January 2002.² The reserve account would consist of any calculated GCR over-recovery, up to \$18 million, plus a one time hold back of \$7 million to create a maximum potential reserve of \$25 million.³ This reserve account was approved by the Commission.⁴ Clearly, the 2001 bad debt expense allowance cannot be the same as the winter 2002 cash flow bond covenant reserve fund – but that is the entire basis on which OCA and CEPA have claimed that PGW is improperly trying to collect a \$7 million bad debt expense allowance twice.

Moreover, the pleadings are completely unnecessary and unauthorized. In the cover letter to PGW's December 1, 2001 Quarterly GCR Update, PGW explained exactly how it was complying with the Interim Rate Settlement, holding back the calculated over-recovery of \$10.58 million plus the \$7 million in one time, non-gas cost cash flow hold back for a total reserve account of \$17.58 million, pending PGW's submission of its informational filing requesting authorization to retain the funds. PGW clearly stated that if the Commission found that PGW had not shown the need for the reserve funds, or any portion of them, it would then revise its GCR filing, stop collecting the \$7 million and return whatever has been collected to ratepayers. Given the Company's tremendous need for the funds, as documented in its December 12, 2001

² Joint Petition at ¶¶ 23-24 and 27.

³ *Id.* The Settlement then holds that, if PGW identifies a potential bond covenant violation through January, 2002 "PGW will be permitted to utilize the reserve fund (or portion thereof) to cover this deficiency." *Id.*

⁴ Opinion and Order (February 22, 2001) at ¶ 1. There, the Commission approved "each and every one of [the Joint Petition's] terms and conditions."

filing, PGW firmly believed it would make the necessary showing to retain the entire reserve account, and, by holding the reserve funds out of its Quarterly Update, simply sought to avoid the need to change its rates multiple times, avoiding the customer confusion and Company expense that would accompany such changes.⁵

Thus, under no circumstances are the present filings necessary, as PGW has not violated either settlement referenced by the OCA and CEPA, and the Company has agreed that it will make any changes necessary if the Commission grants it only a portion of the reserve account. Accordingly, the Commission should dismiss the OCA's Petition and deny CEPA's Comments/Exceptions.

II. PGW IS NOT SEEKING TO RECOVER AN ADDITIONAL \$7 MILLION FOR BAD DEBT EXPENSE IN ITS 2002 GCR AS CLAIMED BY OCA AND CEPA.

Throughout its Petition, the OCA asserts that PGW is attempting to "collect \$7 million for bad debt expense in the current GCR period." Petition at 2. CEPA makes similar assertions in its Exceptions. However, these parties' claims are plainly incorrect. The fundamental flaw in the OCA and CEPA's analysis is their belief that the one time allowance of \$7 million in the cash flow reserve account established by the Interim Settlement and approved by the Commission is the same \$7 million annual rate allowance that PGW was permitted to collect on a compressed basis for bad debt expense under that settlement. No logical reading of the Interim Settlement supports this position.

The Joint Petition proposed a package of steps designed to meet PGW's projected cash needs during the 2001 winter and through January 2002. First, it proposed that PGW be permitted to increase its customer charges so as to produce \$11 million in additional base rate

⁵ Amazingly, CEPA contends PGW's Quarterly GCR Update and its attempt to retain the reserve account as contemplated by the Interim Settlement will "impose new hardships" on customers. Comments at 2. CEPA makes this claim despite the fact that PGW further reduced customers' rates when it filed its December 1 GCR update.

revenue by August 31, 2001.⁶ Second, PGW was permitted to increase the non-gas cost portion of its GCR rate to produce \$7 million in annual revenues by August 31, 2001, in order to recover additional bad debt expenses resulting from dramatic increases in the cost of gas.⁷ Third, the Joint Petition sought the Commission's approval of several gas purchasing and operational steps designed to enable PGW to husband cash to meet its obligations through January 2002.⁸ Finally, PGW and the Law Bureau agreed that a one time amount of \$7 million, plus "[a]ny additional calculated GCR over-recovery, up to \$18 million (for a total of \$25 million),⁹ will be held in a reserve account to be used as necessary to meet Bond Ordinance covenant requirements . . . through January 2002."¹⁰

The OCA's Petition and CEPA's Exceptions are entirely based on the misinformed notion that PGW cannot attempt to retain the \$7 million non-gas cost portion of the reserve account because it has already collected the \$7 million in annual revenues to account for heightened bad debt expense. But, turning to the language and purpose of the Interim Settlement, these two \$7 million allowances cannot be the same. First, as the parties admit, the

⁶ Joint Petition at ¶ 22. CEPA attempts to provide a detailed commentary on the negotiations behind the Joint Petition. Notably, CEPA did not actually participate in those negotiations.

⁷ *Id.* at ¶ 23.

⁸ *Id.* at ¶ 25-26.

⁹ **Emphasis added.** The Settlement clearly contemplates that PGW would be permitted to create a reserve fund consisting of the \$7 million non-gas cost amount plus an calculated gas cost over-recovery. *See*, Joint Petition at ¶ 23-25. CEPA asserts that the Reserve Account is capped at a maximum of \$18 million, but it cannot explain away the words on the face of the Joint Petition which expressly state that "a total of \$25 million will be held in a reserve account." *Id.* at ¶ 27. Based upon these paragraphs in the settlement, the Company held out from its December 1, 2001 GCR Update \$17.6 million, which it will return to ratepayers if the PUC declines to authorize the Company to hold on to the Reserve Account funds. CEPA acknowledges this very reading of the Joint Petition in the first sentence of footnote 9 to its Exceptions.

¹⁰ *Id.* at ¶ 27 (emphasis added).

