

**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	:	

RECOMMENDED DECISION

Before
Christopher P. Pell
Deputy Chief Administrative Law Judge

Marta Guhl
Administrative Law Judge

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I. INTRODUCTION

In the base rate proceeding for Philadelphia Gas Works (PGW), the active Parties were able to reach a Partial Settlement of their disputes. PGW originally sought an increase of \$70 million in its initial filing with the Commission. Under PGW's proposal, the bill for a typical PGW residential heating customer using 76 Mcf per year would have increased from \$94.06 to \$104.65 per month, or by 11.3%. The Partial Settlement reached by the Parties is designed to produce a net increase in PGW's annual distribution operating revenues in the amount of \$42 million based upon a fully projected future test year ending on August 31, 2018. Under the Partial Settlement, the bill for a typical PGW residential heating customer using 76 Mcf per year would increase from \$94.06 to \$99.94 per month, or by 6.3%. This decision recommends that the Commission approve the Joint Petition for Partial Settlement of Philadelphia Gas Works' base rate request.

As to the litigated issues, we recommend that the partial payment allocation issue be dismissed, as this issue is already being reviewed by the Commission in another proceeding. As to the universal service costs allocation issue, we recommend that Philadelphia Gas Works continue with the historical allocation of universal service costs across all firm service customers.

II. HISTORY OF THE PROCEEDING

On February 28, 2017, Philadelphia Gas Works (PGW) filed Supplement No. 100 to PGW's Gas Service Tariff – PA. P.U.C. No. 2 (Supplement No. 100) to become effective April 28, 2017, seeking a general rate increase calculated to produce \$70 million (11.6%) in additional annual revenues. PGW also filed a Petition for Waiver seeking waiver of the application of the statutory definition of the fully projected future test year (FPFTY) so as to permit PGW to use a FPFTY beginning on September 1, 2017 in this proceeding.

At that time, the Company served the following 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, Carrie B. Wright, Esq., entered a Notice of Appearance on behalf of the Commission's Bureau of Investigation and Enforcement (I&E).

On March 6, 2017, the Office of Consumer Advocate (OCA) filed a Public Statement, a Notice of Appearance on behalf of Kristine E. Marsilio, Esq., Harrison W. Breitman, Esq., Darryl A. Lawrence, Esq., and Christy M. Appleby and a formal Complaint. The Complaint was docketed at C-2017-2592092.

On March 13, 2017, the Office of Small Business Advocate (OSBA) filed a Verification, Public Statement, a Notice of Appearance on behalf of Sharon E. Webb, Esq., and a formal Complaint. The Complaint was docketed at C-2017-2593497.

On March 16, 2017, William Dingfelder ("Mr. Dingfelder" or "Complainant") filed a formal Complaint. The Complaint was docketed at C-2017-2593903.

By Order entered March 16, 2017, the Pennsylvania Public Utility Commission (Commission) instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase. Pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S.A. § 1308(d), Supplement No. 100 to Philadelphia Gas Works' Gas Service Tariff – PA. P.U.C. No. 2 was suspended by operation of law until November 28, 2017, unless permitted by Commission Order to become effective at an earlier date. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness and reasonableness of the respondent's existing rates, rules, and regulations. The matter was assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

On March 17, 2017, the Retail Energy Supply Association (RESA) filed a Petition to Intervene in this proceeding.

In accordance with the Commission's March 16, 2017 Order, the matter was assigned to Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge Marta Guhl.

On March 22, 2017, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel, filed a Petition to Intervene in this proceeding.

On March 23, 2017, the Philadelphia Industrial and Commercial Gas Users Group filed a formal Complaint. The Complaint was docketed at C-2017-2595147.

On March 24, 2017, the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN *et al.*) filed a Petition to Intervene in this proceeding.

In compliance with the Commission's March 16, 2017 Order, on March 27, 2017, PGW filed Supplement No. 103 to Gas Service Tariff – Pa P.U.C. No. 2, suspending the effectiveness of rates proposed in Supplement No. 100 to Tariff Pa.P.U.C. No. 2 until November 28, 2017.

In accordance with a Prehearing Conference Order dated March 17, 2017, PGW, I&E, OCA, OSBA, RESA, CAUSE-PA, PICGUG and TURN *et al.* submitted prehearing memoranda to the presiding officers.

A call-in telephonic prehearing conference was held on March 29, 2017. The presiding officers were in the Philadelphia Office for the prehearing conference. Counsel for PGW, I&E, OCA, OSBA, RESA, CAUSE-PA, PICGUG and TURN *et al.* participated.

In our Prehearing Order #1 dated March 30, 2017, we granted RESA's Petition to Intervene and established the procedural schedule and the procedures applicable to this proceeding.

On March 31, 2017, PGW filed a Motion for Protective Order pursuant to 52 Pa.Code § 5.423(a). There was no formal opposition to the request and we granted the Protective Order via Prehearing Order #3 dated April 19, 2017.

Also on March 31, 2017, PGW filed Answers opposing the Petitions to Intervene of both CAUSE-PA and TURN *et al.*

On April 5, 2017, CAUSE-PA and TURN *et al.* each filed a response to PGW's Answer opposing their respective Petitions to Intervene. Additionally, OCA and I&E each, separately, filed responses to PGW's Answers. We granted the Petitions to Intervene of CAUSE-PA and TURN *et al.* via Prehearing Order #2 dated April 7, 2017.

A total of four Public Input hearings were held in this matter on May 9 and May 10, 2017. During the Public Input Hearings, 24 PGW customers gave sworn testimony.

On May 10, 2017, Ms. Pickens from TURN *et al.* contacted us via electronic mail indicating that there was a discovery dispute and requesting a modification of the procedural schedule. We responded via electronic mail to the parties indicating that they had until noon on Friday, May 12, 2017, to provide a solution to the discovery dispute.

On May 11, 2017, a Hearing Notice was issued setting the evidentiary hearings for this matter for Wednesday, June 28, 2017, Thursday, June 29, 2017 and Friday, June 30, 2017 starting at 10:00 a.m. each day.

Later on May 11, 2017, counsel for PGW informed us that PGW and TURN *et al.* had reached a resolution that involved a proposed modification to the procedural schedule. PGW proposed that TURN *et al.* be allowed to submit its Direct Testimony on Friday, May 19, 2017

and that PGW be allowed to submit Rejoinder Testimony to TURN *et al.*'s testimony on Tuesday, June 13, 2017.

On May 16, 2017, the following parties served Direct Testimony: 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); 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 St. No. 1 and Kurt Bresser, PICGUG St. No. 2).

By Prehearing Order #4 dated May 17, 2017, we granted the proposed modifications to the procedural schedule.

On May 19, 2017, TURN *et al.* submitted its Direct Testimony (Direct Testimony of Harry S. Geller, TURN *et al.* St. No. 1).

On May 22, 2017, PGW filed its Motion In Limine to Limit the Scope of the Evidentiary Hearing and this Proceeding and to Exclude Certain Portions of Testimony Submitted by the Office of Consumer Advocate.

On May 25, 2017, OCA filed its Response to PGW's Motion In Limine.

By Prehearing Order #5 dated May 26, 2017, we denied PGW's Motion In Limine.

Several parties served amended direct testimonies on us and the other parties. On May 31, 2017, I&E served the Amended Direct Testimony of Rachel Maurer, I&E St. 1 (Amended). On June 2, 2017, 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); OCA (Rebuttal Testimony of Jerome D. Mierzwa, OCA St. No. 3-R; Roger D. Colton, OCA St. No. 4-R; and Barbara R. Alexander, 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 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 22, 2017, we e-mailed the parties the cross-examination matrix for the hearings in this proceeding. We directed the parties to complete the cross-examination matrix and return it to us by 3:00 p.m. on June 23, 2017. The parties submitted the completed cross-examination matrix on June 23, 2017.

On June 23, 2017, PGW filed its Motion to Strike Certain Portions of Testimony Submitted by TURN *et al.*

On June 26, 2017, PGW served the following Rejoinder Testimonies: Gregory Stunder, PGW St. No. 1-RJ; Bernard L. Cummings, PGW St. No. 10-RJ; and H. Gil Peach, PGW St. No. 11-RJ.

On the same date, I&E filed a letter indicating its support for PGW's Motion to Strike and its agreement that portions of the surrebuttal testimony of Harry S. Geller should be stricken.

Also on June 26, 2017, TURN *et al.* filed its Answer of the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia to the Motion to Strike of Philadelphia Gas Works. Also, CAUSE-PA filed a letter indicating its opposition to PGW's Motion.

By Prehearing Order #6, dated June 27, 2017, we denied PGW's Motion to Strike Certain Portions of Testimony Submitted by TURN *et al.*

On June 27, 2017, the parties informed us that they had agreed to waive cross-examination of all witnesses and were prepared to stipulate to the admission of testimony and exhibits into the record.

The evidentiary hearing was held as scheduled on June 28, 2017. Although the parties had not achieved an agreement on all of the issues raised in this proceeding, all parties agreed to waive the cross-examination of witnesses. Any argument necessary on unresolved claims would rely solely on the written testimony admitted into the record. Accordingly, the written testimony of PGW, OCA, I&E, OSBA, PICGUG, RESA, and TURN *et al.* was admitted into the record.

The Joint Petition for Partial Settlement (Settlement) was filed on July 21, 2017. The issues which were not resolved by the Settlement include PGW's partial payment allocation practices as well as the allocation of universal service cost recovery. PGW, OCA, OSBA, TURN *et al.* and CAUSE-PA¹ filed main briefs on July 21, 2017. PGW, OCA, OSBA, TURN *et al.* and CAUSE-PA² filed reply briefs on August 4, 2017.

By letter dated August 3, 2017, we informed Complainant William Dingfelder (Docket No. C-2017-2593903) of the Partial Settlement agreement and requested that he notify us, by no later than August 14, 2017, if he wished to join, oppose or take no position on the proposed Partial Settlement. We also enclosed a signature page that he could sign and return to us if he wished to join in the Joint Petition for Partial Settlement. We did not receive a response from Mr. Dingfelder.

On August 21, 2017, PICGUG filed a Motion to Strike Portions of the OSBA's Reply Brief. On August 22, 2017, we directed the parties to provide any responses by the close of business on August 23, 2017. On August 23, 2017, OSBA filed a response to the Motion to Strike. We issued an Order granting the Motion to Strike on August 24, 2017.

III. FINDINGS OF FACT

1. PGW is a municipally-owned gas utility. PGW St. 4 at 9.
2. PGW does not have any shareholders. PGW St. 3 at 10.
3. PGW provides gas sales and transportation services. See Filing at Volume IV; PGW St. 3 at Exhibit JFG 3.

¹ TURN *et al.* and CAUSE-PA filed a joint Main Brief.

² TURN *et al.* and CAUSE-PA filed a joint Reply Brief.

4. PGW manages a distribution system of approximately 6,000 miles of gas mains and service lines supplying approximately 500,000 customers in the City and County of Philadelphia. PGW St. 7 at 2-3. Petition for Waiver at ¶ 1; Settlement at ¶ 1.

5. I&E is the prosecutory bureau for purposes of representing the public interest in ratemaking and service matters before the Office of Administrative Law Judge and for enforcing compliance with the state and federal motor carrier safety and gas safety laws and regulations. Implementation of Act 129 of 2008 Organization of Bureau and Offices, Docket No. M-2008-2071852 (Order entered August 11, 2011).

6. Complainant OCA is authorized to represent the interests of consumers before the Commission. Act 161 of 1976, 71 P.S. § 309-2.

7. Complainant OSBA is authorized and directed to represent the interests of small business consumers of utility service in Pennsylvania under the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 - 399.50.

8. CAUSE-PA is an unincorporated association of low-income individuals that advocates on behalf of its members to enable consumers of limited economic means to connect to, and maintain, affordable water, electric, heating and telecommunication services.

9. TURN is a not-for-profit advocacy organization composed of moderate and low income tenants, a substantial number of whom are customers of PGW or dependent on PGW natural gas service.

10. Action Alliance is a not-for-profit membership organization of senior citizens, many of whom are Philadelphia residents and customers of PGW.

11. PICGUG is an ad hoc group of large volume customers receiving natural gas utility service from PGW under both sales and transportation rate schedules, including Rate Schedule IT – Interruptible Transportation.

12. RESA is a trade association of more than 20 competitive suppliers of energy.

13. William Dingfeldeer is a self-represented Complainant residing at 645 W. Sedgwick Street, Philadelphia, PA 19119. Docket No. C-2017-2593903.

14. The active parties engaged in extensive discovery throughout this proceeding.

15. I&E, OCA, OSBA, TURN et al., PICGUG, and RESA submitted testimony in opposition to various portions of the Company's base rate filing.

16. The active Parties agreed to a Partial Settlement that resolves many of the issues among them.

17. The active Parties agree that the Partial Settlement is in the public interest as a reasonable resolution of their respective interests and should be approved.

Universal Service Cost Recovery

18. The Universal Service Cost (USC) recovers the costs of programs designed specifically to benefit low-income residential customers. PGW St. 1 at 9; PGW St. 7 at 17-21; PGW St. 9-R at 7-8.

19. PGW has historically allocated to and collected its universal service costs from all firm service customer classes and proposed to continue this allocation methodology as part of this proceeding. PGW St. 6-R at 2.

20. PGW does not collect or allocate any universal service costs from PGW's interruptible sales service rate classes or PGW's large volume transportation service rate classes ("GTS/IT"). PGW St. 6-R at 2-3.

21. The Commission has in the past determined that PGW's allocation of universal service costs and related rate design to be just, reasonable and in the public interest. PGW St. 6-R at 2-3.

22. OSBA proposed a departure from PGW's practice where PGW's universal service costs would be allocated only to residential customers. OSBA St. 1 at 32-36; OSBA 1-R at 13; OSBA St. 1-SR at 2-14.

23. PGW's main universal service programs include the Customer Responsibility Program, Low-Income Usage Reduction Program, the Customer Assistance Referral Evaluation Program and Hardship Funds. PGW St. 1 at 9; PGW St. 7 at 17-21; PGW St. 9-R at 7-8.

24. The cost of these programs is about \$55 million. OSBA St. 1 at 33.

25. These costs are collected through PGW's Universal Service and Energy Conservation Surcharge. PGW St. 5 at 15-16.

26. PGW has the largest USC charge for residential customers of any natural gas distribution company. PGW St. 4 at 19-20.

27. Non-Residential customers that operate residential master-metered multi-family buildings benefit directly from the Low-Income Mutli-Family ("LIME") program. OCA St. 4-R at 12-13.

IV. PUBLIC INPUT HEARINGS

At the time of the prehearing conference, only one consumer formal Complaint had been filed in this base rate proceeding. However, this singular consumer Complaint coupled with multiple protests filed with the Secretary's Bureau indicated sufficient public interest in

PGW’s requested rate increase. Accordingly, four public input hearings were held in four different locations in PGW’s service territory. In total, 24 people offered testimony:

<u>Date/Location</u>	<u>Witnesses Testifying</u>
<u>Tuesday, May 9, 2017</u>	
Betsy Ross Room 801 Market Street Philadelphia, PA 19107 <i>10:00 a.m.</i>	11
Dorothy Emanuel Recreation Center Gymnasium 8501 Provident Avenue Philadelphia, PA 19150 <i>6:00 p.m.</i>	0
<u>Wednesday, May 10, 2017</u>	
Free Library 1901 Vine Street Philadelphia, PA 19103 <i>10:00 a.m.</i>	4
George Washington High School Auditorium 10175 Bustleton Avenue Philadelphia, PA 19116 <i>6:00 p.m.</i>	9

The majority of the PGW customers who testified at the public input hearings offered testimony regarding gas service affordability and inability to pay their PGW bills. Dario Romero recounted personal health issues that impeded his ability to pay his bills last year, resulting in his service being terminated. He indicated a desire to pay his bills when he is able to return to work.³

Barbara Schraeder testified that the rate increase will place a burden on citizens already coping with low wages, wage stagnation and joblessness. Ms. Schraeder further testified regarding her concern that the majority of the proposed rate increase will be placed on individual

³ Tr. 59.

household customers, rather than commercial or industrial gas users. Ms. Schraeder also testified that she is concerned about PGW's proposal to raise the fixed charge from \$12 per month to \$18 per month. Ms. Schraeder further testified that she is concerned that some of PGW's customers will be forced to choose between paying their gas bills or paying for some other necessities, such as medication.⁴

Colman Holmes testified that increasing the fixed monthly customer charge is unfair. He explained that low and fixed income customers are already struggling to pay for food, rent, and other daily essentials. He further testified that increasing the fixed cost takes control over the amount of a bill away from the consumer. He is also concerned that the increases he gets in Social Security benefits do not match the increase he will experience if his PGW bill goes up.⁵ Similar to Mr. Holmes, witness Robert Taylor III testified that the proposed 11.3% increase is too high when considering that his own raises are typically between 2% and 3%.⁶ Also, witness Nora Levitt testified that while other expenses are increasing, her income is not increasing commensurately.⁷

William Dingfelder, an inactive party in this proceeding, testified that although he can afford the proposed rate increase, he is generally concerned for those PGW customers who cannot afford the proposed increase. Mr. Dingfelder testified that he previously lived in Lower Merion, and that PGW's rates are much higher than what he paid previously. Mr. Dingfelder testified that he believes it wrong to increase rates since the cost of natural gas has decreased substantially in the last 5 years.⁸

Angela Foster testified generally about her concerns regarding her ability to afford her PGW bills since she is on a fixed income.⁹

⁴ Tr. 65-68.

⁵ Tr. 68-72.

⁶ Tr. 93.

⁷ Tr. 62.

⁸ Tr. 73-76.

⁹ Tr. 77-84.

Ursula Johnson testified generally that the proposed rate increase will be difficult for senior citizens.¹⁰

Antonia Batts testified that she intends to purchase a home in a year or two. She is generally concerned with how she will be able to budget all of the expenses associated with home ownership, including her gas bills.¹¹

Morrease Leftwich, Jr. testified in opposition to PGW's proposed rate increase. Mr. Leftwich, Jr. offered his concerns about individuals who are unable to afford their bills at current levels.¹²

Judith Sussholtz also offered testimony about the affordability of her gas bills. Ms. Sussholtz testified that she is an adjunct professor at the Community College of Philadelphia. Ms. Sussholtz further testified that when she retires next year, her only sources of income will be her pension and her Social Security benefits. Ms. Sussholtz is concerned that her income will be insufficient in the event of a personal catastrophe, and urged against a fixed rate increase in this case.¹³

Alicia Lee Scott testified about her concerns regarding the affordability of her PGW gas bills, as well as her concern for those households who lose gas service due to inability to pay their bills. Ms. Scott further testified that she is concerned about households that use unsafe heating sources when their gas service has been terminated. Moreover, Ms. Scott testified that she is concerned that the proposed increase to the fixed customer charge is more than low income workers can afford.¹⁴

Stephen Jones offered testimony regarding the affordability of his PGW gas bills. Mr. Jones testified that on one recent bill, his total bill was more than three times the amount he

¹⁰ Tr. 94-96.

¹¹ Tr. 97.

¹² Tr. 121-123

¹³ Tr. 124-127.

¹⁴ Tr. 127-133.

was charged for the amount of gas he used.¹⁵ He testified that PGW executives' pay should be reduced before PGW customers must pay an increase in rates,¹⁶ a sentiment shared by witness James Kraus.¹⁷ In that vein, Myles Gordon testified that he believes PGW executives are overcompensated.¹⁸

In addition to offering general testimony regarding the affordability of her gas bills, Ozetta Jones indicated her concern regarding PGW customers who pay their bills subsidizing those customers who do not pay their bills. Ms. Jones believes that there must be a way to lower these bills for the benefit of all households.¹⁹

Similar to Ms. Jones, Chester Skaziak testified regarding his concerns about the surcharge on his PGW bill to subsidize those who are unable or unwilling to pay their gas bills. Mr. Skaziak asserted that PGW should investigate whether those who are receiving a low income discount are deserving of the discount.²⁰

Roxanne G. Schroeder, Committee Woman for the 35th Ward, 1st Division, testified that if the proposed rate increase is accepted, it will place a financial hardship on PGW's customers, resulting in a decrease in their quality of life. Ms. Schroeder further testified that she is concerned for PGW customers who earn \$10 too much to receive financial assistance.²¹

In addition to concerns regarding the affordability of PGW gas bills, several customers testified that they feel they are being penalized for conserving on gas usage. Herbert Sumsky testified that he followed all of PGW's recommendations to conserve gas usage and did receive a rebate from PGW. He testified that he believes PGW should give him an additional \$20 per month rebate each month during the winter for his efforts.²²

¹⁵ Similarly, witness Ozetta Jones also offered testimony that every month, her total gas bill is three times her usage. Tr. 174. Also, witness Sean Hand complained that the distribution charge is more than what he pays for the gas he actually uses. Tr. 85-86.

