

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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

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

July 21, 2017

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17120

Re: Pa. Public Utility Commission  
Office of Consumer Advocate  
Office of Small Business Advocate  
v.  
Philadelphia Gas Works (PGW)  
Docket Nos: R-2017-2586783  
C-2017-2592092  
C-2017-2593497

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Main Brief in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Christy M. Appleby  
Christy M. Appleby  
Assistant Consumer Advocate  
PA Attorney I.D. # 85824  
E-Mail: [CApplby@paoca.org](mailto:CApplby@paoca.org)

Attachments

cc: Honorable Christopher Pell, ALJ  
Honorable Marta Guhl, ALJ  
Certificate of Service

237495

# CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :  
 :  
 v. : Docket No. R-2017-2586783  
 :  
 Philadelphia Gas Works :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Main Brief, 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 21<sup>st</sup> day of July 2017.

## SERVICE BY E-MAIL and INTEROFFICE MAIL

Carrie B. Wright, Esquire  
Erika L. McLain  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

## SERVICE BY E-MAIL and FIRST CLASS MAIL

Elizabeth Rose Triscari, Esquire  
Sharon Webb, Esquire  
Office of Small Business Advocate  
Commerce Building, Suite 202  
300 North Second Street  
Harrisburg, PA 17101

Charis Mincavage  
Adeolu A. Bakare  
Alessandra L. Hylander  
McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

Brandon J. Pierce, Esquire  
Philadelphia Gas Works  
800 West Montgomery Avenue  
Legal 4<sup>th</sup> Floor  
Philadelphia, PA 19122

Daniel Clearfield, Esquire  
Carl R. Shultz, Esquire  
Deanne M. O'Dell, Esquire  
Karen O. Moury, Esquire  
Sarah C. Stoner, Esquire  
Eckert Seamans  
213 Market Street  
Harrisburg, PA 17101

Patrick Cicero, Esquire  
Elizabeth R. Marx, Esquire  
Pennsylvania Utility Law Project  
118 Locust Street  
Harrisburg, PA 17101

Todd S. Stewart, Esquire  
Hawke McKeon & Sniscak LLP  
100 North Tenth Street  
Harrisburg, PA 17101

Josie B. H. Pickens, Esquire  
Robert W. Ballenger, Esquire  
Jennifer Collins, Esquire  
COMMUNITY LEGAL SERVICES, INC.  
1410 West Erie Avenue  
Philadelphia, PA 19140

/s/ Christy M. Appleby  
Christy M. Appleby  
Assistant Consumer Advocate  
PA Attorney I.D. # 85824  
E-Mail: [CApplby@paoca.org](mailto:CApplby@paoca.org)

Kristine E. Marsilio  
Assistant Consumer Advocate  
PA Attorney I.D. # 316479  
E-Mail: [KMarsilio@paoca.org](mailto:KMarsilio@paoca.org)

Harrison W. Breitman  
Assistant Consumer Advocate  
PA Attorney I.D. # 320580  
E-Mail: [HBreitman@paoca.org](mailto:HBreitman@paoca.org)

Darryl A. Lawrence  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 93682  
E-Mail: [DLawrence@paoca.org](mailto:DLawrence@paoca.org)

Counsel for  
Office of Consumer Advocate  
555 Walnut Street  
5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
237494

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	R-2017-2586783
Office of Consumer Advocate	:	C-2017-2592092
Office of Small Business Advocate	:	C-2017-2593497
v.	:	
	:	
Philadelphia Gas Works	:	

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MAIN BRIEF OF THE  
OFFICE OF CONSUMER ADVOCATE

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Darryl A. Lawrence  
Senior Assistant Consumer Advocate  
PA Attorney ID 93682  
[DLawrence@paoca.org](mailto:DLawrence@paoca.org)

Kristine E Marsilio  
Assistant Consumer Advocate  
PA Attorney I.D. #316479  
[KMarsilio@paoca.org](mailto:KMarsilio@paoca.org)

Christy M. Appleby  
Assistant Consumer Advocate  
PA Attorney ID 85824  
[CAAppleby@paoca.org](mailto:CAAppleby@paoca.org)

Harrison W. Breitman  
Assistant Consumer Advocate  
PA Attorney ID320580  
[HBreitman@paoca.org](mailto:HBreitman@paoca.org)

Counsel for  
Tanya J. McCloskey  
Acting Consumer Advocate

Office of Consumer Advocate  
555 Walnut Street, 5th Floor Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
Dated: July 21, 2017

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## **I. INTRODUCTION AND PROCEDURAL HISTORY**

PGW is a municipal public utility company, owned by the City of Philadelphia and managed and operated by the Philadelphia Facilities Management Corporation. The Company is engaged in the business of furnishing natural gas to approximately 500,000 residential, commercial, and industrial natural gas customers in Philadelphia, Pennsylvania. The natural gas service being furnished or rendered by PGW became subject to the regulation and control of the Pennsylvania Public Utility Commission on July 1, 2000, pursuant to the Natural Gas Choice and Competition Act, 66 Pa. C.S. § 2212.

On February 27, 2017, PGW filed Supplement No. 100 to PGW's Gas Service Tariff-Pa. P.U.C. No. 2 (Supplement No. 100). In Supplement No. 100, the Company sought an increase in annual distribution revenues of \$70 million, to become effective April 28, 2017. The Company proposed to increase the residential monthly customer charge from \$12.00 per month to \$18.00 per month, or by 50%. Additionally, for a residential customer, the delivery charge would increase from \$6.0067/Mcf to \$6.7275/Mcf, or by 12% under the Company's filing. According to PGW's filing, the bill for a typical PGW residential heating customer who uses 76 Mcf per year would increase from \$94.06 to \$104.65 per month, or by 11.3%. The Company also proposed the following Tariff revisions: add a rate schedule for back-up service; add a Pilot Technology and Economic Development Rider for certain firm-service, non-residential customers; update its Interruptible Transmission rate; and eliminate existing rate schedules that are no longer necessary or appropriate.

The Company served Direct Testimonies along with and in support of its filing (Direct Testimonies of Gregory Stunder, PGW St. No. 1; Joseph F. Golden, Jr., PGW St. No. 2; Daniel J. Hartman PGW St. No. 3; Frank C. Graves, PGW St. No. 4; Philip Q. Hanser, PGW St. No. 5;



Kenneth S. Dybalski, PGW St. No. 6; Douglas A. Moser, PGW St. No. 7; and Florian Teme, PGW St. No. 8).

On March 6, 2017, the OCA filed a Formal Complaint in this proceeding. The Commission's Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance also on March 6, 2017. On March 13, 2017, the Office of Small Business Advocate (OSBA) filed a Formal Complaint. PGW customer, William Dingfelder, filed a Formal Complaint on March 16, 2017. The Retail Energy Supply Association (RESA) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed Petitions to Intervene in this proceeding on March 17, 2017 and March 22, 2017, respectively. On March 23, 2017, the Philadelphia Industrial and Commercial Gas Users Group (PICGUG) filed a Formal Complaint. The Tenant Union Representative Network and Action Alliance of Senior Citizens of Great Philadelphia (TURN *et al.*) filed a Petition to Intervene in this proceeding on March 24, 2017.

By Order entered March 16, 2017, the Commission instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rates, suspended Supplement No. 100 by operation of law until November 28, 2017, and assigned the matter to the Office of Administrative Law Judge. This filing was further assigned to Administrative Law Judges Christopher P. Pell and Marta Guhl (ALJs) for the scheduling of hearings. On March 27, 2017, PGW filed Supplement No. 103 to PGW's Gas Service Tariff- Pa. P.U.C. No. 2, suspending the effectiveness of rates proposed in Supplement No. 100 until November 28, 2017, consistent with the Commission's March 16, 2017 Order. On March 29, 2017, the ALJs convened a telephonic Prehearing Conference, at which time a litigation schedule was established.

On March 31, 2017, PGW filed a Motion for Protective order. Also on March 31, 2017, PGW filed an Answer opposing the Petitions to Intervene of both CAUSE-PA and TURN *et. al.*

On April 5, 2017, CAUSE-PA and TURN et. al. filed responses to PGW's Answer opposing their respective Petitions to Intervene. The OCA and I&E also filed responses on April 5, 2017 to PGW's Answers. The ALJs granted the Petitions to Intervene of CAUSE-PA and TURN *et. al* on April 7, 2017. On April 19, 2017, the ALJs granted PGW's Motion for Protective Order.

Pursuant to the litigation schedule, Public Input Hearings were held on May 9-10, 2017.

On May 16, 2017, the following parties served Direct Testimony: the OCA (Direct Testimonies of Ashley E. Everette, OCA Statement No. 1; David S. Habr, OCA Statement No. 2; Jerome D. Mierzwa, OCA Statement No. 3; and Roger D. Colton, OCA Statement No. 4);<sup>1</sup> I&E (Direct Testimonies of Rachel Maurer, I&E St. No. 1; Christopher Keller, I&E St. No. 2; and Kokou M. Apetoh, I&E St. No. 3); OSBA (Direct Testimony of Robert D. Knecht, OSBA St. No. 1); RESA (Direct Testimonies of Anthony Cusati, RESA St. No. 1 and Orlando (Randy) Magnani, RESA St. No. 2); and PICGUG (Direct Testimonies of Richard A. Baudino, PICGUG

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<sup>1</sup> Ashley Everette is a regulatory analyst employed by the Pennsylvania Office of Consumer Advocate. Ms. Everette received her Bachelor's degree in Economics and her Master's degree in Business Administration from the University of Illinois. Ms. Everette's educational background and qualifications are described in OCA St. 1, Appendix A.

Dr. David Habr is the owner of Habr Economics, a consulting firm founded in January 2009 that focuses on cost of capital and mergers and acquisitions. Dr. Habr received a Bachelor of Arts and a Master of Arts degree in economics from the University of Nebraska- Lincoln and a Ph.D. degree in Economics from Washington State University. Dr. Habr's professional background and qualifications are described in OCA St. 2, Exh. DSH-1.

Mr. Jerome D. Mierzwa is a Principal and Vice President of Exeter Associates, Inc., which specializes in providing public utility-related consulting services. Mr. Mierzwa received a Bachelor of Science Degree in Marketing and a Master's degree in Business Administration with a concentration in finance from Carnisius College. Mr. Mierzwa's professional background and qualifications are described in OCA St. 3, Appendix A.