\$7 million in annual revenues that PGW was permitted by the PUC to collect on a compressed basis by August 31, 2001, were to help the Company absorb increased bad debt expense in that budget year. To the contrary, the \$7 million in non-gas cost reserve account funds are explicitly to be used for cash flow or debt coverage purposes should PGW need the monies to avoid a breach through January 2002. Obviously, funds that were expressly intended to address bad debt expense in FY 2000-01 cannot also be utilized to address cash flow and debt service coverage in FY 2001-2002.¹¹

Second, and equally fatal to the parties' assertion, PGW has already received Commission approval for the \$7 million in revenues for bad debt expense and collected and applied the same. Consequently, the Company would never have agreed to take \$7 million that it had already secured and was already authorized to retain and put those monies back into a reserve account, the funds in which it has yet to receive PUC approval to retain. PGW would literally be giving away money that it had already been authorized to collect and that is not subject to refund.¹²

Based on these flaws alone, the Commission should dismiss the parties' filings. Moreover, the plain language of the Interim Settlement – as quoted but apparently overlooked by OCA and CEPA – compels dismissal. The PUC Law Bureau and PGW clearly agreed that the reserve account would have a maximum potential total of \$25 million, consisting of PGW's

¹¹ OCA makes much of the fact that PGW characterizes the \$7 million non-gas cost portion of the reserve account as "interim settlement bad debt allowance." (Schedule 6) That characterization was used merely as a means of helping the parties identify the \$7 million as distinguished from the gas cost over/under billing. OCA failed to note that the same \$7 million was characterized two schedules later (Schedule 8) as "Interim Settlement Adjustment") where it was clear that it was not referring to the gas cost over-collection.

¹² As CEPA notes, per ¶ 24 of the Joint Petition, the \$7 million in allowed bad debt expense was not reconcilable. To the contrary, ¶ 27 clearly states that PGW must return to customers any portion of the potential \$25 million reserve account that it cannot justify retaining, subject to its right to request a different treatment.

calculated over-recovery, up to \$18 million, plus an additional \$7 million in one time, non-gas cost revenues. Joint Petition at ¶ 27. As the amount of overcollection that PGW can possibly retain via the fund is \$18 million, the only way to reach the maximum total of \$25 million in reserve account funds is if the account is also comprised of this one time \$7 million in revenues. Thus, as PGW has shown that the OCA's Petition and CEPA's Exceptions are untenable under both the language and purpose of the Interim Settlement, the Commission should reject them and directly address the Company's informational filing thereunder.¹³

III. PGW HAS VIOLATED NEITHER THE INTERIM NOR THE 2002 GCR SETTLEMENT, AND IT HAS PROPERLY FOLLOWED THE PROCEDURE TO RETAIN THE INTERIM SETTLEMENT RESERVE ACCOUNT FUNDS.

As detailed above, the OCA and CEPA's entire claim is based on the *misperception* that PGW is trying to collect a second \$7 million in bad debt expense. PGW has demonstrated that this position is wholly contradicted by the Interim Settlement. Accordingly, the parties cannot support their claim that the Company has violated the Interim Settlement.

Likewise, OCA and CEPA's argument that PGW has violated the 2002 GCR Settlement is based entirely on their belief that PGW agreed to remove the Interim Settlement \$7 million of bad debt expense from its 2002 GCR, but has now reinserted it back into the GCR through the December Quarterly Update. However, once again, the \$7 million permitted by the Commission to be held in the reserve account to address the Company's cash flow and bond covenant needs through January 2002 is not the same as the \$7 million for bad debt expense that the PUC has already authorized PGW to retain and that it has already collected and applied. Thus, as the underpinning of the parties' claim has been shown to be a fallacy, they cannot show that PGW

¹³ On December 12, 2001, PGW filed the informational filing called for in the Interim Settlement, requesting that it be permitted to retain the entire Reserve Account in order to avoid cash deficiencies by the end of January 2002 that will result in violations of its bond covenants. The OCA and CEPA did not wait to consider and respond to PGW's filing, instead choosing to file their pleadings as some sort of preemptive strike.

has violated the 2002 GCR Settlement and the Commission should dismiss the OCA's Petition and deny CEPA's Exceptions.

IV. THE OCA AND CEPA FILINGS ARE UNNECESSARY AND UNAUTHORIZED.

PGW filed its informational filing on December 12, 2001, consistent with the terms of the Interim Settlement. The Commission has ten (10) days to review and approve PGW's request to retain the funds. Notably, the manner in which PGW filed its December Quarterly GCR Update and its reserve account informational filing was completely consistent with the terms of the Interim Settlement. To the contrary, these parties' pleadings are not contemplated by the Settlement – as they preempt PGW's filing to which the OCA, CEPA and other interested parties are certainly able to respond to the Commission (either in support or opposition).

The pleadings are also not authorized by PUC regulations involving quarterly updates. The regulation clearly indicates that: [q]uarterly filings shall become effective on one day's notice and, unless otherwise ordered by the Commission, shall be subject to review by the Commission and challenged by interested parties only on the utility's next annual Section 1307(f) proceeding.¹⁴ The only order by the PUC clearly establishes that the review of the reserve account issues shall take place in the context of PGW's informational filing.

Finally, the Petition and Exceptions will only serve as procedural distractions to the Commission and the parties, and have caused unnecessary expense to PGW. The Interim Settlement process expressly provides for a prompt review and disposition of the matter, encompassing by necessity any claims raised by OCA and CEPA, and that process should be followed by the Commission. Accordingly, the Commission should dismiss the OCA's Petition and CEPA's Exceptions.

¹⁴ 52 Pa. Code § 53.64(5)(iv).

V. CONCLUSION

For the reasons set forth above, PGW respectfully requests that the Public Utility Commission dismiss the OCA's Petition for Enforcement of Settlements, deny CEPA's Comments/Exceptions to PGW's December 1, 2001 Quarterly Update, and timely review and approve the Company's reserve account informational filing consistent with the terms of the previously approved Interim Settlement.

Respectfully submitted,



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(717) 237-7173
Attorneys for Philadelphia Gas Works

Of Counsel:

Abby L. Pozefsky, Esquire
Margaret Flores, Esquire
Philadelphia Gas Works
800 West Montgomery Ave.
Philadelphia, PA 19122

Date: December 13, 2001

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Pennsylvania Public Utility
Commission**

v.

Philadelphia Gas Works

:
:
:
:
:
:

Docket No. R-00005654

VERIFIED STATEMENT OF JOSEPH R. BOGDONAVAGE

1. My name is Joseph R. Bogdonavage. I am the Senior Vice President of Finance for the Philadelphia Gas Works ("PGW"). I have previously presented testimony before the Pennsylvania Public Utility Commission in support of the Philadelphia Gas Works' request for a \$65.0 million increase in base rates and I submitted a statement in support of PGW's initial informational filing.

2. The purpose of this verified statement is to provide the Commission with a further explanation regarding PGW's retention of the FY 2001 Gas Cost Rate (GCR) over-recovery of \$17.6 million. Parties to these proceedings have misunderstood PGW's cash flow requirements and sources.