¹⁶ Tr. 153-156.

¹⁷ Tr. 159-160.

¹⁸ Tr. 180.

¹⁹ Tr. 172-176.

²⁰ Tr. 162-164.

²¹ Tr. 186-191.

²² Tr. 156-159.

Myles Gordon testified that he also took steps to conserve energy. Mr. Gordon is upset that PGW has proposed an increase in rates in response to his energy conservation. Mr. Gordon believes that PGW's proposed rate increase should be denied.²³

V. DESCRIPTION OF THE PARTIAL SETTLEMENT

PGW filed a Joint Petition for Partial Settlement on July 21 2017. This Petition includes the terms of the Partial Settlement, including terms related to the revenue requirement, revenue allocation and rate design, customer issues, and natural gas supplier issues. The Partial Settlement also included the following exhibits:

Exhibit 1	Tariff Supplement – Settlement Rates
Exhibit 2	Proof of Revenue

Additionally, statements in support of each party joining the Partial Settlement are attached to the Joint Petition for Partial Settlement.

VI. TERMS AND CONDITIONS OF THE PARTIAL SETTLEMENT

The Joint Petitioners have agreed to a Partial Settlement covering all but two issues raised in this proceeding.

The terms and conditions of the Partial Settlement are set forth fully below, beginning at numbered paragraph 12 through and including paragraph 42 of the Joint Petition for Partial Settlement filed on July 21, 2017. The Partial Settlement also includes the usual “additional terms and conditions” that are typically included in settlements. These terms, which, among other things, protect the parties’ rights to file exceptions if any part of the Settlement is modified, condition the agreement upon approval by the Commission and provide that no party is bound in future rate cases by any particular position taken in this case. These additional terms and conditions will not be repeated here verbatim. The reader is directed to the petition itself.

²³ Tr. 177-185

The Joint Petitioners to the PGW Partial Settlement include I&E, OCA, OSBA, RESA, PICGUG, CAUSE-PA, and TURN *et al.* The settlement terms among the Joint Petitioners and PGW consist of the following terms and conditions:

REVENUE REQUIREMENT

12. PGW will be permitted to charge the Settlement Rates set forth in Exhibit 1 pursuant to the terms set forth therein for service rendered on and after the effective date. The Settlement Rates are designed to produce an increase in operating revenues of \$42 million and Total Operating Revenue of \$680.837 million for the Fully Projected Future Test Year (“FPFTY”) (which is comprised of the period from September 1, 2017 through August 31, 2018), calculated using the 20-year average of heating degree days experienced in PGW's service territory.

Health Insurance Cost Tracking

13. Starting with Fiscal Year (“FY”) 2018, PGW will track a health insurance cash expense schedule for each fiscal year which shows cash payments for health insurance, claims and administrative expenses and cash received for employee contributions. PGW will present this tracking in its next base rate case filing. The tracking schedule will provide this information for both active and retired employees separately. The health insurance cash expense for the fully projected future test year, FY 2018, is \$30.811 million for current employees and \$34.448 million for retired employees.

Actual Results for FPFTY

14. In PGW’s next base rate filing, PGW will prepare a comparison of its actual expenditures and financial results for FY 2018 compared to the FPFTY in this case.

Rate Case Filing

15. PGW shall not file a general rate increase pursuant to 66 Pa.C.S. § 1308(d) any sooner than December 1, 2019. This Paragraph does not apply to petitions for extraordinary rate relief under 66 Pa.C.S. § 1308(e) or to petitions for emergency rate relief.

Weather Normalization Adjustment Clause

16. PGW’s Weather Normalization Adjustment (“WNA”) shall continue as currently structured except that PGW will utilize normal weather as the 20-year average of heating degree days experienced in PGW’s service territory. On January 10 of each year, PGW will provide an annual report to be submitted in this docket that details the actual charges or credits that resulted from application of the WNA and the actual number of heating degree days (“HDDs”). In its next base rate case, PGW will provide an analysis of the normalized HDDs that it selects.

REVENUE ALLOCATION AND RATE DESIGN

17. (a) The Joint Petitioners agree to the following revenue allocation:

Rate Class	Percent of Increase	Revenue Allocation
Residential	78.67%	\$33,039,250
Commercial	11.13%	\$4,575,560
Industrial	0.60%	\$350,300
PHA GS	0.41%	\$170,200
Municipal/PHA Rate 8	3.60%	\$1,511,800
NGVS	0.00%	\$0
Interruptible Sales	0.00%	\$0
GTS/IT	5.60%	\$2,352,800
TOTAL	100.00%	\$41,999,910

The revenue allocation and rate design in this Settlement reflect a compromise and do not endorse any particular cost of service study.

- (b) Exhibit 2 to this Petition sets forth a Proof of Revenue demonstrating that the proposed rates produce \$42 Million in additional revenues, assuming *pro forma* revenue at present rate using 20-year heating average degree days.

Customer Charges

18. The Joint Petitioners agree to the following customer charges:

Rate Class	Customer Charge
Rate GS - Residential	\$ 13.75
Rate GS - Commercial	\$ 23.40

Rate GS- Industrial	\$ 70.00
Rate GS- Philadelphia Housing Authority	\$ 13.75
Rate MS – Municipal Service	\$ 23.40
PHA (Rate 8)	\$ 23.40
NGVS	\$ 35.00
Rate IT-A	\$152.16
Rate IT-B	\$273.89
Rate IT-C	\$273.89
Rate IT-D	\$273.89
Rate IT-E	\$426.06

Technology and Economic Development (“TED”) Rider

19. The TED Rider is approved as a three-year pilot program. Six months before the end of the three-year pilot program, PGW will report on the economics of the TED Rider.
 - a. PGW will maintain records of all TED Rider investments and TED Rider negotiated rates. In the event that PGW files a general base rate case during the three-year TED Rider pilot program following the effective date of rates established in this proceeding, PGW will provide information, as part of its initial filing, showing the *pro forma* rate of return on incremental investment for TED Rider customers as a sub-class in its filed cost of service study. Further, as part of its annual Gas Cost Rate (“GCR”) filings, PGW agrees to provide data on all sales to and costs incurred for TED customers.

Micro-Combined Heat and Power (“Micro-CHP”) Incentive Program

20. PGW’s filed Micro-CHP Incentive Program is modified as follows: PGW agrees that the economic test that will determine eligibility for participation in the Pilot Micro-CHP Incentive Program will include the costs of the incentives.

Rate BUS: Back-Up Service

21. PGW’s filed Rate BUS is modified as follows: As part of its annual GCR filings, PGW agrees to provide data on the number of customers, sales levels and costs incurred for BUS customers. In two years (or PGW’s next base rate case, whichever is sooner) PGW will provide an analysis of the BUS rate and provide a recommendation as to whether it should continue.

Rate IT – Pricing

22. PGW will withdraw its “value based” rate proposal in this case without prejudice to any position that may be advanced in future proceedings.
23. Within 120 days of the entry of a PUC order approving this settlement PGW will file a proposed “Large Customer Transportation Service Tariff (“LT”).
 - a. Within 60 days of entry of a PUC order approving this settlement, PGW will meet with PICGUG and any other interested parties to discuss the components of the LT Tariff. All parties retain all rights to challenge the rates, terms and conditions proposed by PGW for the LT Tariff.
 - b. The LT rates will be voluntary and available only to new IT load or existing IT customers.
 - i. At its discretion, PGW will be able to require that a customer subscribing to LT rates have some limited ability to reduce load when requested by PGW after notice.
 - ii. The LT rates will be an increment of the IT rates established in this case.
24. The IT rate class has been allocated 5.6% of the rate increase agreed to or found to be reasonable by the Commission in this case. The rate increase for the IT customer subclasses are set forth in Exhibits 1 and 2, attached.
25. PGW shall add a provision to its existing IT Rules that permits PGW and IT customers to negotiate long-term contracts of up to five years. The rates may be higher than, but no lower than, the approved tariffed rates and may contain additional minimum take requirements. Any such long-term contract would have to be mutually agreed to by PGW and the customer.
 - a. Within 60 days of the entry of a PUC order approving this Settlement, PGW will meet with PICGUG to determine whether a negotiated contract applicable to all interested PICGUG members can be achieved.

CUSTOMER ISSUES

Hazardous Heating Remediation Pilot

26. PGW will implement a hazardous heating remediation pilot (“HH Pilot”) for at least two years, that will address heating system hazards and weatherize the homes of customers who meet the following criteria: (1) customers must, in the current or prior PGW fiscal year, have been on CRP, received a Low Income Home Energy Assistance Program (“LIHEAP”) grant, or been on a Level 1 (150% Federal Poverty Level (“FPL”) and below) or Level 2 (151%-200% FPL) payment arrangement (and sign an affidavit confirming their income as part of the HH Pilot); and, (2) customers must have received a hazard tag from a PGW service representative indicating a heating system component is not operating safely or at all.
 - a. Consumers whose gas service is off would be eligible for this HH Pilot provided that the consumer first reinstates gas service in accordance with otherwise applicable requirements, including but not limited to payment of arrears. To assist this group of consumers with reinstatement of service, PGW will consider more flexible reinstatement terms including but not limited to enrollment in CRP if the household would otherwise be eligible for CRP enrollment.
27. Customers would be selected for this pilot on a monthly basis based on PGW hazard tags issued in the prior month, prioritized for treatment by highest usage and lowest arrearages, from November through April or until funds are exhausted. Customers who are selected would be notified by letter, and called on two separate occasions (one call during the day and one in the evening) to be invited to participate in the program.
28. The HH Pilot budget will be \$250,000 per year for the first two years of the pilot, incremental to the LIURP budget. Amounts not expended in the first two years of the Pilot would be rolled over into a third year. All program costs would be recovered through the Universal Services and Energy Conservation surcharge. At the end of the HH Pilot, PGW will evaluate the pilot and make a recommendation to the Commission regarding any future hazardous heating remediation pilot program in its next Universal Service and Energy Conservation Plan (i.e. the 2021-2023 plan) proceeding. PGW will provide the results of its evaluation and underlying data to

the parties to this proceeding 30 days prior to the filing of its 2021-2023 plan filing. The parties agree that: a) this HH Pilot budget is a settlement amount; b) has not been set pursuant to any need based determination; and c) no party shall argue that the HH Pilot budget amount is a legally required floor for a future HH program (if any).

- a. If the project can be treated cost-effectively, the service provider will complete the treatment as usual and include all costs in the cost effective analysis. If the heating system repair or replacement is cost ineffective, the measure costs can be excluded from the LIURP cost effectiveness analysis up to the maximums detailed in Table 1 below (average costs for such measures in CY16), adjusted annually; provided however, if the measure remains cost ineffective after applying the cost exclusions, the measure will not be installed.
- b. To the extent feasible, PGW will coordinate its activities with the City of Philadelphia’s Basic Systems Repair Program. PGW agrees to inform the PA Department of Community and Economic Development, the PA Department of Human Services’ LIHEAP administrators, PECO Energy Company, and the City’s Heater Hotline of its new PGW program.

Table 1. Maximum Measure Cost TRC Exclusions	
Measure	Maximum Exclusion
Boiler Replacement	\$6,001
Boiler Repair	\$306
Furnace Replacement	\$4,038
Furnace Repairs	\$363
Flue and Chimney Related Repairs	\$413

Credit and Collection Collaborative

29. PGW will hold a credit and collection collaborative with interested stakeholders to obtain stakeholder input on bill management efforts for customers and applicants seeking to restore service previously shut off for non-payment, including customers and applicants with \$10,000 or more of arrearages.

Cost/Benefit Analysis of Crisis Acceptance Policy

30. PGW will conduct a cost/benefit analysis of the impact of modifying its Crisis acceptance policy to permit customers to maintain or restore service when the grant amount is less than the amount needed to maintain or restore service. This cost/benefit analysis will be completed within 60 days from the date of the final order approving this Settlement and will be provided to the parties. PGW agrees to discuss the analysis at the collaborative identified in paragraphs 32 and 33, below.

PGW Section 1521 Policies

31. PGW will document its 66 Pa. C.S. § 1521 *et seq.* policies in a written training document, which will be provided to all of PGW's customer service representatives. PGW will provide a copy of this document to the parties in this proceeding.

Low Income Issue Collaborative

32. PGW agrees to hold a collaborative with the parties to this proceeding within 120 days from the date of the final order in this proceeding to:
 - a. Discuss the results from its cost/benefit analysis of the impact of modifying its Crisis acceptance policy;
 - b. Discuss ways to improve its outreach to households who are unable to reconnect to PGW service because of high balances; and,
 - c. Discuss ways to address improving CRP enrollment.

33. PGW agrees to consider in good faith the issues and suggestions raised in the collaborative provided in Paragraph 32 above, in determining whether it wishes to revise any of its existing policies. The parties to the collaborative agree that they will participate in the collaborative in good faith.

Tracking of Certain Unauthorized Use Determinations

34. PGW will track the number of instances in which it reverses a previous determination of unauthorized use, as defined in PUC regulations, due to:
 - a. A customer or applicant prevailing in an informal or formal complaint with the PUC; and/or
 - b. Its own determination without the customer filing an informal or formal complaint with the PUC in instances in which the customer is suspected, or has, diverted the gas away from the meter physically by bypassing the meter or taking some other action such that the customer's meter does not get gas through it to record gas consumption.

Budget Billing Modifications

35. PGW will put customers entering into a new payment arrangement ("PAR") into budget billing at the time they enter the PAR, unless the customer requests or the PUC requires that the customer not be entered into budget billing. PGW will not remove customers from Budget Billing upon completion of their PAR without an explicit request from the customer (or a directive from the PUC) to be removed from Budget Billing.
36. PGW will modify its year-end Budget Billing processes in two ways. First, if year-end balances are greater than \$100 but less than \$300, PGW will spread that balance over the next six months. Second, underpayments of \$300 or more will be spread over 24 months.

CRP Offset

37. PGW shall implement a 7.5 % Bad Debt Offset which will offset CAP credit amounts (i.e. reported as "CRP Discount" in PGW's quarterly filings) related to average annual CAP participants

exceeding 60,000 customers. The offset will be calculated as follows: (1) average annual CAP credit amount; multiplied by (2) average annual number of CAP participants exceeding 60,000 customers; multiplied by (3) 7.5%. The offset will only be effective during the effective period of the distribution base rates established in this proceeding.

NATURAL GAS SUPPLIER ISSUES²⁴

38. PGW will reduce the Purchase of Receivables (“POR”) Administrative adder to 0.5% from its current 2%.
39. PGW will retain the Gas Procurement Charge (“GPC”) at the current level of \$0.04/mcf.
40. PGW will eliminate its \$10 switching fee.
41. PGW will adopt a new price structure for monthly cash out imbalances in excess of 3.5% (the current methodology will continue to be used for imbalances up to 3.5%).
 - a. Shortages in that range would be priced at the higher of: (i) 125% of the average of the five (5) highest Daily Market Index Prices for the monthly period beginning on the first day of the month; or (ii) 150% of the Company’s highest incremental supply cost for the month.
 - b. Overages would be purchased at the lower of: (i) 75% of the average of the five (5) lowest Daily Market Index Price for the monthly period beginning on the first day of the month; or (ii) 75% of the Company’s lowest incremental supply cost for the month.
42. PGW will convene a stakeholder collaborative to address competition and billing issues.

²⁴ OSBA does not join in the Settlement of this Section, “Natural Gas Supplier Issues.”

VII. LEGAL STANDARDS/BURDEN OF PROOF

A. Legal Standard for Partial Settlement

The purpose of this investigation is to establish rates for PGW's customers that are just and reasonable pursuant to Section 1301 of the Public Utility Code.²⁵

A public utility seeking a general rate increase is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service.²⁶ In determining what constitutes a fair rate of return, the Commission is guided by the criteria set forth in *Bluefield Water Works & Improvement Co. v. Public Service Commission of West Virginia*,²⁷ and *Federal Power Commission v. Hope Natural Gas Co.*²⁸ In *Bluefield*, the United States Supreme Court stated:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.²⁹

The Commission encourages parties in contested on-the-record proceedings to settle cases.³⁰ Settlements eliminate the time, effort and expense of litigating a matter to its

²⁵ 66 Pa.C.S. § 1301.

²⁶ *Pennsylvania Gas & Water Co. v. Pa. Pub. Util. Comm'n*, 341 A.2d 239 (Pa.Cmwlth. 1975).

²⁷ 262 U.S. at 679 (1923).

²⁸ 320 U.S. at 591 (1944).

²⁹ 262 U.S. at 692-93.

³⁰ See 52 Pa.Code § 5.231.

ultimate conclusion, which may entail review of the Commission’s decision by the appellate courts of Pennsylvania. Such savings benefit not only the individual parties, but also the Commission and all ratepayers of a utility, who otherwise may have to bear the financial burden such litigation necessarily entails.

By definition, a “settlement” reflects a compromise of the positions that the parties of interest have held, which arguably fosters and promotes the public interest. When active parties in a proceeding reach a settlement, the principal issue for Commission consideration is whether the agreement reached suits the public interest.³¹ In their supporting statements, the Joint Petitioners conclude, after extensive discovery and discussion, that this Settlement resolves most of the contested issues in this case, fairly balances the interests of the company and its ratepayers, is in the public interest, and is consistent with the requirements of the Public Utility Code.

Not every issue was of equal concern to every party. Accordingly, each of the Joint Petitioners’ statements in support did not necessarily address each and every aspect of the Settlement.

B. Burden of Proof for Litigated Issues

The public utility bears the burden of proof to establish the justness and reasonableness of its requested rate increase. As set forth in Section 315(a) of the Public Utility Code, 66 Pa.C.S. § 315(a):

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.

³¹ *Pa. Pub. Util. Comm’n v. CS Water and Sewer Associates*, 74 Pa. PUC 767, 771 (1991). See also *Pa. Pub. Util. Comm’n v. York Water Co.*, Docket No. R-00049165 (Order entered October 4, 2004); *Pa. Pub. Util. Comm’n v. Philadelphia Electric Company*, 60 Pa. PUC 1 (1985).

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.³²

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.”³³ 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.”³⁴ Additionally, the evidence must be substantial and legally credible, and cannot be mere “suspicion” or a “scintilla” of evidence.³⁵ Thus, a utility has an affirmative burden to establish the justness and reasonableness of its rate request.

However, as the Commonwealth Court has explained: “While it is axiomatic that a utility has the burden of proving the justness and reasonableness of its proposed rates, it cannot be called upon to account for every action absent prior notice that such action is to be challenged.”³⁶ Therefore, while the ultimate burden of proof does not shift from the utility, a party proposing an adjustment to a ratemaking claim bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment.³⁷

³² *Lower Frederick Twp. v. Pa. Pub. Util. Comm’n*, 48 Pa. Commw. 222, 226-27, 409 A.2d 505, 507 (1980) (citations omitted). *See also, Brockway Glass v. Pa. Pub. Util. Comm’n*, 63 Pa. Commw. 238, 437 A.2d 1067 (1981).

³³ *Burleson v. Pa. Pub. Util. Comm’n*, 461 A.2d 1234, 1236 (Pa. 1983).

³⁴ *Lansberry v. Pa. Pub. Util. Comm’n*, 578 A.2d 600, 602 (Pa.Cmwlth. 1990).

³⁵ *Lansberry*, 578 A.2d at 602.