Mr. Roger D. Colton is a Principal of Fisher Sheehan & Colton, Public Finance and General Economics of Belmont, where he provides technical assistance to a variety of federal and state agencies, consumer organizations, and public utilities on rate and customer service public utility issues. Mr. Colton received his Bachelor's degree from Iowa State University, his J.D. from the University of Florida, and his Master's degree in regulatory economics from MacGregor School. Mr. Colton's professional experience and qualifications are described in OCA St. 4, Appendix A.

St. No. 1 and Kurt Bresser, PICGUG St. No. 2). On May 19, 2017, TURN *et. al.* submitted its Direct Testimony (Direct Testimony of Harry S. Geller, Turn *et. al.* St. No. 1).<sup>2</sup>

On May 22, 2017, PGW filed a Motion in Limine seeking to exclude certain portions of the testimony of Roger D. Colton submitted by the OCA. The OCA filed its Response to PGW's Motion on May 25, 2017. The ALJs denied PGW's Motion in Limine on May 26, 2017.

On May 31, 2017, I&E served the Amended Direct Testimony of Rachel Maurer, I&E St. 1 (Amended). On June 2, 2017, the OCA served the Revised Direct Testimony of Roger D. Colton, OCA St. No. 4 (Revised). On June 7, 2017, TURN *et. al.* served the Revised Direct Testimony of Harry S. Geller, TURN *et al.* St. No. 1 (Revised).

On June 9, 2017, the following parties served Rebuttal Testimony: PGW (Rebuttal Testimonies of Gregory Stunder, PGW St. No. 1-R; Joseph F. Golden, JR, PGW St. No. 2-R; Daniel J. Hartman, PGW St. No. 3-R; Frank C. Graves, PGW St. No. 4-R; Philip Q. Hanser, PGW St. No. 5-R; Kenneth S. Dybalski, PGW St. No. 6-R; Douglas A. Moser, PGW St. No. 7-R; Florian Teme, PGW St. No. 8-R; Denise Adamucci, PGW St. No. 9-R; Bernard L. Cummings, PGW St. No. 10-R; and H. Gil Peach, PGW St. No. 11-R); the OCA (Rebuttal Testimony of Jerome D. Mierzwa, OCA St. No. 3-R; Roger D. Colton, OCA St. No. 4-R; and Barbara R. Alexander,<sup>3</sup> OCA St. No. 5-R), I&E (Rebuttal Testimonies of Rachel Maurer, I&E St. No. 1-R and Kokou M. Apetoh, I&E St. No. 3-R), OSBA (Rebuttal Testimony of Robert D. Knecht), PICGUG (Rebuttal Testimonies of Richard A. Baudino (PICGUG St. No. 1-R and Kurt

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<sup>2</sup> The ALJs granted a request by CAUSE-PA for an extension on the Direct Testimony deadline due to missing discovery responses.

<sup>3</sup> Ms. Barbara R. Alexander is a Consumer Affairs Consultant who runs her own consulting practice, Barbara Alexander Consulting LLC. She received her Bachelor of Arts degree from the University of Michigan and her J.D. from the University of Maine School of Law. Ms. Alexander's professional experiences and qualifications are identified in OCA St. 5-R, Exhibit BA-1.

Bresser, PICGUG St. No. 2-R), and TURN et. al. (Rebuttal Testimony of Harry S. Geller, TURN et. al. Statement No. 1-R).

On June 22, 2017, the following parties served Surrebuttal Testimony: PGW (Surrebuttal Testimonies of Philip Q. Hanser, PGW St. No. 5-SR and Douglas A. Moser, PGW St. No. 7-SR); the OCA (Surrebuttal Testimonies of Ashley E. Everette, OCA Statement No. 1-S; David S. Habr, OCA Statement No. 2-S; Jerome D. Mierzwa, OCA Statement No. 3-S; and Roger D. Colton, OCA Statement No. 4-S); I&E (Surrebuttal Testimonies of Rachel Maurer, I&E St. No. 1-SR; Christopher Keller, I&E St. No. 2-SR and Kokou M. Apetoh, I&E St. No. 3-SR); OSBA (Surrebuttal Testimony of Richard D. Knecht, OSBA St. No. 1-S), RESA (Surrebuttal Testimonies of Anthony Cusati, RESA St. No. 1-SR and Orlando (Randy) Magnani, RESA St. No. 2-SR), PICGUG (Surrebuttal Testimony of Michael Ferman, PICGUG St. No. 3), Turn et. al. (Surrebuttal Testimony of Harry S. Geller, TURN et. al. Statement No. 1-SR).

On June 23, 2017, PGW filed a Motion to Strike Certain Portions of the Testimony of Harry S. Geller submitted by TURN *et al.* On June 26, 2017, TURN et. al. filed its Answer to PGW's Motion to Strike, I&E filed a letter supporting PGW's Motion to Strike, and CAUSE-PA filed a letter opposing PGW's Motion to Strike. On June 27, 2017, the ALJs denied PGW's Motion to Strike Certain Portions of the Testimony of Harry S. Geller.

Also on June 26, 2017, PGW served Rejoinder (Rejoinder Testimonies of Gregory Stunder, PGW St. No. 1-RJ; Bernard L. Cummings, PGW St. No. 10-RJ; and H. Gil Peach, PGW St. No. 11-RJ).

An evidentiary hearing was held on June 28, 2017. At the hearing, the parties agreed to waive cross-examination of all other party witnesses, and the pre-served, written testimony was admitted into the record.

The parties engaged in a number of settlement discussions during the course of this proceeding. As a result of these settlement discussions, the Company, the OCA, I&E, OSBA, RESA, PICGUG, CAUSE-PA, and TURN *et al.* were able to agree to resolve certain contested issues in this proceeding, resulting in the partial Settlement terms and conditions that were filed in this proceeding on July 21, 2017. The parties have reserved for litigation issues related to the payment posting and allocation of universal service costs. Accordingly, the OCA will brief these issues in the sections below.

## II. BURDEN OF PROOF AND LEGAL STANDARD

PGW bears the burden of proof to establish the justness and reasonableness of every element of its requested rate increase. As set forth in Section 315(a) of the Public Utility Code:

Reasonableness of rates – In any proceeding upon the motion of the Commission, involving any proposed or existing rate of any public utility, or in any proceedings upon the complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.

66 Pa. C.S. § 315(a). The Commonwealth Court has stated:

Section 315(a) of the Public Utility Code, 66 Pa. C.S. § 315(a), places the burden of proving the justness and reasonableness of a proposed rate hike squarely on the utility. It is well-established that the evidence adduced by a utility to meet this burden must be substantial.

Lower Frederick Twp. v. Pa. PUC, 48 Pa. Commw. 222, 226-27, 409 A.2d 505, 507 (1980) (citations omitted). See also, Brockway Glass v. Pa. PUC, 63 Pa. Commw. 238, 437 A.2d 1067 (1981).

The Pennsylvania Supreme Court has stated that the party with the burden of proof has a formidable task to show that the Commission may lawfully adopt its position. Even where a party has established a prima facie case, the party with the burden of proof must establish that “the elements of that cause of action are proven with substantial evidence which enables the party asserting the cause of action to prevail, precluding all reasonable inferences to the contrary.” Burleson v. Pa. PUC, 461 A.2d 1234, 1236 (Pa. 1983). Furthermore, it is well-established that the “degree of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of the evidence.” Lansberry v. Pa. PUC, 578 A.2d 600, 602 (Pa. Commw. 1990). Additionally, the evidence must be substantial and legally credible, and cannot be mere “suspicion” or a “scintilla” of evidence. Lansberry, 578

A.2d at 602. Thus, a utility has an affirmative burden to establish the justness and reasonableness of every component of its rate request.

The OCA notes that Pennsylvania law is clear that there is no similar burden for a party proposing an adjustment to a utility base rate filing. See, e.g., Berner v. Pa. PUC, 382 Pa. 622, 116 A.2d 738 (1955). In Berner, the Pennsylvania Supreme Court stated:

[T]he appellants did not have the burden of proving that the plant additions were improper, unnecessary or too costly; on the contrary, that burden is, by statute, on the utility to demonstrate the reasonable necessity and cost of the installations and that is the burden which the utility patently failed to carry.

Berner, 382 Pa. at 631, 116 A.2d at 744. The Commission recognizes this standard in its rate determinations. Pa. PUC v. Equitable Gas Co., 57 Pa. PUC 423, 471 (1983). See also University of Pennsylvania v. Pa. PUC, 86 Pa. Commw. 410, 485 A.2d 1217 (1984); Pa. PUC v. PPL Elec. Util. Corp., 237 PUR4th 419 (Pa. PUC 2004). Thus, it is unnecessary for the OCA (or any challenger) to prove that PGW's proposed rates are unjust, unreasonable, or not in the public interest. To prevail in its challenge, Pennsylvania law requires only that the OCA show how PGW failed to meet its burden of proof. While subtle, this critical distinction shows that parties opposing a utility in a rate proceeding need only to shift the burden of going forward to prevail. The burden of proof will not shift to an intervener that is challenging the requested rate increase. Pa. PUC v City of Bethlehem, 2011 Pa. PUC LEXIS 190, \*11 (2011).

In conclusion, PGW must affirmatively demonstrate the reasonableness of every element of its claims and demonstrate that its proposed rates are just, reasonable, and in the public interest. The OCA will show that PGW's payment posting sequencing is contrary to the Commission's regulations and Section 1501 of the Public Utility Code and that OSBA's proposed re-allocation of the universal service program to only residential customers should be rejected.

### III. SUMMARY OF ARGUMENT

On July 21, 2017, the parties filed a Joint Petition for Partial Settlement which has resolved all issues in this proceeding with the exception of the two addressed in this Brief. The issues reserved for litigation are: (1) the Company's payment prioritization practices and (2) allocation of universal service costs. The OCA submits that as discussed below, PGW should be required to change its payment posting process to comply with the Commission's regulations and to modify its tariff to reflect the change. The OCA submits that PGW should also maintain its 25-year historic practice of allocating the costs of its universal service program to all firm service customers.

The OCA submits that PGW's payment posting sequencing is contrary to the Commission's regulations and Section 1501 of the Public Utility Code. See, 52 Pa. Code §§ 56.1, 56.22, 56.23, 56.24; 66 Pa. C.S. § 1301, 1303. PGW's payment posting results in the accumulation of interest on late payments which exceeds the Commission's requirements set forth in Section 56.22. 52 Pa. Code § 56.22. Accordingly, the OCA submits that the Commission should order PGW to change its payment prioritization process to comply with the Commission mandate set forth in Section 56.22 of the Commission's regulations that late fees represent annual simple interest, rather than posting payments to generate the same effect as compound interest. 52 Pa. Code § 56.22. The OCA also submits that the Commission should require PGW to apply payments against bills in the order and timing in which they occurred.

