



COMMONWEALTH OF PENNSYLVANIA

August 4, 2017

E-FILED

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

**Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works 2017
Base Rate Filing / Docket No. R-2017-2586783**

Dear Secretary Chiavetta:

Enclosed for filing is the Reply Brief, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "SWE" or similar initials.

Sharon E. Webb
Assistant Small Business Advocate
Attorney ID No. 73995

Enclosures

cc: Mr. Robert D. Knecht
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC
UTILITY COMMISSION**

v.

PHILADELPHIA GAS WORKS

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DOCKET NO. R-2017-2586783

**REPLY BRIEF
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

**Sharon E. Webb
Assistant Small Business Advocate
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**For: John R. Evans
Small Business Advocate**

**Office of Small Business Advocate
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Dated: August 4, 2017

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Docket Number R-00061931(Order entered September 28, 2007) at 92.....11

I. INTRODUCTION – PROCEDURAL HISTORY

On February 27, 2017, Philadelphia Gas Works (“PGW” or the “Company”) filed Tariff Supplement 100 to Gas Service Tariff – Pa. P.U.C. No. 2 (“Supplement No. 100”) to become effective February 28, 2017. The proposed Tariff, if approved by the Commission, would have increased the retail distribution rates of PGW by \$70 million per year.

The Office of Small Business Advocate (“OSBA”) filed a Complaint on March 13, 2017.

On March 16, 2017, the Pennsylvania Public Utility Commission (“Commission” or “PUC”) suspended Supplement No. 100 until November 28, 2017, in order to conduct an investigation into the lawfulness, justness, and reasonableness of PGW’s proposed rate increase. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness, and reasonableness of PGW’s existing rates. The matter was assigned to Administrative Law Judges (“ALJs”) Marta Guhl and Christopher P. Pell.

On March 29, 2017, a prehearing conference was held before ALJ Guhl and ALJ Pell.

The following parties are the known, active parties involved in this proceeding: the OSBA; the Office of Consumer Advocate (“OCA”); the Bureau of Investigation and Enforcement (“I&E”); Action Alliance of Senior Citizens of Greater Philadelphia (“Action Alliance”); Tenant Union Representative Network (“TURN”); the Philadelphia Industrial and Commercial Users Group (“PICGUG”); and the Retail Energy Supply Association (“RESA”).

Public input hearings were held on May 9 and May 10, 2017.

On May 16, 2017, the OSBA submitted the direct testimony of Robert D. Knecht.

On June 9, 2017, the OSBA submitted the rebuttal testimony of Mr. Knecht.

On June 22, 2017, the OSBA submitted the surrebuttal testimony of Mr. Knecht.

Evidentiary hearings were held before the ALJs on June 28, 2017.

Prior to the evidentiary hearings, the parties notified the ALJs that they had reached a settlement on many of the issues and that all parties had waived cross examination on all issues.

The testimony of OSBA Witness Knecht was moved into the record at the June 28th evidentiary hearing.

The OSBA and other parties submitted Main Briefs on July 21, 2017, pursuant to the procedural schedule set forth in the ALJs' June 30, 2017, Briefing Order.

The OSBA submits this Reply Brief in response to issues raised in the Main Briefs of other parties.

II. SUMMARY OF ARGUMENT

Since before the time PGW was regulated by the Commission, PGW's universal service costs have been recovered from all classes of customers in spite of the fact that only residential customers are permitted to participate in the Company's universal service programs. Under Commission policy and the precedent with regard to other utilities, non-residential customers are not required to contribute toward universal service costs. Until now, the only rationale provided by the Commission for continuing recovering universal service costs in this manner was that rate shock precluded the application of standard Commission policy to PGW. Under the OSBA's proposal in this proceeding, there is no net impact on the Residential class revenue requirement associated with moving cost responsibility for universal services costs to the Residential class, and thus there is no rate shock issue. Therefore, the requirement that PGW's non-residential firm service customers contribute toward universal service costs should be eliminated in this proceeding.

