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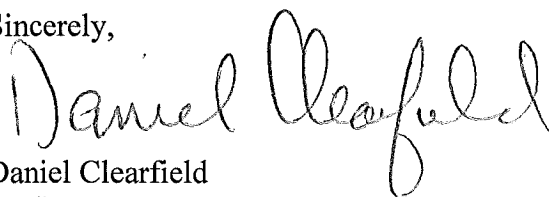
Rosemary Chiavetta, Secretary
PA Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Re: PA Public Utility Commission v. Philadelphia Gas Works - R-2017-2586783
Office of Consumer Advocate v. Philadelphia Gas Works - C-2017-2592092
Office of Small Business Advocate v. Philadelphia Gas Works - C-2017-2593497
Philadelphia Industrial & Commercial Gas Users Group v. Philadelphia Gas Works –
C-2017-2595147 and
Dingfelder v. Philadelphia Gas Works – C-2017-2593903

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' ("PGW") Reply Brief with regard to the above-referenced matters. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Daniel Clearfield
DC/lww

Enclosure

cc: Hon. Christopher Pell
Hon. Marta Guhl
Certificate of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PGW's Reply Brief upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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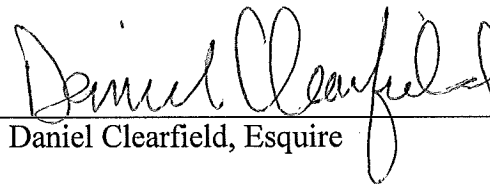
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2017-2586783
Office of Consumer Advocate	:	C-2017-2592092
Office of Small Business Advocate	:	C-2017-2593497
Philadelphia Industrial & Commercial	:	
Gas Users Group	:	C-2017-2595147
William Dingfelder	:	C-2017-2593903
	:	
v.	:	
	:	
Philadelphia Gas Works	:	

PHILADELPHIA GAS WORKS REPLY BRIEF

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I. INTRODUCTION AND PROCEDURAL HISTORY

Philadelphia Gas Works (“PGW” or “Company”) hereby submits this Reply Brief in response to the Briefs of the Office of Consumer Advocate (“OCA”) and the Office of Small Business Advocate (“OSBA”).¹

This Reply Brief is focused on the two issues which were not resolved by the Settlement.² As explained in greater detail herein and in PGW’s Brief, PGW requests that issues not resolved by the Settlement be decided so as to authorize the continuation of: (a) PGW’s allocation of universal service costs through the Universal Service and Energy Conservation Surcharge (“USC” or “USEC”) Rider; and (b) PGW’s existing partial payment allocation practices.

¹ The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) and the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (collectively, “TURN, et al.” or “TURN”) filed a brief but either supported PGW’s position or took no position on the contested issues.

² On July 21, 2017, OSBA also filed a letter re-stating the Joint Petition’s language that OSBA did not join in the settlement of the natural gas supplier issues. No other party refused to join or opposed the supplier terms in the Joint Petition. Specifically, the letter states, “The [Feb. 20, 2014] NGS Settlement stipulated that the Administrative Discount would remain in effect until the amounts were recovered (with no interest charge).” The letter then goes on to state that the Joint Petition changes the terms of the 2014 NGS Settlement with no record evidence.

The OSBA’s letter should be disregarded. First, since this letter regards the merits of a pending issue, it could be construed as a prohibited *ex parte* communication, 66 Pa.C.S. § 334(c). Second, as to the merits, the OSBA appears to misunderstand the Settlement term at issue. The record supports the Joint Petition on the proposed change to the Administrative Discount. RESA argued that the Administrative Discount was too high and should be reduced. RESA St. No. 1, at 3, 17-8:21; RESA St. No. 1-SR, 5:15-9:1; RESA Statement in Support at 6-7; PGW Statement in Support at 22. The Joint Petition does not reduce or otherwise change the total amount to be recovered by the Administrative Discount. *Id.* Rather, the Joint Petition proposes to simply lower the amount recovered *per bill without changing the overall recovery amount*. *Id.* So, the pace of recovery may slow. In part, this reduction in the per bill charge reflected a determination that POR implementation costs projections were lower than originally expected. *See* PGW Statement in Support at 22. Importantly, however, PGW will still recover the full amount of its administrative costs incurred, as provided for in the 2014 NGS Settlement. Therefore, OSBA’s position on this term is without merit and should be afforded no weight. Moreover, the letter only discusses that single term in the Joint Petition. None of the other supplier terms in the Joint Petition are discussed by the OSBA’s letter, and that letter should not be construed as stating a position on the merits as to any other term in the Joint Petition.