³⁶ *Allegheny Center Assocs. v. Pa. Pub. Util. Comm’n*, 570 A.2d 149, 153 (Pa.Cmwlth. 1990).

³⁷ *See, e.g., Pa. Pub. Util. Comm’n v. PECO Energy Co.*, Docket No. R-891364, *et al.*, 1990 Pa. PUC LEXIS 155 (Order entered May 16, 1990); *Pa. Pub. Util. Comm’n v. Brezewood Telephone Co.*, Docket No. R-901666, 1991 Pa. PUC LEXIS 45 (Order entered January 31, 1991).

Furthermore, a party that raises an issue that is not included in a public utility's general rate case filing bears the burden of proof regarding that issue.³⁸

VIII. DISCUSSION OF THE PARTIAL SETTLEMENT

A. Revenue Requirement

1. Party Positions in General

In its rate filing, PGW requested that it be permitted to increase its revenues by \$70 million, based upon the FPFTY of September 1, 2017 – August 31, 2018.³⁹ PGW's claim for increased rates calculated *pro forma* revenues at present rates using 10-year average of heating degree days ("HDDs"). PGW Statement in Support at 5.

PGW calculated its need for increased revenues using the "Cash Flow" method.⁴⁰ PGW summarizes that, in accordance with both the Public Utility Code and a Commission Policy Statement, rather than having its revenue requirement determined on the basis of a fair rate of return on a used and useful rate base, PGW's Cash Flow method establishes rates by determining the appropriate levels of cash, debt service coverage and other financial metrics necessary to enable PGW to pay its bills, meet minimum debt service coverage requirements and maintain or improve a bond rating sufficient to access the capital markets at reasonable rates. PGW noted that in 2010 the Commission issued a policy statement more fully setting forth these criteria and the financial and other considerations that are to be looked to in setting PGW's base rates at just and reasonable levels.⁴¹ PGW Statement in Support at 6.

PGW explained that PGW's last base rate increase was filed in 2009 and settled in 2010 and, by the time that the Commission is expected to rule on this current request, over seven years will have passed without additional base rate relief. In the 2008 period PGW was in

³⁸ *Pa. Pub. Util. Comm'n et al. v. Columbia Gas of Pennsylvania, Inc.*, R-2010-2215623 at 28 (Opinion and Order dated October 14, 2011).

³⁹ See Joint Petition at ¶ 1-3.

⁴⁰ PGW St. 1 at 2.

⁴¹ 52 Pa. Code § 69.2702, 2703.

financial crisis. The Commission’s decision to award PGW a \$60 million “extraordinary rate increase” at that time, and to then subsequently make that emergency rate increase permanent (along with an additional \$16 million permitting PGW to begin to fund its OPEB obligations), stabilized the Company and put it on the path back to financial solvency. PGW witness Gregory Stunder indicated that since that time, PGW has improved its financial health which, in turn, has given PGW the ability to concentrate on modernizing its distribution system, improving safety, increasing efficiency and trying to enhance customer service.⁴² PGW Statement in Support at 6.

PGW witness Stunder further indicated that a combination of increasing costs over time and decreasing revenues, caused chiefly by progressively warmer temperatures in PGW’s service territory, resulted in less use of natural gas for heating, making additional revenues imperative.⁴³ Since PGW’s last base rate case in 2009/2010, the Company has undertaken a number of initiatives to modernize its infrastructure, make its system safer and more efficient, and improve customer service. While PGW acknowledged that some of those efforts have been financed through surcharges (i.e., the acceleration of PGW’s main replacement program), PGW maintained that it has undertaken numerous other efforts that have been financed through base rates or additional borrowing. At the same time, PGW indicated that it has experienced material increases in operating costs while seeing weather normalized levels of sales and associated revenues dramatically decrease. While, during this period, PGW’s financial health has continued to improve compared to 2008 levels, PGW maintained that its *pro forma* results clearly demonstrated that a rate increase was needed if the Company was going to maintain its financial status and current favorable bond ratings and be able to continue with its significant efforts to improve the safety, efficiency and reliability of its system and continue to work to improve customer service. PGW Statement in Support at 6-7.

PGW’s requested \$70 million rate increase was calculated to improve its *pro forma* year end cash and debt service coverage to acceptable levels compared to the FPFTY as well as for the next several years:

⁴² PGW St. 1 at 2-3.

⁴³ PGW St. 1 at 2-3.

PGW Financial Metrics

Total Operating Revenues	Year-End Cash on Hand	Debt Service Coverage (1998 Bond)	Debt-to-Equity Ratio⁴⁴
FPFTY ⁴⁵ @ Present Rates	\$46.637M	1.53x	96.35%
FY2022 ⁴⁶ @ Present Rates	(\$255.461M)	1.43x	88.42%
FPFTY ⁴⁷ @ Proposed Rates	\$114.922M	2.2x	90.88%
FY2022 ⁴⁸ @ Proposed Rates	\$83.630M	2.06x	68.50%

PGW Statement in Support at 7.

PGW witness Daniel J. Hartman explained that, without rate relief, debt service coverage at or just below 1.5x – projected to be realized in the FPFTY without rate relief - would very likely lead to bond downgrades:

While PGW’s financial metrics have improved materially in the last five years, they are not at levels that allow much margin of error. One key metric is the debt service coverage ratio, which is net revenues of PGW divided by debt service, a measure of protection that bondholders have to changes in net revenues. PGW’s debt service coverage over the last five years has risen to slightly over 2.0x coverage in FY 2016 from 1.75x in FY 2012 (and above the minimum 1.50x legal requirement in PGW’s bond ordinance), pushing up PGW’s bond ratings and outlook along the way. However, the apparent strength of this credit metric is masked by PGW’s financial commitment to transfer \$18 million of net revenue to the City of Philadelphia General Fund, the obligation to fund PGW’s OPEB required annual contribution of \$18.5 million, and the \$33 million of cash funded annual capital improvement from the dedicated DSIC. These obligations, all of which have been approved by the Commission, effectively usurp much of the current financial margin in the 2.0x coverage ratio, let alone the minimum 1.50x in the legal covenants that the Commission methodology explicitly allows. That is, much of the apparent cushion between the minimum 1.50x coverage and the 2.0x coverage ratio is absorbed by the three continuing obligations listed above. When looking at the core debt

⁴⁴ Since PGW has no “equity” in the conventional sense, this comparison is between debt and total capitalization (total debt plus City Equity). See, e.g., Exh. JFG-1, pg. 4.

⁴⁵ Exh. JFG-1-A.

⁴⁶ Exh. JFG-1-A.

⁴⁷ Exh. JFG-2-A.

⁴⁸ Exh. JFG-2-A.

coverage and the rating agencies' adjusted coverage metrics, PGW is well below that of its peers at the "A" level and more in line with poorly rated and financially challenged utilities in the lower "BBB" rating levels. PGW's financial forecast now requires at least \$70 million to maintain the debt coverage levels that exist today at or just above the 2.0x coverage level. Without that rate support from the Commission, PGW's debt service coverage metric falls rapidly to bare minimum levels of 1.50x and exposes PGW to significant financial difficulties in funding ongoing operations and its capital program, particularly the Commission-supported main replacement program. If a substantial portion of the amount of the requested levels cannot be obtained, it clearly has negative implications for maintaining the same protections for investors moving forward and allowing PGW's bond rating to stay in the same rating category.⁴⁹

PGW Statement in Support at 8.

According to PGW witness Joseph F. Golden, Jr., a bond downgrade would increase costs to ratepayers and reduce PGW's ability to issue long term debt at reasonable rates.⁵⁰ PGW Statement in Support at 9.

PGW further noted that at existing rates, PGW cash balances were projected to plunge. In FY 2017-2018, PGW is projecting that it will end the year with just \$47.4 million in cash; this projection dramatically decreases in the Forecast Period. According to PGW witness Golden, this equates to just 35.7 days of cash on hand⁵¹ with the cash balance quickly turning negative in the Forecast Period. As more fully explained by PGW witness Hartman, a cash balance of only 36 days would not only be extremely concerning to the rating agencies, it would also pose real challenges to the Company's ability to meet all of its obligations when they come due.⁵² PGW Statement in Support at 9.

PGW asserted that its testimony clearly justifies the awarding of substantial rate relief, as attested by the positions of the parties investigating PGW's request. PGW noted that in response to its testimony, OCA, I&E and OSBA recommended that PGW be permitted to increase its rates. OCA witness Ashley E. Everette recommended that PGW be permitted to

⁴⁹ PGW St. 3 at 6-8.

⁵⁰ PGW St. 2 at 17-19.

⁵¹ PGW St. 2 at 12. Days of cash on hand calculation: Total Operating Expenses, less non-cash items, depreciation and amortized pensions, divided by 365, divided into cash balance.

⁵² PGW St. 2 at 17-19.

increase its rates by \$32.101 million using 20 year average HDDs to calculate normal revenues at present rates.⁵³ I&E witness Rachel Maurer’s final recommendation was for a \$39.645 million increase, using 10 year average HDDs.⁵⁴ OSBA witness Robert D. Knecht recommended that PGW be permitted to increase rates in the range of \$30-35 million.⁵⁵ PGW Statement in Support at 9.

The Settlement permits PGW to file rates designed to produce an increase in operating revenues of \$42 million and Total Operating Revenue of \$680.837 million for the FPFTY calculated using the 20-year average of degree days experienced in PGW's service territory.⁵⁶ Under the Settlement rates, PGW calculates that it will experience \$94.2 million Year-End Cash on Hand. Its debt service coverage (on 1998 Bonds) will be just under two – 1.97x – and its FPFTY debt to equity (or total capitalization) ratio will be 92.5%, dropping to 72.66% in FY 2022. PGW Statement in Support at 10.

PGW maintains that the Settlement rates permit it to materially but reasonably improve its key metrics in the FPFTY and, for the most part, sustain its operations for the next several years (barring unforeseen events). With the Settlement rate increase, the year-end cash on hand and Debt Service Coverage should be within acceptable ranges to permit PGW to maintain its existing improved bond rating. Moreover, PGW notes that the Settlement financial metrics are within the ranges recommended by the Parties:

PGW Settlement Rates Comparison

	PGW	OCA	I&E	Settlement
Debt Service Coverage (1998 Bonds)	2.20x ⁵⁷	1.85x ⁵⁸	1.87x ⁵⁹	1.97x

⁵³ OCA St. 1-S at 2.
⁵⁴ I&E St. 1-SR at 10.
⁵⁵ OSBA St. 1 at 9.
⁵⁶ Joint Petition at ¶¶ 10, 12.
⁵⁷ PGW Exh. JFG-2A, p. 3.
⁵⁸ OCA Exh. AEE-2.
⁵⁹ I&E Exh. 1-SR, Sch. 1.

Year End Cash	\$114.9M ⁶⁰	\$82.5M ⁶¹	\$110.4M ⁶²	\$94.2M
Debt to Equity	90.88% ⁶³	N/A	93.13% ⁶⁴	92.53%

PGW Statement in Support at 10.

I&E notes that the Company’s overall annual revenue increase is \$28 million less than the \$70 million initially requested by PGW, or a reduction of approximately 40% of the amount requested. I&E agreed to the settlement in the amount of \$42 million only after it conducted an extensive investigation of PGW’s filing and related information obtained through the discovery process to determine the amount of revenue PGW needs to provide safe, effective, and reliable service to its customers. I&E notes that the additional revenue in this proceeding is base rate revenue and has been agreed to in the context of a “Black Box” settlement with limited exceptions. As noted by I&E, Commissioner Robert F. Powelson explained that black box settlements are beneficial in this context because of the difficulties in reaching an agreement on each component of a company’s revenue requirement calculation, when he stated, the “[d]etermination of a company’s revenue requirement is a calculation that involves many complex and interrelated adjustments affecting revenue, expenses, rate base and the company’s cost of capital. To reach an agreement on each component of a rate increase is an undertaking that in many cases would be difficult, time-consuming, expensive and perhaps impossible. Black box settlements are an integral component of the process of delivering timely and cost-effective regulation.”⁶⁵ I&E Statement in Support at 6-7.

I&E maintains that this increased level of “Black Box” revenue adequately balances the interests of ratepayers and PGW. PGW will receive sufficient operating funds in order to provide safe and adequate service while ratepayers are protected as the resulting increase minimizes the impact of the initial request. Mitigation of the level of the rate increase benefits ratepayers and

⁶⁰ PGW Exh. JFG-2A, p. 2.

⁶¹ OCA Exh. AEE-2.

⁶² I&E Exh. 1-SR, Sch. 1.

⁶³ PGW Exh. JFG-2A, p. 4.

⁶⁴ I&E Exh. 1-SR, Sch. 1.

⁶⁵ See, Statement of Commissioner Robert F. Powelson, *Pa.Pub.Util.Comm’n v. Wellsboro Electric Company*, Docket No. R-2010-2172662. See also, Statement of Commissioner Robert F. Powelson, *Pa.Pub.Util.Comm’n v. Citizens’ Electric Company of Lewisburg, PA*, Docket No. R-2010-2172665.

results in “just and reasonable rates” in accordance with the Public Utility Code, regulatory standards, and governing case law.⁶⁶ I&E Statement in Support at 7.

OCA maintains that, based on its analysis of the Company’s filing, the proposed revenue increase under the Settlement represents an amount which would be within the range of likely outcomes in the event of full litigation of the case. OCA Statement in Support at 8.

OSBA notes that, at a time when all types of utility service are becoming more expensive, the significant reduction in the overall revenue increase provided by the Partial Settlement will benefit all of PGW’s consumers, including the Company’s small business customers. OSBA Statement in Support at 4.

For its part, PICGUG notes that the reduction of the total revenue increase amount by approximately 40% has satisfied one of its concerns in this proceeding. PICGUG Statement in Support at 4.

CAUSE-PA acknowledges that the Partial Settlement provides for an increase to residential rates that is far less than the \$70 million, or 11.6% increase, originally proposed by PGW in its filing. CAUSE-PA Statement in Support at 2.

TURN *et al.* acknowledges that it did not present testimony on PGW’s revenue requirement. However, TURN *et al.* indicates that it does not oppose the Settlement with regard to revenue requirement, as it believes that the terms and conditions of the Settlement, taken as a whole, are in the public interest because they include commitments to review and address key customer service concerns raised by TURN *et al.* and other parties. TURN *et al.* Statement in Support at 2-3.

2. Specific Terms

a. Health Insurance Cost Tracking

⁶⁶ 66 Pa. C.S. § 1301.

I&E notes that PGW recently implemented a self-funded health insurance plan. As noted by I&E Witness Christopher Keller, “[a] self-insured employer takes on the risk of paying health-related claims for its employees; therefore, it must have adequate funding to pay for claims made that can be unpredictable in nature.”⁶⁷ Accordingly, I&E expressed concern in testimony that ratepayers may be harmed if very large claims were submitted by PGW for major injuries or illnesses and the funds to pay for these claims were unavailable. Therefore, I&E recommended that PGW establish a Health Insurance Escrow Fund in which any employee or Company paid contributions would be deposited in order to ensure that PGW had the funds available to cover large claims.⁶⁸ I&E Statement in Support at 8.

As part of the Settlement, PGW has agreed that beginning with fiscal year 2018, it will track cash payments for health insurance, claims and administrative expenses, and cash received for employee contributions and provide this information to the Parties in the next base rate case.⁶⁹ The tracking schedule will provide this information for both active and retired employees separately. PGW Statement in Support at 11-12.

I&E notes that having this information in PGW’s next base rate case will be instrumental in assessing whether PGW’s self-funded health insurance is beneficial to the Company and its ratepayers. PGW has indicated that it has reduced its health insurance costs by a total of \$77.2 million,⁷⁰ which is significant. However, if one or more extraordinarily large claims causes PGW to need to file a case for emergency rate relief, that benefit could be wiped out. By providing this information to the Parties, I&E asserts that it is in a better position to analyze and assess how well PGW’s self-funded health insurance is working and whether a restricted account needs to be established in which all employee paid and Company paid contributions are deposited to ensure PGW has the requisite funds available to pay out claims. I&E Statement in Support at 9.

b. Actual Results for the fully projected future test year (FPFTY)

⁶⁷ I&E St. No. 2, p. 28.

⁶⁸ *Id.* at 28-29.

⁶⁹ Joint Petition at ¶13.

⁷⁰ PGW St. No. 7, p. 12.

Additionally, in PGW's next base rate filing, PGW will prepare a comparison of its actual expenditures and financial results for FY 2018 compared to the FPFTY in this case.⁷¹ This is a requirement of Act 11, which, among other things, authorized the use of a FPFTY.⁷² PGW Statement in Support at 12.

I&E fully supports this term because it achieves I&E's goal of timely receiving data sufficient to allow for the evaluation and confirmation of the accuracy of PGW's projections in advance of its next base rate case filing. I&E Statement in Support at 9.

c. Rate Case Filing

As part of the Settlement, PGW has agreed that it will not file a general rate increase pursuant to 66 Pa.C.S. § 1308(d) any sooner than December 1, 2019.⁷³ PGW Statement in Support at 11.

I&E maintains that this provision affords a level of rate stability that would not be available should the case be fully litigated. I&E Statement in Support at 9. OCA agrees that this provision will provide for some level of rate stability, noting that at the very earliest time, new rates could not go into effect for almost three years. Accordingly, OCA believes this stay out provision is in the public interest and the interests of PGW's customers. OCA Statement in Support at 10.

OSBA notes that, at a time when all types of utility service are becoming more expensive, the stay-out will benefit all of PGW's consumers, including the Company's small business customers. OSBA Statement in Support at 4.

For its part, PICGUG notes that the stay out provision contained in the Settlement has satisfied one of its concerns in this proceeding. PICGUG Statement in Support at 4.

⁷¹ Joint Petition at ¶ 14.

⁷² 66 Pa.C.S. § 315(e).

⁷³ Joint Petition at ¶ 15. This Paragraph does not apply to extraordinary or emergency rate relief pursuant to 66 Pa.C.S. § 1308(e) or upon petition to the PUC. *Id.*

d. Weather Normalization Adjustment Clause

In its filing, the Company sought an increase in annual distribution revenues of \$70 million using the 10-year average of heating degree days experienced in PGW's service territory. PGW's proposed use of the 10-year average of heating degree days was a shift from the 30-year average of degree days that PGW had used historically. The 10-year average of heating degree days was used to establish the pro forma sales forecast and was used in the Weather Normalization Adjustment (WNA) that adjusts revenue between base rate cases. OCA Statement in Support at 7.

After reviewing the Company's filing, OCA recommended a distribution revenue increase of no more than \$32,101,000.⁷⁴ OCA, however, also recommended that a 20-year average of heating degree days should be used to establish the pro forma sales forecast and in the WNA.⁷⁵ Ms. Everette explained that "[t]he purpose of the WNA is to reduce fluctuations that occur due to abnormal weather during the heating season."⁷⁶ Ms. Everette testified that there could be volatility experienced with the use of the 10-year average heating degree days and recommended the use of the 20-year period for weather normalization to help smooth out that volatility.⁷⁷ Ms. Everette further recommended that PGW provide an annual report to OCA and the Commission stating the actual number of HDDs, the total sales, and the weather normalized sales.⁷⁸ OCA Statement in Support at 10.

OCA notes that the Settlement provides that PGW's WNA "shall continue as currently structured except that PGW will utilize normal weather as the 20-year average of [heating] degree days experienced in PGW's service territory." The Settlement further requires PGW to provide an annual report on January 10 of each year, detailing the actual charges or credits that resulted from application of the WNA and the actual number of HDDs. In the next

⁷⁴ OCA St. 1-S at 2.

⁷⁵ OCA St. 1 at 10-11.

⁷⁶ OCA St. 1 at 11.

⁷⁷ See OCA St. 1 at 6-11.

⁷⁸ OCA St. 1 at 15.

base rate case, PGW will provide an analysis of the normalized HDDs that it selects.⁷⁹ OCA Statement in Support at 11.

