



Philadelphia Gas Works

Craig White
Acting Chief Operating Officer

800 W. Montgomery Avenue, Philadelphia, PA 19122
Telephone: 215.684.6746 – Fax: 215.684.6101
Email: Craig.white@pgworks.com

April 11, 2003

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

DOCUMENT FOLDER

Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works
Docket Nos. R-00005654, R-00006042

Dear Secretary McNulty,

In accordance with Ordering Paragraph No. 4 of the Commission's January 16, 2003 Order approving PGW's Petition for Amendment of Orders Requiring Monthly Reports in the above-referenced dockets, enclosed is PGW's "Quarterly Progress Report" for the 1st quarter of 2003 (January – March) concerning the Company's cast iron main replacement program, LNG liquefaction replacement program and improvements in customer service functions.

If the Commission requires further clarification on this report, please contact me immediately or contact our counsel of record, Dan Clearfield, Esq. at 1-717-237-7173.

Very truly yours,

Craig E. White

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

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Philadelphia Gas Works

Quarterly Progress Report to the Pennsylvania Public Utility Commission

Docket No. R-00005654, R-00006042

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April 11, 2003

Cast Iron Main Replacement Program

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

1Q 2003

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.

As of the end of March 2003, PGW and Outside Contractor crews have replaced, abandoned or rehabilitated 11.5 miles of cast iron main. Sixty-four (64%) of the total project for FY 2003 is complete. PGW expects to successfully complete the project by the end of Fiscal Year 2003.

¹ November 22, 2000 Order, Docket No. R-00005654, Ordering Paragraph No. 5.

LNG Liquefaction Replacement Program

"PGW must proceed with its LNG Liquefaction Replacement Program to ensure supply and reliability are maintained."²

1Q 2003

It was determined after performance testing was completed on December 9, 2002 that the Expander facility did not meet contractual performance requirements. The deficiencies in the design have been identified and a corrective plan is being developed. PGW and the Vendor must agree to a contract amendment to implement the corrective action. The corrective plan, if implemented, would provide for additional construction to occur July – October 2003 with performance testing in October – November 2003.

² November 22, 2000 Order, Docket No. R-00005654, Ordering Paragraph No. 7.

Improvements in Customer Service Functions

"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."³

1Q 2003

Please see the attached reports: Monthly Call Center Access Reports; Monthly Consumer Dispute Reports; Billing Exceptions By Cycle; Residential Meters - Estimated and Non-Estimated Billing; and Missed Customer Service Appointments.

³ November 22, 2000 Order, Docket No. R-00005654 Ordering Paragraph No. 8.

Monthly Call Center Access Reports for Customer Service and Collection Call Centers

Philadelphia Gas Works			
Customer Service Department			
Call Center Statistics			
Monthly Call Volume- January-March 2003			
	January	February	March
Calls Received	133,339	108,149	126,004
Calls Answered	129,480	104,965	113,489
Calls Abandoned	3,859	3,184	12,515
% Of Calls Answered	97%	97%	90%
% Of Abandon Calls	3%	3%	10%
Average CTR'S Per Day	47	44	43
Average Speed Of Answer	:24	:24	1:44
Average Abandon Time	2:15	1:52	3:36
Average Talk Time In Minutes	3:45	3:51	3:46
Legend			
*	Customer Telephone Representatives		

Monthly Consumer Dispute Reports

PGW												
Dispute Resolution Completed Jobs Statistics												
	<u>High Bills</u>				<u>Correspondence</u>				<u>Statements</u>			
<u>Year</u>	<u>Received</u>	<u>Completed</u>			<u>Received</u>	<u>Completed</u>			<u>Received</u>	<u>Completed</u>		
		Within	%	Average		Within	%	Average		Within	%	Average
		<=30	< 30	#		<=30	< 30	#		<=30	< 30	# Of
		Days	Days	Of Days		Days	Days	Of Days		Days	Days	Days
Jan	299	175	58%	4.6	1045	901	86%	1.0	93	85	91%	1.0
Feb	224	111	49%	5.1	1027	881	85%	1.0	198	185	93%	1.0
March	245	128	52%	5.6	1247	990	79%	1.1	141	126	89%	1.0

Note: Percentage completed reflects number of inquiries received and completed in 30 days or less.