The historic allocation of universal service costs to all PGW firm service customers should be maintained. OSBA witness Knecht recommends that PGW's 25 year practice of allocating universal service costs to all firm service customers be changed in this proceeding. OSBA witness Knecht proposes to change the allocation of universal service costs from all firm



service customers to only residential customers. The OSBA has failed to present compelling evidence in this proceeding as to why this practice should be changed.

While under the jurisdiction of the Public Utility Commission for the last 17 years, and through numerous base rate cases, the Commission has maintained the historic allocation of universal service costs to all firm service customers. The OCA submits that maintaining the historic allocation to all firm service customers is fair and reasonable. Moreover, if OSBA's proposal was adopted, Mr. Knecht's proposal would shift approximately \$11.6 million on to the residential class in addition to the rate increase that residential customers will experience as a result of this case. The re-allocation of the costs of the universal service program to only residential customers would cause rate shock and would significantly impact PGW the residential customers who do not have the financial ability to absorb the costs of the program alone.

#### IV. ARGUMENT

##### A. Partial Payment Allocation Practices.

##### 1. PGW's Sequencing Of Residential Customer Charges Violates The Commission's Regulations And The Public Utility Code.

The OCA submits that PGW's application of its tariff language regarding the sequencing of residential customer payments violates Sections 56.1, 56.22, 56.23, and 56.24 of the Commission's regulations and Sections 1301 and 1303 of the Public Utility Code. 52 Pa. Code §§ 56.1, 56.22, 56.23 56.24; 66 Pa. C.S. §§ 1301, 1303. The practice of sequencing payments involves sequencing the "posting order" of partial consumer payments, *i.e.*, payments that do not pay the entire bill or the entire arrearage. OCA St. 4 at 36. The problem with PGW's application of partial payments to the customer bill is twofold.

First, PGW sequences residential payments to apply partial payments against newer non-interest-bearing late charges before applying the payments against older interest-bearing principal contrary to the requirements of the Commission's regulations and the Public Utility Code. OCA St. 4 at 35. As OCA witness Colton testified, "[b]eing limited in the interest rate allowed, PGW's sequencing of the posting of payments maximizes the size of the unpaid bill against which that interest rate would be charged." OCA St. 4 at 35 (Revised). For example, if the customer incurs late fees in January, February, and March, and the customer makes a partial payment in March, the partial payment will go towards the late fees assessed in each of the months of January, February, and March first until the late fees are zeroed out. Only after all of the non-interest bearing late fees are zeroed out will the partial payment be applied towards the original January balance. This order of the sequencing of the payments results in annual interest on arrearages that exceeds the maximum amount of interest allowed to be charged to customers and increases the overall amount the consumer must pay. OCA St. 4 at 36.

Second, PGW does not apply the payments to the older balances first, so therefore, the amount of interest charged to the customer is increased. As OCA witness Colton testified:

[s]ince PGW is barred by law from imposing late charges on late charges, PGW's choosing to post customer payments against more recent late charges before retiring older charges for principal artificially inflates total costs to the customer. It leaves older interest-bearing charges outstanding while retiring newer non-interest bearing charges. The continuing growth in the outstanding interest-bearing principal, while newer non-interest-bearing late charges are zeroed out by customer payments, is clearly demonstrated in Schedule RDC-1, page 2 of 2.

OCA St. 4 at 37-38; see, revised schedule, OCA St. 4-S at Sch. RDC-1SR. Under the example used above, the existing late fees will be zeroed out, but if the partial payment is not sufficient to satisfy any principal balance that was accumulated during January the customer will continue to accrue new interest on the accumulating principal balance. PGW charges interest on the interest-bearing principal.

The OCA submits that PGW should be applying the partial payments to the oldest balances first. For example, if customer owes \$101.50 in January (\$100 principal plus \$1.50 late fees), \$101.50 in February (\$100 principal plus \$1.50 late fees), and makes a partial payment of \$101.50 in February, the \$101.50 should be applied to the January balance bucket. The customer's January balance should be zeroed out first, so the customer does not continue to carry forward the January balance. Under PGW's current method, however, the \$1.50 late fees for January and February are zeroed out first, so the \$101.50 payment does not zero out the January principal balance. Instead, a \$1.50 of January's principal balance is carried forward, and there will be another late payment charge assessed to that January balance because it has not been zeroed out. For annual impact, see complete example, OCA St. 4-S at Sch. RDC-1SR. The Company's methodology allows interest to be assessed on balances that have already been assessed interest.

In order to address the problem created by PGW's payment sequencing methodology, the OCA recommends that PGW should be required to change its payment prioritization process to comply with the Commission mandate set forth in Section 56.22 of the Commission's regulations that late fees represent annual simple interest rather than posting payments to generate the same effect as compound interest. 52 Pa. Code § 56.22. The OCA also submits that the Commission should require PGW to apply payments against bills in the order and timing in which they occurred.

Mr. Colton's proposed sequencing of payments is consistent with the requirements identified in the Commission's regulations.<sup>4</sup> Sections 56.22 and 56.24 of the Commission's regulations address the issue of late payment charges and the sequencing of partial payments. 52 Pa. Code §§ 56.22, 56.24. Section 56.22 of the Commission's regulations states:

(a) Every public utility subject to this chapter is prohibited from levying or assessing a late charge or penalty on any overdue public utility bill, as defined in § 56.21 (relating to payment), in an amount which exceeds 1.5% interest per month on the overdue balance of the bill. These charges are to be calculated on the overdue portions of the bill only. The interest rate, when annualized, may not exceed 18% simple interest per annum.

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<sup>4</sup> PGW's commercial payment prioritization has been brought before the Commission in a separate complaint proceeding brought by commercial landlords. The Commission determined in the SBG case that the Company violated Section 1501 of the Public Utility Code and Section 56.22 of the Commission's regulations. SBG Management Order at 3, citing 66 Pa. C.S. § 1501 and 52 Pa. Code § 56.22.<sup>4</sup> OCA witness Colton testified regarding the SBG case:

By Order dated December 8, 2016, the PUC adopted the Initial Decision in a PGW complaint proceeding. That Initial Decision had held: "PGW's application of partial payments out of order so that the most recent late payment charges are being paid before the gas charges due for prior service constitutes a failure to provide adequate and reasonable service in accordance with 66 Pa. C.S.A. § 1501, as well as a violation of 52 Pa. Code [§] 56.22." (Docket No. C-2012-2304183, Opinion and Order, at 3). While the PUC has granted a PGW motion to reconsider its holding, nonetheless, PGW's process of resequencing customer payments to apply them to customer bills out-of-time in order to maximize the level of bills, and the receipt of revenue, has been held to be unlawful.

OCA St. 4 at 37, citing SBG Management Services/Colonial Garden Realty Company v. PGW, Docket No. C-2012-2304183, C-2012-2304324 (consolidated), Order (December 8, 2016)(SBG Management Order).

52 Pa. Code § 56.22.

The result of PGW's methodology is that customers may be overcharged beyond the limits provided under Section 56.22 of the Commission's regulations. As OCA witness Colton testified, the manner in which PGW sequences its payments results in the *effect* of a compound interest that exceeds the 18% limit set forth in Section 56.22 of the Commission's regulations.

52 Pa. Code § 56.22. In fact, the customer can end up effectively being charged an annual interest of 19.562% as a result of the sequencing of the customer payments. OCA St. 4-S at 19; OCA St. 4 at 38. OCA witness Colton testified:

This sequencing occurs within the context of PUC regulations which state that PGW may not charge a late fee exceeding 18% annual simple interest. In saying "simple interest," what the PUC has said is that a utility may not charge a late fee on unpaid late fees. That would be "compound interest." Being limited in the interest fee allowed, PGW's sequencing of the posting of payments maximizes the size of the unpaid bill against which that interest would be charged.

OCA St. 4 at 35. OCA witness Colton explained, "[i]n short, the practice posts payments against transactions in a specified sequence. That sequence can have an impact on the amount the consumer must pay." OCA St. 4 at 36.

Section 56.22 must operate consistent with the application of partial payments as identified in Sections 56.23 and 56.24 of the Commission's regulations. 52 Pa. Code §§ 56.22, 56.23, 56.24. Section 56.23 of the Commission's regulations requires that:

Payments received by a public utility without written instructions that they be applied to merchandise, special services, meter testing fees or other nonbasic charges and which are insufficient to pay the balance due for the items plus amounts for basic utility service shall be first be applied to the basic charges for residential public utility service.

52. Pa. Code § 56.23. Basic service for natural gas is defined as the "services necessary for the physical delivery of natural gas to a retail customer, consisting of natural gas distribution services and natural gas supply services." 52 Pa. Code § 62.72.

Section 56.24 of the Commission's regulations states:

In the absence of written instructions, a disputed bill or a payment agreement, payments received by a public utility which are insufficient to pay a balance due both for prior service and for service billed during the current billing period shall first be applied to the balance due for prior service.

52 Pa. Code § 56.24. Section 56.24 requires that the payment be applied first to the amount due for prior service.

The finance charges on late payments is set forth in Section 4.2 of PGW's tariff. Section 4.2 states:

Finance Charge on Late Payments. PGW will assess a late penalty for any overdue bill, in an amount which does not exceed 1.5% interest per month on the full unpaid and overdue balance of the bill. These charges are to be calculated on the overdue portions of PGW Charges only. The interest rate, when annualized, may not exceed 18% simple interest per annum. Late Payment Charges will not be imposed on disputed estimated bills, unless the estimated bill was required because utility personnel were unable to access the affected premises to obtain an Actual Meter Reading.

Section 4.2, Supplement No. 84, Gas Service Tariff – Pa. P.U.C. No. 2, Second Revised Page No. 26. The language of the tariff *per se* is not inconsistent with the requirements of Section 56.22 because the tariff provision establishes the same 1.5% monthly late fee and 18% simple interest per annum as required by Section 56.22 of the Commission's regulations. PGW's application of its tariff provision, however, is inconsistent with the Commission's regulations. While Section 56.22 and PGW's tariff establish an upper limit of 18% simple interest per annum for late payment charges, it is undisputed in this proceeding that under PGW's payment posting methodology, customers actually may effectively be charged up to 19.562% per annum. See, OCA St. 4-S at 18. This difference is solely due to PGW's payment posting methodology.