II. BURDEN OF PROOF

To implement its proposal on the allocation of universal service costs, the OSBA is proposing a four-step implementation process which requires a change in the present method of recovering universal service costs, now collected in PGW's Universal Service Cost Rider from all firm customers, so that a portion would be collected in PGW's delivery rates; and proposed that any incremental changes on a going forward basis would continue to be collected in the Rider, but only from residential customers.³ The OSBA bears the burden of its proposed changes.⁴

Similarly, the OCA bears the burden of proving that PGW's partial payment allocation practices, which are not set forth in either PGW's existing or proposed tariff, are contrary to the Commission's regulations or the Public Utility Code.⁵ The OCA did not address this issue in its Brief (discussing only PGW's burden of proof for *proposed* rates, terms and conditions)⁶; therefore PGW's position – that the OCA bears the burden on this issue – should be accepted. In adopting a Motion of Commissioner David W. Sweet on August 3, 2017, the Commission confirmed that a party alleging a violation of Commission regulations bears the burden of proof under Section 332 of the Public Utility Code.⁷

³ OSBA Brief at 15-16.

⁴ See PGW Brief at 10; OSBA Brief at 6; Joint Brief of TURN and CAUSE-PA at 4.

⁵ PGW Brief at 8-10; OCA Brief at 7-8.

⁶ OCA Brief at 8.

⁷ *Pa. PUC v. Capital City Cab Service*, Docket No. C-2015-2464291 (Motion adopted August 3, 2017).

III. SUMMARY OF REPLY ARGUMENT

Partial Payment Allocation Practices

As part of this base rate proceeding, the OCA is seeking to modify PGW's long-standing partial payment allocation practices, which are not in its tariff or in any way related to its tariff and which are fully compliant with the Commission's regulations and the Public Utility Code. Specifically, under the applicable regulations, public utilities are required to first apply partial payments – payments from customers that are not sufficient to pay a balance due for prior basic service and for basic service billed during the current billing period – to the balance due for prior basic service.⁸ That is exactly what PGW does.⁹ As PGW's partial payment allocation practices are not part of its tariff, this issue should not be addressed by the Commission in this proceeding. If the Commission determines that additional requirements are necessary to delineate a hierarchy for applying partial payments to charges within the "prior service" category, such mandates should be the subject of a rulemaking proceeding.

The dispute raised by the OCA centers on PGW's application of partial payments to charges for prior basic service, particularly with respect to late payment charges. PGW's approach of first zeroing out late payment charges before applying partial payments to unpaid gas charges is consistent with applicable regulations since they are silent on a hierarchy for posting partial payments to charges for prior basic service.¹⁰ By contrast, the OCA contends that PGW must apply the partial payments to the oldest balances first, without any priority given to late payment charges.¹¹ Rather than being based in any law, the OCA's position is driven by

⁸ 56 Pa. Code § 56.24.

⁹ PGW Brief at 20-23.

¹⁰ PGW Brief at 21.

¹¹ OCA Brief at 12. While Mr. Colton's testimony was silent as to PGW's practice of first posting partial payments to any required security deposit, OCA appears to argue in its Brief that security deposits should also not

policy preferences that fail to consider the long-term negative impacts – of increased carrying costs and rising bad debt expense – on PGW’s customers who are timely paying their bills in full.

In arguing that PGW’s partial payment allocation method violates Section 56.24 of the Commission’s regulations, the OCA mistakenly asserts that late payment charges are not charges for basic service.¹² However, the Commission’s regulations expressly and unambiguously identify late payment charges as part of basic service.¹³ Therefore, PGW is properly applying partial payments to late payment charges for prior basic service before applying them to charges for current basic service and OCA’s argument regarding an alleged violation of Section 56.24 must fail.

The OCA also incorrectly claims that PGW is violating Section 56.22 of the Commission’s regulations.¹⁴ While Section 56.22 prohibits public utilities from charging compound interest, a review of the record clearly establishes that PGW does not charge compound interest. Notably, the OCA concedes that PGW does not assess late fees on late fees or otherwise charge compound interest when it imposes late payment charges.¹⁵ Rather, the OCA argues that under PGW’s partial payment allocation method, customers who pay their bills on an untimely basis, incur properly assessed late payment fees and then make partial payments, are “effectively” charged compound interest.¹⁶ The only support offered by the OCA for this

be given priority in the partial payment allocation methodology. *Id.* This argument is addressed in Section IV.A.2 of this Reply Brief.