OCA submits that these settlement provisions are in the public interest and the interests of PGW's customers. As noted by Ms. Everette, the goal of the weather normalization period is to be representative of future weather-related sales.⁸⁰ The use of the 20-year average of heating degree days represents movement from the 30-year weather normalization period that PGW has used historically, and which PGW no longer finds supportable, but provides a longer period of time from the 10-year average proposed by PGW, which OCA witness Ms. Everette found to be more susceptible to volatility.⁸¹ OCA submits that the use of the 20-year average heating degree days may help to smooth out the volatility that could be experienced with the use of 10-year average heating degree days. Furthermore, the settlement provisions requiring PGW to report on and analyze the WNA will help the Company, the intervening parties, and the Commission to better understand the impact that the weather normalization period has on customers and to evaluate the appropriate weather normalization period in the future. OCA Statement in Support at 11.

I&E agrees that a 20-year average can be utilized in this situation because the Company does have a WNA to adjust monthly revenue based on actual HDDs rather than normal HDDs. While the standard has typically been the 30-year average calculated and published by the National Oceanic and Atmospheric Administration, in this particular case the 30-year average would overstate the experienced level of degree days in the Philadelphia area. Therefore, the 20-year average represents a level of compromise that I&E believes is reasonable. I&E Statement in Support at 9-10.

PGW maintains that the Settlement adoption of 20-year normals by which to establish *pro forma* revenues and to determine adjustments necessary in PGW's WNA was a reasonable compromise moving PGW's base rate closer to a level of "normal" revenues that is

⁷⁹ Settlement at ¶ 16.

⁸⁰ OCA St. 1 at 7.

⁸¹ See OCA St. 1 at 10.

reflective of the current weather reality in PGW’s service territory. PGW Statement in Support at 11.

B. Revenue Allocation and Rate Design

1. Party Positions in General

The Joint Petitioners agreed to the following revenue allocation:⁸²

Rate Class	Percent of Increase	Revenue Allocation
Residential	78.67%	\$33,039,250
Commercial	10.89%	\$4,575,560
Industrial	0.83%	\$350,300
PHA GS	0.41%	\$170,200
Municipal/PHA Rate 8	3.60%	\$1,511,800
NGVS	0.00%	\$0
Interruptible Sales	0.00%	\$0
GTS/IT	5.60%	\$2,352,800
TOTAL	100.00%	\$41,999,910

The revenue allocation and rate design in this Settlement reflect a compromise and do not endorse any particular cost of service study.⁸³ Cost of Service Studies were presented by the witnesses for OCA, I&E, and OSBA in addition to PGW witness Hanser. PICGUG witness Baudino also made a recommendation with respect to allocation of any proposed rate increase. The following chart shows the allocations as originally requested by PGW and as proposed in the Settlement:



⁸² Joint Petition at ¶ 17(a).
⁸³ Joint Petition at ¶ 17(a).
⁸⁴ PGW St. 6 at 7.
⁸⁵ I&E St. 3 at 42-43.
⁸⁶ OCA St. 3 at 25-26.
⁸⁷ OSBA St. 1-SR at Table IEc-S4.
⁸⁸ PICGUG St. 1 at Exhibit RAB-2.
⁸⁹ Joint Petition at ¶ 17(a).

RATE CLASS	Share of Proposed	Share of Proposed	Share of Proposed	Share of Proposed	Share of Proposed	Share of Proposed
Residential	84.29%	76.52%	75.96%	85.37%	90.00%	78.67%
Commercial	7.14%	14.51%	14.29%	5.37%	7.14%	10.89%
Industrial	-0.57%	1.32%	1.30%	0.41%	-0.57%	0.83%
PHA GS	0.57%	0.38%	0.38%	0.53%	0.57%	0.41%
Municipal / PHA (Rate 8)	0.71%	3.60%	3.14%	3.50%	0.71%	3.60%
NGVS	0.00%	0.01%	0.00%	0.00%	0.00%	0.00%
Interruptible	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
GTS/IT	7.86%	3.67%	4.93%	4.63%	2.14%	5.6%
TOTAL:	100%	100%	100%	99.81	100%	100%

PGW Statement in Support at 12-13.

Exhibit 2 to the Joint Petition sets forth a Proof of Revenue demonstrating that the proposed rates produce \$42 Million in additional revenues, assuming *pro forma* revenue at present rate using 20-year average degree days.⁹⁰ PGW Statement in Support at 13.

A public utility shall not establish or maintain unreasonable differences in rates among rate classes.⁹¹ While there may exist sound justification for some discrepancies in rates under the principle of gradualism, this principle alone does not justify “allowing one class of customers to subsidize the cost of service for another class of customers over an extended period of time.”⁹² I&E maintains that the revenue allocation set forth in this settlement not only reflects a compromise of the Joint Petitioners, but it also produces an allocation that moves each class closer to its actual cost of service. This movement is consistent with the principles of *Lloyd*. Accordingly, I&E asserts that this revenue allocation is in the public interest because it is designed to limit customer class subsidies, and to place costs upon the classes responsible for causing those costs. I&E Statement in Support at 10.

⁹⁰ Joint Petition at ¶ 17(b).

⁹¹ 66 Pa. C.S. § 1304.

⁹² *Lloyd v. Pa. Pub. Util. Comm’n*, 904 A.2d 1010, 1019-20 (Pa. Cmwlth. 2006).

OCA notes that PGW proposed to allocate \$59 million of the requested \$70 million increase to the residential class, which is an increase of 84.2%. Under PGW's original proposal, this would have been a 15.3% increase for residential customers compared to present rates. The Settlement provides for a \$33,039,250 increase to the residential class, an increase of 78.6%.⁹³ Under PGW's proposal, 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%. Under the Settlement, the bill for a typical PGW residential heating customer who uses 76 Mcf per year would increase from \$94.06 to \$99.94 per month, or by 6.3%.⁹⁴ Based on OCA's analysis of the Company's filing, the discovery responses received, and the testimony in this proceeding, OCA submits that this increase to the residential class is well within the result that might have been expected had the case been fully litigated. Several parties, including OCA, OSBA, and the Company, provided testimony supporting different costs of service studies and various revenue allocations. The allocation agreed upon represents a compromise of all parties of a contentious issue. For example, OCA recommended that 76% of any allowed increase go to the residential class based on OCA's peak and average cost of service study. The Company had proposed an 84.2% increase while the Settlement limits the increase to 78.6%. Pursuant to the Settlement, the residential class will receive a 6.3% increase in rates rather than the 11.3% increase proposed by the Company.⁹⁵ As such, OCA submits that the revenue allocation yields a result that is just and reasonable under the circumstances of this case. OCA Statement in Support at 8-9.

OSBA notes that the proposed revenue allocation for Commercial customers in the Partial Settlement now supersedes the Company's original revenue allocation proposal. OSBA proposes that, if the Commission adopts OSBA's proposal to recover all USEC costs from the residential class, it do so on a revenue neutral basis consistent with the mechanism laid out by OSBA Witness. Knecht. OSBA Statement in Support at 4.

⁹³ Settlement at ¶ 17.

⁹⁴ Settlement at ¶ 17.

⁹⁵ Settlement at ¶ 10.

PICGUG maintains that the Joint Petition provides a just and reasonable means by which to allocate the resulting increase among PGW's large commercial and industrial classes. PICGUG Statement in Support at 4.

TURN *et al.* acknowledges that it did not present testimony on PGW's revenue allocation and rate design. However, TURN *et al.* indicates that it does not oppose the Settlement with regard to revenue allocation and rate design, as it believes that the terms and conditions of the Settlement, taken as a whole, are in the public interest because they include commitments to review and address key customer service concerns raised by TURN *et al.* and other parties. TURN *et al.* Statement in Support at 2-3.

2. Specific Terms

a. Customer Charges

PGW maintains that its fixed customer charges per customer per month are lower than the majority of its Pennsylvania peers.⁹⁶ PGW proposed to move the charge closer to the full cost of service.⁹⁷ Others recommended lower increases.⁹⁸ For example, OCA recommended that PGW's current monthly Residential customer charge be increased to \$13.75.⁹⁹ PGW notes that the Joint Petitioners agreed to the following customer charges:¹⁰⁰

⁹⁶ PGW St. 4 at 23-24. See also PGW St. 1 at 11; PGW St. 5 at 23-27; PGW St. 6 at 5-7.

⁹⁷ PGW St. 6 at 6.

⁹⁸ I&E St. 3 at 28-31; TURN St. 1 at 17-18.

⁹⁹ I&E St. 3 at 28-31.

¹⁰⁰ Joint Petition at ¶ 18.

Rate Class	Customer Charge (Per Settlement)	% Increase (Calculated)
Rate GS - Residential	\$ 13.75	14.6%
Rate GS – Commercial	\$ 23.40	30.0%
Rate GS- Industrial	\$ 70.00	40.0%
Rate GS – Philadelphia Housing Authority	\$ 13.75	14.6%
Rate MS – Municipal Service	\$ 23.40	30.0%
PHA (Rate 8)	\$ 23.40	30.0%
NGVS	\$ 35.00	0.0%
Rate IT-A	\$152.16	21.7%
Rate IT-B	\$273.89	21.7%
Rate IT-C	\$273.89	21.7%
Rate IT-D	\$273.89	21.7%
Rate IT-E	\$426.06	21.7%

PGW Statement in Support at 14.

I&E maintains that this resolution represents a significant compromise by PGW. I&E recommended that the current residential charge of \$12 per month be increased to \$15 per month in accordance with I&E witness Kokou M. Apetoh’s customer cost analysis.¹⁰¹ The record of the four public input hearings held in this proceeding contains fervent testimony from PGW residential customers asserting that the increased customer charge would cause them financial hardship. The ultimate resolution is in the public interest because it protects ratepayers while still providing PGW with adequate revenue. I&E Statement in Support at 10-11.

I&E further notes that the remaining customer charges in the Company’s proposed tariff will be modified to reflect the mitigated level of the overall increase. A utility must be allowed to recover the fixed portion of providing service through the implementation of the proper customer charge. This fixed charge provides PGW with a steady, predictable level of income which will allow PGW to recover certain fixed costs such as metering, billing, and payment processing. Limiting the requested increase benefits ratepayers by allowing them to save more money through conservation. Shifting costs to the volumetric portion of a customer’s bill allows for the immediate

¹⁰¹ I&E Statement No. 3, p. 30.

realization of the benefit of conserving usage.¹⁰² Designing rates to allow customers to have greater control of their gas bills is in the public interest. Preventing such a large increase in the customer charge demonstrates a compromise of the interests of the Joint Petitioners. Therefore, I&E maintains that this provision is in the public interest. I&E Statement in Support at 11.

OCA opposed the proposed 50% increase in the customer charge because it did not comport with the regulatory principle of gradualism and would disproportionately impact low volume customers that use small amounts of gas throughout the year and for virtually every residential customer during the non-heating months. OCA recommended that if PGW's request for an increase of \$70 million in total operating revenues were granted in full then the customer charge should be increased to no more than \$13.75.¹⁰³ OCA submits that the increase in the customer charge from \$12 to \$13.75 is a reasonable product of compromise, is well within the result that might have been expected had the case been fully litigated, and addresses the concerns raised by OCA in its testimony. OCA Statement in Support at 9-10.

OSBA notes that PGW originally proposed a \$9.00 increase to the customer charge for the Commercial class. The proposed increase in the customer charge in the Partial Settlement is \$5.40 (for a total customer charge of \$23.40). Since the overall increase has been scaled back from \$70 million to approximately \$42 million (60% of what the Company requested), the increase in the Commercial customer charge has been scaled back to reflect that change. OSBA Statement in Support at 4-5.

PICGUG maintains that the Joint Petition provides just and reasonable monthly customer charges for Rate IT customers. PICGUG Statement in Support at 5.

As TURN *et al.*'s expert witness Harry Geller explained in direct testimony, "PGW's proposal to increase its residential customer charge will result in significant harm to PGW's low and limited income customers. These customers have minimal or no resources to pay higher fixed charges and are now struggling to pay current charges and maintain their service."

¹⁰² I&E Statement No. 3, pp. 31-32.

¹⁰³ OCA St. 3 at 31.

Mr. Geller indicated that increasing the fixed monthly service charge limits customers' ability to reduce bills through conservation and consumption reduction, and undermines the goals of the Low Income Usage Reduction Program (LIURP).¹⁰⁴ Mr. Geller further testified that high fixed fees also disproportionately impact low income consumers, who use less natural gas than their higher income counterparts.¹⁰⁵ TURN *et al.* maintains that if the fixed portion of a bill is high, those in smaller homes and apartments (which are more likely to be occupied by low income families) will pay a disproportionate share of the distribution costs. Accordingly, it is TURN *et al.*'s position that the Partial Settlement is in the public interest because it limits the proportional increase in the amount recovered through the fixed charge portion of the customer's bill, thereby protecting against inappropriate cost-shifting onto vulnerable low income households. TURN *et al.* Statement in Support at 5.

b. Technology and Economic Development ("TED") Rider

PGW notes that the TED Rider will permit PGW to negotiate the delivery charges, as well as the customer contribution to the development and service of the infrastructure, for firm service non-residential customers on Tariff Rate Schedules for General Service ("Rate GS"), Municipal Service Rate ("Rate MS"), Philadelphia Housing Authority Service ("Rate PHA") and Developmental Natural Gas Vehicle Service ("Rate NGVS-Firm").¹⁰⁶ The intent of the TED Rider is to increase access and expand the use of natural gas by giving commercial customers more options to obtain natural gas services, including combined heat and power ("CHP") projects, natural gas vehicles ("NGVs") and fuel cells.¹⁰⁷ PGW Statement in Support at 15.

The Settlement proposes that the TED Rider be approved as a three-year pilot program.¹⁰⁸ Six months before the end of the three-year pilot program, PGW will report on the economics of the TED Rider. In addition, PGW will maintain records of all TED Rider investments and TED Rider negotiated rates. In the event that PGW files a general base rate case

¹⁰⁴ TURN *et al.* St. 1 at 17

¹⁰⁵ *Id.*

¹⁰⁶ PGW St. 8 at 2.

¹⁰⁷ *Id.*

¹⁰⁸ Joint Petition at ¶ 11, 19.

during the three-year TED Rider pilot program following the effective date of rates established in this proceeding, PGW will provide information, as part of its initial filing, showing the *pro forma* rate of return on incremental investment for TED Rider customers as a sub-class in its filed cost of service study. Further, as part of its annual Gas Cost Rate (“GCR”) filings, PGW agrees to provide data on all sales to, and costs incurred for, TED customers. PGW Statement in Support at 15-16.

I&E notes that it took no specific position on PGW’s TED Rider in testimony. I&E further notes that in settlement, PGW has agreed to implement it as a three-year pilot program, and that six months before the end of the pilot, PGW will report on the economics of the TED Rider. I&E is of the position that this will provide the parties with sufficient information to review and analyze the TED Rider and determine if this pilot program should be continued or not. I&E Statement in Support at 11-12.

c. Micro-Combined Heat and Power (“MicroCHP”) Incentive Program

PGW proposed a Micro-CHP Incentive Program for small and medium sized commercial properties to incentivize market development and market acceptance of small targeted fuel-switching projects to increase the ability of these customers to expand natural gas usage. Proposed projects will be required to satisfy an economic test (consistent with PGW’s line extension provisions set forth in Section 10.1.B of its Gas Service Tariff) that require the anticipated incremental revenue to justify the incentive to be provided to the customer to undertake the project. For projects that qualify, PGW would offer up to \$750 per kW for units between 20 kW and 50 kW and up to \$1,000 per kW for any units below 20 kW. PGW Statement in Support at 16.

The Settlement adopts the Pilot Micro-CHP Incentive Program as filed except that PGW agreed that the economic test that will determine eligibility for participation in the Program will include the costs of the incentives.¹⁰⁹ PGW Statement in Support at 16.

¹⁰⁹ Joint Petition at ¶ 11, 20.

d. Rate BUS: Back-Up Service

In its initial filing, PGW proposed a tariff provision that would permit PGW to negotiate a rate with a customer installing any type of operable back-up or emergency equipment and that, from time to time, will require natural gas from the Company for the customer's operation of that equipment. This service differs from existing services because the customer will not be required to take any amount of gas from PGW. Customers can select the back-up level of service that is needed, and will pay a negotiated standby (or reservation) charge that would collect only those costs that stand ready to serve the generation equipment imposed on the system. If, during the term of the customer's contract with the Company, the customer requires gas to run its generator, the customer would pay the previously negotiated delivery and commodity charges. PGW proposed that the determination of whether the customer's usage is for back-up or emergency purposes would be within the Company's sole discretion. The use of such gas for any other purpose would be prohibited. All gas volumes received under this rate schedule would be separately metered. Service under this rate schedule would be firm.¹¹⁰ PGW Statement in Support at 16-17.

Under the terms of the Settlement, the Settling Parties agree to accept PGW's filed Rate BUS but with the following modification:¹¹¹ as part of its annual GCR filings, PGW agreed to provide data on the number of customers, sales levels and costs incurred for BUS customers. In two years (or PGW's next base rate case, whichever is sooner) PGW will provide an analysis of the BUS rate and provide a recommendation as to whether it should continue. PGW Statement in Support at 17.

I&E notes that it took no specific position on Rate BUS. However, I&E believes that PGW's agreement to provide an analysis of the BUS Rate and a recommendation as to whether to continue will give the Parties sufficient information to analyze Rate BUS, and to form a conclusion as to whether the continuance of Rate BUS is necessary and in the public interest. I&E Statement in Support at 12.

¹¹⁰ PGW St. 7 at 42.

¹¹¹ Joint Petition at ¶ 11, 21.

e. Rate IT – Pricing

PGW’s initial filing included a proposal to transition from a solely cost-based rate for Interruptible Transportation (“IT”) Service to a negotiated rate based on both the customer’s share of system costs and the value of service that the customer is receiving from the interruptible service. Under its original proposal, the Company would establish stated price ranges for the distribution charge classes under Rate IT. One end of the range was proposed to be the actual cost of service-based rate, with the other bound of the range being the equivalent firm transportation rate (since the customer would typically have the option of taking firm service). PGW indicates that the range so established was to provide a reasonable framework for negotiations between the interruptible customer and the Company. PGW Statement in Support at 17.

PGW notes that the rationale for its value-based IT Rate proposal was to recognize that because of the current relationship between alternative fuel prices and natural gas, more of PGW’s customers have elected to take natural gas service and those that can install operable alternative fuel capability capable of permitting them to be interrupted have migrated to IT service. The charges for IT service are materially lower than the charges for firm transportation service. At the same time however, PGW’s incidence of interruption of these customers have dropped dramatically; PGW has not had to interrupt its IT customers for many years.¹¹² PGW Statement in Support at 18.

PGW notes PICGUG’s strong opposition to its “value based” IT rate proposal, pointing to the significant potential rate increases that might befall IT customers once they were subject to the negotiated rate proposal.¹¹³ Accordingly, PGW and PICGUG agreed on an alternative approach, which was joined in by all parties.¹¹⁴ Within 120 days of the entry of a PUC order approving this settlement PGW will file a proposed “Large Customer Transportation Service Tariff (“LT”). The newly proposed LT service will be available only to new IT load or

¹¹² PGW St. 7 at 30.

¹¹³ PICGUG St. 1 at 19-25.

¹¹⁴ Joint Petition at ¶ 21-24.

existing IT customers and will be set at an increment higher than the existing IT rates to recognize that an LT customer will not be subject to potential interruption except in highly unusual circumstances and only with significant notice (the exact rate and the terms and conditions will be determined after meeting with PICGUG and other interested parties). Current IT customers who still are comfortable satisfying the requirements of the IT tariff and the potential for interruption will be free to stay on the existing IT rate. PGW Statement in Support at 18.

For its part, PICGUG notes that this provision of the Partial Settlement provides an opportunity for PGW to obtain and respond to customer input concerning the appropriate characteristics for an alternative tariff rate benefitting large volume customers.¹¹⁵ PICGUG further notes that PGW's agreement to withdraw its "value based" rate proposal for Rate IT customers is significant because this proposal would have subjected Rate IT customers to an uncertain negotiation process and exposed Rate IT customers to potential rate increase exceeding 500%. PICGUG Statement in Support at 5.