The OSBA has an economic interest in PGW's universal service programs because non-residential firm service customers are required (at this time) to pay the Universal Service and Energy Conservation Surcharge ("USEC").¹ PGW currently has three universal service programs for low-income customers: the Customer Responsibility Program ("CRP"); a conservation program for low-income customers (alternatively called the "CRP Home Comfort Program," the "Enhanced Low-Income Retrofit Program," and the "Conservation Works Program"); and a grandfathered Senior Citizen Discount Program.² As Mr. Knecht testified, it is not reasonable to recover the costs of these programs from non-residential customers because

¹ OSBA Statement No. 1 at 33.

² OSBA Statement No. 1 at 33.

non-residential customers are ineligible to participate in the universal service programs.³

The OSBA relies on the arguments made in its Main Brief, and responds to specific arguments made in the Main Briefs of other parties in this reply brief.

³ OSBA Statement No. 1 at 33.

III. ARGUMENT

A. Partial Payment Allocation Practices

The OSBA takes no position on this issue.

B. Allocation of Universal Service Cost Recovery

1. Commission Precedent

The OSBA stands by the arguments set forth in its Main Brief and will not restate those arguments here.

2. The OSBA's Proposal

In the current proceeding, the OSBA proposes to decouple the issue of cost responsibility for the USEC from the issue of the overall allocation of revenue responsibility among the rate classes. The OSBA stands by the arguments set forth in the testimony of Mr. Knecht and the arguments set forth in its Main Brief and will not restate them here.

C. OSBA's Reply Argument

1. Reply to OCA

The OCA has made a series of arguments regarding universal service cost allocation in its Main Brief, which have already been addressed by the OSBA in its Main Brief.

First, the OCA argues that the continuation of the allocation of USEC to all firm service customers should persist because it is consistent with Commission precedent. Interestingly, as support for precedent, the OCA cites to the cites to *Pa. PUC v. PGW*, Docket No. M-00021612, Order at 89-93 (March 21, 2003) which is PGW's restructuring proceeding. While the docket number is that for PGW's Restructuring Petition, curiously the order issued on March 21, 2003, ends at page 64. As the OSBA set forth in the discussion of PGW's restructuring case in its

Main Brief, the Commission, in that proceeding, deferred the consideration of any shift in the allocation of USEC to a future base rates case since the restructuring proceeding did not involve a cost study that would support the shift.⁴ *See also*, OSBA Main Brief at 11-13.

Second, the OCA refers to page 137 of the Commission's order in PGW's 2006 base rates case. However, at the top of page 137 of the September 28, 2007, order is entitled payment arrangements, and the text following does not include any discussion on universal service allocation. The OSBA relies on the arguments set forth in its Main Brief at 7-8, and 11-14 addressing Commission precedent.

Lastly, the OCA argues that PGW's historic allocation of universal service costs (to all firm service customers) is well supported and promotes the "public good"⁵ The OCA has advanced the "public good" argument in every recent proceeding in which allocating universal service costs has been an issue. Significantly, the Commission has consistently disagreed with these arguments by the OCA and has consistently opted to follow its policy that universal service costs should be allocated only to residential customers. Therefore, the real issue in this proceeding is whether there is some credible reason why Commission policy that applies to all other Pennsylvania utilities should not be applied to PGW.

2. Reply to TURN and Action Alliance

In their Joint Main Brief, TURN and Action Alliance suggest, among other things, that allocating universal service costs solely to residential customers in this proceeding would violate

⁴ *Pennsylvania Public Utility Commission v. Philadelphia Gas Works*, Docket Nos. M-00021612, M-00021612C0001, M-00021612C002, M-00021612C000 (Order Entered March 31, 2003), p. 64. ("Restructuring Order").

⁵ OCA Main Brief at 23, Joint Main Brief of Turn and Action Alliance at 15.

the principles of rates shock and gradualism.⁶

As set forth in greater detail in its Main Brief, the OSBA's proposal to remove the cost responsibility for the USEC from firm service customers would ultimately have *no impact* on residential rates in the context of this proceeding. See OSBA Main Brief at 14-16.