3. Other parties to the proceeding have referenced a cash receipts and disbursements schedule that was provided to Philadelphia City Council on December 10, 2001 as part of the on-going monthly status requirement regarding the City of Philadelphia's \$45.0 million temporary financing. On December 12, 2001, PGW also filed a filing with the PUC to retain \$17.6 million associated with the February 2001 Interim Rate Settlement. This filing included a cash receipts and disbursement schedule which utilized the most recent information available regarding cash receipts, disbursements and the impact of the substantially warmer winter weather on projected monthly and year-end cash balances.

4. The major differences in these two schedules center around the impact of the warmer weather and its effect on billed revenues and subsequent cash receipts and the utilization of borrowed funds. The status report filing to the Philadelphia City Council did not include the most recent projections and the impact of weather on PGW's operating margins and cash balances. PGW, in its December 12, 2001 PUC filing, details that, without borrowing \$20.0 million from its restricted capital account, it will be unable to meet its mandatory January 2002 debt service payment of \$24.3 million. However, as prudent management would, PGW has taken the necessary steps to provide sufficient financial liquidity by scheduling a \$20.0 million advance from its restricted capital account to meet its cash requirements and mandatory debt service obligations. The cash receipts and disbursements schedule included in the December 10, 2001 filing to the

Philadelphia City Council detailed PGW's anticipated requirement of borrowing \$20.0 million from its restricted capital account to meet current obligations. The cash receipts and disbursements schedules that were provided in my PUC filing of December 12, 2001 show what the impact on cash would be in January 2002 without borrowing an additional \$20.0 million.

5. PGW's understanding of the Interim Settlement was that if there was a cash deficiency the reserve fund could be utilized to meet obligations as they become due. It is PGW's further understanding that in the February 2001 settlement agreement and Commission Order the reserve fund, and not continued borrowing to meet cash obligations, was the method that was agreed-upon to fund debt service and other obligations if there was a cash deficiency in January.

6. PGW contemplated in its original FY 2002 Operating Budget filing in August 2001 that it would require borrowing \$20.0 million to meet its projected cash requirements in January 2002. This original FY 2002 Budget assumed a \$65.0 million base rate increase effective in October 2001. Once PGW could bill its customers the additional rate level, it would have had some assurance that it would be able to fund its capital spending programs. However, with an award of only \$33.6 million in the base rate increase and the dramatically warmer than normal weather, there is no assurance that *without reducing both operating and capital expenditures that the \$53.0 million expected to be borrowed by December 31, 2001 from the restricted capital account could be repaid, in the event that capital spending was below the \$53.0 million level for the year.* Although it is permitted to borrow from the fund on an interim basis, PGW's bond indenture requires that bond proceeds be utilized for capital expenditures only. PGW's bond ordinance sets a priority of payment which requires payment in each fiscal year of net operating expenses then payable.

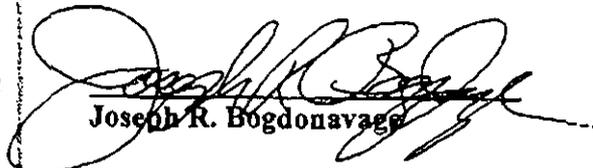
7. Absent additional borrowings by PGW from its restricted capital account, PGW will be unable to make the January 2, 2002 debt service payment of \$24.3 million. PGW is requesting the retention of the full \$17.6 million to provide liquidity for the month of January 2002. PGW included a daily cash balance and projected receipts and disbursements schedule to document the liquidity requirements in January 2002. PGW's most recent projection anticipates \$43 million of natural gas payments in the month of January 2002. On January 25, 2002, the bulk of these payments become payable and the combination of receipts during the month and other disbursements will leave PGW with a *negative cash balance of \$18.4 million on that date. This is the reason that PGW is petitioning the Commission for the full retention of the \$17.6 million in the reserve fund.*

8. PGW is in the midst of a significantly warmer winter heating season which, as of December 17, 2001, reflected 453 degree days less than normal or nearly 100 below the basis that was used in the December 12, 2001 filing. PGW is on a pace to record 4,100 degree days or nearly 10% below the normal level of 4,555 degree days. This would result in potential lost margins on gas sales of between \$10.0 and \$12.0 million.

9. The continuing warmer weather only exacerbates an already precarious financial situation for PGW. The utilization of the \$17.6 million reserve fund, PGW's ability to implement other one-time financial transactions in FY 2002 and continued cost cutting will be the focal points of providing continued operations and sufficient cash liquidity as PGW progresses through the FY 2002.

I verify, pursuant to the penalties contained in 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities) that the preceding statement and attachments hereto are true and correct to the best of my knowledge, information and belief.

Submitted By:


Joseph R. Bogdonavage

Dated: December 19, 2001

DSII:30219.1/P111211-150457



OFFICE OF CONSUMER ADVOCATE

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Consumer Advocate

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ORIGINAL

December 20, 2001

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

Re: Pa. Public Utility Commission
v.
Philadelphia Gas Works
Docket Nos. Docket No. R-00005654 and R-00016378

Dear Secretary McNulty:

Enclosed for filing please find an original and three copies of the Answer to Philadelphia Gas Works' Motion to Dismiss of the Office of Consumer Advocate, in each of the above-referenced proceedings.

Copies of this document have been served upon all parties as evidenced by the attached Certificate of Service.

Sincerely yours,

Stephen J. Keene
Senior Assistant Consumer Advocate

Enclosure

cc: All parties of record
Honorable Marlane R. Chestnut, Administrative Law Judge
Karen Moury, Esq., Law Bureau
Robert Rosenthal, Fixed Utilities Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Pennsylvania Public Utility Commission :

v. :

Philadelphia Gas Works :

Pennsylvania Public Utility Commission :

v. :

Philadelphia Gas Works :

Docket No. R-00005654

Docket No. R-00016378

OFFICE OF CONSUMER ADVOCATE'S
ANSWER TO PHILADELPHIA GAS WORKS'
MOTION TO DISMISS

I. INTRODUCTION

On December 13, 2001, Philadelphia Gas Works ("PGW" or "Company") filed its "Answer and Motion to Dismiss the Petition for Enforcement of Settlements by the Office of Consumer Advocate and Reply to the Comments/Exceptions of CEPA" (hereinafter "Motion to Dismiss"). PGW's pleading was in response to the Office of Consumer Advocate's ("OCA") Petition for Enforcement of Settlements ("OCA Petition") that was filed on December 10, 2001 and the Comments/Exceptions of the Consumers Education and Protective Association ("CEPA), *et. al.* that were filed on December 10, 2001. The Company's Motion to Dismiss seeks to dismiss both the OCA's Petition and CEPA's comments as premature and unauthorized by Commission rules of

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procedure. The OCA now files this Answer to PGW's Motion to Dismiss.