In addition, the parties agreed that PGW will add a provision to its existing IT Rules that permits PGW and IT customers to negotiate long-term contracts of up to five years.¹¹⁶ The rates may be higher than, but no lower than, the approved cost-based tariffed rates and may contain additional minimum take requirements. Any such long-term contract would have to be mutually agreed to by PGW and the customer.¹¹⁷ PGW Statement in Support at 19. PICGUG asserts that this term offers an opportunity for interested Rate IT customers to secure greater predictability and certainty for rates and terms of service. PICGUG Statement in Support at 6.

At the same time, PGW and PICGUG agreed to an allocation of rate increase¹¹⁸ to the IT customer class that reflected in part that interruptible customers have not experienced an

¹¹⁵ At its discretion, PGW will be able to require that customers subscribing to LT Tariff rates have some limited ability to reduce load when requested by PGW after notice. Additionally, the LT rates will be an increment of the IT rates established in this case.

¹¹⁶ Joint Petition at ¶ 25.

¹¹⁷ The Parties also agreed that, within 60 days of the entry of a Commission order approving this Settlement, PGW will meet with PICGUG to determine whether a negotiated contract applicable to all interested PICGUG members can be achieved. Joint Petition at ¶ 25(a).

¹¹⁸ Joint Petition at ¶ 17, 24.

interruption for a long period of time and that PGW expects, in the future, the number and length of interruptions will be extremely low. In PGW's view, the provisions reflected in the Settlement reasonably balance the interests of IT customers and firm customers and take reasonable steps toward a more equitable rate structure for firm and IT customers. PGW Statement in Support at 19.

I&E notes that in this Settlement, PGW has allocated 5.6% of the rate increase agreed to or found to be reasonable by the Commission to the IT rate class. The principle of cost causation dictates that proposed rates be established so that the revenue received from a particular class equals the corresponding cost of providing service to that class. I&E believes that this increase is in the public interest as it furthers the goal of moving the Rate IT class towards covering its cost of service. I&E Statement in Support at 12.

C. Customer Issues

1. Party Positions in General

In their testimony in this proceeding, TURN *et al.* sought to establish that PGW's policies severely limit the options that low-income customers have to connect to, maintain and restore PGW service. TURN *et al.*'s witness testified that PGW's proposed rate increase will adversely affect its low and limited income customers unless PGW takes steps to modify its policies to allow vulnerable customers to maintain service on affordable terms. TURN *et al.* submitted that PGW's termination statistics, declining CRP participation, increasing CRP default rates, and duration of service loss for low-income customers, indicate significant need for PGW to implement policy changes. TURN *et al.* offered specific recommendations on how PGW could revise its policies to mitigate the harm of its proposed rate increase. TURN *et al.* recommended, among other proposals, that PGW improve its Universal Service programs to benefit more low-income customers; modify its LIHEAP Crisis acceptance policy to benefit more low-income customers who are without natural gas service or are at risk of service deprivation; establish clear written policies for compliance with certain tenant protection provisions of the Public Utility Code; and, track the number of instances in which PGW reverses a determination of unauthorized use. TURN *et al.* also encouraged PGW to maintain better

information on its vulnerable customers and whether PGW policies are increasing the likelihood that some of its customers will experience termination and a long period without service. TURN *et al.* Statement in Support at 3.

Accordingly, the Settlement contains several terms intended to address the residential consumer issues raised by the parties. The “Customer Issues” section of the Settlement represents the results of the Joint Petitioners’ extensive settlement discussions and good faith compromises. PGW asserts that, as a whole, this section of the Settlement constitutes a reasonable compromise of the competing positions that balances the interests of the Joint Petitioners and resolves all but one issue related to residential customer rules and programs. In addition, the Settlement terms provide clarifications and enhancements to PGW’s programs and policies. PGW Statement in Support at 19-20.

While I&E reviewed the customer issues in this proceeding, I&E notes that it took no specific positions on the provisions outlined in this portion of the Settlement. I&E indicated that it supports the ultimate outcome of these provisions because these matters were essential elements of OCA, CAUSE-PA and TURN, *et al.* and PGW’s agreement to resolve this proceeding. Additionally, these issues are particularly important in PGW’s service territory which is composed of a large low-income population. Easing the burden on these customers and providing them with the opportunity to be able to afford their utility bills is in the public interest. I&E Statement in Support at 12-13.

2. Specific Terms

a. Hazardous Heating Remediation Pilot

The Settlement provides for a new hazardous heating remediation pilot program (HH Pilot) to address the problem of low-income PGW customers who have been disconnected from service due to an inoperable or broken heating system.¹¹⁹ As discussed in OCA witness Colton’s testimony, in lieu of being able to fix or replace the broken heating system, many low-

¹¹⁹ Settlement at ¶¶ 26-27.

income customers will resort to more expensive non-gas portable space heaters.¹²⁰ In order to address the problem of low-income customers resorting to the use of a hazardous heating source, OCA witness Colton recommended that the Company adopt such a pilot program. The HH Pilot is designed to repair or replace broken gas systems that represent the main heating system in a low-income home where the customer has used, or is likely to use, electric space heaters (or other unsafe heating sources) as a replacement source of heat.¹²¹ Both TURN *et al.* witness Geller and OCA witness Colton identified concerns with the issue of unsafe heating sources in their respective testimonies. In Direct Testimony, TURN *et al.* identified concerns regarding customers who were entering the heating season without a safe heating source, and in Rebuttal Testimony, Mr. Geller supported the program proposed by OCA witness Colton to address these customers.¹²² OCA Statement in Support at 15-16.

OCA submits that the Settlement addresses OCA witness Colton's concerns regarding the need for a program to address broken furnaces in the hazardous heating remediation pilot. The HH Pilot will exist for at least two years and will be designed to both address broken heating systems and provide weatherization assistance. The HH pilot will have a \$250,000 budget per year for the first two years of the pilot program, and amounts not expended in the first two years will be rolled over into a third year. The HH Pilot will be evaluated in the Company's next 2021-2023 Universal Service and Energy Conservation filing. OCA Statement in Support at 16.

Customers will be eligible for the program if the customers meet the following criteria: (1) "customers must, in the current or prior PGW fiscal year, have been on CRP, received a LIHEAP grant" or have been on a Level 1 or Level 2 payment arrangement¹²³ and (2) the customer must have received a hazard tag indicating that a heating system component is not operating safely or at all. A customer whose gas service is off is eligible for the program and is otherwise able to reinstate service, including payment of any arrears. OCA submits that the HH

¹²⁰ See, OCA St. 4 at 44 (Revised).

¹²¹ OCA St. 4 at 5, 44-50 (Revised).

¹²² TURN *et al.* St. 1 at 16, Schedule HG-4; TURN *et al.* St. 1-R at 21-23.

¹²³ A Level 1 PAR is for a customer with income at or below 150% of the Federal Poverty Level, and a Level 2 PAR is for a customer with income between 151-200% of the Federal Poverty Level.

Pilot program eligibility qualifications will direct the program resources to low-income customers with the greatest need for such assistance and the greatest ability to benefit from the program. The HH Pilot will also help former PGW customers, who have been without service due to a broken heating system, to re-establish service. OCA Statement in Support at 16.

OCA maintains that the HH Pilot program will provide a significant benefit to low-income natural gas customers who have a broken heating system by helping these customers to re-establish service in a safe and energy efficient manner. OCA witness Colton's testimony and TURN *et al.* witness Geller's testimony demonstrate that there is a significant unmet need in PGW's service territory for the HH Pilot.¹²⁴ For example, among federal Low Income Home Energy Assistance Program (LIHEAP) recipients alone, OCA witness Colton estimates that there are potentially a range of 7,400 to 10,400 low-income customers in PGW's service territory with an inoperable or broken heating system that could benefit from the program.¹²⁵ OCA Statement in Support at 17.

OCA asserts that PGW's Low Income Usage Reduction Program (LIURP) cannot sufficiently address the problem alone. LIURP is typically designed to help customers to reduce their natural gas usage, and a repair or replacement of a broken heating system would generally have the opposite effect, to increase the customer's usage. OCA submits that the HH program fills the gap where LIURP is not otherwise able to provide assistance. OCA Statement in Support at 17.

The HH Pilot is designed to be coordinated with the City's Basic Systems Repair Program.¹²⁶ PGW will also inform the DCED, the Pennsylvania Department of Human Services' LIHEAP program administrators, PECO Energy Company, and the City's Heater Hotline of the new PGW program.¹²⁷ The proposed coordination and information sharing will ensure that the program resources are maximized and that the program is directed towards low-

¹²⁴ OCA St. 4 at 44-47 (Revised); *see*, TURN *et al.* St. 1 at Sch. HG-4.

¹²⁵ OCA St. 4 at 47 (Revised).

¹²⁶ Settlement at ¶ 28(b).

¹²⁷ Settlement at ¶ 28(b).

income customers that would not otherwise be able to receive assistance sufficient to remediate their broken heating system. OCA Statement in Support at 17-18.

OCA notes that the HH Pilot is similar to programs that have been approved by the Commission for other Pennsylvania electric and natural gas companies. OCA witness Colton's proposed program was modeled on the Peoples Natural Gas Emergency Furnace/Service Line Assistance Program.¹²⁸ As OCA witness Colton discusses in his Direct Testimony, the Commission has approved similar programs for not only Peoples Natural Gas Company, but also for the National Fuel Gas Distribution Company, Columbia Gas Company, PECO Energy Company, and Peoples Natural Gas Company - Equitable Division.¹²⁹ OCA Statement in Support at 18.

OCA submits that the HH Pilot program should be approved as in the public interest. The pilot program will address a currently unmet need to assist low-income customers who are otherwise unable to afford to repair or replace their broken heating systems. The program has been modeled after existing programs already approved by the Commission. Moreover, it will coordinate with other programs to maximize the benefits provided to customers. The Company will also provide for an evaluation in its next Universal Service and Energy Conservation proceeding to allow the parties to determine whether the program should be continued beyond the current pilot. OCA Statement in Support at 18-19.

CAUSE-PA maintains that the HH pilot is a step in the right direction toward addressing the dangerous and expensive problem of de facto and hazardous heating, which low-income households often have to use because of inoperable and unsafe central heating systems.

¹²⁸ OCA St. 4 at 48 (Revised); *see, Pa. Pub. Util. Comm'n v. Peoples Natural Gas Company, LLC* Docket No. R-2010-220172, Order (June 9, 2011).

¹²⁹ OCA St. 4 at 49-50, citing *National Fuel Gas Distribution Company's Universal Service and Energy Conservation Plan for 2014-2016 Submitted in Compliance with 52 Pa. Code § 62.4*, Docket No. M-2013-2366232, Order at 46 (May 22, 2014); *Pa. Pub. Util. Comm'n v. Columbia Gas Co.*, Docket No. R-2009-2149262, Order adopting Settlement (August 18, 2010); *PECO Energy Company Universal Service and Energy Conservation Plan for 2016-2018 Submitted in Compliance with 52 Pa. Code §§ 54.74 and 62.4*, Docket No. M-2015-2507139, Order at 48 (August 11, 2016); *Petition of Peoples Natural Gas Company, LLC - Equitable Division to Amend 2015-2018 USECP, PNGC 2015-2018 Universal Service and Energy Conservation Plan*, Docket Nos. P-2016-2562220, M-2014-2432515, Order (December 8, 2016 (extending Emergency Furnace and Repair Program for Peoples Natural Gas Company and Equitable Division)).

CAUSE-PA believes that adoption of this settlement term as a part of the Partial Settlement as a whole is in the public interest because it will reduce the number of households relying on hazardous heating, will increase sales for PGW, and is likely to reduce electric bills for low-income participants of the pilot. CAUSE-PA Statement in Support at 6.

TURN *et al.* believe that PGW's successful implementation of the HH Pilot could allow some of PGW's customers to rely on or restore gas heating service that has been inaccessible due to the need for heating component repairs. This could in turn reduce these customers' reliance on unsafe or *de facto* heating sources, which pose a threat to the health and safety of customers and residents in PGW's service territory. TURN *et al.* find it laudable that PGW has agreed to incremental funding for this pilot. There is a significant need for LIURP services within PGW's service territory, by providing incremental funding for the pilot, LIURP budget dollars will remain available to meet this need. TURN *et al.* Statement in Support at 4.

Additionally, TURN *et al.* believe that coordination and communication with other entities will be essential to maximizing the reach and effectiveness of PGW's pilot. TURN *et al.* support the pilot because it provides assistance to one segment of PGW's customers who have been without safe natural gas service. This provision is in line with TURN *et al.*'s recommendation that PGW evaluate its policies to determine whether it can provide additional assistance to its low income and vulnerable customers. TURN *et al.* Statement in Support at 4.

b. Credit and Collection Collaborative

The Settlement provides that the Company will hold two collaboratives to address low-income and residential customer credit and collection issues identified in the Direct Testimonies of OCA witness Colton and TURN *et al.* witness Geller.¹³⁰ The Company will hold a credit and collection collaborative to obtain stakeholder input on bill management efforts for customers and applicants seeking to restore service previously shut off for non-payment, including customers and applicants with \$10,000 or more of arrearages. The Company also will hold a collaborative within 120 days from the date of the Final Order approving the Settlement to

¹³⁰ Settlement at ¶¶ 29-30, 32; OCA St. 4 at 64-69 (Revised).

discuss: (1) the results of its cost/benefit analysis of the impact of modifying the Crisis acceptance policy; (2) discuss ways to improve outreach to households who are unable to reconnect service because of high balances; and (3) to discuss ways of improving CRP enrollment. OCA Statement in Support at 19.

As discussed in the Direct Testimony of OCA witness Colton, the collaboratives will allow the parties to discuss ideas designed to help consumers with large balances to limit further increases to their balances and to identify possible ways to help those customers to maintain or restore service.¹³¹ OCA submits that these collaboratives will allow the parties to explore policy changes and initiatives to address the challenging issues involved with customer issues related to large balances. OCA Statement in Support at 19.

CAUSE-PA maintains that finding ways to address households facing significant arrearages to PGW is in the public interest, as it will help low income households to maintain natural gas service while reducing the level of debt owed by those households and, in turn, the costs borne by other residential ratepayers. CAUSE-PA Statement in Support at 8.

c. Cost Benefit Analysis of Crisis Acceptance Policy

PGW explains that Crisis Assistance is a federal grant that is awarded to income-eligible customers who are either without utility service or have received a 10-day shut-off notice. Customers can apply for both Crisis Assistance and Low Income Home Energy Assistance Program benefits at the same time. The application deadline for Crisis Assistance is until funds run out. TURN *et al.* asserted that PGW is not maximizing the receipt of Crisis grants for those PGW customers who may need them most.¹³² To address these concerns, PGW agreed to conduct a cost benefit analysis of the impact of modifying its Crisis acceptance policy.¹³³ PGW Statement in Support at 21.

¹³¹ OCA St. 4 at 5-6, 67 (Revised).

¹³² TURN St. 1 at 29-36.

¹³³ Joint Petition at ¶ 30.

TURN *et al.* notes that, while it continues to believe that PGW should modify its LIHEAP Crisis acceptance policy, it finds that a cost benefit analysis is a reasonable first step, which they hope will convince PGW of the economic and moral prudence of adopting such a policy. TURN *et al.* Statement in Support at 4-5.

d. PGW Section 1521 Policies

The Public Utility Code at 66 Pa.C.S. §§ 1521-1533 sets forth the Commission's authority with regard to utility service to leased premises. Under the Settlement, PGW has agreed to document its 66 Pa.C.S. § 1521 *et seq.* policies in a written training document, which will be provided to all PGW's customer service representatives and to the parties in this proceeding.¹³⁴ PGW notes that TURN recommended that clear written policies would help ensure that PGW provides required notices to each dwelling unit.¹³⁵ PGW Statement in Support at 20.

TURN *et al.* support this provision of the Settlement because it is responsive to TURN *et al.*'s recommendation in this proceeding. TURN *et al.* believe that in preparing a written training document PGW will have an opportunity to identify tenant protection policies that are not in compliance with the Public Utility Code and to correct those policies accordingly. TURN *et al.* also believe that other parties in this proceeding will have an opportunity to advise PGW of any deficiencies in its tenant protection policies upon review of PGW's written training document. TURN *et al.* Statement in Support at 5.

e. Low Income Issue Collaborative

PGW has a sizable low-income residential population.¹³⁶ To help address issues related to low-income customers, PGW has agreed to hold a Low-Income Collaborative, which will discuss ways to improve its outreach to households who are unable to reconnect to PGW service because of high balances, and ways to address improving CRP enrollment.¹³⁷ PGW Statement in Support at 21.

¹³⁴ Joint Petition at ¶ 31.

¹³⁵ TURN St. 1 at 37-41. TURN St. 1-SR at 14-17.

¹³⁶ PGW St. 4 at 19.

¹³⁷ Joint Petition at ¶ 32-33.

CAUSE-PA notes that each of these issues deserves further conversation to improve PGW's policies, and that PGW's commitment to consider the positions of the parties on these issues, in good faith, constitutes progress. CAUSE-PA Statement in Support at 8.

TURN *et al.* note that, although the parties did not agree to substantially revise PGW's Universal Service programs to benefit more low income customers as it had recommended in this proceeding, TURN *et al.* are optimistic that the parties will continue to discuss these concerns and may agree upon more substantive solutions to these concerns post settlement. This Settlement provides an appropriate forum for the parties to continue this discussion. PGW has agreed to convene a low income issue collaborative to discuss PGW's LIHEAP Crisis modification cost/benefit analysis, ways to improve PGW outreach to households who are unable to reconnect to PGW service because of high balances, and ways to address improving CRP enrollment. PGW has agreed to consider in good faith the issues and suggestions raised in the collaborative and the parties have agreed to participate in the collaborative in good faith. TURN *et al.* Statement in Support at 5-6.

f. Tracking of Certain Unauthorized Use Determinations

Under the Settlement, PGW will track the number of instances in which it reverses a previous determination of unauthorized use.¹³⁸ According to TURN *et al.*, PGW's unauthorized use determinations may be contributing to low-income customers' inability to access, maintain, and restore PGW service.¹³⁹ TURN *et al.* asserted that such determinations should be tracked by PGW. PGW Statement in Support at 21.

CAUSE-PA maintains that this portion of the agreement is significant because, per PGW's existing tariff, a customer found responsible for unauthorized use can be required to make upfront payment of all charges associated with the alleged use prior to restoration of service.¹⁴⁰ These lump sum payment demands are most often out of reach for low-income households. By agreeing to track the number of times that it reverses a determination of

¹³⁸ Joint Petition at ¶ 34.

¹³⁹ TURN St. 1 at 41-43.

¹⁴⁰ TURN *et al.* St. 1 at 42

unauthorized use, and to document the reason for any decision to reverse a determination of unauthorized use, PGW can use this information to determine whether to revise its unauthorized use detection policies or protocols or to conduct additional staff training. CAUSE-PA Statement in Support at 7-8.

TURN *et al.* supports this provision of the Settlement because it is responsive to TURN *et al.*'s concern that PGW did not previously track this data. TURN *et al.* believes that tracking this data will allow PGW to assess whether its unauthorized use policies present an unreasonable barrier to service for some low-income households. TURN *et al.* Statement in Support at 5.

g. Budget Billing Modifications

In his Direct Testimony, OCA witness Colton identified concerns with the Company's Budget Billing program.¹⁴¹ Mr. Colton recommended: (1) that the Company ensure that customers entering into a Payment Arrangement (PAR) also enter into Budget Billing at the same time and (2) that the Company modify its year-end budget billing processes to roll forward year-end balances.¹⁴² The Settlement adopts these two recommendations.¹⁴³ OCA Statement in Support at 13-14.

The Settlement provides that PGW will enroll customers who are entering into a new PAR into Budget Billing at the time that the customer enters into the PAR, unless the customer specifically requests or the Commission requires that the customer not be entered into budget billing.¹⁴⁴ Customers will remain in Budget Billing upon the completion of the PAR unless the customer requests or the Commission directs that the customer should be removed from Budget Billing.¹⁴⁵ As identified in OCA witness Colton's Direct Testimony, Budget Billing for customers on a PAR is important for two reasons. First, Budget Billing will assist

¹⁴¹ OCA St. 4 at 5, 51-64 (Revised).