¹² 52 Pa. Code § 56.24; OCA Brief at 16-17.

¹³ 52 Pa. Code § 62.74(b); PGW Brief at 16.

¹⁴ 52 Pa. Code § 56.22; OCA Brief at 13-14.

¹⁵ OCA Brief at 15.

¹⁶ OCA Brief at 15-16.

argument is a flawed legal theory that its witness previously concocted in a separate proceeding to support the position of the commercial complainants on whose behalf he was testifying.¹⁷ The Commission did not endorse this “compound interest” theory in the *SBG Order* and should reject it here as well.

Finally, while the OCA insists that PGW’s longstanding practice is somehow “unjust and unreasonable,” the evidence shows just the opposite. Importantly, PGW’s partial payment allocation practices incentivize customers to timely pay their bills in full, lowers bad debt expenses and reduces the carrying costs that must be shouldered by other ratepayers.¹⁸ By contrast, the OCA’s proposal would result in increases in bad debt expense and carrying costs, while allowing late-paying partial-paying customers to indefinitely avoid paying their own late payment charges. Particularly since nothing in the Commission’s regulations or the Public Utility Code dictates a hierarchy for applying partial payments to prior basic service, these compelling policy objectives support a continuation of PGW’s existing practices.

It is noteworthy that the OCA is the only party that has pursued this issue here. No other party, including the Commission’s Bureau of Investigation and Enforcement and the low-income advocates, has expressed support for the OCA’s recommendation. Moreover, until recently, PGW’s partial payment application methodology has not been questioned, despite having been reviewed by the Commission on countless occasions during formal and informal complaint

¹⁷ *SBG Management Services, Inc. / Colonial Garden Realty Co., L.P. v. Philadelphia Gas Works*, Docket No. C-2012-2304183 and *SBG Management Services, Inc. / Simon Garden Realty Co., L.P. v. Philadelphia Gas Works*, Docket Nos. C-2012-2304183 and C-2012-2304324 (Order entered December 8, 2016) (“*SBG Order*”), at 39-40. The *SBG Order* is currently undergoing reconsideration on the merits. See Order entered December 28, 2016.

¹⁸ PGW Brief at 30-33.

handling since 2000.¹⁹ Accordingly, the OCA has not met its heavy burden of demonstrating that PGW's partial payment allocation practice should be found to be illegal or unreasonable.

Universal Service Cost Recovery

PGW did not propose any changes to its long-standing practice – reflected in its allocation of the costs of its universal service programs to all firm customers. Continuation of that allocation was opposed by the OSBA, which proposed that non-residential customers should not be required to contribute towards universal service costs. The record shows that the continuation of the allocation to non-residential customers is just and reasonable and, despite coming up with a novel scheme to carry out its previously rejected proposal, OSBA has not met its burden of showing that its proposed allocation scheme should be adopted.

The OSBA outlined a novel proposed four-step implementation process for shifting 100% of the cost responsibility for universal service costs to residential customers. In essence, OSBA's scheme would require PGW to embed existing universal service cost responsibility in base rates, but force residential customers to bear 100% of those costs on a going forward basis. Since the OSBA's cost-shifting proposal should be rejected in the first instance, PGW submits that the ALJs and the Commission need not consider this novel implementation process. Nevertheless, if the implementation process is considered, it should be rejected because, on a going forward basis, it would lead to the eventual allocation of all universal service costs to one class of customers, even though all customers benefit from the existence of these programs. Further, the proposal would merely delay the "rate shock" associated with this singular assignment to future years and rate cases. Nothing in the record shows that the rates resulting

¹⁹ PGW Brief at 40.

from such an implementation process fairly balance the interests of PGW or its ratepayers, are supported by substantial evidence, are in the public interest, or are just and reasonable.

IV. ARGUMENT

A. Partial Payment Allocation Practices

1. OCA Has Failed to Tie PGW's Partial Payment Application Practices to the Tariff.

PGW initiated this proceeding on February 27, 2017, requesting Commission approval for a general increase in base rates. In the Order suspending the base rate filing for investigation, the Commission indicated that it would review “the lawfulness, justness, and reasonableness of the rates, rules and regulations contained in the proposed Supplement No. 100 to Philadelphia Gas Works Gas Service Tariff – PA. P.U.C. No. 2.”²⁰ The investigation also includes consideration of the lawfulness, justness, and reasonableness of existing rates, rules and regulations.²¹ However, PGW’s partial payment allocation method is not set forth in either its existing or its proposed tariff, and the Company is unaware of any Commission requirement for such details to be set forth in the tariff.²² Therefore, the issue has been improperly raised by the OCA in this base rate proceeding and should be disregarded.²³

In an effort to fit this issue into the pending base rate proceeding, the OCA “submits that PGW’s application of its tariff language regarding the sequencing of residential customer payments” violates various provisions of the Commission’s regulations and the Public Utility

²⁰ *Pa. P.U.C. v. Philadelphia Gas Works*, Docket No. R-2017-2586783 (Order entered March 16, 2017), at Ordering Paragraph No. 1.