Number and Percentage of Residential Bills Not Rendered During Relevant Billing Cycles

PHILADELPHIA GAS WORKS BILLING EXCEPTIONS BY CYCLE						
	Total bills		% of bills		Average/Cycle (22)	
	not issued	issued	not issued	issued	not issued	issued
January	3,618	523,354	0.69%	99.31%	164	23,789
February	3,724	524,457	0.71%	99.29%	169	23,839
March	3,259	525,412	0.62%	99.38%	148	23,882

Billing Exceptions: Number of bills which failed to issue during the relevant billing cycle. Manual issuance occurred in most cases approximately 3 to 5 days after report of the exception.

Total bills issued includes Commercial and Industrial Accounts.

Number and Percentage of Residential Meters Without Actual or Customer Supplied Readings - Prior Six Months

PHILADELPHIA GAS WORKS RESIDENTIAL METERS ESTIMATED & NON ESTIMATED BILLING						
2001/2002	10/2002	11/2002	12/2002	01/2003	02/2003	03/2003
Total Accounts Billed	487,887	487,215	488,328	491,598	492,061	493,486
Non Estimated Bills	471,957	471,768	473,435	477,117	473,588	479,673
Estimated Bills	15,930	15,447	14,893	14,481	18,473	13,813
% Estimated Bills	3.265%	3.170%	3.050%	2.946%	3.754%	2.799%

Note: February 2003 estimation rate increased due to the inability to perform AMR reads because of the snowstorms.

Philadelphia Gas Works Customer Service Field Appointments Made & Completed October – December 2002				
	A	B	C = B/A	D = 100%-C
	All	Appointments	Percentage	Percentage
Month	Appointments	Made / Completed	Made / Completed	Missed *
January	24,299	16,407	68%	32%
February	18,098	11,338	62%	38%
March	18,941	12,938	68%	32%

Legend

The information stated above reflects service order appointments arrived within the requested appointment window. It represents the metrics used by PGW to measure appointments made and completed including Sundays and Holidays.

Emergency gas complaints are excluded from these numbers. Emergency response is reported monthly in the "Analysis of Emergency Call Outs" reports to the PUC.

* When a Philadelphia Gas Works (PGW) service person arrives at the property and the customer is not home or not responding the serviceperson marks the account "'Can't Get In' or 'CGI'". The Pennsylvania Public Utility Commission defines CGI'S as missed appointments.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing 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

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

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

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

Johnnie Simms, Esq.
Office of Trial Staff
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Charis M. Burak, Esq.
McNEES, WALLACE, NURICK
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

Dated: April 11, 2003



Kevin J. Moody, Esquire

ORIGINAL

Philadelphia Gas Works



800 West Montgomery Avenue, Philadelphia, PA 19122

July 18, 2003

DOCUMENT
FOLDER

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

KJR

Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works
Docket Nos. R-00005654, R-00006042

Dear Secretary McNulty,

In accordance with Ordering Paragraph No. 4 of the Commission's January 16, 2003 Order approving PGW's Petition for Amendment of Orders Requiring Monthly Reports in the above-referenced dockets, enclosed is PGW's "Quarterly Progress Report" for the 2nd quarter of 2003 (April - June) concerning the Company's cast iron main replacement program, LNG liquefaction replacement program and improvements in customer service functions.

If the Commission requires further clarification on this report, please contact me immediately or contact Gregory Stunder, Esq. at 1-215-684-6878.

Very truly yours,

Craig E. White / ggs

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cc: As per Certificate of Service
Veronica Smith, Esq., Executive Director
Karen Moury, Esq., Deputy Executive Director
Robert Rosenthal, Bureau of Fixed Utility Services
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Tom Sheets, Bureau of Audits
Joe Farley, Bureau of Consumer Services

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Philadelphia Gas Works

Quarterly Progress Report to the
Pennsylvania Public Utility Commission

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Docket No. R-00005654, R-00006042

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Cast Iron Main Replacement Program

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

2nd Quarter 2003

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.