¹⁴² OCA St. 4 at 5, 51-64 (Revised).

¹⁴³ Settlement at ¶¶ 35-36.

¹⁴⁴ Settlement at ¶ 35.

¹⁴⁵ Settlement at ¶ 35.

customers to pay their bills in a full and complete fashion over the course of the year.¹⁴⁶ Second, Budget Billing provides a benefit to the Company by helping the Company to stabilize its revenue over the course of the year.¹⁴⁷ OCA submits that the proposed modifications to Budget Billing for customers on a PAR will “keep more Budget Billing customers on the system” and will increase the benefits derived from Budget Billing to both customers and the Company.¹⁴⁸ OCA Statement in Support at 14.

The Settlement also provides that PGW will modify its year-end Budget Billing in two ways. First, if year-end balances are greater than \$100 but less than \$300, PGW will spread that balance over the next six months.¹⁴⁹ Underpayments of \$300 or more will be spread over 24 months.¹⁵⁰ PGW’s current practice is to require “balances less than \$100 to be paid immediately; balances of from \$100 to \$300 are to be paid over six months; and balances over \$300 may be spread over twelve months.”¹⁵¹ According to the Budget Billing data analyzed by OCA witness Colton, the data indicates that under the Company’s current Budget Billing program there is a “likelihood that Budget Billing participants leave due to end-of-year problems.”¹⁵² The Settlement’s modifications to the amortization periods will spread out the costs of the end-of-the-year under-collection reconciliations. OCA submits that spreading out the under-collection costs over a longer period of time will decrease the financial impact of under-collections on Budget Billing customers. OCA Statement in Support at 14-15.

OCA submits that these two modifications to the Company’s Budget Billing are in the public interest and should be adopted. The proposed Budget Billing modifications will encourage customers to both participate in Budget Billing and to remain in Budget Billing. Budget Billing provides a benefit to ratepayers by levelizing their monthly payments and to PGW by levelizing the Company’s otherwise seasonal revenues, over the course of the year. OCA Statement in Support at 15.

¹⁴⁶ OCA St. 4 at 51 (Revised).

¹⁴⁷ OCA St. 4 at 51 (Revised).

¹⁴⁸ OCA St. 4 at 61-62 (Revised).

¹⁴⁹ Settlement at ¶ 36.

¹⁵⁰ Settlement at ¶ 36.

¹⁵¹ OCA St. 4 at 62.

¹⁵² OCA St. 4 at 62 (Revised).

CAUSE-PA maintains that the modification to PGW's year-end Budget Billing is a significant improvement. This provision of the Partial Settlement is in the public interest because it has a significant likelihood of reducing arrears for vulnerable households. CAUSE-PA Statement in Support at 9.

h. CRP Offset

As explained by OCA, PGW collects its universal service costs, or Customer Responsibility Program (CRP) costs, through a reconcilable Universal Service and Energy Conservation (USEC) Rider.¹⁵³ To calculate the USEC, PGW projects its universal service costs based on historic participation in the various programs.¹⁵⁴ On a periodic basis, PGW determines its actual universal service costs.¹⁵⁵ For the CRP, those actual universal service costs include the CRP credits granted and arrearage forgiveness credits granted.¹⁵⁶ The actual CRP costs incurred are reconciled to past collections, and the surcharge is adjusted up or down for under- and over-collections at the time of PGW's Section 1307(f) proceeding.¹⁵⁷ OCA Statement in Support at 11-12.

The natural gas bill for a CRP participant is comprised of two parts: (1) the portion of the bill that is at or below an affordable percentage of income and (2) the portion of the bill that is above an affordable percentage of income.¹⁵⁸ The amount above the affordable percentage is referred to as the CRP credit (or CRP shortfall) and is recovered from all other customers.¹⁵⁹ Before a low-income customer becomes a CRP participant, the portion of the bill the customer cannot afford to pay, becomes uncollectible and is recovered in the uncollectible expense in base rates.¹⁶⁰ A concern arises between base rate cases, however, when a reconcilable rider is used such as PGW's USEC.¹⁶¹ OCA Statement in Support at 12.

¹⁵³ OCA St. 4 at 13 (Revised).

¹⁵⁴ OCA St. 4 at 16 (Revised).

¹⁵⁵ OCA St. 4 at 16 (Revised).

¹⁵⁶ OCA St. 4 at 14, 16 (Revised).

¹⁵⁷ OCA St. 4 at 14, 16 (Revised).

¹⁵⁸ OCA St. 4 at 16 (Revised).

¹⁵⁹ OCA St. 4 at 16 (Revised).

¹⁶⁰ OCA St. 4 at 17 (Revised).

¹⁶¹ OCA St. 4 at 17-19.

OCA asserts that when a low-income customer enrolls in CRP between rate cases, the portion of the bill that the customer could not pay, and is included as an uncollectible expense in base rates, will become the CRP credit and will be recovered again on a dollar-for-dollar basis through the USEC.¹⁶² OCA witness Colton testified that Bad Debt Offset (Offset) is needed to address this double recovery. OCA Statement in Support at 12.

The Settlement provides that PGW will implement an Offset to its CRP credit amounts of 7.5% on a monthly basis in the calculation of its USEC Rider for incremental participants in the CRP.¹⁶³ The Offset will be applied to the CRP credit that is associated with incremental CRP participants over 60,000 participants.¹⁶⁴ As OCA witness Roger Colton discussed in his Direct Testimony, an Offset is necessary to prevent the double recovery of bad debt expense through the USEC.¹⁶⁵ OCA Statement in Support at 12-13.

The Commission's CAP Policy Statement recognizes the need to address this over-recovery and states:

In evaluating utility CAPs for ratemaking purposes, the Commission will consider both revenue and expense impacts. Revenue impact considerations include a comparison between the amount of revenue collected from CAP participants prior to and during their enrollment in the CAP. CAP expense impacts include both the expenses associated with operating the CAPs as well as the potential decrease of customary utility operating expenses. Operating expenses include...uncollectible accounts expense for writing off bad debt for these customers. When making CAP-related expense writing off bad debt for these customers. When making CAP-related expense adjustments and projections, utilities should indicate whether a customer's participation in CAP produced an immediate reduction in customary utility expenses and a reduction in future customary expenses pertaining to that account.¹⁶⁶

¹⁶² OCA St. 4 at 19 (Revised).

¹⁶³ Settlement at ¶ 37.

¹⁶⁴ *Id.*

¹⁶⁵ OCA St. 4 at 20-25 (Revised).

¹⁶⁶ CAP Policy Statement, 52 Pa.Code § 69.266; *see also*, *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. R-2006193, Order at 39 (September 28, 2007) ("the Commission's CAP Policy Statement provides that the cost offset should be considered.).

OCA Statement in Support at 13.

OCA submits that the Settlement addresses the Offset issue identified by OCA witness Colton. OCA submits that the Settlement represents a reasonable resolution of this issue. The Settlement provides a 7.5% adjustment to CRP credits included in the USEC for incremental CRP participants over 60,000 participants. This will provide the necessary offset to avoid double recovery of bad debt through the USEC. OCA Statement in Support at 13.

PGW indicated that it strongly disputes that there is any double recovery but has agreed to the offset in the interests of settlement. PGW Statement in Support at 20.

D. Natural Gas Supplier Issues

1. Party Positions in General¹⁶⁷

PGW notes that the Settlement contains terms intended to address natural gas supplier concerns raised by RESA. Competitive supplier issues were focused on PGW's Purchase of Receivables ("POR") program, monthly cash out imbalances, and the customers' ability to change suppliers. PGW Statement in Support at 22.

The "Natural Gas Supplier Issues" section of the Settlement (Section II.D) represents the results of the Joint Petitioners' extensive settlement discussions and good faith compromises. As a whole, this section of the Settlement constitutes a reasonable compromise of the competing positions that balances the interests of the Joint Petitioners and resolves all issues related to natural gas suppliers.¹⁶⁸ In addition, the Settlement terms provide clarifications and enhancements to PGW's programs and policies. PGW Statement in Support at 22.

¹⁶⁷ OSBA did not join in this section of the Settlement. Instead of addressing any disagreement with this portion of the Partial Settlement in its Main Brief, OSBA instead submitted a letter on July 21, 2014, the same date that Main Briefs were due.

¹⁶⁸ The Settlement did not modify the Gas Procurement Charge ("GPC"), which is a component of PGW's Price-to-Compare or the Operational Flow Order ("OFO") penalty. Joint Petition at ¶ 39, 43.

I&E notes that, while it took no position regarding the Natural Gas Supplier issues contained in the Settlement, RESA addressed these issues and PGW addressed these issues in response. Although I&E did not advocate or oppose any particular position, I&E supports the ultimate outcome because these matters were essential elements of RESA and PGW's agreement to resolve this proceeding. I&E Statement in Support at 13.

TURN *et al.* acknowledges that it did not present testimony on the natural gas supplier issues. However, TURN *et al.* indicates that it does not oppose the Settlement with regard to natural gas supplier issues, as it believes that the terms and conditions of the Settlement, taken as a whole, are in the public interest because they include commitments to review and address key customer service concerns raised by TURN *et al.* and other parties. TURN *et al.* Statement in Support at 2-3.

2. Specific Terms

a. Purchase of Receivables ("POR") Program

Through his testimony, RESA witness Anthony Cusati presented facts to support the adjustment of the POR Administrative Adder; the POR has been in place for over a year and there are only a few, less than 500, residential customers shopping.¹⁶⁹ The adder is an additional 2% discount off of all receivables purchased by PGW from NGSs operating in its service territory. Mr. Cusati noted, based upon his experience, that suppliers won't enter service territories with high POR discounts, and also that PGW's is particularly problematic because the 2% adder is not offset by the Merchant Function Charge ("MFC"). This means that a supplier's price will necessarily be 2% higher than the price to compare ("PTC") unless the supplier is willing and able to absorb the adder. Mr. Cusati noted that because the adder is intended to recover a fixed level of cost, the first suppliers to enter PGW's territory will end up paying the fee, while later entrants will not. Mr. Cusati also noted that at the current rate of recovery, it will take over 100 years for PGW to recover the costs. Accordingly, Mr. Cusati recommended that the adder be reduced to 0.1%. The Settlement would reduce the adder from the current 2% to a far more reasonable 0.5%. RESA maintains that the Settlement continues to provide PGW the

¹⁶⁹ RESA St. No. 1, 3:17-8:21; RESA St. No. 1-SR, 5:15-9:1

ability to recover all the costs identified to be part of the adder, and by Mr. Cusati's calculation, reducing the adder will allow PGW to recover those costs more rapidly than under the current adder because more suppliers are likely to begin making offers to customers which will result in more bills and faster recovery. RESA asserts that this provision will encourage more suppliers to enter the PGW residential market, will allow PGW to recover all the costs that it spent as approved by the Commission, and will provide it with the probability that it will recover those dollars more quickly. Accordingly, RESA submits that this provision is in the public interest and should be approved. RESA Statement in Support at 6-7.

For its part, PGW noted that this reduction reflected a determination that POR implementation costs projections were coming in lower than originally expected. PGW Statement in Support at 22.

b. Gas Procurement Charge

The Gas Procurement Charge ("GPC") is the charge that recovers the costs associated with PGW's operations related to supplying gas for those customers who do not choose to take service from a supplier. RESA notes that, for PGW, this means most of its residential customers. In its filing, PGW had proposed a substantial reduction in the GPC, while offering no explanation as to why it was proposing to do so. RESA witness Cusati addressed this in his written testimony, initially proposed to increase the GPC to bring it more into line with other NGDCs.¹⁷⁰ However, as a compromise, the parties have agreed that rather than make any adjustment, PGW will retain its current GPC. RESA maintains that this is in the public interest because if the GPC is too low, costs that should be recovered from default service customers only are being paid for by all customers, which means shopping customers will end up paying these costs twice. RESA is satisfied that retaining PGW's current GPC, despite the fact that it is the lowest in the state, is the best alternative available to resolve this case and should assure that the current balance is maintained. RESA Statement in Support at 7.

¹⁷⁰ RESA St. No. 1, 10:4-12:10; RESA St. No. 1-SR., 9:4-10:17

c. Switching Fee

In his testimony, RESA witness Cusati raised the issue of PGW's switching fee that is charged to suppliers when they obtain a customer who has switched at least one time before in that year.¹⁷¹ RESA asserted that the fee of \$10 is charged after the switch and the supplier that is charged has no way to knowing if the customer has switched before that year; so the fee is not avoidable. RESA further asserted that the most troubling aspect is that PGW does not pay the fee when customers are returned to default service so it is discriminatory as well. In response to Mr. Cusati's testimony, PGW did not contend that the fee was intended to recover an identifiable set of costs nor did PGW seek to identify any cost basis for the fee. Rather, PGW's only justification was to state that the fee had been in place for many years. In settlement PGW agreed to remove the fee. RESA maintains that removal of the switching fee serves to eliminate the discrimination inherent in such a fee and recognizes that certain costs of operating the distribution system are best socialized among all customers. The costs of executing customer switches are an example. All customers have the right to switch, but because most customers switch infrequently and the incremental cost of a switch is minimal, there is insufficient value in isolating the cost-causer, in this case the serial switcher, who is unaware of the fee, nor is it logical to assign the costs to the new supplier, who cannot reasonably avoid the fee and who may never be able to recover the cost. Rather, it is more appropriate to consider these as general operational costs and to recover them from all customers. In that sense, and because the fee is overtly discriminatory because it only is charged when customers switch to a supplier and not when they switch to PGW, RESA asserts that removal of this fee is in the public interest. RESA Statement in Support at 7-8.

PGW indicated that, since RESA asserted that the switching fee discourages customers from shopping, it agreed to eliminate the \$10 switching fee.¹⁷² PGW Statement in Support at 22.

¹⁷¹ RESA St. No. 1, 12:12-13:6; RESA St. No. 2, 11:16-12:5

¹⁷² Joint Petition at ¶ 40.

d. Monthly Imbalances

RESA witness Magnani's testimony also raised concerns about the bandwidth (i.e., limits on monthly deliveries) for charging penalties for monthly cash out imbalances; Mr. Magnani believes it is too narrow.¹⁷³ Based upon the multitude of factors that can influence whether there is an imbalance, some of which are not under the supplier's control, and PGW's history with supplier imbalances, Mr. Magnani recommended increasing the bandwidth to 5%. RESA Statement in Support at 4-5.

As a compromise, PGW agreed to expand both the percentage of the band from 2.5 % to 3.5 % and the structure of the penalties that apply if the bandwidth is exceeded. The current methodology will continue to be used for imbalances up to 3.5%. Shortages more than 3.5% will be priced at the higher of: (i) 125% of the average of the five (5) highest Daily Market Index Prices for the monthly period beginning on the first day of the month; or (ii) 150% of the Company's highest incremental supply cost for the month. Overages of more than 3.5% will be purchased at the lower of: (i) 75% of the average of the five (5) lowest Daily Market Index Price for the monthly period beginning on the first day of the month; or (ii) 75% of the Company's lowest incremental supply cost for the month. RESA Statement in Support at 5; PGW Statement in Support at 23.

RESA asserts that, based upon the historic performance of suppliers on the PGW system, the percentage adjustment should eliminate significantly more of monthly cash out imbalances and the revised penalty structure will continue to provide adequate incentives for suppliers to deliver the appropriate amounts of gas every day. A fairer system for maintaining supplier accountability reduces the likelihood that suppliers will be penalized for imbalances that they cannot control, which increases fairness and decreases costs and risk exposure which in turn allows suppliers to provide more efficient and effective service. This is a win-win-win for customers, the Company and suppliers and is clearly in the public interest. RESA Statement in Support at 5.

¹⁷³ RESA St. No. 2, 4:26-5:2; RESA St. No. 2-SR, 2:1-3:3

e. Stakeholder Collaborative

As discussed by RESA witness Orlando Magnani, PGW's billing practices are different from other Pennsylvania NGDCs and have proven to be troublesome for suppliers.¹⁷⁴ In particular, Mr. Magnani expressed concern over the calculation of a supplier's Daily Delivery Quantity ("DDQ") and the fact that PGW sometimes retroactively calculates this number. Mr. Magnani suggested that it would be best for the Company and suppliers to sit down and arrive at a common understanding of how the system should work, and then seek to implement that in whatever manner would be most effective. As a part of the Settlement, PGW agreed. PGW also agreed to discuss how suppliers and PGW could work together to make the customer experience better. Such discussions could include such topics as use of PGW's billing system and supplier consolidated billing. RESA asserts that these changes are in the public interest. Communication on a topic that is a concern to suppliers, where the parties on both sides have an opportunity to exchange ideas and gain clarity, is always a benefit, particularly as here, where the Company and suppliers that operate on its system are *de facto* partners in providing gas service to customers. Any improvements in service that result from better communication, and such improvements are inevitable, will provide a better experience for customers. Accordingly, RESA submits that this provision is in the public interest and should be approved. RESA Statement in Support at 4.

E. Recommendation

The proposed Partial Settlement is reasonable and in the public interest. We therefore recommend approval without modification. The Partial Settlement represents a just and fair compromise of the serious issues raised in this proceeding. After substantial investigation and discovery, the parties have achieved a reasoned accord on a broad array of issues resulting in just and reasonable rates for service rendered by PGW.

This Partial Settlements is a "black box" settlement. This means that the parties could not agree as to each and every element of the revenue requirement calculations. The

¹⁷⁴ RESA St. No. 2, 3:14-4:25; RESA St. No. 2-SR, 1:14-23

Commission has recognized that “black box” settlements can serve an important purpose in reaching consensus in rate cases:

We have historically permitted the use of “black box” settlements as a means of promoting settlement among the parties in contentious base rate proceedings. Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company’s revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company’s cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases.¹⁷⁵

Yet, it is also the Commission’s duty to ensure that the public interest is protected. Therefore, there must be sufficient information provided in a settlement in order for the Commission to determine that a revenue requirement calculation and accompanying tariffs are in the public interest and properly balance the interests of ratepayers and the company.¹⁷⁶

In reviewing the settlement terms and the accompanying statements in support, the Partial Settlement provides sufficient information to support the conclusion that the revenue requirement and other settlement terms are in the public interest. The reduction in proposed revenue requirement increases, the revenue allocations, the reduction in the proposed residential customer charges, the stay-out provision, along with all the other terms and conditions of the Partial Settlement together represent fair and reasonable compromise. These reductions are particularly important to residential ratepayers who testified concerning the hardship that would be caused to many of them by PGW’s proposed increases in rates. Similarly, the “Customer Issues” portion of the Partial Settlement offers a reasonable resolution to address residential consumer issues raised by the parties during this proceeding.

¹⁷⁵ *Pa. Pub. Util. Comm’n v. Peoples TWP LLC*, Docket No. R-2013-2355886 at 27 (Opinion and Order entered December 19, 2013)(citations omitted).

¹⁷⁶ *See Pa. Pub. Util. Comm’n v. Pennsylvania Power Co.*, 55 Pa. PUC 552, 579 (1982); *Pa. Pub. Util. Comm’n v. National Fuel Gas Dist. Corp.*, 73 Pa. PUC 552, 603-605 (1990).

Also of note, the Partial Settlement finds support from a broad range of parties with diverse interests. Each party represents a variety of interests. PGW advocates on behalf of its corporate interests. The Office of Consumer Advocate is tasked with advocacy on behalf of consumers in matters before the Commission.¹⁷⁷ The Small Business Advocate represents the interests of the Commonwealth's small businesses.¹⁷⁸ The Bureau of Investigation and Enforcement is tasked with balancing these various interests and concerns on behalf of the general public interest. Each of these public advocates maintain that the interests of their respective constituencies have been adequately protected and they further represent that the terms of the Partial Settlement are in the public interest. Other interests were also represented and they too support the Partial Settlement. These interests include, public interest groups representing low-income customers (CAUSE-PA and TURN *et al.*), large volume gas users (PICGUG) and a competitive energy supplier trade Association (RESA). These parties, in a collaborative effort, have reached agreement on a broad array of issues, demonstrating that the Partial Settlement is in the public interest and should be approved.