These two important factual assertions underlying OCA witness Colton's testimony have been confirmed by Company witness Cummings' Rebuttal Testimony: (1) how PGW sequences

its payments and (2) that customers may be charged more as a result of the sequencing. See, PGW St. 10-R at 7; OCA St. 4-S at 18. PGW witness Cummings agreed that:

When partial payments are received, they are posted according to a hierarchy: deposit if required is posted first; then any outstanding late payment charges are satisfied; and then the remaining balance of the payment is posted to the oldest money...

PGW St. 10-R at 7. PGW does not apply the partial payment first to the charges for basic service. Instead, the Company allocates a partial payment in a manner that causes interest charges to increase. PGW witness Cummings acknowledged this fact and testified that “I do not disagree that a customer may ultimately pay more for services when late payment charges are zeroed out before partial payments are posted to ‘principal.’” PGW St. 10-R at 15. As OCA witness Colton testified:

These two statements taken in combination confirm that, as I first stated in my Direct Testimony, that PGW posts customer payments in a manner such that non-interest-bearing late payment charges are retired before interest-bearing bills are, even if the interest-bearing bills were incurred at an earlier time.

OCA St. 4-S at 18. OCA witness Colton recommends that instead “Charges appearing on a customer’s bill in January, for example, will be retired before charges appearing on a customer’s bill in April (and so on) irrespective of whether they are charges for current service or late payment charges.” OCA St. 4-S at 22.

PGW applies the partial payment first to the deposit, then to late fees, and then to the remaining balance for basic service. PGW St. 10-R at 7. The OCA submits that this application of partial payments is contrary to Section 56.24 because the sequencing requires that the payments “first be applied to the balance due for prior service.” The customer’s interest-bearing late fees are not prior service or basic service. Basic service is defined under the Commission’s regulations as “services necessary for the delivery of natural gas to a retail customer.” 52 Pa.

Code § 62.72. The most basic of services, the delivery of the natural gas commodity, is, in fact, the last cost to be covered in PGW's sequencing methodology.

On Schedule RDC-1(SR) of his Surrebuttal Testimony, OCA witness Colton presents an example of how PGW posts its payments and the dollar impact on residential customers.<sup>5</sup> The result of PGW's ordering of customer payments is that the more recent late payment charges are paid before older unpaid principal balances are paid, contrary to the language stated in Section 56.24. Mr. Colton testified:

Schedule RDC-1 documents that PGW posts all customer payments so that they reduce an accumulated late fee balance to \$0 before applying customer payments to any balance for current usage.

OCA St. 4 at 36. OCA witness Colton explained:

In the illustrative scenario in Schedule RDC-1 (page 1 of 2), for example, at the time of the April 10<sup>th</sup> payment, by paying the cumulative late payment balance before paying any principal, the March late payment charge is paid before the January principal is paid.

Since PGW is barred by law from imposing late charges on late charges, PGW's choosing to post customer payments against more recent late charges before retiring older charges for principal artificially inflates total costs to the customer. It leaves older interest-bearing charges outstanding while retiring newer non-interest bearing charges. The continuing growth in the outstanding interest-bearing principal, while newer non-interest-bearing late charges are zeroed out by customer payments, is clearly demonstrated in Schedule RDC-1, page 2 of 2.

OCA St. 4 at 37-38; see also, revised schedule, OCA St. 4-S at Schedule RDC-1 (SR).

PGW's payment sequencing results in the *effect* of an interest rate on late payments that exceeds Section 56.22 of the Commission's regulations. The limit set forth in Section 56.22 is a maximum annual simple interest per annum of 18%. As Mr. Colton testified, "the PGW payment posting process generates the same effect as charging an interest rate of 19.562%."

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<sup>5</sup> OCA witness Colton revised the schedule included in OCA St. 4, Schedule RDC-1(SR) to correct errors of arithmetic. As OCA witness Colton identifies in Surrebuttal Testimony, the arithmetic errors did not impact the analysis or the conclusions presented in his Direct Testimony. OCA St. 4-S at 19.



OCA St. 4-S at 19; OCA St. 4 at 38. The OCA submits that the difference between the annual 1.5% rate simple interest and the 1.5% rate compounded violates Section 56.22 of the Commission's regulations.

PGW's proposal is also inconsistent with Section 1303 of the Public Utility Code which prohibits any public utility from "directly or indirectly, by any device whatsoever, or in anywise, demand or receive from any person, corporation, or municipal corporation a greater or less rate for any service rendered or to be rendered by such public utility than that specified in the tariffs." 66 Pa. C.S. § 1303. PGW's tariff states that the maximum interest rate that can be charged on an annual basis is 18% simple interest per annum. Section 4.2, Supplement No. 84, Gas Service Tariff – Pa. P.U.C. No. 2, Second Revised Page No. 26. It is undisputed in this proceeding that PGW's methodology results in a customer effectively being charged an annual interest rate of 19.562% in excess of the specified tariff interest rate of 18%.

OCA witness Colton also testified that the payment posting order violates Section 1301 requirement of just and reasonable rates for the following reasons:

First, there is no cost basis for allowing PGW to sequence payment posting to apply payments against more recent non-interest-bearing late charges before applying them against older interest-bearing principal.

- The time it takes to engage in collection efforts does not differ based upon the composition of an unpaid balance as between unpaid principal and unpaid late charges.
- The type of collection effort invoked does not differ based on the composition of an unpaid balance between unpaid principal and unpaid late charges.
- Different staff persons are not used for collections based upon the composition of an unpaid balance (between late charges and principal).
- The cost of money does not differ based upon the composition of an unpaid balance (between late charges and principal).

In short, from a cost and revenue perspective, the only difference between one unpaid balance comprised of a higher amount of unpaid principal and another unpaid balance comprised of a higher amount of unpaid late charges, all other things equal, is that the balance with the higher amount of unpaid principal will generate higher late fee revenue for the Company. In short, no cost basis exists to justify sequencing the customers' payments so as to apply the customers' payments to utility bills out-of-time. The lack of a cost basis is one more element demonstrating that the PGW practice of sequencing payments fails the just and reasonable test.

OCA St. 4 at 39-40.

The OCA would also note that Section 56.1 specifically identifies that “[p]ublic utilities shall utilize the procedures in this chapter to effectively manage customer accounts to prevent the accumulation of large, unmanageable arrearages.” (emphasis added). 52 Pa. Code § 56.1. When given alternative choices on how to treat customer payments, the Commission has consistently chosen the alternative that would minimize the need to impose late charges. 52 Pa. Code § 56.21(2)(i). Mr. Colton provided the following examples:

- For remittances by mail, “payment shall be deemed to have been made on the date of the postmark.” The PUC, in other words, does not allow PGW to maximize fees by assigning the payment date to the date a payment was received (let alone to the date when a customer payment was both received and processed).
- In the absence of payment by mail, “the effective date of payment to a branch office or authorized payment agent . . . is the date of actual receipt of payment at that location.” Again, the regulations are designed to apply money against an account in as expeditious manner as possible to meet the objective, quoted above, of “prevent[ing] the accumulation of large, unmanageable arrearages.” The regulations do not allow a holding period by the branch office (or payment agent) before payments are applied against a customer’s balance. Nor does the PUC allow for a delay between when payments are “actually received” and when those payments are applied against customer accounts.

These principles are applied across-the-board. If a utility payment is made by check, the payments must be credited on the day the check is delivered, not when it is cashed. If a check is delivered “after hours” to the utility, the payment is as of the date of delivery. Checks received on one day may not be dated on the following day for purposes of administrative convenience.

OCA St. 4 at 41-42 (footnotes omitted). OCA witness Colton further testified:

It would be inconsistent, at best, for the PUC to address the day of payment receipt by PGW, and then to allow PGW to apply that payment out-of-time by months. It would be inconsistent to require PGW to post a mailed payment upon mailing rather than a few days later upon receipt, and then to allow PGW to apply that payment to bills out-of-time by months. It would be just as inconsistent to require PGW to deem a payment received upon receipt by a third-party payment agent, but then to allow PGW to maximize late fees by applying that payment to more recent non-interest bearing late fees before posting those payments against older interest-bearing principal. It would be inconsistent for the PUC to require that a payment be deemed received “today” rather than “tomorrow” when received late in the day, but then to allow PGW to post that payment to pay bills months out-of-time.

OCA St. 4 at 42.

The OCA submits that due to their financial situation, low-income customers are likely to be disproportionately impacted by PGW’s payment sequencing methodology. Mr. Colton testified:

In 2015, the last year for which BCS has reported data (published in 2016), PGW had 80,205 residential customers in debt, owing an average monthly arrears of \$48.3 million. Of these total residential customers in debt, 13,169 were Confirmed Low-Income customers, owing an average of \$14.96 million each month. Clearly, to the extent that PGW is resequencing customer payments to post those payments against unpaid bills out-of-time with the date on which those bills were accrued, the financial impact on residential customers generally, and on Confirmed Low-Income customers specifically, would be substantial.

OCA St. 4 at 42-43.

The OCA submits that the Company cannot be permitted to continue a practice that violates the Commission’s regulations and the Public Utility Code simply because it will cost the Company time and money to come into compliance with the law. PGW witness Cummings testified that the Commission should not hold PGW’s payment posting practices to be unlawful because the payment posting practices “have been in place for many years and are embedded in

PGW's billing system...The timeframe and costs involved – which will be passed along to customers – are significant.” PGW St. 10-R at 20. OCA witness Colton responded:

This assertion has two problems associated with it. First, to the extent that Mr. Cummings suggests that PGW should be allowed to continue an unlawful posting of customer payments out-of-sequence to the time those bills were incurred because it might, in the opinion of the Company, cost too much to change the Company's processes and procedures, I disagree. The cost of changing an unlawful process and/or procedure does not justify continuing that unlawful process and/or procedure. Second, Mr. Cummings errs when he suggests that the costs associated with changing an unlawful practice “will be passed along to customers.” Just as fines for unlawful practices are not chargeable to ratepayers, the costs associated with changing the Company's payment posting practices (to the extent the PUC finds that payment posting practice to be unlawful) should not be chargeable to ratepayers either.

OCA St. 4-S at 22-23.