As of the end of June 2003, PGW and Outside Contractor crews have replaced, abandoned or rehabilitated 17.5 miles of cast iron main. Ninety-seven (97%) of the total project for FY 2003 is complete. PGW expects to successfully complete the project by the end of Fiscal Year 2003.

¹ November 22, 2000 Order, Docket No. R-00005654, Ordering Paragraph No. 5.

LNG Liquefaction Replacement Program

"PGW must proceed with its LNG Liquefaction Replacement Program to ensure supply and reliability are maintained."²

2nd Quarter 2003

A corrective plan has been developed to resolve the deficiencies in the original plant design. PGW and the Vendor have completed a contract amendment that is awaiting final agreement. Process design has been finalized and major components for the retrofit have been ordered. Field construction is scheduled to start in mid-August with performance testing scheduled to commence in mid-November, 2003.

² November 22, 2000 Order, Docket No. R-00005654, Ordering Paragraph No. 7.

Improvements in Customer Service Functions

"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."³

2nd Quarter 2003

Please see the attached reports: Monthly Call Center Access Reports; Monthly Consumer Dispute Reports; Billing Exceptions By Cycle; Residential Meters - Estimated and Non-Estimated Billing; and Missed Customer Service Appointments.

³ November 22, 2000 Order, Docket No. R-00005654 Ordering Paragraph No. 8.

Monthly Call Center Access Reports for Customer Service and Collection Call Centers

Philadelphia Gas Works			
Customer Service Department			
Call Center Statistics			
<u>Monthly Call Volume- April-June 2003</u>			
	April	May	June
Calls Received	123,958	98,796	88,988
Calls Answered	107,421	94,799	84,418
Calls Abandoned	16,537	3,997	4,570
% Of Calls Answered	87%	96%	95%
% Of Abandon Calls	13%	4%	5%
Average CTR'S Per Day	43	40	45
Average Speed Of Answer	1:58	:31	:41
Average Abandon Time	3:10	1:46	1:48
Average Talk Time In Minutes	3:33	3:28	3:38
Legend			
*	Customer Telephone Representatives		

Monthly Consumer Dispute Reports

PGW												
Dispute Resolution Completed Jobs Statistics												
	<u>High Bills</u>				<u>Correspondence</u>				<u>Statements</u>			
<u>Year</u>	<u>Received</u>	<u>Completed</u>			<u>Received</u>	<u>Completed</u>			<u>Received</u>	<u>Completed</u>		
		<u>Within</u>	<u>%</u>	<u>Average</u>		<u>Within</u>	<u>%</u>	<u>Average</u>		<u>Within</u>	<u>%</u>	<u>Average</u>
		<u><=30</u>	<u>< 30</u>	<u>#</u>		<u><=30</u>	<u>< 30</u>	<u>#</u>		<u><=30</u>	<u>< 30</u>	<u># Of</u>
		<u>Days</u>	<u>Days</u>	<u>Of Days</u>		<u>Days</u>	<u>Days</u>	<u>Of Days</u>		<u>Days</u>	<u>Days</u>	<u>Days</u>
2003												
April	275	206	74%	11.3	1553	1163	74%	7.1	244	225	92.%	3.2
May	275	235	85%	5.4	1161	963	82%	6.8	282	269	95%	1.5
June	181	161	88 %	3.3	869	779	89%	3.6	181	172	95%	1.9

Note: Percentage completed reflects number of inquiries received and completed in 30 days or less.

7/8/2003

Number and Percentage of Residential Bills Not Rendered During Relevant Billing Cycles

PHILADELPHIA GAS WORKS BILLING EXCEPTIONS BY CYCLE						
	Total bills		% of bills		Average/Cycle (22)	
	not issued	issued	not issued	issued	not issued	issued
April	3,474	527,178	0.65%	99.35%	158	23,963
May	4,305	528,555	0.81%	99.19%	196	24,025
June	3,399	518,532	0.65%	99.35%	154	23,569

Billing Exceptions: Number of bills which failed to issue during the relevant billing cycle. Manual issuance occurred in most cases approximately 3 to 5 days after report of the exception.

Total bills issued includes Commercial and Industrial Accounts.