Resolution of this proceeding by negotiated settlement removes the uncertainties of litigation. In addition, all parties obviously benefit by the reduction in rate case expense and the conservation of resources made possible by adoption of the proposed Partial Settlement in lieu of litigation. The acceptance of the Partial Settlement will negate the need for the filing of additional testimony by all parties, participation at in-person hearings, the filing of main and reply briefs on the issues contained in the Partial Settlement, exceptions and reply exceptions, and potential appeals. These savings in rate case expense serve the interests of PGW and its ratepayers, as well as the parties themselves.

The individual complainant was served with a copy of the Partial Settlement and offered an opportunity to comment or object to the terms and demonstrate why the case should be litigated rather than settled. He did not file any response to the Partial Settlement. Therefore,

¹⁷⁷ Section 904-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. § 309-4.

¹⁷⁸ Section 399.45 of the Small Business Advocate Act, Act of December 21, 1988, P.L. 1871, 73 P.S. § 399.45.

his due process rights have been fully protected and his formal Complaint must be dismissed for lack of prosecution.¹⁷⁹

For all the foregoing reasons, we find the terms embodied in the Joint Petition for Partial Settlement are both just and reasonable and its approval is in the public interest. We recommend the Commission approve the Partial Settlement without modification.

IX. LITIGATED ISSUES

A. Partial Payment Allocation Practices

1. OCA's Position

OCA asserts that PGW should be applying partial payments to the oldest balances first. OCA maintains that the Company's methodology allows interest to be assessed on balances that have already been assessed interest. OCA argues 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.¹⁸⁰ OCA MB at 11-12.

OCA asserts that 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.¹⁸¹ OCA further asserts that PGW does not apply the payments to the older balances first, so therefore, the amount of interest charged to the customer is increased. OCA MB at 11-12.

In order to address the problem created by PGW's payment sequencing methodology, OCA argues that PGW should be required to change its payment prioritization

¹⁷⁹ See *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa.Cmwlth. 1984) (Commission is required to provide due process to the parties; when parties are afforded notice and an opportunity to be heard, Commission requirement to provide due process is satisfied).

¹⁸⁰ 52 Pa.Code §§ 56.1, 56.22, 56.23 56.24; 66 Pa.C.S. §§ 1301, 1303.

¹⁸¹ OCA St. 4 at 36.

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.¹⁸² OCA also contends that the Commission should require PGW to apply payments against bills in the order and timing in which they occurred. OCA MB at 13.

OCA further argues that 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.¹⁸³ OCA contends the customer can end up effectively being charged an annual interest of 19.562% as a result of the sequencing of the customer payments.¹⁸⁴ OCA MB at 13-14.

OCA maintains that 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.¹⁸⁵ Although OCA acknowledges that the language of the tariff at Section 4.2¹⁸⁶ *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, OCA argues that PGW's application of its tariff provision is inconsistent with the Commission's regulations. OCA MB at 14-15.

2. PGW's Position

PGW argues that its partial payment allocation practices are consistent with Section 56.24 of the Commission's regulations, 52 Pa.Code § 56.24. PGW argues that when it receives a partial payment from a customer that is not sufficient to pay a balance due both for prior service and for service billed during the current billing period, the Company follows the requirements of Section 56.24. PGW indicates that it first applies the partial payment to the

¹⁸² 52 Pa.Code § 56.22.

¹⁸³ 52 Pa.Code § 56.22.

¹⁸⁴ OCA St. 4-S at 19; OCA St. 4 at 38.

¹⁸⁵ 52 Pa.Code §§ 56.22, 56.23, 56.24.

¹⁸⁶ Section 4.2, Supplement No. 84, Gas Service Tariff – Pa. P.U.C. No. 2, Second Revised Page No. 26.

balance due for prior service before applying it to the balance due for the current billing periods,¹⁸⁷ and, thus, PGW does precisely what Section 56.24 mandates. PGW MB at 20-21.

PGW maintains that Section 56.24 is silent with respect to the application of partial payments among outstanding charges for the various components of prior service, including security deposits, late payment fees and charges for gas service. PGW argues that it is not currently bound to follow any particular method so long as it applies the payment to prior service charges. PGW indicates that it first zeroes out any outstanding security deposit and late payment charges and then applies the remainder of a partial payment to charges for gas service, starting with the oldest charges. PGW MB at 21-22.

PGW contends that Mr. Colton's persistent reliance on the Commission's *SBG Order* for his characterization of PGW's partial payment allocation practices as "unlawful" is unfounded.¹⁸⁸ PGW notes that although the Commission found in the *SBG Order* that its process for posting partial payments violates Section 56.24 of the regulations, the Commission subsequently issued an order on December 28, 2016 granting PGW's Petition for Reconsideration, pending a further review of the merits. PGW maintains that the *SBG Order* is not a final, appealable order, and as such, it is without effect. PGW MB at 22.

PGW also argues that its partial payment allocation practices do not violate its existing tariff provision addressing the calculation and assessment of late payment charges or the applicable Commission regulations. PGW notes that its tariff permits it to assess a late payment charge of 1.5% on a customer's unpaid balance.¹⁸⁹ PGW MB at 23-25; PGW RB at 7-8.

3. Recommendation

As noted previously, on May 22, 2017, PECO filed a Motion in Limine to Limit the Scope of the Evidentiary Hearing and this Proceeding and to Exclude Certain Portions of Testimony Submitted by the Office of Consumer Advocate. PGW requested that we limit the

¹⁸⁷ PGW St. 10-R at 7-8

¹⁸⁸ See, e.g., OCA St. 4 at 37; OCA St. 4-S at 22.

¹⁸⁹ PGW St. 10-R at 5.

scope of the exhibits and evidence introduced in this proceeding and offered into the evidentiary record to exclude evidence pertaining to PGW's application of its customer's partial payments to prior balances, including late payment charges. In addition to arguing that that these issues do not involve PGW's base rates or any existing or proposed tariff provisions and are beyond the permissible scope of this proceeding, PGW also argued that this issue is currently pending before the Commission on reconsideration in a separate proceeding.¹⁹⁰ PGW argued that although the Commission addressed this issue in its December 8, 2016 Order, on December 28, 2016 the Commission granted its Reconsideration Petition pending further review of, and consideration on, the merits of the *SBG Order*. Since PGW's procedure for assessing late payments appears at Section 4.2 of its current tariff, we denied PECO's Motion on the basis that the Commission, in paragraph 4 of the March 16, 2017, Suspension Order, specifically directed that the investigation into PGW's proposed rate increase "include consideration of the lawfulness, justness, and reasonableness of [PGW's] existing rate, rules, and regulations."

Regarding finance charges on late payment charges, Section 4.2 of PGW's current tariff provides as follows:

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.¹⁹¹

The language in PGW's tariff closely mirrors the language set out in the Commission's regulations:

¹⁹⁰ *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*").

¹⁹¹ Section 4.2, Supplement No. 84, Gas Service Tariff – Pa. P.U.C. No. 2, Second Revised Page No. 26.

(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.

(c) Late payment charges may not be imposed on disputed estimated bills, unless the estimated bill was required because public utility personnel were willfully denied access to the affected premises to obtain an actual meter reading.

52 Pa.Code §§ 56.22(a) and (c). Since the language in PGW's tariff closely mirrors this regulation, the language of PGW's tariff is not at issue here. Rather, PGW's process of applying partial payments to customers' outstanding balances, and the effect that procedure has on the amount of annual late payment charges assessed against these customers, is the issue.

The record in this proceeding contains OCA's hypothetical scenarios as to how PGW's partial payment allocation practices may result in the assessment of late payment charges in excess of 18% per year, which would be a direct violation of the Commission's regulations at 52 Pa.Code § 56.22(a). However, the record does not contain any actual billing data reflecting how PGW's partial payment allocation practices have affected its customers. On the contrary, and more significant, the record in the *SBG* cases contains actual billing data that the Commission relied upon in its assessment of the repercussions of PGW's partial payment allocation practices.

Although we declined to grant PGW's Motion in Limine, we note that former Administrative Law Judge Susan Colwell did grant a motion in limine to strike testimony in a base rate proceeding, rejecting the notion that *any* issue impacting rates can be raised in a 1308 base rate proceeding. In *Pa. Pub. Util. Comm'n v. PPL Electric Utilities Corporation*,¹⁹² ALJ Colwell struck testimony regarding proposals to undertake a cost-benefit analysis of providing usage data to customers, requiring performance metrics to ensure that distribution facilities are

¹⁹² Docket R-2015-2469276.

performing adequately and providing maximum benefits of grid modernization investments and reporting on integrated Volt/VAR Control projects. She pointed to other Commission proceedings related to data transfer, smart meters and others in which these issues could be more fully explored in their proper context. She also pointed out that the challenges raised could also be effectively pursued in complaint proceedings. Therefore, ALJ Colwell excluded evidence on the proposals from the rate proceeding.

Though we declined to strike OCA's testimony, we agree with ALJ Colwell's reasoning in the PPL base rate case that the challenge raised by OCA in this case regarding partial payment allocation can be effectively pursued in a complaint proceeding, particularly since the Commission is already considering this exact issue in its review of its Order in the *SBG* cases.¹⁹³ Though that case deals with a commercial customer rather than a residential customer, the end result of the Commission's forthcoming order in that case will affect *all* of PGW's customers.

Accordingly, OCA's claim regarding PGW's partial payment allocation is dismissed without prejudice. This dismissal is not intended to make any decision or recommendation regarding the substance of OCA's argument or PGW's argument in opposition to OCA's position.

B. Allocation of Universal Cost Recovery

PGW's main universal service programs include the Customer Responsibility Program ("CRP"), Low-Income Usage Reduction Program ("LIURP"), the Customer Assistance Referral Evaluation Program ("CARES"), and Hardship Funds.¹⁹⁴ For the FPFTY, the cost of these programs is about \$55 million.¹⁹⁵ These costs will be collected from ratepayers through

¹⁹³ We note that, as of the time of this Recommended Decision, the Commission has not issued a final order in the *SBG* cases.

¹⁹⁴ See PGW St. 1 at 9; PGW St. 7 at 17-21; PGW St. 9-R at 7-8.

¹⁹⁵ OSBA St. 1 at 33.

PGW's USC.¹⁹⁶ PGW has the largest USC charge for residential customers of any NGDC.¹⁹⁷ PGW MB at 39.

PGW intends to continue its current allocation of universal service costs.¹⁹⁸ PGW has historically allocated and collected its universal service costs from all firm service customer classes.¹⁹⁹ It does not collect or allocate any universal service costs from PGW's interruptible sales service rate classes or PGW's large volume transportation service rate classes ("GTS/IT").²⁰⁰ PGW MB at 39.

1. OSBA's Position

OSBA notes that, since before PGW came under the Commission's authority, 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. PGW did not allocate any universal service costs to either PGW's interruptible sales service rate classes or to PGW's large volume transportation service rate classes ("GTS/IT"). Under Commission policy and the precedent with regard to other utilities, non-residential customers are not required to contribute toward universal service costs. OSBA further notes that until now, the only rationale provided by the Commission for continuing to recover universal service costs in this manner was that rate shock precluded the application of standard Commission policy to PGW. OSBA maintains that under its 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. OSBA MB at 11; OSBA RB at 6.

¹⁹⁶ See PGW St. 5 at 15-16; PGW St. 9 at 14.

¹⁹⁷ See PGW St. 4 at 19-20.

¹⁹⁸ PGW St. 6-R at 2.

¹⁹⁹ PGW St. 6-R at 2. PGW's cost allocation was determined prior to the Commission's oversight of the Company. See, e.g., *Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms*, PUC Docket No. M-00051923, Final Investigatory Order entered December 18, 2006, at 31, n25, 2006 Pa. PUC LEXIS 108.

²⁰⁰ PGW St. 6-R at 2-3.

OSBA indicates that it has an economic interest in PGW’s universal service programs because non-residential firm service customers are currently required to pay the Universal Service and Energy Conservation Surcharge (“USEC”).²⁰¹ PGW currently has three universal service programs for low-income customers: PGW’s CRP program; 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.²⁰² As OSBA witness Knecht testified, it is not reasonable to recover the costs of these programs from non-residential customers because non-residential customers are ineligible to participate in the universal service programs.²⁰³ OSBA MB at 7; OSBA RB at 6-7.

As detailed in Mr. Knecht’s testimony, PGW is the only NGDC for which non-residential customers are required to pay universal service costs.²⁰⁴ OSBA notes that the Commission has specifically declined to allocate universal service costs to non-residential customers in numerous proceedings and has adopted a policy that the cost of universal service programs should be borne entirely by the residential customers of NGDCs and of electric distribution companies (“EDCs”). Furthermore, the Commission’s policy of not allocating service costs to non-residential customers was appealed to the Commonwealth Court and affirmed.²⁰⁵ OSBA MB at 7-8.

During PGW’s Restructuring Proceeding, PGW proposed to continue to collect universal service costs from firm sales service customer classes.²⁰⁶ The Commission agreed that universal service costs should continue to be allocated to all firm sales service rate classes. Specifically, the Commission stated:

These [universal service] costs have traditionally been included in

²⁰¹ OSBA Statement No. 1 at 33.

²⁰² OSBA Statement No. 1 at 33.

²⁰³ OSBA Statement No. 1 at 33.

²⁰⁴ OSBA Statement No. 1 at 35.

²⁰⁵ *Popowsky v. Pa.Pub.Util.Comm’n*, 960 A. 2d 189 (Pa. Cmwlth. 2008).

²⁰⁶ *Pa.Pub.Util.Comm’n v. Philadelphia Gas Works*, Docket Nos. M-00021612, M- 00021612C0001, M-00021612C002, M-00021612C000 (Order Entered March 31, 2003) at 62. (Restructuring Order).

PGW's gas cost rate ('GCR') and that such a cost allocation [to the residential classes only] would involve massive cost shifting between classes prohibited by Sections 211(e) and (h) of the Act. This is a restructuring proceeding and not a base rate case. Therefore, the record does not contain a cost study that would support a shift in rate design.²⁰⁷

OSBA MB at 12.

The issue of how PGW's universal service costs should be allocated among rate classes arose again in *Investigation into Financial and Collections Issues Regarding the Philadelphia Gas Works*.²⁰⁸ However, the Commission stated in that Investigation that it did not intend to address universal service cost allocation:

Cost allocation is an issue best left to a base rate proceeding. At PGW's next base rate proceeding, the OSBA will have sufficient opportunity to raise the issue of the proper size of PGW's CRP and argue its position regarding the proper cost allocation for Universal Service Programs."

OSBA MB at 12; OSBA RB at 9.

OSBA is proposing that non-residential customers be relieved of having to contribute toward PGW's universal service costs. OSBA indicates that it has an economic interest in PGW's universal service programs because non-residential firm service customers are required (at this time) to pay the USEC. Except for PGW, the Commission has generally not required business ratepayers to pay for universal service programs.²⁰⁹ In the case of PGW, the universal service funding model was inherited by the Commission, *i.e.*, the funding program was approved by the Philadelphia Gas Commission prior to PGW becoming subject to regulation by the Commission. OSBA notes that the Commission has, thus far, deferred consideration of whether non-residential customers should be relieved of paying for PGW's universal service

²⁰⁷

Id.

²⁰⁸

Docket Nos. P-00042090, R-00049157, M-00021612, P- 00032061, and P-00042117 at 23-24 (Order entered October 27, 2004).

²⁰⁹

OSBA Statement No. 1 at 35.

programs. OSBA MB at 12-13.

OSBA notes that this same issue was raised in PPL's 2004 distribution rate case, in response to OCA's effort to spread the costs to all rate classes. In that instance, the Commission expressly held that universal service program costs should be funded only by the residential class. In reaching that conclusion, the Commission noted that the advocates of spreading the costs more broadly had failed to support their position with "concrete evidence in the form of cost studies."²¹⁰ Accordingly, OSBA maintains that 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. OSBA MB at 13; OSBA RB at 10.

OSBA notes that the Commission also conducted a generic proceeding on cost recovery and other issues related to universal service and energy conservation programs.²¹¹ In that generic proceeding, the Commission voted to continue the policy of allocating CAP costs to the only customer class whose members are eligible to participate in the program, *i.e.*, residential customers. In reaffirming its prior policy, the Commission specifically disagreed with the OCA's interpretation of legislative intent regarding recovery of CAP costs from business customers. While acknowledging that there are a few exceptions in which CAP costs are recovered from customers other than the residential class, the Commission recognized that none of the exceptions constitutes legal precedent because each involves a settlement or, in the case of PGW, a mechanism that was constructed prior to the Commission having jurisdiction over the utility. Finally, the Commission referred to its PPL ruling that "[u]niversal service programs [such as CAP], by their nature, are narrowly tailored to the residential customers and therefore, should be funded only by the residential class."²¹² OSBA MB at 13-14.

²¹⁰ *Pa.Pub.Util.Comm'n, et al. v. PPL Electric Utilities Corporation*, Docket No. R-00049255 (Order entered December 22, 2004), at 98.

²¹¹ *See Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms*, Docket No. M-00051923 (Order entered December 18, 2006).

²¹² *Id.*

In the current proceeding, 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. OSBA MB at 14; OSBA RB at 8.

In support of its proposal, OSBA maintains that Mr. Knecht set forth a detailed change in the cost allocation and rate design methodology that would ultimately have no impact on residential rates in the context of this proceeding.²¹³ The Commission has declined in the past to harmonize PGW's treatment of the USEC with the practices of other Pennsylvania utilities on the grounds that the impact on the residential class would violate the principles of gradualism and the avoidance of rate shock. In this proceeding, Mr. Knecht recommends simply accepting the Company's overall revenue allocation proposal for the residential class, thereby rendering any claims of rate shock moot.²¹⁴ Unless the Company's revenue allocation proposal were determined to violate the rate gradualism principle, OSBA asserts that Mr. Knecht's proposal necessarily passes that test. OSBA MB at 14.

OSBA notes that both the Company and Mr. Knecht proposed to assign an increase of \$59 million to the residential rate class.²¹⁵ The Company proposed to do so in a rate design with a USEC of \$1.1335 per mcf, a delivery charge of \$6.7275 per mcf, and MFC/GPC charges of \$0.2393, or a combined volumetric rate of \$8.1003 per mcf. In contrast, Mr. Knecht proposed to achieve the \$59 million with a USEC of \$1.5597 per mcf, a delivery charge of \$6.3645 per mcf, and MFC/GPC charges of \$0.1761 per mcf, or the identical combined rate of \$8.1003 per mcf.²¹⁶ Similarly, Mr. Knecht proposed that USEC revenues for the other firm service classes be set to zero, but with offsetting large percentage increases to the volumetric delivery charges. OSBA MB at 15.

The revenue allocation in the Joint Petition for Partial Settlement now supersedes the Company's original revenue allocation proposal. However, OSBA proposes that if the

²¹³ OSBA Statement No. 1 at 36.

²¹⁴ OSBA Statement No. 1 at 48.

²¹⁵ Exhibit IEc-S2 pages 1 and 7

²¹⁶ Mr. Knecht adjusted the residential MFC/GPC rates to reflect errors acknowledged by PGW. OSBA Statement No. 1-SR at 23.

Commission adopts OSBA's proposal to recover all USEC costs from the residential class, it do so on a revenue neutral basis consistent with the mechanism laid out by Mr. Knecht.²¹⁷

Accordingly, OSBA asserts that the issue to be resolved in this litigation is whether revenue allocation should be effectuated by retaining the existing USEC charge mechanism, or by modifying the USEC charges in conjunction with balancing adjustments to the volumetric distribution charges. OSBA MB at 15.

OSBA further asserts that its proposal for the USEC is revenue neutral within the context of this proceeding. Going forward, the cost responsibility for the USEC programs will remain with the residential class. To achieve that end, the Commission would start with the proof of revenues as presented in the Partial Settlement in Exhibit 2. The Commission would then eliminate the \$1.1335 per mcf USEC charges for all non-residential firm service customers, and increase the volumetric delivery charges by \$1.1335 per mcf. In effect, the revenue responsibility for those classes would remain unchanged. Similarly, the Commission would increase the USEC for the residential classes to the value necessary to recover all USEC costs. This value would be modestly different from the \$1.5597 per mcf calculated by Mr. Knecht, due to the effect of changes in loads resulting from the use of 20-year weather normalization in the Joint Petition. The residential class delivery charge would then be reduced by the magnitude of the increase in the USEC charge. OSBA argues that the net revenue effect on the residential class of adopting OSBA's proposal would be zero. OSBA MB at 15-16.