²¹ *Id.* at Ordering Paragraph No. 4.

²² PGW Brief at 34.

²³ PGW Brief at 33-35. If the Commission wishes to establish a specific method of allocating partial payments to specific categories of prior basic service charges, it should begin a rulemaking to do so.

Code.²⁴ Yet, the OCA does not point to any specific language in PGW's tariff regarding the sequencing of residential customer payments. Of course, this omission is because there is no such language.²⁵ The absence of provisions in the tariff regarding the application of partial payments to prior basic service means that the issue is not properly raised in this base rate proceeding.

The OCA seeks to link PGW's partial payment application practices to its tariff by arguing that they allegedly have the "effect" of imposing compound interest contrary to Rule 4.2 in PGW's tariff that addresses the computation and assessment of late payment charges.²⁶ This attempt to relate PGW's partial payment application practices to its tariff must fail.

Rule 4.2 of PGW's tariff provides, in its entirety, as follows:

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.²⁷

Notably, the OCA acknowledges that PGW's tariff language is consistent with the requirements of Section 56.22 of the Commission's regulations.²⁸ The OCA also does not allege that PGW departs from Rule 4.2 of its tariff in the computation and assessment of late payment charges. For example, the OCA does not contend that PGW computes late payment charges using a 1.6% interest rate or that the Company assesses the late payment charges on bills that are not yet

²⁴ OCA Brief at 11.

²⁵ PGW Brief at 33.

²⁶ OCA Brief at 11 and 14.

²⁷ PGW Brief at 24.

²⁸ OCA Brief at 15.

overdue. The OCA also does not claim that PGW charges compound interest. In short, the OCA's arguments do not involve any of the specific language that is in Rule 4.2 of PGW's tariff.

Yet, the OCA argues that "PGW's application of its tariff provision" is inconsistent with the Commission's regulations.²⁹ The only way in which PGW's application of its tariff provision can be examined in this base rate proceeding is from the standpoint of whether PGW properly computes and assesses late payment penalties; how PGW subsequently applies partial payments to late payment charges is beyond the scope of this tariff language. Clearly, as no issue has been raised about the actual computation and assessment of late payment charges, no review of the application of the tariff provision is warranted. If the Commission desires, after considering the arguments that have been raised here, to mandate a particular hierarchy for (all) public utilities to follow in posting partial payments to the unpaid balance for prior basic service, it is incumbent upon the Commission to initiate a rulemaking proceeding.³⁰ But, singling out one utility – PGW – and, in an adjudication, ordering it to change a long-standing practice that is not violative of any regulatory rule is unfair and not in accordance with law.

2. PGW's Partial Payment Allocation Practices Comply with Each and Every Regulatory Provision Cited by OCA.

In the event that the Commission nonetheless decides to review PGW's partial payment allocation practices in the context of this base rate proceeding, it should find that they fully comply with PUC regulations including each and every regulatory requirement cited by the OCA. The dispute centers on PGW's practice of first applying partial payments made by

²⁹ OCA Brief at 15.

³⁰ PGW Brief at 35-38. Through the use of Pennsylvania's statutorily-mandated regulatory review process, the Commission would be able to lawfully and properly determine whether it is necessary to require public utilities to follow a certain hierarchy when applying partial payments to a balance due for prior service. After public notice and comment, the Commission would have a sufficient basis upon which to order any specific directives that it deems necessary.

customers to late payment charges for prior basic service before they are applied to the remaining charges for prior basic service. Since the Commission's regulations only require that public utilities apply partial payments first to prior basic service before applying them to current basic service, PGW's practice is consistent with that mandate.

In its Brief, the OCA makes the blanket assertion 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."³¹ Yet, the OCA offers no legal analysis to support this contention. Rather, the OCA rests wholly on the personal legal theory of its witness, Mr. Colton, which he devised as a witness in a separate proceeding to support the position of commercial complainants upon whose behalf he was testifying.³² Instead of identifying any particular provision of the Commission's regulations or the Public Utility Code that PGW is allegedly violating, the OCA has cobbled together a flawed legal argument using bits and pieces of various provisions of the regulations and statute to argue that PGW is required to apply partial payments in a manner that is simply not mandated by the law.