Number and Percentage of Residential Meters Without Actual or Customer Supplied Readings - Prior Six Months

PHILADELPHIA GAS WORKS RESIDENTIAL METERS ESTIMATED & NON ESTIMATED BILLING						
2003	Jan-03	Feb-03	Mar-03	Apr-03	May-03	Jun-03
Total Accounts Billed	491,598	492,061	493,486	490,292	489,938	485,055
Non Estimated Bills	480,519	481,034	482,556	479,545	480,034	476,063
Estimated Bills	11,079	11,027	10,930	10,747	9,904	8,992
% Estimated Bills	2.254%	2.241%	2.215%	2.192%	2.021%	1.854%

Note: First report where estimated bills = estimated for six months or more. The numbers highlighted above have changed from the previous Quarter's report. Previous reports were indicating the number of estimated bills in a given month. This report has been corrected to reflect the number of bills that have been estimated for six months or more.

Philadelphia Gas Works Customer Service Field Appointments Made & Completed April - June 2003				
	A	B	C = B/A	D = 100%-C
	All	Appointments	Percentage	Percentage
Month	Appointments	Made / Completed	Made / Completed	Missed *
April	17,886	15,367	86%	14%
May	18,885	15,946	84%	16%
June	17,883	15,260	85%	15%

Legend

The information stated above reflects service order appointments completed on the day scheduled. It represents the metrics used by PGW to measure appointments made and completed including Sundays and Holidays.

Emergency gas complaints are excluded from these numbers. Emergency response is reported monthly in the "Analysis of Emergency Call Outs" reports to the PUC.

* When a Philadelphia Gas Works (PGW) serviceperson arrives at the property and the customer is not home or not responding the serviceperson marks the account "'Can't Get In' or 'CGI'". The Pennsylvania Public Utility Commission defines CGI'S as missed appointments.

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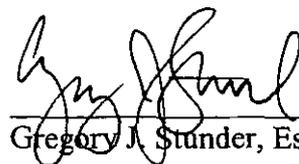
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PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Charis M. Burak, Esq.
McNEES, WALLACE, NURICK
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166

Dated: July 18, 2003



Gregory J. Stunder, Esquire

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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City of Philadelphia,
Petitioner

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R-0000 6042

v.

No. 19 C.D. 2002

Pennsylvania Public Utility
Commission,
Respondent

DOCKETED

Philadelphia Gas Works on
its own behalf and by the
Philadelphia Facilities
Management Corporation,
Petitioners

DOCUMENT
FOLDER

AUG 15 2003 (RB)

DOCKETED
NOV 05 2003

v.

No. 20 C.D. 2002

Pennsylvania Public Utility
Commission,
Respondent

Argued: June 4, 2003

BEFORE: HONORABLE JAMES GARDNER COLINS, President Judge
HONORABLE BERNARD L. McGINLEY, Judge
HONORABLE DORIS A. SMITH-RIBNER, Judge
HONORABLE ROCHELLE S. FRIEDMAN, Judge
HONORABLE BONNIE BRIGANCE LEADBETTER, Judge
HONORABLE ROBERT SIMPSON, Judge
HONORABLE MARY HANNAH LEAVITT, Judge

OPINION BY JUDGE SIMPSON

FILED: August 13, 2003

In these consolidated appeals from orders of the Pennsylvania Public Utility Commission (PUC), we are asked whether under the Natural Gas Choice

and Competition Act¹ (Gas Choice Act) the PUC can increase Philadelphia Gas Works' (PGW) municipal service rates without approval from Philadelphia City Council. We affirm, holding that City Council approval is not necessary.

The City of Philadelphia (City) is a home rule municipality.² The City owns PGW, a collective name for all the real and personal property by which the City furnishes gas to its customers and itself. See Philadelphia Facilities Management Corp. v. Biester, 431 A.2d 1123 (Pa. Cmwlth. 1981). Philadelphia Facilities Management Corporation manages PGW for the City. Id.