II. ANSWER

The OCA has already set forth in its Petition and in its response to the Company's December 12 Informational Filing¹, the arguments about how PGW's inclusion of \$7 million in the quarterly update of its 2002 GCR was in violation of the Interim Rates Settlement and Settlement of PGW's 2002 GCR proceeding. Those arguments were clearly stated in these two filings and will not be repeated here. Instead, this Answer will only address PGW's request to dismiss OCA's Petition on procedural grounds.

In the Company's Motion to Dismiss, PGW argues that OCA's Petition was not contemplated by the Interim Rates Settlement, in that it preempted PGW's Informational Filing of December 12, 2001, wherein PGW seeks to retain the entire amount in the reserve account.² PGW Motion at 7. The Company claims that it was premature to object to the inclusion of the \$7 million bad debt expense in the Company's quarterly update and that the appropriate time to respond would be in response to the

¹ See Letter to James McNulty, Secretary, from Stephen J. Keene dated December 18, 2001. A true and correct copy of that letter is attached hereto and marked Appendix A.

² PGW's December 12 Informational Filing requests authority for the Company to retain \$17.58 million that it claims is in the reserve account. This consists of a \$10.58 million over-recovery from the 2001 GCR period and the disputed \$7 million bad debt allowance that PGW has improperly inserted into its 2002 GCR as part of the December 1, 2001 quarterly update. The OCA's Petition for Enforcement of Settlements addresses the inappropriate inclusion of this \$7 million as part of PGW's net gas costs in its 2002 GCR.

Company's December 12 Informational Filing or in the Company's next GCR proceeding under Section 1307(f). Motion at 7. The OCA submits, however, that a petition to enforce a settlement is an appropriate proceeding when it is alleged that the terms of the settlement have been violated. In the instant case, the OCA has challenged PGW's inclusion of an additional \$7 million in bad debt allowance in its December 1 quarterly update as being contrary to two settlements. The Commission's regulations provide for petitions for relief. 52 Pa.Code §5.41. Here, the OCA has sought the relief of enforcement of the settlements. As the OCA stated in its Petition, the Company's actions violated both the Interim Rates Settlement³ entered into between the PGW and the Commission's Law Bureau, as well as the Settlement of PGW's 2002 GCR proceeding.⁴ Where a party to a settlement violates a term or provision of the settlement, a petition to enforce the settlement may be filed.

The Company also claims that OCA should have waited until it filed its response to PGW's Informational Filing of December 12 before it objected to the \$7 million in the quarterly update. The OCA has already submitted a response by Letter to Secretary McNulty that raises the same objections to the \$7 million that the OCA raised in its Petition. Therefore, the issue is squarely before the Commission and ripe for determination.

While it is generally true that an objection to a claimed gas cost in a GCR

³ See Pa.P.U.C. v. Philadelphia Gas Works, Docket No. R-00005654 (Order entered February 22, 2001).

⁴ See Pa.P.U.C. v. Philadelphia Gas Works, Docket No. R-00016378 (Order entered September 11, 2001).

quarterly update would usually be reserved until the next GCR proceeding, the OCA raises its objections now to PGW's attempt to recover an additional \$7 million in the December 1 quarterly update through its 2002 GCR, since PGW is also seeking Commission authority to place the \$7 million into a reserve account to be used to pay its debt obligations in January 2002. As such, a determination of whether the \$7 million of *non-gas costs* was properly included in the quarterly update must be decided prior to the Commission's determination of whether PGW may retain the dollars held in the reserve account. The current situation, therefore, is not analogous to a review of whether a company has properly recalculated its GCR or whether a particular gas cost is prudently incurred and should be included in a quarterly update. The latter situations are the type that can be reconciled in the next 1307(f) proceeding. In the instant case, PGW is seeking to include in the quarterly update of its GCR an unauthorized, *non-gas cost* contrary to a settlement agreement and then seek permission to utilize this amount to meet bond obligations and operational expenses in January 2002 – before its next GCR proceeding under Section 1307(f) of the Public Utility Code. These unique circumstances require immediate actions by the Commission. Therefore, the objections of the OCA raised in its Petition for Enforcement of Settlements, and in the OCA's response to the Company's Informational Filing are timely and should be considered by the Commission.

III. CONCLUSION

For the reasons set forth above, the OCA respectfully requests the PGW's Motion to Dismiss be denied.

Respectfully submitted,



Stephen J. Keene
Tanya J. McCloskey
Senior Assistant Consumer Advocates

Counsel for:
Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
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Dated: December 20, 2001

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CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works
Docket Nos. R-00005456 and R-00016378

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I hereby certify that I have this day served a true copy of the foregoing document, Answer to Philadelphia Gas Works' Motion to Dismiss, 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 20th day of December, 2001.

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December 20, 2001

James McNulty, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
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SECRETARY'S BUREAU

Re: Pennsylvania Public Utility Commission
v.
Philadelphia Gas Works
Docket No. R-00005654

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Dear Secretary McNulty:

The Office of Trial Staff ("OTS") is in receipt of Philadelphia Gas Works' "PGW" or "Company") informational filing and request to utilize the Interim Settlement reserve funds pursuant to PGW's interpretation of its Joint Petition for Full Settlement ("Joint Petition") with the Pennsylvania Public Utility Commission's ("Commission") Law Bureau dated February 8, 2001, and the Commission's February 22, 2001 Order in the above-captioned proceeding adopting that settlement. In this informational filing, PGW seeks authorization to retain an additional \$17.58 million collected through the GCR mechanism. OTS submits that the Commission must carefully review this informational filing with caution, due to its implication on PGW's December 1, 2001, GCR quarterly update.¹

While there is no dispute among the parties that at the end of PGW's 2001 GCR period ending August 31, 2001, there was an additional over-recovery of \$17.58 million in the GCR. The dispute arises from differences between the parties as to what contributed to the \$17.58 million over-recovery. PGW appears to be of the opinion as expressed in its December 1, 2001 GCR quarterly update and its informational filing that the \$17.58 million is comprised of \$10.58 million in over-recovered gas costs, and a "one time amount of \$7 million for non-gas

¹ On December 18, 2001, the Office of Trial Staff filed a Complaint against PGW's December 1, 2001 GCR quarterly update at Docket No. R-00016378C__.