3. Reply to PGW

The OSBA does not dispute PGW's status as a municipally owned natural gas distribution company. However, the issue of allocation for universal service costs was raised in PPL's 2004 distribution rate case. In response to OCA's effort to spread the costs to all rate classes, the Commission expressly held that universal service program costs should be funded only by the residential class.⁷ The only relevant issue in this proceeding is whether PGW's distinction as a municipally owned utility provides justification for a significant continued departure from Commission precedent. PGW offers no argument whatsoever as to why its status as a municipally-owned utility justifies a policy which violates the basic principles of cost causation as determined by the Commission in a wide variety of cases (detailed in OSBA's Main Brief).

Moreover, beyond the issue of municipal ownership, PGW offers no other credible arguments as to why PGW is (a) different from all other Pennsylvania utilities, and (b) said differences provide a credible reason why basic Commission policy should not apply to PGW in this respect. As such, PGW's argument fails to even address the basic question at issue in this aspect of the proceeding, much less provide convincing evidence for its position.

PGW's brief also addresses an issue raised by OSBA's witness Mr. Knecht with respect

⁶ Joint Main Brief of Turn and Action Alliance at 7.

⁷ *Pennsylvania Public Utility Commission, et al. v. PPL Electric Utilities Corporation*, Docket No. R-00049255 (Order entered December 22, 2004), at 98.

to the recovery of universal service costs if the Commission determines that PGW is sufficiently different to justify recovery of universal service costs from non-residential customers. Currently, the USEC is collected from all residential and all firm service non-residential customers.⁸ As Mr. Knecht testified, this practice extends back to a period when interruptible service rates were set based on market conditions, and there was therefore no “head room” for recovery of universal service costs. However, the Commission has subsequently determined that rates for Rate IT interruptible service customers must be cost-based, rather than market-based.⁹ As such, if the Commission determines that firm non-residential customers should have some cost responsibility for universal service costs, the same costing principles should apply to interruptible service customers. No party has introduced any evidence that Rate IT interruptible customers are any different from non-residential firm service customers with respect to their cost responsibility for universal service costs.

Thus, if the Commission determines that commercial and industrial customers should pay universal service costs, a determination that the OSBA opposes for obvious reasons, then *all* commercial and industrial customers should pay those costs.

In addition, PGW argues that OSBA has not met its burden with respect to how such a modification to existing procedures should be implemented. The OSBA does not disagree, particularly in light of the settlement of the revenue allocation issue. PGW’s USEC charges are sufficiently high that continuing the Company’s volumetric allocation of these costs to the Rate IT class may not be feasible within the settlement revenue allocation. Nevertheless, if the Commission does determine that non-residential classes have cost responsibility for universal

⁸ OSBA St. 1-R and OSBA St. 1-SR.

⁹ Docket Number R-00061931(Order entered September 28, 2007) at 92.

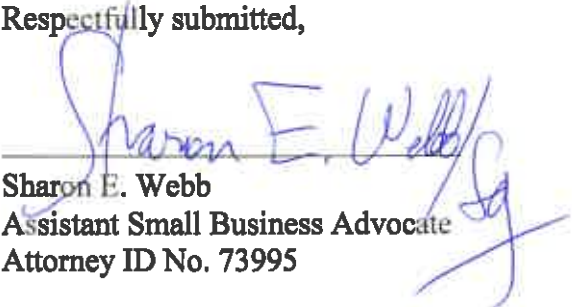
service costs, this issue remains unresolved. Thus, in that event, the OSBA suggests the Commission require PGW make a separate filing to illustrate how the costs would be allocated among all commercial customers-including Rate IT.

IV. CONCLUSION

In view of the arguments made in this Reply Brief and in the OSBA's Main Brief, the OSBA respectfully requests that the Commission:

- (1) Phase out the funding of PGW's universal service programs by the non-residential classes; or
- (2) If the Commission determines that non-residential firm service customers must continue to pay PGW's USEC, that the Commission require PGW to make a separate filing and remand the USEC allocation issue to determine how to spread the costs over all commercial customers, including Rate IT.

Respectfully submitted,


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Dated: August 4, 2017

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|---|---|----------------------------------|
| Pennsylvania Public Utility Commission | : | |
| | : | |
| v. | : | Docket No. R-2017-2586783 |
| | : | C-2017-2593497 |
| Philadelphia Gas Works | : | |
| | : | |

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email and/or First-Class mail (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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