Before the Gas Choice Act became effective on July 1, 2000, the Philadelphia Gas Commission exercised regulatory control over PGW. Among other things, the Philadelphia Gas Commission fixed and regulated gas rates consistent with the City ordinances. One of the applicable ordinances was the so-called Management Agreement Ordinance, City Ordinance No. 455, December 29, 1972, as amended. Reproduced Record (R.R.) 49a - 76a; see Biester, 431 A.2d at 1128.

PGW recovers its costs in two ways. R.R. 195a - 98a. First, PGW imposes a customer charge, which is a flat fee imposed on each metered account on a monthly basis. This charge recovers expenses associated with being ready

¹ 66 Pa. C.S. §§2201 - 2212.

² The First Class City Home Rule Act, Act of April 21, 1949, P.L. 655, as amended, 53 P.S. §§13101 - 13157, authorized the Philadelphia Home Rule Charter, 351 Pa. Code §§1.1-100 - 12.12-503.

and able to serve a particular customer, regardless of how much gas the customer uses. A customer charge addresses expenses for customer billing, personnel and the maintenance of infrastructure. Second, PGW recovers the costs associated with the acquisition of natural gas supply for its customers. This commodity charge varies according to the volume of natural gas used by each metered account. The issue here involves the first charge, the customer charge.

Previously, PGW imposed no customer charge on the municipal service customer class, which includes properties of the City and its school district. R.R. 197a. The municipal service customer class was the only class not paying a customer charge. *Id.* Rates for gas to municipal service customers were subject to approval by City Council. Management Agreement Ordinance, Section VII(3), R.R. 70a.

The Gas Choice Act brought city owned natural gas operations, including PGW, under PUC jurisdiction. 66 Pa. C.S. §2212(b). Now, the PUC approves rates and charges for PGW. However the Gas Choice Act requires the PUC to “follow the same ratemaking methodology and requirements that were applicable to the city natural gas distribution operation prior to the assumption of jurisdiction by the commission” 66 Pa. C.S. §2212(e). The mandate that the PUC follow “the same ratemaking methodology and requirements” is at the core of this dispute.

In 2001, PGW filed a request for a general rate increase of \$65,000,000 with the PUC. This was the first base rate case initiated after the PUC

assumed jurisdiction over PGW. Among the many details in its filing, PGW proposed a monthly customer charge of \$25 for members of the municipal service customer class. R.R. 197a. No conflicting positions were taken by other parties on this aspect of the extensive proposal. Id.

The PUC commenced an investigation of the proposed rates. Multiple parties intervened or filed formal complaints against the proposed rates. The filing was referred to an administrative law judge (ALJ) for hearings and a recommended decision.

After hearings, the ALJ recommended that PGW receive \$33,000,000 of its requested \$65,000,000 general rate increase. The ALJ also approved various customer charges, but did not specifically address the customer charge for municipal service customers. R.R. 197a.

Exceptions to numerous aspects of the recommended decision were entertained by the PUC. It issued an exhaustive Opinion and Order on October 4, 2001 (First Order), which reduced the total relief to approximately \$28,000,000.

Shortly thereafter, PGW filed a tariff supplement to comply with the First Order. However, the tariff supplement did not include a customer charge for the municipal service customer class. After questions from the Office of the Consumer Advocate, PGW claimed for the first time it was unable to impose a customer charge on the municipal service customer class without approval from City Council. R.R. 342a.

In response to a petition for rehearing, the PUC issued an Opinion and Order on December 6, 2001 (Second Order). The Second Order resolved many issues. For present purposes, the Order addressed an apparent calculation error and modified the amount of overall relief to \$22,558,000.

PGW submitted a new filing in compliance with the Second Order. However, PGW did not include a customer charge for the municipal service rate class. Both the Office of Consumer Advocate and the Office of Small Business Advocate expressed concerns. By Order of February 21, 2002 (Third Order), the PUC directed that PGW impose a monthly \$18 customer charge on the municipal service class. The Third Order also held that the amount of the customer charge applicable to the municipal service class would be imputed as a component of PGW's revenue, so as to prevent the shifting of this charge to other rate payers. Third Order at 4.