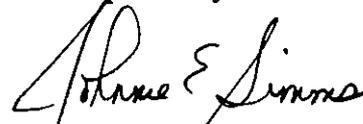
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cost". OTS submits that an expeditious acceptance of PGW's opinion on this matter would endorse PGW's position as presented in its December 1, 2001 GCR quarterly filing that ratepayers pay an additional annual allowance of \$7 million for bad debt, beginning December 1, 2001.²

In contrast, OTS is of the opinion that the Commission's Order of February 22, 2001 at Docket No. R-00005654 requires that the proper treatment for the \$17.58 million be allocated as \$7 million for the additional bad debt expense, and the remaining \$10.58 million for the "potential" reserve fund. There is absolutely no reference in the Commission's Order of February 22, 2001 to suggest that a "one time amount of \$7 million" or any other amount was guaranteed for the reserve fund, except \$25 million was referenced in the Commission's Order as a ceiling, but not a guarantee. The only reference to \$7 million is the amount guaranteed for the bad debt expense, which in accordance with the Commission's Order of February 22, 2001 had to be collected between March 1, 2001 and August 31, 2001.

In accordance with the Commission's Order of February 22, 2001, the ratepayers of PGW should not be obligated to pay any additional amounts beyond August 31, 2001, for the purpose of satisfying the terms and conditions of the Joint Petition and the Commission's Order of February 22, 2001. It is clear that the Commission must carefully review this request, and hopefully will do so in a manner that will not constitute an endorsement of PGW's belief that ratepayers should pay an additional \$7 million beginning December 1, 2001.

Respectfully submitted,



Johnnie E. Simms
Senior Prosecutor

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JES:em

cc: Parties of Record
Chief Counsel Pankiw
Director Rosenthal

² The Joint Petition requires that the Commission approve the informational filing and request, and notify PGW via Secretarial Letter within ten days.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :

v. :

Docket No. R-00005654

Philadelphia Gas Works :

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Letter** of the Office of Trial Staff, dated December 20, 2001, either personally, by first class mail, electronic mail, express mail, or by fax upon the persons listed below:

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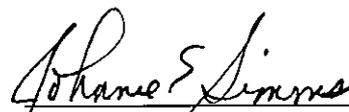
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Johnnie E. Simms
Senior Prosecutor
Office of Trial Staff

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Dated: December 20, 2001
Docket No. R-00005654



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Suite 1102, Commerce Building
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Bernard A. Ryan, Jr
Small Business Advocate

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

December 20, 2001

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Re: Pennsylvania Public Utility Commission v.
Philadelphia Gas Works
Docket No. R-00005654 and R-00016378

Dear Mr. McNulty:

Enclosed please find the original and three copies of the Comments on behalf of the Office of Small Business Advocate in the above-captioned proceedings. As evidenced by the enclosed certificate of service, a copy has been served on all active parties.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Steven C. Gray
Steven C. Gray
Assistant Small Business Advocate

Enclosures

cc: Karen Oill Moury, Esquire
Law Bureau

Robert Rosenthal, Director
Fixed Utility Services

Robert D. Knecht

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

PHILADELPHIA GAS WORKS

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Docket Nos. R-00005654 and
R-00016378

P.A.U.C.
SECRETARY'S BUREAU

DOCKETED

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COMMENTS
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE

I. INTRODUCTION

The OSBA respectfully submits this response to the December 12, 2001 submission of Philadelphia Gas Works (PGW) in Docket No. R-00005654. PGW describes its submission as an "informational filing and request to utilize the Interim Settlement reserve account funds consistent with the Joint Petition for Full Settlement entered into with the Public Utility Commission's ("PUC") Law Bureau, dated February 8, 2001, and the PUC's February 22, 2001, Order in the above-referenced matter adopting the Settlement."

II. COMMENTS

PGW requests that it be allowed to retain \$10.58 million in GCR over-recovery as well as \$7 million in additional GCR over-recovery as detailed in its December 1, 2001 quarterly GCR update filing in Docket R-00016378. In short, PGW requests that it be allowed to use GCR over-recoveries to meet the cash requirements of the business. PGW's informational filing and request is submitted pursuant to its interpretation of the "Joint Petition for Full Settlement of Philadelphia Gas Works' Petition for the Establishment of Interim Rates and Related Appeal" ("Interim Settlement"), dated February 8, 2001 between itself and the Commission's Law Bureau, and the Commission's Order in Docket Nos.

R-00005654 and R-00005619 ("Order") approving the settlement entered February 22, 2001.

The OSBA was not a party to the Interim Settlement, although it did not oppose it (Order at page 5). However, in general, the OSBA opposes the use of GCR or PGC revenues to meet base rate revenue or utility cash flow requirements. GCR revenues come primarily from residential and small business customers, while base rate revenue and cash requirements should be borne by all customers. Therefore, the use of GCR revenues for general utility purposes is discriminatory and constitutes a textbook example of poor rate design. It is the OSBA's view that the mechanism contemplated in the Interim Settlement to retain GCR over-recoveries for general purposes should only apply in the most extreme circumstances.

PGW's submission in this matter is complicated by differing interpretations of the "Interim Settlement" as detailed in the December 10, 2001 petition of the Office of Consumer Advocate (OCA), the comments/exceptions of CEPA et al. and PGW's response dated December 13, 2001 ("Response"). At issue is whether the Interim Settlement contemplated two separate \$7 million GCR over-recovery allowances, or whether only one \$7 million allowance was agreed upon.¹

Because OSBA was not a party to the Interim Settlement, it cannot comment on its contemporaneous understanding of the provisions therein. However, the OSBA observes that it takes a disingenuous interpretation of that Settlement to envision two separate \$7 million allowances in that Settlement document. First, if two separate allowances were specifically contemplated, the OSBA believes that they would have been clearly identified within the document. No such clear delineation is present in the settlement. The introduction to the Interim Settlement mentions only one \$7 million allowance. Paragraph 23 to the Interim Settlement identifies a specific \$7 million to be recovered at an accelerated rate by August 31, 2001 in order to recover additional bad debt expense. Paragraph 24 refers to how "the \$7 million non-gas costs" are to be recovered,

¹ Curiously, PGW's Response to the OCA and CEPA submissions refers to "an annual increase of \$7 million for bad debt expense" (page 2, emphasis in original). The OSBA can find no specific justification for anything more than a one-time \$7 million over-recovery allowance for bad debt.

obviously referring to the \$7 million in ¶23. Finally, ¶27 of the Interim Settlement refers to "[a]ny additional calculated GCR over-recovery, up to \$18 million (for a total of \$25 million), will be held in a reserve account to be used as necessary to meet Bond Ordinance covenant requirements, i.e., debt service and/or timely payment of obligations when due, through January 2002."²

PGW's Response to OCA and CEPA relies wholly on the parenthetical expression in ¶27 of the Interim Settlement to argue that a second \$7 million was specifically identified in the Settlement for inclusion in the reserve. With all due respect, PGW's argument is absurd.