The OCA submits that PGW's payment posting practices are wholly inconsistent with the Commission's regulations and the Public Utility Code. See, 52 Pa. Code §§ 56.1, 56.22, 56.23 56.24; 66 Pa. C.S. §§ 1301, 1303. PGW should be required to change its payment posting methodology and provide customers with effective notice of that payment posting methodology in the Company's tariff. The OCA recommends that the Commission eliminate PGW's practice of posting payments out of sequence in a manner that maximizes the interest on late payment charges. PGW should be required to apply payments against bills in the order and timing in which they occurred.

The OCA submits that PGW must then also commit its payment posting process to a Commission-approved tariff so that the application of its tariff does not exceed the Commission's regulations and the Public Utility Code. OCA witness Colton testified:

The first purpose of placing the posting order in a tariff means that residential customers have been placed on notice of what the posting order is and, just as importantly, how a bill would be calculated. In addition, placing the positing order in a tariff allows the PUC to review its lawfulness and its reasonableness.

OCA St. 4 at 38. The OCA submits that this language is necessary to ensure that the effect of PGW's policies do not exceed the Commission's maximum late payment interest requirements.

2. Conclusion

The OCA submits that PGW's payment sequencing has the effect of compounding the interest on late payments, increases the costs to residential ratepayers in arrears, and results in a violation of the Commission's regulations and the Public Utility Code. See, 52 Pa. Code §§ 56.1, 56.22, 56.23 56.24; 66 Pa. C.S. §§ 1301, 1303. The OCA recommends that the Company should be required to change its method of posting payments to apply payments against bills in the order and timing in which they occurred. PGW should also be required to revise its tariff to explain its payment posting prioritization policies.

B. Allocation of Universal Service Cost Recovery

1. Introduction

Historically, PGW has allocated its universal service costs to all firm service customer classes and collects these costs through the Universal Service and Energy Conservation Charge (USEC). In this case, PGW has recommended continuation of the allocation of the USEC to all firm service customers. PGW St. 6-R at 2-5. The continuation of this allocation is fully in accord with the Commission's decisions over the last 17 years in every PGW proceeding to continue the traditional recovery of these universal service costs from all firm service customers. Pa. PUC v. PGW, Docket No. M-00021612, Order at 89-93 (March 31, 2003); Pa. PUC v. Philadelphia Gas Works, Docket No. R-00061931, Order at 137 (September 28, 2007).<sup>6</sup>

In this case, OSBA witness Knecht again proposes that PGW change the way in which the Company has historically allocated its universal service costs and recover those costs solely

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<sup>6</sup> The OCA notes that the issue of the allocation of the universal service costs was addressed by settlement in the 2009 base rate proceeding at Docket No. R-2009-2139884.

from residential customers. OSBA St. 1 at 32-36. OSBA has not presented any compelling evidence to demonstrate that 25 years of historic practice for this City-owned utility should be changed. The OCA submits that PGW's proposal to continue to collect its universal service costs from all firm service customers should be approved.

2. PGW's Proposal To Maintain The Historic Practice Of Cost Recovery From All Firm Service Customers Is Reasonable And Should Be Approved.
  - a. PGW's Historic Allocation Of Universal Service Costs Is Well-Supported And Promotes The Public Good.

Mr. Knecht's arguments to change PGW's historic allocation of universal service costs are grounded in the notion that only those customers eligible to participate in a program should pay for the program. Taken to its logical conclusion, even most residential customers should not pay for the programs as they, too, cannot participate in the program if their income is above 150% of the Federal Poverty Level. What Mr. Knecht's argument ignores is the public good and the broad based benefits of PGW's universal service program and the ratemaking treatment that should be accorded costs incurred for the public good. Initially, it must be recognized that universal service programs are programs that promote the public good. OCA witness Colton explained the basic ratemaking associated with public goods as follows:

One well-accepted tenet of utility ratemaking is that certain expenses incurred by a public utility are for "public goods." Due to the nature of public goods, all customers receive benefits from public goods and, accordingly, the costs of such goods are spread over all customer classes. Each end user makes a financial contribution to the utility's delivery of public goods. The "public goods" doctrine is applied in a variety of settings as a justification to spread designated utility costs over all customer classes. Each end user makes a financial contribution to the utility's delivery of public goods. The "public goods" doctrine is applied in a variety of settings as a justification to spread designated utility costs over all customer classes.

OCA St. 4-R at 14-15.

The OCA submits that a product can represent a “public good” even though direct service is provided to an individual. OCA St. 4-R at 15. The Natural Regulatory Research Institute (NRRI) has defined a public good in the utility context. OCA St. 4-R at 15. OCA witness Colton testified regarding the NRRI definition of public good:

A public good can be defined as “any publicly induced or provided collective good” that “arise[s] whenever some segment of the public collectively wants and is prepared to pay for a different bundle of goods and services than the unhampered market will produce.” (note omitted). In sharp contrast to the private-good model..., the emphasis of the public-good model is on the total societal benefits – both direct and indirect – associated with network modernization [emphasis in original omitted]. As applied to the telecommunications network, the public-good model is based upon the premise that the costs of achieving and supporting a modern, state-of-the-art network infrastructure are ultimately borne by the general body of ratepayers as opposed to limited subsets of customers who exhibit a high demand for specific new services. The public-good model is conducive to establishing social policies which provide for a “supply driven definition” of infrastructure.

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Under the public-good model, infrastructure investment[s] that are in the “public interest” are mandated by regulatory commissions, which act as surrogates for marketplace forces for the very reason that those forces break down either because of the enormous risks involved because of uncertainty with respect to costs and demand or both, or because of the intangible or unmeasurable societal benefits which are not valued by the marketplace.

OCA St. 4-R at 15-16 (footnotes omitted).

The record contains substantial amounts of testimony about the benefits, both direct and indirect, that commercial firm service customers receive from universal service programs. Mr. Colton first provided an analogy to explain the benefits derived from universal service programs:

Affordable home energy can be analogized to other public goods that have been found to provide direct benefits to businesses. The Committee on Economic Development has quantified the beneficial impacts to business from reducing the causes of employee absenteeism and employee turnover associated with unaffordable child care. According to the Committee:

Many businesses also find that helping parents meet their child care needs can potentially reduce absenteeism and employee

turnover. The 1990 *National Child Care Survey* (NCCS) found that 15 percent of the mothers in its sample who worked outside the home reported losing some time from work (including arriving late, leaving early, or having to take a full day off) during the previous month because of a failure in their regular child care arrangement. Studies have found that employee turnover produces disruption and inefficiency in the work environment and that the cost of replacing employees is high. For example, Merck & Co., Inc. found that it costs...about 75 percent of salary to replace a clerical or technical employee. It also found that it may take considerable time to fill a vacant position and an average of 12.5 months for a new employee to become adjusted to the job.

OCA St. 4-R at 17-18 (footnotes omitted).

Mr. Colton also reviewed research that demonstrates that any increase in natural gas rates to businesses as a result of paying their share of universal service costs would be offset by increases in employee productivity. Mr. Colton described this benefit:

One professor at Johns Hopkins University considered the extent to which increased low-income status results in increased overall costs to businesses. She found a variety of offsets, reporting:

Poverty...produces ill-prepared workers whose lives are easily disrupted by small catastrophes. If the car breaks down, if the kid gets sick, it suddenly becomes impossible to be a reliable worker. Poverty also generates poor health among workers, making them less reliable still and raising the cost of employing them.

OCA St. 4-R at 18-19 (footnote omitted).

OCA witness Colton explained the nexus between unaffordable home energy and employee health problems. Mr. Colton testified:

The unaffordability of natural gas service represents a distinct public health threat, particularly to low-income households with children. According to a Congressionally-funded 2011 survey by the National Energy Assistance Directors Association (NEADA), the loss (and threatened loss) of home heating service has significant health consequences to low-income households with children.

NEADA found that survey respondents reported becoming ill because their homes were too cold in the winter heating months. Nearly 1-in-5 of all energy assistance recipients (19%) reported that someone in the home became sick because the home was too cold in the past five years. These illnesses were frequently severe



enough to require medical treatment. In 2011, 13% of the surveyed energy assistance recipients reported that someone in the home had become ill enough to require going to a doctor or hospital because the home was too cold in the past five years, an increase in the percentage over the corresponding 2003 and 2005 surveys. Of the households with children under age 18, between 17% and 24% kept their homes at “unsafe or unhealthy temperatures” because they did not have enough money to pay their home heating bills.

These impacts of unaffordable home energy, which Johns Hopkins identified as the “small catastrophes” which “easily disrupt” the lives of low wage workers, are exactly the preventable events which makes workers less reliable and raises the cost of employing them. By addressing the underlying problem, affordability programs such as CRP help remedy these problems and, as a result, deliver real dollars of benefit to the business community.

OCA St. 4-R at 19-20 (footnote omitted).

Studies have demonstrated the business benefits generated by programs such as CRP.

OCA witness Colton testified:

One comprehensive study published in 2004 concluded:

...employers have good reason to be concerned that large numbers of working people with low family incomes do not take advantage of the public benefits intended to help them and their families achieve economic sufficiency – benefits that also help employers by contributing to the economic stability of their workforces. These public benefits bolster the ability of low-income workers to meet their basic needs, in effect providing a wage supplement to employers.

This joint study, performed in collaboration with the Center for Workforce Preparation of the U.S. Chamber of Commerce and the Center for Workforce Success of the National Association of Manufacturers, continues on to report that many low wage workers fail to access public benefits.

This not only hurts the workers who miss out on income and benefits; it also hurts their employers through higher turnover and increased absenteeism. Unreliable transportation, inadequate child care, and poor health are leading contributors to absenteeism, tardiness, and turnover among low-income workers. An evaluation of [households leaving the TANF program] in New Jersey by Mathematic Policy Research reported that 52 percent had been fired as a result of frequent tardiness or absenteeism related to child care or health problems. In the words of a call center manager who has hired many entry-level workers through the Annie E. Casey Foundation’s Jobs Initiative, “these peoples’ lives

are in chaos. They have so many problems they cannot pay attention to work.”

An unpublished survey conducted by ASE in Detroit, Michigan, highlights workplace problems that employers can experience when employees’ non-work needs are not addressed. ASE asked entry-level workers and their supervisors in five companies about barriers to employee advancement. After “caring for a dependent,” “money problems” were reported more frequently than 19 other potential problems ranging from “understanding work assignments” to “getting along with colleagues.” “Financial worry about making ends meet” appears to contribute to absenteeism, distraction on the job, strained relations with supervisors and co-workers, and a number of other factors that reduce productivity.