For instance, although it argues that "PGW should be applying the partial payments to the oldest balances first,"³³ or "in the order and timing in which they occurred,"³⁴ the OCA points to nothing in the Commission's regulations that requires such an approach. Despite repeated references to PGW's partial payment allocation method as applying "partial payments against newer non-interest bearing charges before applying the payments against older interest-bearing

³¹ OCA Brief at 11.

³² *SBG Order* at 38.

³³ OCA Brief at 12.

³⁴ OCA Brief at 21.

principal,” the OCA refers to no provisions that prohibit public utilities from applying partial payments in this way.³⁵ Similarly, the OCA cites to no Commission regulations requiring public utilities to apply partial payments against older interest-bearing principal before applying them to newer non-interest bearing charges. Quite simply, the OCA makes no such references because they do not exist.

A particularly disturbing aspect of the OCA’s proposal is the potential effect on PGW’s ability to give priority to the payment of security deposits. Although Mr. Colton’s testimony was silent on PGW’s practice of first applying partial payments to any required security deposit, the OCA’s Brief appears to seek to modify that practice as well.³⁶ By arguing to have partial payments applied in the order and timing in which they occurred, the OCA seems to be suggesting that PGW may not apply a partial payment to a security deposit that is imposed during any given month consistent with Section 1404 of the Public Utility Code.³⁷ To the extent that the OCA is proposing that PGW may not give priority to security deposits in applying partial payments first to such deposits, this recommendation appears to conflict with Section 1406(a)(3) of the Public Utility Code, which authorizes a utility to terminate service for a customer’s failure to complete payment of a deposit, and Section 1404, which establishes that a utility shall not be required to provide service if the applicant fails to pay the full amount of the cash deposit (which is payable within 90 days of reconnection).³⁸ It is patently unfair and illegal to adopt a proposal that deprives a public utility of receiving a security deposit that has been lawfully imposed. If,

³⁵ OCA Brief at 11. And, as described below, PGW’s method is actually reasonable and in the best interests of fully paying customers.

³⁶ OCA Brief at 12, 13 and 21.

³⁷ See 66 Pa.C.S. § 1404(a).

³⁸ 66 Pa.C.S. §§ 1406(a)(3) and 1404. To the contrary, if the OCA is not lumping security deposits in with its late payment charge proposal, its proposal supports prioritization among components of prior basic service for purposes of applying partial payments. See PGW Brief at 17.

on the other hand, it is consistent with existing regulations to apply partial payments first to security deposits, then the OCA is conceding that there is no established partial payment allocation rule among the components of prior service and its entire argument must fail.³⁹

Also, without any support, the OCA claims that “Section 56.22 must operate consistent with the application of partial payments identified in Section 56.23 and 56.24 of the Commission’s regulations.”⁴⁰ As Section 56.22 only governs the assessment of late payment charges and Sections 56.23 and 56.24 of the Commission’s regulations only address the allocation of partial payments, no basis exists for the OCA’s insistence that these provisions, operating together, require a certain method for applying partial payments to late payment charges. Each provision in the regulations or statute that the OCA alleges that PGW is violating is addressed below, with the argument demonstrating that PGW is in full compliance with each and every one of these regulatory requirements.

a. PGW’s Partial Payment Allocation Practices Comply with Sections 56.23 and 56.24 of the Commission’s regulations.

PGW’s partial payment allocation practices comply with the applicable Commission’s regulations governing such practices by first applying partial payments to the balance due for prior basic service before applying them to charges for current basic service.⁴¹ The OCA’s argument to the contrary appears to be based on its incorrect view that late payment charges are charges for nonbasic service.⁴² However, the Commission’s regulations and prior Commission decisions clearly identify late payment charges as *basic services*. Specifically, Section 62.74 of the Commission’s regulations, which require charges for basic services to appear before charges

³⁹ See PGW Brief at 17.

⁴⁰ OCA Brief at 14.

⁴¹ PGW Brief at 20-23.