Paragraph 27 of the Interim Settlement indicates only that the *additional* over-recovery is to be held in the reserve account, up to \$18 million. A much more reasonable and logical interpretation of the "for a total of \$25 million" parenthetical expression in the operative sentence is that it refers to the total GCR over-recovery, not the total reserve. The amount held in reserve is \$18 million. The Commission's Order also refers specifically to the \$18 million in the reserve account:

"Resolution: In response to the comments submitted by the OCA, CEPA et al., and PICCUG, it should be emphasized that the rate increase proposed in this Joint Petition amounts to \$18 million through August 31, 2001 that would be implemented as an \$11 million interim base rate increase proportionately in the customer charge for each class and a \$7 million increase in PGW's GCR. . . . Moreover, the potential additional \$18 million 'reserve fund' is available to PGW only if PGW develops a GCR over-collection and only if it is needed to satisfy bond debt service (after PGW pursues in good faith all other sources of revenue reasonably available). If not needed, the reserve (if it exists) will be refunded to ratepayers in accordance with existing GCR rules."

(Page 6, emphasis in original).

Note that the Commission's resolution of this matter has no reference to two separate \$7 million over-recovery pools, and it specifically refers to a reserve fund of only \$18 million.

In short, the plain language of the Interim Settlement and the Order indicate that the reserve fund was to consist of a maximum of \$18 million, and

² PGW's Response to the OCA and CEPA filings indicates, "CEPA asserts that the Reserve Accounts is capped at a maximum of \$18 million, but it cannot explain away the words on the face of the Joint Petition which expressly state that 'a total of \$25 million will be held in a reserve account.' *Id.* at ¶27." The OSBA is unable to find any such quote in paragraph 27 of the Interim Settlement, nor is it able to locate such a quote anywhere within that document.

the total over-recovery of GCR was \$25 million. As such, the OSBA finds itself in agreement with OCA and CEPA that PGW has improperly included a second \$7 million over-recovery pool in its December 1, 2001 GCR submission.

Once the hypothetical second \$7 million is resolved, the issue in this proceeding becomes whether PGW should be entitled to retain the \$10.58 million associated with actual GCR over-recoveries. To evaluate this question, the OSBA believes that the Commission should review what the purpose of the reserve fund was as specified in the Interim Settlement and subsequent Commission Order, and determine whether PGW has met its burden for demonstrating the need to retain these funds in its December 12, 2001 submission.

The Interim Settlement includes the following relevant statements:

"PGW will also be permitted to hold in reserve any GCR overcollection that it actually incurs, not to exceed an amount set forth herein, to insure that it will be able to have sufficient cash to meet its bond covenants through the beginning of 2002."

(page 2, emphasis added).

"27. Any additional calculated GCR over-recovery, up to \$18 million (for a total of \$25 million), will be held in a reserve account to be used as necessary to meet Bond Ordinance covenant requirements, i.e., debt service and/or timely payment of obligations when due, through January 2002. . . . To the extent that PGW identifies a cash deficiency that would cause a Bond Ordinance covenant violation, PGW will be permitted to utilize the reserve fund (or portion thereof) to cover this deficiency.."

(Page 8, emphasis added).

Thus, the OSBA concludes that the Interim Settlement states that the reserve funds were to be used only to meet cash requirements associated with bond covenants -- they were not intended to make up for revenue shortfalls associated with warmer than normal weather unless such revenue shortfalls create a cash crisis. Moreover, because applying GCR over-recoveries to general cash requirements represents inequitable and discriminatory ratemaking, the OSBA submits that PGW has an obligation to utilize all other sources of cash to meet bond covenants, before dipping into the GCR over-recovery reserve.

The OSBA disagrees strongly with the allegation of PGW's Mr. Bogdonavage who states, "In addition, the Commission-approved Settlement contemplates PGW's

use of the reserve account in the absence of other **revenue** sources reasonably available. A loan from the City or any third party is not a revenue source." (page 2, emphasis added) While a loan is not a revenue source, Mr. Bogdonavage's representation of the terms of the Interim Settlement are obviously inconsistent with the specific terms cited above, wherein GCR over-recoveries may be used for critical cash needs.

The Interim Settlement states at paragraph 29 that, after adopting all of the previous provisions of the settlement including the potential use of the reserve fund as detailed in paragraph 27, PGW may not seek additional rate relief unless it has pursued all other revenue sources. Thus, the reference to other revenue sources refers only to additional rate relief not otherwise specifically contemplated in the Settlement -- the reserve fund applies only to cash needs. The OSBA notes also that the Commission's Order (page 6) may also incorrectly apply the language of paragraph 29 to the reserve fund. The OSBA would agree with the Order however, if it indicated that PGW has an obligation to pursue in good faith all other sources of revenue and cash reasonably available.

In short, the OSBA submits that the Commission should evaluate whether PGW has pursued all other sources of cash before requesting use of the \$10.58 million provided by GCR customers that is now in the reserve fund.

Turning to PGW's depiction of "need" for the reserve, the OSBA submits that insufficient information is provided from which a judgment can be drawn. First, there is the confusing matter of whether Mr. Bogdonavage's analysis does or does not assume that PGW retains the \$10.58 million reserve. PGW's informational filing and request indicates: "As Mr. Bogdonavage's schedules clearly demonstrate, PGW is projecting that it will have an \$18.4 million deficiency on January 28, 2002, which will only be addressable by the PUC authorizing the use of the entire \$17.6 million reserve fund." Mr. Bogdonavage, however, states "Importantly, even if the Company is permitted to retain the reserve account its present analysis nonetheless shows that it will have a huge negative cash balance -- \$18.4 million on January 25 when the monthly gas bill is due . . ." (page 2) Because Mr. Bogdonavage's analysis appears to be based on a GCR of \$3.13 per MCF,

the OSBA concludes that PGW will not be able to meet its obligations in January, even by retaining the reserve. Thus, for PGW to demonstrate that it needs the reserve, it needs to make a clear showing of why retaining the reserve will somehow allow it to attract additional cash to meet this \$18.4 million shortfall, while not retaining it will somehow preclude it from meeting its cash requirements..