OCA St. 4-R at 20-21 (footnote omitted).

OCA witness Colton then summarized how this information relates to affordable home energy provided through the universal service programs:

The conclusion from this multitude of research is that all PGW customer classes will benefit from the CRP. Commercial and industrial customers, as well as small businesses, will gain direct benefits from the CRP. Accordingly, this discussion has a direct relationship to the question of whether universal service costs should be allocated to all customer classes. There is a direct relationship between the offer of CRP and economic benefits to local commercial and industrial customers. For example:

- Turnover costs business money. We know that unaffordable home energy bills lead to the frequent mobility of households.
- Time missed due to family care provision costs business money. We know that unaffordable home energy bills lead to more frequent childhood illnesses.
- Time missed due to lack of employee productivity and employee illness costs business money. We know that the inability to stay warm due to unaffordable home energy bills leads to increased illnesses.

In sum, increasing employee productivity directly contributes to the increased profitability of firms. With low-wage employees, in particular, unaffordable home energy directly contributes to lowered productivity related to the unaffordability of home energy. Increased personal illness, increased employee turnover, and increased family care responsibilities are but three of the factors contributing to lower employee productivity. The provision of affordable energy through

universal service programs such as CRP positively affects each of these productivity factors.

OCA St. 4-R at 21-22.

In addition to these benefits, Philadelphia businesses can further benefit since programs such as CRP support the economy of the City. As Mr. Colton testified, programs such as CRP provide an important economic business benefit to businesses in that the program contributes to additional disposable income within the low-income population. OCA St. 4-R at 22. This additional disposable income drives additional job creation, income generation, and economic activity for local businesses. OCA St. 4-R at 22.<sup>7</sup>

Moreover, PGW's universal service programs provide additional benefits since PGW is a municipal gas company. OCA witness Colton testified:

PGW's offer of universal service programs helps to control the need to provide local government services. The connection between the loss of home energy service and housing abandonment has been documented in Pennsylvania. In addition, there is a documented connection between utility shutoffs and an increase in homelessness, with one of the primary studies being performed in Philadelphia. There is a direct connection between unaffordable home energy bills and the costs of providing public health and nutrition services. There is a documented connection between unaffordable home energy bills and public safety costs. Particularly in a city such as Philadelphia, with a large low-income population, the costs of providing these city services can be tremendous. Conversely, the benefits of mitigating the need to provide these city services will redound to the benefit of all taxpayers, including commercial and industrial entities. Allowing non-residential customers to pocket the benefit from this reduced need for municipal services, while avoiding the obligation to pay, creates an entire class of municipal service free-riders.

OCA St. 4-R at 24-25.

The City of Philadelphia has recognized the benefits to the City as a whole, including commercial customers arising from the bill affordability program. OCA witness Colton testified:

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<sup>7</sup> See, OCA St. 4-R at 23 discussion of Colton case study for Entergy Service Corporation which found that low-income rate affordability program would be a "significant generator of jobs, economic activity, and income throughout the region." OCA St. St. 4-R at 23.

The City of Philadelphia also owns its own water distribution system, the Philadelphia Water Department. On November 19, 2015, the Philadelphia City Council unanimously adopted a percentage of income bill affordability program for the Philadelphia Water Department (Philadelphia City Council Bill 140607-AA). That program, called IWRAP (Income-based Water Rate Affordability Program), was modeled on the percentage of income program operated by PGW, the City's municipally-owned gas system.

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Even more importantly for purposes here, however, is that, because the purpose of the program was not simply to provide benefits to low-income customers, but to provide benefits to the entire City, including commercial establishments throughout the City, the costs of the Philadelphia Water Department bill affordability program were spread over all customer classes. The PGW universal service programs serve the same municipal functions, and provide the same benefits to all entities in the City, as does the recently-adopted affordability program for PGW's sister municipally-owned utility. To recognize those widespread benefits accruing to all customers, including commercial customers, would not involve a change in PUC policy. It would simply continue the same policy that has been in effect for more than two decades, since PGW's program was first begun.

OCA St. 4-R at 11.

PGW witness Dybalski elaborated on the benefits that the program provides to city businesses. He testified:

While the USC recovers the costs of programs designed specifically to benefit low-income residential customers, customers in all classes benefit by programs that support and enable a community in which low-income customers are able to maintain utility service at an affordable cost. Non-residential customers also indirectly benefit from keeping the residents of Philadelphia in their homes. Non-residential customers also indirectly benefit from keeping the residents of Philadelphia in their homes. The residents contribute to the well-being and economic vibrancy of Philadelphia's business community. Based upon my experience, there is a connection between the loss of home energy service and housing abandonment. Without residents living in the City, businesses may lose their workforce and customers. Keeping people living and working in the City will help businesses avoid financial losses, increase employee productivity and retain viable consumers. Thus, PGW believes that the portion of universal service costs paid by non-residential customers is offset by the substantial positive economic impact in Philadelphia on those non-residential customers created by PGW's universal service programs.

PGW St. 6-R at 3-4.

The value of the CRP programs to the City of Philadelphia must be considered as a part of the evaluation of the benefits of the program. As discussed in the testimony of Mr. Colton and Mr. Dybalski, the benefits of the program flow through to all firm service customers. In recognition of the public benefit provided by the programs, PGW has historically allocated the costs of the program to all firm service customers, and the OCA submits that allocation should be maintained in this case.

b. Commercial Customers Also Receive Services From The CRP.

The OCA submits that OSBA witness Knecht has not taken into consideration that small commercial customers can, in fact, now receive services from PGW's universal service program. OSBA witness Knecht argues that only the residential customer class should pay for the universal service costs since it is residential customers that "cause" those costs to be incurred. OSBA St. 1 at 33-34. The OCA submits that while this argument does not support the allocation proposed by Mr. Knecht, it is also incorrect.

The Commission has extended some energy efficiency programming to PGW's small businesses, to be paid for through PGW's universal service surcharge. The Commission approved PGW's Low-Income Multifamily (LIME) program directed toward buildings that are commercial accounts. Petition of Philadelphia Gas Works for Approval of Demand Side Management Plan for FY 2016-2020, Docket No. P-2014-2459362, Tentative Order and Opinion at 94-102, (August 4, 2016); Final Order at 33, (November 1, 2016). The OCA submits that this decision is relevant to Mr. Knecht's testimony because the Commission, at least in part, specifically predicated its approval of funding PGW's LIME program through the universal

service charge on the fact that commercial accounts, in part, pay for PGW's LIURP program.

The Commission's Order stated:

The Commission has recognized that low-income multifamily housing is often underserved and is excluded from traditional LIURP program eligibility if it is master-metered and classified as commercial...PGW is in the unique position of recovering funding for the ELIRP program, in part, through non-residential ratepayers...Currently, twenty (20%) of PGW's ELIRP funding comes from the commercial sector...The Commission agrees with the parties who raised the issue that PGW has not addressed low-income multifamily housing stock in its ELIRP program design. Accordingly, we direct PGW...to develop a program and designate a portion of the ELIRP budget to specifically serve low-income multifamily properties. The Commission...notes that commercial ratepayers, which include many multifamily accounts, have been supporting ELIRP and other PGW weatherization programs for years without receiving any direct benefits.

PGW Universal Service and Energy Conservation Plan for 2014-2016 52 Pa. Code § 62.4,

Docket No. M-2013-2366301 (August 22, 2014) (LIME Order).

The Commission's language in the LIME Order demonstrates that the Commission recognized the need to address small businesses and low-income customers in the form of multifamily energy efficiency measures in PGW's service territory. OCA witness Colton explained:

The issue of how universal service program costs are allocated among customer classes for PGW is somewhat more complicated than Mr. Knecht proposes. In fact, the Commission has used the fact that all customer classes pay for PGW's universal service programs to include cost recovery for some non-residential energy efficiency programming in the universal service charge. It would be unfair and unreasonable, with the Commission having just recently extended the universal service charge to include some commercial programs, to now turn around and allocate the universal service costs exclusively to residential customers.

OCA St. 4-R at 14.

The OCA submits that OSBA's arguments do not address the benefit that the small business customers are now receiving as a result of the LIME program. The Commission's LIME Order specifically carved out within the LIME program a benefit to the small business

customers. OSBA witness Knecht's arguments to the contrary are misplaced in this case. The OCA submits that this new benefit to small business customers must also be considered.

c. PGW's Residential Ratepayers Are Not Financially Able To Absorb The Costs of The Entire CRP Program.

Mr. Knecht's proposal would shift approximately \$11.6 million on to the residential class in addition to the rate increase that residential customers will experience as a result of this case. The OCA submits that PGW's residential ratepayers are not able to absorb these additional costs of the CRP program. In each of the proceedings where the Commission has addressed the issue of cost allocation for universal service costs for PGW, the Commission has identified a concern with the potential massive shift of costs from non-residential customers to residential customers. OCA witness Colton testified:

One important factor to take into account in deciding upon changes in the policy regarding the allocation of PGW's universal service costs involves the ability of residential customers to absorb the increased costs associated with the proposed change. PGW's customers are in no position to absorb a change in the 25-year old policy regarding cost allocations. According to the U.S. Census Bureau, in 2015, the bottom quintile of Philadelphia households by income had an average income of \$7,368. Given that 100% of the Federal Poverty Level in 2015 was \$11,770 for a 1-person household, even if one assumes that every household had only one person, the data shows that, on average, households in the bottom 20% of income in Philadelphia have an income of only 63% of Poverty Level. A 2-person household, in 2015, would have an income of \$15,390 at 100% of Poverty Level. Assuming an average household size of two persons, the bottom quintile would be living at 46% of Poverty.

OCA St. 4-R at 31 (footnotes omitted).

PGW witness Dybalski quantified the impact on residential customers from the proposed cost shift. Mr. Dybalski testified:

I estimate that exempting firm commercial and industrial customers would transfer an additional \$11.6 million to the residential class based on current USC levels. Transferring these costs would increase PGW's proposed overall rate increase for residential customers by 2.3% to a total increase of 13.6%. PGW's residential customers already contribute a large portion of the USC revenues.

Because of the number of participants in its universal service programs and the amount of the universal service costs already allocated to residential customers, a total realignment of its USC costs to the residential rate class (together with the rate increase proposed by PGW) is not appropriate at this time.

PGW St. 6-R at 4-5.