⁴² OCA Brief at 14 and 16.

for nonbasic services and appear distinctly separate on bills,⁴³ expressly classifies late payment charges (and security deposits) as “basic” charges.⁴⁴

In making its argument about late payment charges not being charges for basic service, the OCA also ignores this unambiguous language of Section 62.74 and instead relies on the definition of “basic services” in Section 62.72, which describes them as “[s]ervices necessary for the physical delivery of natural gas to a retail customer, consisting of natural gas distribution services and natural gas supply services.”⁴⁵ What the OCA fails to mention is that Section 62.72 defines “nonbasic services” as being “[o]ptional recurring services which are distinctly separate and clearly not required for the physical delivery of natural gas service. Examples include a gas line repair program and a gas appliance warranty program.”⁴⁶ Indisputably, late payment charges are not “optional recurring services” that a customer can choose to receive from the public utility. Rather, they are necessary charges authorized by PGW’s tariff and the regulations that must be assessed on customers who pay their bills on an untimely basis and cause the public utility to incur carrying costs that, if not paid, increase rates for good-paying customers. Section 62.72 identifies distinctly separate services like appliance programs as being nonbasic service.

Two Commission regulations address partial payments. Section 56.23 governs the application of partial payments as between nonbasic charges and basic charges for residential public utility service. It provides, in its entirety:

Payments received by a public utility without written instructions that they be applied to merchandise, appliances, special services, meter testing fees or other nonbasic charges and which are insufficient to pay the balance due for the items

⁴³ 52 Pa. Code § 62.74(b)(2). *See also SBG Order* at 98 (late payment charges and security deposits are basic service charges).

⁴⁴ 52 Pa. Code § 62.74(b)(2)(vii).

⁴⁵ 52 Pa. Code § 62.72; OCA Brief at 14.

⁴⁶ *Id.*

plus amounts billed for basic utility service shall first be applied to the basic charges for residential public utility service.⁴⁷

This language emphasizes the need for partial payments to first be applied to *basic charges* for public utility service before they are applied to *nonbasic charges*. Section 56.23 gives several examples of nonbasic charges as including merchandise, appliances, special services and meter testing fees. Notably, nowhere does it refer to late payment charges as being nonbasic charges.

The other Commission regulation that addresses partial payment application practices of public utilities is Section 56.24, which provides in its entirety as follows:⁴⁸

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.

Clearly, this provision relates solely to charges for *basic service*, which receive priority over charges for *nonbasic service* in the posting payment process as required by Section 56.23. The only requirement of Section 56.24 is that public utilities must first apply partial payments to the balance due for “prior” basic service before applying them to basic service charges for the current billing period. PGW follows that mandate to the letter by first applying partial payments to the balance due for prior basic service before applying them to charges for currently-billed basic service. (There is no definition that more fully delineates what the regulation means by “prior.”)

As the above provision plainly shows, nothing in Section 56.24 requires PGW or other public utilities to follow any certain hierarchy in posting partial payments to the balance due for prior basic service so long as the payment is applied to the “prior basic service” bucket.

⁴⁷ 52 Pa. Code § 56.23.

⁴⁸ 52 Pa. Code § 56.24.

Therefore, PGW is fully compliant with the requirements of Section 56.24 and the OCA's arguments that late payment charges are not basic service charges must be rejected.

Likewise, the OCA's contention that gas commodity delivery charges are somehow the "most basic of services," has no support in the Commission's regulations.⁴⁹ The Commission's regulations only differentiate between basic service charges and nonbasic service charges and establish no priorities among the various charges for basic services.

In the *SBG Order* cited by the OCA,⁵⁰ the Commission relied upon a different rationale in determining that PGW had violated Section 56.24 of the regulations in applying the commercial complainants' partial payments to late payment charges. There, the Commission found that the various basic service charges together, including late payment charges, constituted the "balance due" by the complainants for prior service in each billing month and that they should be treated simultaneously for purposes of applying partial payments to prior service.⁵¹ Importantly, the Commission's *SBG Order*, which is currently undergoing reconsideration on the merits and is not in effect at this time, was issued within the limited context of a complaint proceeding where actual billing data was entered into the record. The ALJs and the Commission relied extensively on the record that was developed by the complainants about the effect of PGW's method on their accounts.⁵² By contrast in this proceeding, no actual billing data has been presented by the OCA, and therefore, the OCA has not carried its heavy burden of proving that PGW's generic partial payment allocation practices violate the Commission's regulations. Accordingly, it is necessary for the ALJs and the Commission in this proceeding to consider the evidentiary record that has

⁴⁹ OCA Brief at 17.

⁵⁰ OCA Brief at 13, footnote 4.

⁵¹ *SBG Order* at 98.

⁵² *Id.*; Initial Decision at 44-51.