Second, PGW's filing makes no effort to demonstrate the cash benefit of retaining the reserve for January cash requirements. Mr. Bogdonavage refers to the \$0.29 per MCF value, which the OSBA assumes that he has calculated by taking the \$17.58 million and dividing by the GCR annual volume in the December 1 filing of 59,157,217 MCF ($\$0.297/\text{MCF}$). Thus, Mr. Bogdonavage implies that the alternative to retaining the \$10.58 million (and adding in another \$7 million) would be to deduct that amount from the December 1 GCR calculation. Doing so would reduce the GCR by about \$.29 per MCF, for the GCR effective December 1, 2001. If that amount is applied to November and December MCF sales (approximately 10.8 million MCF), the net cash benefit of retaining the \$10.58 million and the second suspect \$7 million would be about \$3.2 million.³

In short, the cash benefit of retaining the \$10.58 million in the GCR appears to be relatively minor, compared to the \$18.4 million shortfall.

Third, the PGW filing presents very little information regarding either the use of the Capital Fund or alternative sources of financing to meet the cash shortfall, other than indicating that it somehow believes that the Capital fund can meet the \$18.4 million requirement, but not some relatively small additional amount if the GCR is slightly lower. (The OSBA notes that PGW's most recent filing in this matter dated December 19, 2001, contains some additional information about the limits to the availability of the Capital Fund for meeting near term cash requirements. However, the updated filing still provides no information as to why PGW can use the Capital Fund to meet a significant share of the cash requirements, but cannot meet the relatively small additional

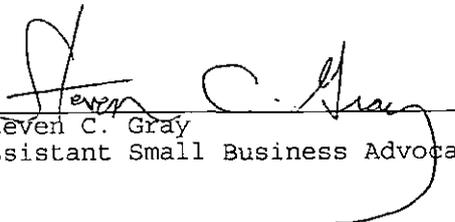
³ The OSBA assumes that cash receipts in December and January are associated with gas billed sales in November and December. If December and January billed sales are used, the cash benefit would be approximately \$5.6 million.

requirement caused by beginning to refund the reserve to GCR customers.) In addition, Mr. Bogdonavage mentions, almost in passing, a \$24.3 million debt service payment due in January, but provides no information regarding this payment. He also provides no analysis of whether additional sources of financing are available to replace that debt, and, in fact, explicitly states that he has no obligation to do so because it is not revenue related.

III. CONCLUSION

For the reasons stated herein, the Office of Small Business Advocate submits that PGW has not met its burden of demonstrating that retaining the \$10.58 million reserve will allow it to meet its debt covenant requirements that it otherwise could not meet.

Respectfully submitted,


Steven C. Gray
Assistant Small Business Advocate

Dated: December 20, 2001

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY :
COMMISSION :
 : Docket No. R-00005654
v. :
 :
PHILADELPHIA GAS WORKS :

CERTIFICATE OF SERVICE

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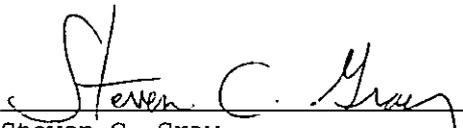
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Steven C. Gray
Assistant Small Business Advocate

Dated: December 20, 2001

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December 21, 2001

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P.A.P.U.C.
SECRETARY'S BUREAU

Re: PA Public Utility Commission v. Philadelphia Gas Works,
Docket No. R-00005654 Reserve Account Filing

Dear Secretary McNulty:

Philadelphia Gas Works ("PGW") respectfully submits its reply to the comments of the Office of Small Business Advocate ("OSBA") to PGW's December 12, 2001, informational filing and request to utilize the Interim Settlement reserve account.

Before discussing the OSBA comments, however, it is significant to note that the Office of Trial Staff ("OTS") submitted a letter responding to PGW's December 12, 2001 filing in which it appears to oppose only PGW's claim as to the amount of the reserve account; *i.e.*, the existence of the one time \$7 million in non-gas costs that PGW asserts is included in the account as per ¶ 27 of the Interim Settlement. The OTS offers no express disagreement with PGW's retention of the remaining \$10.58 million in the reserve account, thus apparently not opposing PGW's retention of the GCR over collection. To that end, PGW applauds the OTS's analysis and notes that it differs dramatically from the OSBA's ill-conceived comments.

With respect to the OSBA comments, in several key aspects, they reflect a complete misunderstanding of the Interim Settlement and the reserve account created therein for PGW's cash flow and bond covenant problems through January 2002. Below, PGW will briefly address the major flaws in the OSBA's comments.

- *The reserve account is neither inequitable nor discriminatory* – In a pure attempt to litigate issues which should have been raised at the time of the Commission's approval of the Interim Settlement, the OSBA claims that the use of the reserve account, which is partly derived from the Company's GCR overcollection, for

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cash flow purposes is inequitable and discriminatory.¹ As the Commission has already approved the reserve account for that exact purpose, it should dismiss OSBA's assertion out of hand. Indeed, the Commission explicitly found that the creation and anticipated use of the reserve account was just and reasonable and lawful.²

- *The reserve account contains \$17.58 million* – The OSBA disputes PGW's claim regarding the correct amount of the reserve account, specifically questioning the inclusion of the one time \$7 million in non-gas costs. PGW has responded to these claims on several occasions, and does so again by incorporating by reference its December 12, 2001 filing, its Answer and Motion to Dismiss the Petition for Enforcement of Settlements of the Office of Consumer Advocate and Reply to the Comments/Exceptions of CEPA,³ and its December 19, 2001 reply to the comments of the OCA and CEPA.⁴
- *The OSBA has distorted the standard for obtaining approval to retain the reserve account* – The OSBA reads into the Interim Settlement several prerequisites to PGW's retention of the reserve account which simply do not appear anywhere in the document. First, OSBA claims that PGW's informational filing was "insufficient," suggesting for instance that it should have provided information as to whether it could obtain financing to replace its \$24.3 million debt service payment in January. In addition to being absurd substantively, OSBA's comments completely distort the Interim Settlement's procedure for obtaining

¹ OSBA Comments at 2 and 4. The time to make such an argument was prior to the approval of the Settlement. As the OSBA admits that it did not oppose the Settlement (p. 2), the Commission should consider it to have waived any claim of discrimination or "poor rate design." (p. 2).