OCA witness Colton compared this data of the average income for the bottom quintile of Philadelphia households to the annual median income for Philadelphia. OCA St. 4-R at 31. He concluded that the “households with income in the bottom 20% live with incomes ranging around 10% of the area median income for the City of Philadelphia.” OCA St. 4-R at 31-32. He testified that:

One impact of these low-incomes is that a substantial number of PGW’s low-income customers have service involuntarily disconnected for nonpayment. Over the past three years, the percent of households experiencing an involuntary disconnect for nonpayment has increased to nearly 13%.

OCA St. 4-R at 32. Mr. Colton also found that the percentage of low-income customers in arrears has nearly tripled from 5.1% in 2013 to 13.1% in 2015. OCA St. 4-R at 32. OCA witness Colton testified:

The fact that Philadelphia’s low-income population simply cannot absorb a change in the nearly 25-year old policy regarding universal service costs is seen in the facts that low-income arrears (both in terms of dollars in arrears and accounts in arrears) are increasing faster than residential arrears generally. The percentage of total residential arrears (dollars) are associated with low-income customers has increased from 18% in 2013 to 31% in 2015. The percentage of total residential accounts in arrears that are associated with low-income customers has increased from 12% in 2013 to 26% in 2015.

OCA St. 4-R at 32.

Low-income customers will be disproportionately impacted by the proposed shift of costs to residential customers. Customers are also not protected by their participation in CRP. OCA witness Colton testified:



PGW's participation in CRP has declined by 30% (24,262 customers) from 2010 to 2015. This decline in CRP participation has occurred despite the fact that the number of confirmed low-income customers on the PGW system has increased by more than 22,000 customers.

OCA St. 4-R at 33.

Part of the reason that the Commission held as it did in the 2006 base rate proceeding was because the Commission recognized the significant potential rate shock to residential customers. Pa. PUC v. Philadelphia Gas Works, Docket No. R-00061931, Order at 88 (September 28, 2007) (PGW 2006 Order). As discussed in OCA witness Colton's testimony, that fact has not changed in the decade since the 2006 base rate proceeding. The OCA submits that there is no basis to change PGW's historic method of recovering its universal service costs from all firm service customer classes. The proposal of the Company to maintain the historic allocation should continue.

d. OSBA's Reliance On Past Commission Decisions Is Unpersuasive.

PGW's universal service costs have historically been allocated to all firm service customers. OCA witness Colton testified:

PGW's universal service costs have been allocated among all customer classes since the CRP program was first created in 1993. Even since the regulation of PGW was transferred to the PUC, the PUC has maintained this cost allocation policy for PGW through an interim base rate proceeding, two emergency rate proceedings, three full base rate cases, and the PGW restructuring proceeding. The last time this cost allocation decision was raised (in PGW's 2010 base rate case), the case was resolved by settlement.

OCA St. 4-R at 7 (footnotes omitted). OSBA witness Knecht also attempted to rely on other Commission decisions for support of his position. The Commission decisions relied upon by Mr. Knecht are distinguishable and do not overcome the significant facts of the case.

For support of his proposal, OSBA witness Knecht relies on several Commission Orders. OSBA St. 1 at 34-36. Despite the OSBA's assertions, the Commission has continuously rejected

OSBA's proposal to change the historic rate allocation for the PGW USEC costs and has maintained 25 years of allocating universal costs to all PGW firm service customer classes. Mr. Knecht cited to a series of universal service cases in which the Commission has determined to allocate the costs of universal service programs to only residential customers. See, OSBA St. 1 at 34, fn. 23. In particular, OSBA witness Knecht cited to the language in the Commission's decision in the Equitable Gas proceeding at Docket No. P-200052192 and the Commission's 2006 CAP Policy Statement Order. OSBA St. 1 at 34, fn. 25; Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms Final Investigatory Order, Docket No. M-00051923, Order (December 18, 2006) (CAP Order). OSBA also cited to the Commission's decision in PGW's 2006 base rate proceeding. see, Pa. PUC v. Philadelphia Gas Works, Docket No. R-00061931, Order at 85-88 (September 28, 2007) (PGW 2006 Order). These cases, however, do not support Mr. Knecht's position.

In PGW's 2006 base rate proceeding, the Commission did not change the historic allocation of PGW's universal service costs to all firm service customers, even though the Commission had the full record to consider in the 2006 base rate proceeding. See, PGW 2006 Order at 88. The Commission decided to maintain the historic cost allocation because of the impact that such a reallocation of costs would have on PGW's residential ratepayers. PGW 2006 Order at 88. The key fact identified by the Commission's Order in the 2006 base rate proceeding, that one third of its customers are below 150% of the Federal Poverty Level, has not changed. PGW 2006 Order at 85. Of the Company's approximately 500,000 customers, in 2015, PGW had nearly 180,000 estimated low-income customers (*i.e.* below 150% of the Federal Poverty Level) and nearly 162,000 Confirmed Low-Income customers. OCA St. 4 at 9. According to PGW witness Dybalski, Mr. Knecht's proposal would shift approximately \$11.6

million on to the residential class in addition to the rate increase that residential customers will experience as a result of this case. PGW St. 6-R at 4. As Mr. Dybalski testified in this proceeding, shifting the costs from all firm service customers to only residential customers would result in rate shock for residential customers. PGW St. 6-R at 4.

OSBA's reliance on the CAP Order is similarly misplaced. OSBA quotes the following language from the CAP Order:

After careful consideration of the comments and the arguments presented, the Commission will continue its current policy of allocating CAP costs to the only customer class whose members are eligible for the program – residential customers. The Commission believes that we should not initiate a policy change that could have a detrimental impact on economic development and the climate for business and jobs within the Commonwealth.

CAP Order at 31 (emphasis added). OSBA excluded the footnote at the end of the paragraph that maintains the historic allocation exception for PGW and states: "PGW's cost allocation was determined prior to the Commission's oversight of the company." CAP Order at 31, fn. 24. Moreover, there is no showing here of detrimental impact on economic development or climate for businesses and jobs. Indeed, as discussed in detail above, the contrary is true. It is the change in policy that would adversely affect economic development and the climate for business and jobs.

Mr. Knecht also cites to a Petition by Equitable Gas Company regarding use of a refund to benefit low-income customers. OSBA St. 1 at 34, fn. 23, citing Petition of Equitable Gas Company for Authorization to Use a Portion of Equitrans LP Refund to Benefit Low Income Customers proceeding at Docket No. P-00052192, Order at 14 (December 15, 2005) (Equitable Order). In Equitable, the issue in the proceeding was whether the dollars from the refunds should be used to fund the hardship fund program at all. The Office of Trial Staff (the predecessor to I&E) argued in the case that the dollars should instead be refunded to residential

customers because it was money that the residential customers had overpaid. In addressing the issue, the Commission stated that “because low income energy assistance is available only to residential customers, it is appropriate that the funding for such programs be provided by that customer class to the extent practicable.” Equitable Order at 14.<sup>8</sup> The Order, however, does not stand for the proposition stated by Mr. Knecht.

The OCA submits that PGW’s historic allocation for the past 25 years, 17 of which have been under the Commission’s jurisdiction, has included an allocation of the costs to firm service customers. The OCA submits that the Commission has determined in each of its prior litigated proceedings that PGW should maintain its historic allocation. As discussed below, there are a multitude of factors that distinguish PGW, as a municipal utility, from the other companies. OSBA has not presented any evidence to demonstrate why the Commission should deviate from its historic treatment for the costs of the universal service program.

e. Conclusion.

The OCA submits that OSBA witness Knecht’s proposal to change PGW’s 25 years of allocation of universal service costs to firm service customers should be denied. PGW’s

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<sup>8</sup> In fact, in a prior Equitable proceeding, the Commission did allocate the costs of universal service to small business customers, and at the time of the Petition proceeding, Equitable small business customers were, in fact, paying a portion of the universal service costs. In Application of Equitable Gas Company For Approval of Natural Gas Choice and Competition Act Restructuring Filing proceeding at Docket No. R-00994784, the Commission specifically denied the OSBA’s request that “the Commission’s July 18<sup>th</sup> order should be corrected to remove statements asserting that universal service and arrearage forgiveness costs are being paid by business customers in the \$.17 portion of Equitable’s transition cost surcharge.” Application of Equitable Gas Company For Approval of Natural Gas Choice and Competition Act Restructuring Filing, Docket No. R-00994784, at 2-3 (Order entered September 12, 2002). The Commission specifically affirmed that the commercial class was funding the existing CAP. The Commission stated:

We hereby deny the Petition for Clarification of the Office of Small Business Advocate. Because it appears that at least some portion of the transition cost surcharge was allotted to fund Equitable’s universal service and energy conservation programs, we believe that OSBA’s requests to correct the certain language in the July 18<sup>th</sup> order regarding the purpose of Equitable’s transition cost surcharge is not warranted.

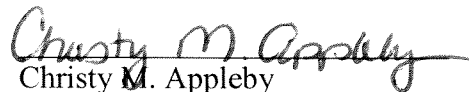
Equitable Application Order at 3.

allocation of the universal service costs is consistent with the allocation of the costs and benefits of the universal service programs for the public good, follows cost-causation principles, and is consistent with sound regulatory policy. Moreover, Mr. Knecht's proposal would lead to rate shock for residential customers because it would shift approximately \$11.6 million on to the residential class in addition to the rate increase that residential customers will experience as a result of this case. The OCA submits that PGW's residential ratepayers are not able to absorb these additional costs of the CRP program.

## V. CONCLUSION

For the reasons set forth above, the Office of Consumer Advocate respectfully requests the Commission require PGW to modify its payment posting practices to be consistent with the Commission's regulations and the Public Utility Code as identified above. The OCA also respectfully requests that the Commission maintain the historic allocation of universal service costs to all firm service customers and deny the Office of Small Business Advocate's request to modify the allocation of universal service costs.