The City and PGW petitioned for review of the First and Second Orders. A subsequent agreement resolved all issues except the customer charge for the municipal service class and the imputation of revenues associated with it as part of the \$22, 558,000 in relief.³

³ Various advocacy groups, including the Consumers Education and Protective Association (CEPA), the Association of Community Organizations for Reform Now (ACORN), Tenants' Action Group (TAG), and Action Alliance of Senior Citizens of Greater Philadelphia, intervened. Collective written argument was received from the advocacy groups. Also, the Office of Consumer Advocate intervened and submitted written argument.

In ratemaking cases, our review is limited to a determination of whether or not constitutional rights have been violated, or if an error of law has been committed, or whether or not the findings, determinations or order of the PUC are supported by substantial evidence. Brockway Glass Co. v. Pennsylvania Public Utility Comm'n, 437 A.2d 1067 (Pa. Cmwlth. 1981). This Court should not substitute its judgment for that of the PUC when substantial evidence supports the PUC's decision on a matter within the commission's expertise. Popowsky v. Pennsylvania Public Utility Comm'n, 550 Pa. 449, 706 A.2d 1197 (1997). The PUC's expert interpretation of an aspect of utility law is entitled to great deference and will not be reversed unless clearly erroneous. Bell Atlantic-Pennsylvania, Inc. v. Pennsylvania Public Utility Comm'n, 763 A.2d 440 (Pa. Cmwlth. 2000), appeal denied, 567 Pa. 746, 788 A.2d 378 (2001).

In their consolidated appeals, the City and PGW make multiple arguments which essentially question procedure rather than the amount of relief. First, they argue the PUC failed to follow prior ratemaking methodology by failing to recognize that approval of City Council is a prerequisite to an increase in municipal service class charges. Second, they contend the PUC's construction of the Gas Choice Act violates constitutional and statutory protections of local self-government for home rule municipalities. Third, they argue that the PUC's imputation of revenues for the increased customer charge on the municipal service class deprives it of the full relief awarded.

I.

We reject the contention that the PUC failed to follow prior ratemaking methodology, as specified in the Gas Choice Act. We hold the mandate to follow the same ratemaking methodology and requirements refers to the method of evaluating revenue requirements. The Gas Choice Act does not preserve the legal procedure involving City Council approval of rates for the municipal service class.

The Gas Choice Act provides in relevant part:

(e) **Securities of city natural gas distribution operations.** – Notwithstanding any provision of this title to the contrary, in determining the city natural gas distribution operation's revenue requirement and approving overall rates and charges, the commission shall follow the same ratemaking methodology and requirements that were applicable to the city natural gas distribution operation prior to the assumption of jurisdiction by the commission, and such obligation shall continue until the date on which all approved bonds have been retired, redeemed, advance refunded or otherwise defeased. However, this section shall not prevent the commission from approving changes in the rates payable by any class of ratepayers of the city natural gas distribution operation so long as the revenue requirement and the overall rates and charges are not adversely affected by such changes.

66 Pa. C.S. §2212(e) (emphasis added). When Section 2212(e) is read in its entirety, it is clear that “requirements” refers to “revenue requirement[s].” In the above quoted portion of Section 2212(e), the phrase “revenue requirement” is used

twice, once before and once after the mandate to “follow the same ratemaking methodology and requirements.”

PGW’s revenue requirements are identified in the Management Agreement Ordinance referenced above. Specifically, Section VII(1) of the Management Agreement Ordinance provides that non-municipal service gas rates shall be fixed so that project revenues will be at least sufficient to cover enumerated expenses for each fiscal year. The enumerated expenses include all operating and maintenance costs, interest and amortization of debt, general expenses, payments to the City, debt reductions and capital additions, working capital, and non-cash expenses included in estimates of revenue requirements. R.R. 66a - 70a. The PUC acknowledged the significance of the Management Agreement Ordinance and analyzed its relevant provisions. First Order at 12 – 13. See also R.R. 154a - 69a.

This Court previously held the Management Agreement Ordinance specifies the cash flow method as the ratemaking formula for establishing PGW’s rates. Action Alliance of Senior Citizens of Greater Philadelphia, Inc. v. Philadelphia Gas Comm’n, 406 A.2d 1155 (Pa. Cmwlth. 1979). The PUC acknowledged this authority, and it applied a cash flow analysis to the revenue requirements identified in the Management Agreement Ordinance. First Order at 14.