² Order (February 22, 2001) at 7-8.

³ For the Commission's reference, in addition to being filed in the above-referenced docket, PGW attached this document to its December 19, 2001 reply to the comments of the OCA and CEPA.

⁴ In footnote 2 of its comments, the OSBA claims that it was unable to find the portion of ¶ 27 of the Interim Settlement which reads that "... a total of \$25 million will be held in a reserve account" PGW find this claim particularly curious given the fact that OSBA quoted these very words twice (pp. 3-4) in its comments. Acknowledging that a paren sign was omitted from the Company's initial quotation of these words, it is indisputable that ¶ 27 of the Interim Settlement states that a total of \$25 million, of which only \$18 million could come from an overcollection, "will be held in a reserve account."

approval to retain the account. The Settlement called for an “informational filing” (§ 27) because it was never intended that some lengthy or evidentiary process would be required of PGW. Indeed, the process explicitly limits the PUC to ten (10) days in which to consider the request. Despite the OSBA’s claim, PGW has done exactly what the Settlement called for: it supplied a projection of its obligations and identified a cash deficiency that will cause a bond covenant violation. Nothing more is required.

Second, OSBA asserts that the Company has not demonstrated the cash benefit of retaining the reserve for its January requirements, and further states that any benefit would be “relatively minor.” Beyond being inaccurate and not required by the Settlement, OSBA’s claim is ludicrous. OSBA’s position, in essence, is that simply because the reserve account, on its own accord, does not cover PGW’s entire \$18.4 million deficit, the Company should not even have the cash it will provide. Moreover, PGW did explain that the reserve account is necessary to support the borrowing from its restricted Capital Fund that will be used to meet the cash obligations in January.⁵ The reserve account will enable PGW to be reasonably certain that it can utilize the Capital Fund in that way and still be capable of expending the necessary amounts on qualifying projects or replenish the Fund by fiscal year end.⁶

⁵ PGW’s lengthy explanation of this point also counters OSBA’s assertion that “for PGW to demonstrate that it needs the reserve, it needs to make a clear showing of why retaining the reserve will somehow allow it to attract additional cash to meet this \$18.4 million shortfall, while not retaining it will somehow preclude it from meeting its cash requirements.” OSBA Comments at 6. Even though the Settlement, by its terms, required only that the Company “identify a cash deficiency that would cause a Bond Ordinance covenant violation” (§ 27), PGW went further and did exactly what the OSBA claimed was necessary to retain the account – it showed how retaining the reserve account will enable the Company to use the Capital Fund with the knowledge necessary to avoid a breach of the Fund’s bond indenture.

⁶ OSBA clearly misunderstands the impact of the reserve account on PGW’s ability to utilize its restricted Capital Fund. For example, noting that the cash benefit for January of retaining the \$17.58 million reserve account would be approximately \$3.2 million, OSBA asserts that since PGW will likely use its Capital Fund to make up the difference between that figure and the \$18.4 million shortfall, it should not need the “relatively minor” reserve account cash and instead should simply use the Fund to cover the entire shortfall. OSBA Comments at 6. However, OSBA has missed the entire point that PGW needs all of the \$17.58 million in reserve account funds to give it the assurance it needs to borrow the monies necessary from the Capital Fund to meet the entire \$18.4 million shortfall. It is not simply a question of needing the reserve account for the cash it produces by January, but rather needing it to be able to use the Capital Fund.

Third, the OSBA incorrectly suggests that PGW could be required to seek additional financing rather than utilize the reserve account and/or must pursue all sources of cash reasonably available before being permitted to retain the account. As noted, absolutely nothing in the Interim Settlement suggests that PGW must seek additional financing, or search for revenues or cash from any other source for that matter, prior to being entitled to use the \$17.58 million reserve account.⁷ By continuing to raise these types of arguments, the parties are simply trying to deprive PGW of the benefit of its Interim Settlement bargain, “each and every term” of which was approved by the Commission in its February 22, 2001 Order. Just as important, PGW has no other source of financing available, and OSBA has not pointed to any; to suggest otherwise without any basis on which to do so is inappropriate to say the least.

- *The reserve account was designed to address PGW's actual cash flow and bond covenant needs through January 2002* – Finally, OSBA suggests that, in evaluating PGW's entitlement to the reserve account, the Commission should ignore PGW's actual financial condition, aggravated by the substantially warmer than normal weather experienced to date and expected to continue. OSBA states that the account should be used for cash requirements associated with bond covenant violations and not to make up for shortfalls due to warmer than normal weather. OSBA Comments at 4. Obviously, these factors are interrelated and not compartmentalized, as OSBA would suggest. Because PGW has suffered warmer weather, its revenues are dramatically (over \$9 million) reduced; because it has less revenues, its cash deficiency through January 2002 has been exacerbated. One of PGW's bond covenants is that it will have sufficient revenues to pay its bills when due. Without the \$17.58, its ability to do that is called into question. Accordingly, PGW's need for the full \$17.58 million reserve account is clear, and nonsensical arguments such as this do nothing to further the process.

⁷

As PGW has explained repeatedly, the restricted Capital Fund, without access to the reserve account, is not a source of reasonably available cash. Borrowings from the Fund are to be used for capital improvements, and, by bond covenant, can only be used for other needs if PGW can commit to construction funds equal to the amount borrowed or, if it cannot do that, repay the Fund.

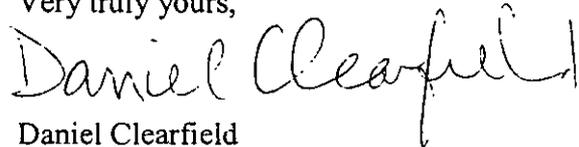
James McNulty, Secretary

December 21, 2001

Page 5

Once again, pursuant to the Commission-approved Interim Settlement, and especially in light of the very negative financial results caused by the lack of cold weather to date, PGW has satisfied the requirements to retain the \$17.58 million reserve account, and the Commission should approve the same within the required ten days.

Very truly yours,



Daniel Clearfield

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DC/lww

cc: Karen Moury, Esq.
Robert Rosenthal, Director, FUS

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).

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Dated: December 21, 2001


Daniel Clearfield
Daniel Clearfield, Esquire