Respectfully Submitted,



Christy M. Appleby  
Assistant Consumer Advocate  
PA Attorney ID 85824  
[CAappleby@paoca.org](mailto:CAappleby@paoca.org)

Darryl A. Lawrence  
Senior Assistant Consumer Advocate  
PA Attorney ID 93682  
[DLawrence@paoca.org](mailto:DLawrence@paoca.org)

Kristine E Marsilio  
Assistant Consumer Advocate  
PA Attorney I.D. #316479  
E-Mail: [KMarsilio@paoca.org](mailto:KMarsilio@paoca.org)

Harrison W. Breitman  
Assistant Consumer Advocate  
PA Attorney ID320580  
[HBreitman@paoca.org](mailto:HBreitman@paoca.org)

Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

Office of Consumer Advocate  
555 Walnut Street  
5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
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**Payment Posting Sequencing**

1. PGW posts its payments according to the following hierarchy: (1) deposit, if required, is posted first; (2) then any outstanding late payment charges are satisfied; and (3) the remaining balance of the payment is posted to the oldest money. PGW St. 10-R at 7.
2. PGW sequences residential payments to apply partial payments against newer non-interest-bearing late charges before applying the payments against older interest-bearing principal. OCA St. 4 at 35.
3. The result of PGW's ordering of customer payments is that the more recent late payment charges are paid before older unpaid principal balances are paid. OCA St. 4 at 36.
4. PGW's order of the sequencing of payments increase the overall amount the consumer must pay. OCA St. 4 at 36.
5. Customers may ultimately pay more for services when late payment charges are zeroed out before partial payments are posted to the principal. PGW St. 10-R at 15.
6. The customer can end up effectively being charged an annual interest of 19.562% as a result of the sequencing of the customer payments. OCA St. 4-S at 19; OCA St. 4 at 38.
7. There is no cost basis for allowing PGW to sequence payment posting to apply payments against more recent non-interest-bearing late charges before applying them against older interest-bearing principal. OCA St. 4 at 39.
8. The time it takes to engage in collection efforts does not differ based upon the composition of an unpaid balance as between unpaid principal and unpaid late charges. OCA St. 4. at 40.
9. The type of collection effort invoked does not differ based on the composition of an unpaid balance between unpaid principal and unpaid late charges. OCA St. 4. at 40.
10. Different staff persons are not used for collections based upon the composition of an unpaid balance (between late charges and principal). OCA St. 4. at 40.

11. The cost of money does not differ based upon the composition of an unpaid balance (between late charges and principal). OCA St. 4. at 40.
12. The only difference between one unpaid balance comprised of a higher amount of unpaid principal and another unpaid balance comprised of a higher amount of unpaid late charges, all other things equal, is that the balance with the higher amount of unpaid principal will generate higher interest revenue for the Company. OCA St. 4. at 40.

#### **Universal Service and Energy Conservation Charge Allocation**

13. Historically, PGW has allocated its universal service costs to all firm service customer classes and collects these costs through the Universal Service and Energy Conservation Charge (USEC). Pa. PUC v. PGW, Docket No. M-00021612, Order at 89-93 (March 31, 2003); Pa. PUC v. Philadelphia Gas Works, Docket No. R-00061931, Order at 137 (September 28, 2007).<sup>9</sup>
14. A product can represent a “public good” even though direct service is provided to an individual. OCA St. 4-R at 15.
15. Research demonstrates that any increase in natural gas rates to businesses as a result of paying their share of universal service costs would be offset by increases in employee productivity. OCA St. 4-R at 18-19.
16. There is a nexus between unaffordable home energy and employee health problems. OCA St. 4-R at 19-20.
17. Studies have demonstrated the business benefits generated by programs such as CRP. OCA St. 4-R at 20-22.
18. Programs such as CRP provide an important economic benefit to businesses in that the program contributes to additional disposable income within the low-income population. OCA St. 4-R at 22.

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<sup>9</sup> The issue of the allocation of the universal service costs was addressed by settlement in the 2009 base rate proceeding at Docket No. R-2009-2139884.



19. The additional disposable income provided by CRP drives additional job creation, income generation, and economic activity for local businesses. OCA St. 4-R at 22.
20. The City of Philadelphia has recognized the benefits to the City as a whole, including commercial customers, arising from the bill affordability program. OCA St. 4-R at 11.
21. The Commission has extended the Low-Income Multifamily Energy Efficiency (LIME) program to PGW's small businesses, to be paid for through PGW's universal service surcharge. Petition of Philadelphia Gas Works for Approval of Demand Side Management Plan for FY 2016-2020, Docket No. P-2014-2459362, Tentative Order and Opinion at 94-102, (August 4, 2016); Final Order at 33, (November 1, 2016).
22. The percentage of total residential arrears (dollars) associated with low-income customers has increased from 18% in 2013 to 31% in 2015. OCA St. 4-R at 32.
23. The percentage of total residential accounts in arrears that are associated with low-income customers has increased from 12% in 2013 to 26% in 2015. OCA St. 4-R at 32.
24. Over the past three years, the percent of households experiencing an involuntary disconnect has increased to nearly 13%. OCA St. 4-R at 32.
25. The percentage of low-income customers in arrears has nearly tripled from 5.1% in 2013 to 13.1% in 2015. OCA St. 4-R at 32.
26. Exempting firm commercial and industrial customers would transfer an estimated \$11.6 million to the residential class based on the current USC levels in addition to the rate increase amount in this case. PGW St. 6-R at 4-5.
27. Of the Company's approximately, 500,000 customers, in 2015, PGW had nearly 180,000 estimated low-income customers (below 150% of the Federal Poverty Level) and nearly 162,000 Confirmed Low-income customers. OCA St. 4 at 9.

APPENDIX B            Proposed Conclusions of Law

1. A public utility seeking a rate increase has the burden of proof to establish the justness and reasonableness of each element of its request. 66 Pa.C.S. § 315(a).
2. The utility requesting the rate increase has the burden of proving that the rate involved is just and reasonable. 66 Pa. C.S. §§ 315 (a), 1301, and 1308(e).
3. Regardless of the method used, the rates must be just and reasonable. 66 Pa. C.S. § 1301.
4. Section 1303 of the Public Utility Code prohibits any public utility from “directly or indirectly, by any device whatsoever, or in anywise, demand or receive from any person, corporation, or municipal corporation a greater or less rate for any service rendered or to be rendered by such public utility than that specified in the tariffs.” 66 Pa. C.S. § 1303.
5. PGW’s payment posting sequencing is contrary to the Commission’s regulations and Sections 1301 and 1303 of the Public Utility Code. See, 52 Pa. Code §§ 56.1, 56.22, 56.23, 56.24; 66 Pa. C.S. § 1301, 1303.
6. The limit set forth in Section 56.22 is a maximum annual simple interest per annum of 18%. 52 Pa. Code § 56.22.
7. PGW’s payment posting results in the accumulation of interest on late payments which exceeds the Commission’s requirements set forth in Section 56.22. 52 Pa. Code § 56.22.
8. Section 56.24 requires that the payment be applied first to the amount due for prior service. 52 Pa. Code § 56.24.
9. The due date for payment of a bill may not be no less than 20 days from the date of transmittal; that is, the date of mailing, electronic transmission or physical delivery of the bill by the public utility to the customer. (1) *Extension of due date to next business day.* If the last day for payment falls on a Saturday, Sunday, bank holiday or other day when the offices of the public utility which regularly receives payments are not open to the general public, the due date shall be extended to the next business day. (2) *Date of payment by mail.* For a remittance by mail, one or more of the following applies: (i) Payment shall be deemed to have been made on the date of the postmark. (ii) The public utility may not impose a late payment charge unless payment is received more than 5 days after the due date. 52 Pa. Code § 56.21(2).
10. Mr. Colton’s proposed sequencing of payments is consistent with the requirements identified in the Commission’s regulations. OCA St. 4 at 37, citing SBG Management

Services/Colonial Garden Realty Company v. PGW, Docket No. C-2012-2304183, C-2012-2304324 (consolidated), Order (December 8, 2016)(SBG Management Order).

11. The Natural Gas Choice Act established that universal service programs are to be maintained at least at the levels in existence at the time of the Act, and they are to be appropriately funded and available in each natural gas distribution service territory. 66 Pa. C.S. 2203(7),(8).
12. The continuation of the historic allocation is fully in accord with the Commission's decisions over the last 17 years in every proceeding to continue the traditional recovery of these universal service costs from all firm service customers.<sup>10</sup> Pa. PUC v. PGW, Docket No. M-00021612, Order at 89-93 (March 31, 2003); Pa. PUC v. Philadelphia Gas Works, Docket No. R-00061931, Order at 137 (September 28, 2007).

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<sup>10</sup> The issue of the allocation of the universal service costs was addressed by settlement in the 2009 base rate proceeding at Docket No. R-2009-2139884.

APPENDIX C            Proposed Ordering Paragraphs

It is hereby ORDERED THAT:

1.        The partial settlement submitted by the Joint Petitioners is approved as proposed.
2.        Philadelphia Gas Works, shall not place into effect the rates contained in Supplement No. 100 to PGW's Gas Service Tariff-Pa. P.U.C. No. 2.
3.        Philadelphia Gas Works shall be permitted to increase annual operating revenues in the total amount of \$42 million consistent with the rates, rules and regulations set forth in Exhibit 1 (Tariff Supplement – Settlement Rates) and Exhibit 2 (Proof of Revenue) to the Joint Petition for Settlement.
4.        The tariffs, tariff supplements, or tariff revisions may be filed upon less than statutory notice, and pursuant to the provisions of 52 Pa. Code §§53.31 and 53.101, on and after the effective date of November 28, 2017.
5.        Philadelphia Gas Works shall file detailed calculations with its tariff filing, which shall demonstrate to this Commission's satisfaction that the filed rates comply with the proof of revenue, in the form and manner customarily filed in support of compliance tariffs.
6.        Philadelphia Gas Works shall comply with all directives, conclusions and recommendations contained in this Commission's Opinion and Order that are not the subject of individual ordering paragraphs as fully as if there were the subject of specific ordering paragraphs.
7.        Upon entry of this Opinion and Order, Philadelphia Gas Works shall be permitted to file tariff supplements in the form set forth in Exhibit 1 to the Joint Petition for Settlement, to become effective pursuant to the terms set forth therein for service rendered on and after the effective date of November 28, 2017.
8.        Philadelphia Gas Works shall post payments in the manner set forth in this Order.
9.        Philadelphia Gas Works will continue to allocate its universal service costs to all firm service customer classes and collect these costs through the Universal Service and Energy Conservation Charge.

10. The Complaints filed by the various parties to this proceeding at Docket Number R-2017-2586783 are granted in part and denied in part, to the extent consistent with this Commission's Opinion and Order.
11. Upon acceptance and approval by the Commission of the tariff supplements and proof of revenues filed by Philadelphia Gas Works consistent with this Order, this proceeding shall be marked closed.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Christopher P. Pell  
Deputy Chief Administrative Law Judge

\_\_\_\_\_  
Marta Guhl  
Administrative Law Judge