We hold that the approach described above satisfies the Gas Choice Act directive to follow the same ratemaking methodology and requirements. The PUC committed no clear error when it adopted this approach.

The City and PGW highlight another subsection of the Management Agreement Ordinance. Section VII(3) provides, with emphasis added:

Company shall furnish to the City and the Board of Education, delivered in their various public buildings along the lines of its mains, such amounts of gas as may be required by the City or the said Board. Rates for gas for such public purposes shall be established from time to time by the Gas Commission upon the recommendations of Company and subject to approval by City Council.

R.R. at 70a. However, the provision for approval by City Council of municipal service rates is neither a revenue requirement nor a ratemaking methodology. It reflects a political rather than a financial consideration.

There is nothing in the language of Section 2212(e) of the Gas Choice Act that suggests legislative intent to burden ratemaking with non-financial considerations. Indeed, the contrary is true. Moreover, there is no reference to ratemaking among the powers preserved for cities owning gas distribution operations. 66 Pa. C.S. §2212(s). These omissions are consistent with our conclusion that the Gas Choice Act reposes the ratemaking function solely in the

PUC, subject to the condition to follow existing ratemaking methodology and revenue requirements, but not subject to approval by City Council.⁴

II.

The City and PGW argue that the PUC must interpret the Management Agreement Ordinance in such a way as to preserve the right of local self-government protected by the Pennsylvania Constitution, Art. IX, §2,⁵ and the First Class City Home Rule Act (Home Rule Act).⁶ They contend rates for gas service to City and school district buildings are a matter of purely local concern which must remain subject to local approval by City Council.

Both the Pennsylvania Constitution and the Home Rule Act preserve the right of local self-government in many areas, but the operation of a gas system,

⁴ While disposing of this argument on the merits, we note that PGW proposed a customer charge on the municipal service class higher than that ultimately adopted by the PUC.

⁵ The so-called "Home Rule Amendment" to the Pennsylvania Constitution provides in part that:

Municipalities shall have the right and power to frame and adopt home rule charters A municipality which has a home rule charter may exercise any power or perform any function not denied by this Constitution, by its home rule charter or by the General Assembly at any time.

PA. Const. of 1968, Art. IX, § 2.

⁶ Act of April 21, 1949, P.L. 655, as amended, 53 P.S. §§13101 - 13157.

or any other proprietary or private business, is not one of them. Section 18 of the Home Rule Act, 53 P.S. §13133, enumerating limitations on home rule authority, provides in pertinent part:

[N]o city shall engage in any proprietary or private business except as authorized by the General Assembly.

Identical constitutional and statutory arguments were raised on behalf of PGW in Biester. There, we held that the protections for local self-government do not insulate PGW from state action, because it is an enterprise within the statutory limitation. Biester, 431 A.2d at 1132 - 34. As we rejected the constitutional and statutory arguments in Biester, we reject them here. We conclude we are not required to depart from our construction of the Gas Choice Act to accommodate concerns for local self-government raised by one class of gas customer.

The City and PGW also argue that the limitation on home rule authority applies to gas supplied to inhabitants of the City, not to gas supplied by the City-owned gas system to the City itself. They contend local self-government remains protected for this one class of service. We reject this argument, because the limitation on home rule authority is based on the overall type of enterprise, not the identity of the consumer. The limitation applies to “any proprietary or private business, such as the operation of a gas system...” Id. at 1133. It is of no consequence whether the gas is delivered to a court, school, hotel, office or store. As to all, the state retains the right to act. As to all, the same procedure for ratemaking applies under the statewide Gas Choice Act. Neither the Constitution

nor the Home Rule Act compels a departure from this uniform ratemaking procedure.

III.

Finally, the City and PGW contend that the PUC prevents realization of the entire rate increase by imputing a charge which will not be paid in the absence of City Council approval.

This argument assumes City Council approval remains a precondition to rate adjustments for the municipal service class. As discussed, City Council approval of municipal service rates is not required by the Gas Choice Act. Although the PUC must continue to utilize the same ratemaking methodology and requirements, there is no mandate that any body previously participating in ratemaking continue its involvement. Because the \$22,558,000 increase was determined to be just and reasonable, PGW may charge it and collect it. There is no reason to assume that any portion of approved rate increase will not be realized.

For the foregoing reasons, we affirm the orders of the PUC.



ROBERT SIMPSON, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

City of Philadelphia, :
Petitioner :
v. : No. 19 C.D. 2002
Pennsylvania Public Utility :
Commission, :
Respondent :

Philadelphia Gas Works on :
its own behalf and by the :
Philadelphia Facilities :
Management Corporation, :
Petitioners :
v. : No. 20 C.D. 2002
Pennsylvania Public Utility :
Commission, :
Respondent :

ORDER

AND NOW, this 13th day of August, 2003, the Order entered by the Pennsylvania Public Utility Commission on October 4, 2001, as modified by the Order of December 6, 2001, and the Order of February 21, 2002, which clarified the customer charge for the municipal service class, are **AFFIRMED**.



ROBERT SIMPSON, Judge

Certified from the Record
AUG 13 2003
and Order Exit

Philadelphia Gas Works



ORIGINAL

800 West Montgomery Avenue, Philadelphia, PA 19122

DOCUMENT

October 20, 2004

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OCT 20 2004

PA PUBLIC UTILITY COMMISSION

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 Nos. R-00005654, R-00006042

Dear Secretary McNulty,

In accordance with Ordering Paragraph No. 4 of the Commission's January 16, 2003 Order approving PGW's Petition for Amendment of Orders Requiring Monthly Reports in the above-referenced dockets, enclosed is PGW's "Quarterly Progress Report" for the 3rd quarter of 2004 (July-September) concerning the Company's cast iron main replacement program, LNG liquefaction replacement program and improvements in customer service functions.

If the Commission requires further clarification on this report, please contact me immediately or contact Gregory Stunder, Esq. at 1-215-684-6878.

Very truly yours,

A handwritten signature in black ink that reads "Craig E. White (BS)".

Craig E. White

cc: As per Certificate of Service
Veronica Smith, Esq., Executive Director
Karen Moury, Esq., Deputy Executive Director
Robert Rosenthal, Bureau of Fixed Utility Services
Mitch Miller, Bureau of Consumer Services
Tom Sheets, Bureau of Audits
Joe Farley, Bureau of Consumer Services
Paul Metro, Bureau of Transportation and Safety

RECEIVED

OCT 21 2004

PA PUBLIC UTILITY COMMISSION
STATE CAPITAL BUILDING

Philadelphia Gas Works

Quarterly Progress Report to the Pennsylvania Public Utility Commission

DOCUMENT

Docket No. R-00005654, R-00006042

DOCKETED
DEC 09 2004

October 20, 2004

Cast Iron Main Replacement Program

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

3rd Quarter 2004

PGW has successfully completed the above project for FY2004. As of September 2004, PGW and outside contractor crews have replaced, abandoned or rehabilitated 19.0 miles of cast iron main.

¹ November 22, 2000 Order, Docket No. R-00005654, Ordering Paragraph No. 5.

LNG Liquefaction Replacement Program

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

3rd Quarter 2004

Testing of silica gel to remove heavy hydrocarbons from the feed gas was performed at the Richmond Plant during August 2004. Verification of the Vendor's computer simulations was achieved, and the plan of action was developed with required modifications. The Vendor communicated to PGW at a meeting on September 9, 2004, the plan for proposed modifications and the schedule for work. The work started on site in early October and all but the installation of a surge drum, due to long lead time for vessel construction, is scheduled for completion by the end of November 2004. Plant testing to determine production capacity is planned for late Fall 2004 with performance testing scheduled subsequent to when the surge drum will be installed in 2005.

Improvements in Customer Service Functions

"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."²

3rd Quarter 2004

Please see the attached reports: Monthly Call Center Access Reports; Monthly Consumer Dispute Reports; Billing Exceptions By Cycle; Residential Meters - Estimated and Non-Estimated Billing; and Missed Customer Service Appointments.

² November 22, 2000 Order, Docket No. R-00005654 Ordering Paragraph No. 8.