OSBA maintains that the impact of both rate shock and gradualism while moving rate responsibility for universal service costs to the residential class are considered in the context of overall revenue allocation for the proceeding. As OSBA's proposal results in the same overall increase for all rate classes as that agreed upon in the Joint Petition, OSBA asserts that rate shock simply cannot be a reason not to adopt OSBA's recommendation in this proceeding, as all parties have agreed that the revenue allocation in the Joint Petition is reasonable. Accordingly, OSBA submits that the issue as to whether universal service costs should be borne by non-residential customers can and should be evaluated on its merits in this proceeding, and should not be constrained by gradualism and rate shock concerns. OSBA MB at 16.

²¹⁷ It is OSBA's interpretation of the Partial Settlement that this was the understanding of the parties.

In response to an argument raised by OCA that PGW's historic allocation of universal service costs to all firm service customers is well supported and promotes the "public good,"²¹⁸ OSBA notes that OCA has advanced the "public good" argument in every recent proceeding in which allocating universal service costs has been an issue, and also that the Commission has consistently disagreed with this argument and has consistently opted to follow its policy that universal service costs should be allocated only to residential customers. OSBA opines that 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. OSBA RB at 9.

2. PGW's Position

PGW maintains that the continuation of PGW's allocation of universal service costs is just and reasonable and should be approved. PGW asserts that there is nothing in PGW's allocation of universal service costs to all firm customers that violates the Public Utility Code or the Commission's regulations. Under Section 2212(e) of the Public Utility Code, the Commission is required to follow the same ratemaking methodology and requirements that were applicable to PGW prior to the Commission assuming jurisdiction over PGW.²¹⁹ PGW's allocation of universal service costs and related rate design has been found to be just, reasonable and in the public interest.²²⁰ PGW notes that the Commission has consistently determined that, because PGW has followed this allocation policy prior to and at the time it came under the

²¹⁸ OCA Main Brief at 23, Joint Main Brief of Turn and Action Alliance at 15.

²¹⁹ 66 Pa.C.S. § 2212(e).

²²⁰ In PGW's 2000 Rate Proceeding, the Commission agreed that PGW's universal service costs should continue to be allocated to all firm sales service rate classes. *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. R-00005654 (Opinion and Order entered November 22, 2000). Subsequently, in PGW's 2002 Restructuring Proceeding, the Commission again ruled that USC costs should be borne by all firm sales customers, and not just residential customers. *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. M-00021612 (Opinion and Order entered March 21, 2003). In PGW's 2006-2007 base rate proceeding, the Commission again determined that PGW should continue its historic allocation of universal service costs to both residential and non-residential customers. *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. R-00061931 (Opinion and Order entered September 28, 2007). Finally, in PGW's most recent base rate proceeding in 2009, the Commission approved a settlement that maintained PGW's method of allocating USC costs. *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. R-2009-2139884 (Opinion and Order entered July 29, 2010).

regulatory authority of the Commission, PGW is an exception to the general policy²²¹ applied to other Commission regulated companies that all of the universal service costs should be allocated to residential customers.²²² PGW MB at 39-40; PGW RB at 27-28.

PGW asserts that continuation of PGW's allocation of universal service costs is consistent with cost causation principles, and therefore all firm customers should make a contribution toward them, as non-residential customers benefit from PGW's universal service programs. PGW notes that, generally, cost causation provides that ratepayers should pay for programs that benefit them. 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.²²³ Non-residential customers that own or operate residential master-metered multi-family buildings benefit from universal service programs such as the Low-Income Multifamily ("LIME") program.²²⁴ Beyond that, all non-residential customers 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. 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.²²⁵ PGW MB at 40-41; PGW RB at 29.

PGW notes that the OSBA has proposed a departure from PGW's long-standing practice, arguing that PGW's universal service costs should be allocated to only residential customers.²²⁶ PGW further notes that PICGUG agrees with the OSBA.²²⁷ To support this

²²¹ See *Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms*, Docket No. M-00051923 at 26-32 (Final Investigatory Order entered December 18, 2006).

²²² PGW St. 6-R at 3.

²²³ PGW St. 6-R at 3-4.

²²⁴ See OCA St. 4-R at 12-13; OSBA St. 1-SR at 3.

²²⁵ PGW St. 6-R at 4.

²²⁶ OSBA St. 1 at 32-36; OSBA 1-R at 13; OSBA St. 1-SR at 2-14.

²²⁷ PICGUG St. 1-R at 5.

argument, OSBA states that its proposal is justified by cost causation principles. PGW MB at 41.

PGW submits that its present allocation method is cost justified, and that a blind adherence to the principle of cost causation is not required. The Commission has long recognized that some flexibility must exist when designing rates. In *U.S. Steel Corp.*,²²⁸ the Commonwealth Court affirmed this flexibility by upholding a Commission Order exempting the first 500 KWH of residential usage from a PECO rate increase. The Court concluded that the Commission's action was "a proper exercise of the Commission's flexible limit of judgment in fixing rates."²²⁹ PGW notes that while such flexibility is not unlimited,²³⁰ such flexibility is readily apparent in countless proceedings before the Commission. PGW further notes that the Commission has considered matters of public policy, such as gradualism to minimize rate shock,²³¹ rate continuity,²³² and other public policy goals. PGW MB at 42.

PGW asserts that OSBA's interpretation of Commission precedent is flawed. OSBA's proposal appears to be based on interpretations of the Commission's prior actions (a) as deciding that PGW's universal service costs must be allocated to only residential customers,²³³ and (b) holding that the allocation to only residential customers must proceed if there are no rate shock implications.²³⁴ PGW maintains that these interpretations are incorrect. The Commission's precedent provides that the allocation of universal service costs is a policy decision,²³⁵ which does not require uniformity.²³⁶ The precedent regarding PGW authorizes the continuation of PGW's allocation of universal service costs. PGW asserts that the precedent

²²⁸ *U.S. Steel Corp. v. Pa. Pub. Util. Comm'n*, 390 A.2d 865 (Pa.Cmwlth. 1978).

²²⁹ *Id.* at 870.

²³⁰ *Lloyd v. Pa. Pub. Util. Comm'n*, 904 A.2d 1010 (Pa.Cmwlth. 2006).

²³¹ PGW's 2006-2007 base rate proceeding: *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. R-00061931 (Opinion and Order entered September 28, 2007).

²³² *See Pa. Pub. Util. Comm'n v. Metropolitan Edison Company Pennsylvania, Re: Merger Savings Remand Proceeding*, Docket No. R-00061366; et seq., (Opinion and Order entered January 11, 2007).

²³³ OSBA St. 1 at 34-36

²³⁴ OSBA St. 1 at 36; OSBA St. 1-SR at 4.

²³⁵ *See Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms*, Docket No. M-00051923 (Final Investigatory Order entered December 18, 2006).

²³⁶ *See, e.g., Department of Environmental Resources v. Rushton Mining Co.*, 591 A.2d 1173 (Pa.Cmwlth. 1991) (holding that an attempt to implement a generic uniform state-wide policy was a binding norm and was therefore a regulation, rather than a statement of policy).

does not mandate that PGW change its allocation of such costs in any future rate proceedings. PGW MB at 42-43.

PGW maintains that the analysis presented by Mr. Knecht is flawed. No evidence suggests that PGW's allocation of universal service costs results in discriminatory, unjust or unreasonable rates, and Mr. Knecht admits that "legitimate arguments can be raised for allocating universal service costs to non-residential rate classes."²³⁷ PGW asserts that there should be no question that the non-residential classes receive benefits from PGW's universal service program.²³⁸ It follows that the continuation of PGW's allocation of universal service costs is consistent with cost causation principles. PGW's allocation also promotes continuity and a lower overall rate increase for residential customers. That allocation is also supported by other policy considerations,²³⁹ and the inherent differences between PGW and other NGDCs.²⁴⁰ PGW notes that Mr. Knecht acknowledged that PGW is different, that PGW's allocation has a social benefit, and that PGW's allocation can be supported by "legitimate policy considerations,"²⁴¹ but also argued that these differences, benefits and policy considerations should not be used for ratemaking purposes.²⁴² PGW asserts that Mr. Knecht is wrong, and that those items are exactly what that may be considered by the Commission to give flexibility to rates, and to avoid a blind adherence to cost causation principles. PGW believes this is especially true in this proceeding, where PGW is merely keeping the status quo with regard to the allocation of universal service costs and is not attempting to impose a new or increased allocation of such costs on any rate class. PGW MB at 43-44.

According to PGW, adopting OSBA's proposal would add to the overall rate impact for residential customers.²⁴³ The net effect of OSBA's proposal would be to impose 100% of the cost responsibility for universal service programs on residential customers.²⁴⁴

²³⁷ OSBA St. 1-SR at 5.

²³⁸ See OCA St. 4-R at 12-13, 14-30; OSBA St. 1-SR at 3, 9.

²³⁹ TURN St. 1-R at 2-5, PGW St. 6-R at 3-4, OCA St. 4-R at 14-21.

²⁴⁰ OCA St. 4-R at 6-11, TURN St. 1-R at 1-5.

²⁴¹ OSBA St. 1-SR at 9, 8-9, 10-14.

²⁴² *Id.*

²⁴³ PGW St. 6-R at 2-5.

²⁴⁴ PGW St. 6-R at 5.

PGW's residential customers already contribute a large portion of the USC revenues.²⁴⁵ PGW estimated that exempting firm commercial and industrial customers would transfer an additional \$11.6 million in universal service costs to the residential class,²⁴⁶ and that transferring these costs would increase PGW's proposed overall rate increase for residential customers by 2.3%.²⁴⁷ PGW maintains that this would result in an overall increase for residential customers of about 8.6% (2.3% plus 6.3%). PGW MB at 44.

Large rate increases have the potential to cause "rate shock" among customers.²⁴⁸ OSBA argues that there is no rate shock because the resulting rate increase for residential customer is less than the original increase sought by the Company and the resulting USEC surcharge would be less than residential customers were paying in 2007.²⁴⁹ PGW responds, however, that such comparisons are not the measure of rate shock. Rate shock is measured by the size of the increase that is being authorized by the Commission. For example, in PGW's 2006-2007 base rate proceeding, PGW originally requested an increase in base rates of \$100 million. The Commission authorized an increase in base rates of \$25 million, and refused to shift all of PGW's universal service costs to the residential classes given that the Commission was approving a \$25 million increase in rates.²⁵⁰ PGW maintains that, due to the size of PGW's universal service program, 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 \$42 million rate increase under the Settlement, is not appropriate at this time.²⁵¹ PGW MB at 44-45.

Upon review of OSBA's specific proposal, PGW maintains that OSBA has attempted to make this policy shift more palatable to the Commission by proposing an implementation plan that would provide some initial mitigation of the large residential rate increases that would otherwise be required if the USEC was simply modified to be solely the

²⁴⁵ PGW St. 6-R at 4.

²⁴⁶ PGW St. 6-R at 4.

²⁴⁷ PGW St. 6-R at 4.

²⁴⁸ *Lloyd* at 1018, n.14.

²⁴⁹ *See* OSBA St. 1-SR at 4-5.

²⁵⁰ PGW's 2006-2007 base rate proceeding : *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. R-00061931 (Opinion and Order entered September 28, 2007).

²⁵¹ PGW St. 6-R at 4.

responsibility of residential customers. As PGW understands the proposal, OSBA is proposing a four-step implementation plan:

1. The per Mcf USEC charges for non-residential firm customers would be eliminated.²⁵²
2. The per Mcf delivery charges for non-residential firm customers would be increased.²⁵³ The delivery charge would be increased by the same amount as the reduction in the USEC charge for non-residential firm customers implemented in Step 1.
3. The per Mcf USEC charges for residential customers would be increased.²⁵⁴ This increase would be in the amount necessary to recover all USEC costs from residential customers (including the amount previously recovered from other firm commercial and industrial customers). PGW estimated that exempting firm commercial and industrial customers would transfer millions in universal service costs to the residential class.²⁵⁵
4. The per Mcf delivery charges for residential customers would be decreased.²⁵⁶ This delivery charge would be decreased by the magnitude of the increase in the USEC charge for residential customers in Step 3.

According to OSBA, the implementation of these steps will (a) place the cost responsibility for universal service programs with the residential class²⁵⁷ (b) keep the same revenue effects for the PGW and each customer class,²⁵⁸ and (c) render any claims of rate shock moot.²⁵⁹ PGW RB at 30-31.

PGW submits that the above-described implementation process should not be considered because it presupposes the adoption of OSBA's proposal to shift all universal service cost responsibility to residential customers only, a proposal that PGW maintains should not be

²⁵² OSBA Main Brief at 15-16.

²⁵³ OSBA Main Brief at 15, 16.

²⁵⁴ OSBA Main Brief at 16.

²⁵⁵ PGW Brief at 44.

²⁵⁶ OSBA Main Brief at 16.

²⁵⁷ OSBA Main Brief at 15.

²⁵⁸ OSBA Main Brief at 15, 16.

²⁵⁹ OSBA Main Brief at 14.

accepted. However, PGW asserts that if OSBA's implementation process is considered, it should be rejected for several reasons. PGW RB at 31.

PGW maintains that OSBA's four-step implementation process is a "shell game." According to PGW, steps 1 and 3 of OSBA's implementation process purports to shift responsibility in universal service costs from non-residential firm customers to residential customers. Steps 1 and 3 are the only steps necessary to relieve non-residential firm customers of having to contribute toward PGW's universal service costs. If the implementation process stops at those two steps, the shift of the universal service costs will increase PGW's proposed overall rate increase for residential customers. Increased delivery rates for residential customers is opposed by PGW, OCA, TURN *et al.* and CAUSE.-PA. But, OSBA's implementation process is not limited to those steps. In an effort to generate a "revenue neutral" effect, at least for the moment, so as to claim no rate shock, Steps 2 and 4 would modify the delivery rates established by the Settlement²⁶⁰ in order to offset the increased USEC charges that OSBA would impose on residential customers. The result coming out of this case would be that the overall rates, including USEC charges for the residential, commercial and industrial firm customer classes would be the same as if this process had not been implemented (although the pots of dollars would be different). However, PGW asserts that the effect in the long run would be just as bad, if not worse than merely modifying the USEC to impose all costs on residential customers. PGW RB at 31-32.

As PGW understands OSBA's proposal, OSBA's planned revenue neutrality will last only until the next USEC change. It appears to PGW that the OSBA is proposing that, once its plan is put into effect, on a going forward basis: (1) the USEC would only be charged to residential customers; and (2) there would be no corresponding increase or decrease in a class's delivery service rates to offset any changes in the USEC. This means that while residential customers would not have to solely contribute to the increase in universal service costs as a result of this case, since they will receive a corresponding delivery service decrease, all future increases will be 100% their responsibility. PGW points out that PGW's USEC changes each time the rates – both GCR and delivery charge – change, because customers in PGW's CRP program pay

²⁶⁰ Settlement at ¶ 10, 12, 17.

a percentage of their income, so if natural gas costs go up in 2018, PGW will be required to modify its USEC to recover that incremental amount of charge, and, under OSBA's proposal, residential customers would be responsible for 100% of the increase. More concerning to PGW is that if PGW is required to increase its rates to recover a Gross Receipts Tax at 5.7% (as is now being considered by the General Assembly), 100% of the resulting increase in the USEC would be assigned to residential customers. Accordingly, PGW asserts that OSBA's proposal does not eliminate rate shock on residential customers – it instead pushes it slightly down the road. PGW RB at 32-33.

PGW maintains that the initial effort to avoid rate shock in this proceeding would only last until PGW's next base rate case. At that time, PGW believes that OSBA would argue that commercial and industrial firm rates exceeded their appropriate levels, since all of the costs of universal service would have been declared the sole responsibility of residential customers. If the Commission were inclined to attempt to set rates reflecting those cost principles, PGW asserts that the increase to the residential class would likely be even more dramatic than that necessary to recover whatever rate increase PGW requests at that time. The resulting rate shock effect is likely to be far worse than if OSBA's "mitigation" plan had not been implemented. PGW RB at 33.

PGW asserts that the bottom line demonstrates that there are compelling policy reasons for PGW to assign cost responsibility for universal service costs to all firm customers. Unrefuted evidence in the record shows that all customers, including commercial and industrial customers, benefit from utility service support for low-income customers, so that they can contribute to the local economy and participate in the workforce.²⁶¹ Also, PGW's relatively large level of the universal service charges justifies a spreading of these costs to all firm customers. This fact, as well as the fact that PGW has been allocating these costs to all firm customers for years prior and subsequent to coming under Commission authority, fully justifies a continuation of this practice for PGW and a rejection of the OSBA's position. PGW RB at 33-34.

²⁶¹ PGW Brief at 40-41; OCA Brief at 30-32; Joint Brief of TURN & CAUSE-PA at 13-16.

3. OCA's Position

OCA agrees with PGW's recommendation to continue the allocation of the USEC to all firm service customers. OCA notes that 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.²⁶² OCA contends that OSBA has not presented any compelling evidence to establish that 25 years of practice for PGW should be changed. OCA MB at 22-23.

a. PGW's Historic Allocation Of Universal Service Costs Is Reasonable And Should Be Approved.

OSBA's position is grounded in the notion that only those customers eligible to participate in a program should pay for the program. OCA argues that taken to its logical conclusion this argument would mean that most residential customers should not pay for the programs as they cannot participate in the program if their income is above 150% of the Federal Poverty Level. OCA maintains that the current allocation procedures are in the public good and the benefits of PGW's universal service program and the ratemaking treatment are also for the public good. OCA witness Colton notes in his testimony that "[d]ue 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."²⁶³ OCA notes that the Natural Regulatory Research Institute (NRRI) has defined a public good in the utility context.²⁶⁴ The NRRI defines public good 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."²⁶⁵ OCA MB at 23-24.

OCA argues that the record contains testimony about the benefits, both direct and indirect, that commercial firm service customers receive from universal service programs. OCA

²⁶² *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. M-00021612, Order at 89-93 (March 31, 2003); *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. R-00061931, Order at 137 (September 28, 2007).

²⁶³ OCA St. 4-R at 14-15.

²⁶⁴ OCA St. 4-R at 15.

²⁶⁵ OCA St. 4-R at 15-16 (footnotes omitted).

notes that research demonstrates that any increase in natural gas rates to businesses as a result of paying a share of universal service costs would be offset by increases in employee productivity.²⁶⁶ OCA MB at 25.

OCA further notes that the nexus between unaffordable home energy and employee health problems makes employees less reliable and increases employer costs.²⁶⁷ OCA maintains that studies have demonstrated the business benefits generated by programs such as CRP, including economic stability in the workforce.²⁶⁸ OCA asserts that its witness Colton demonstrated that there is a direct relationship between the offer of CRP and economic benefits to local commercial and industrial customers, including less turnover in workforce, less time missed by employees, and increased employee productivity which increases profitability of businesses.²⁶⁹ OCA MB at 25-28.

OCA also argues that Philadelphia businesses can further benefit since programs such as CRP support the economy of the City. OCA notes that programs such as CRP provide an important economic business benefit to businesses because the program contributes to additional disposable income within the low-income population.²⁷⁰ This additional disposable income drives additional job creation, income generation, and economic activity for local businesses.²⁷¹ OCA MB at 28.

Moreover, OCA maintains that PGW's universal service programs provide additional benefits since PGW is a municipal gas company. Specifically, Mr. Colton demonstrated that these programs help to control the need to provide local government services.²⁷² Additionally, the City of Philadelphia has also recognized the benefits to the City as a whole, including commercial customers, arising from the bill affordability program, citing the Philadelphia Water Department's Income-based Water Rate Affordability Program.²⁷³

²⁶⁶ OCA St. 4-R at 18-19 (footnote omitted).

²⁶⁷ OCA St. 4-R at 19-20 (footnote omitted).

²⁶⁸ OCA St. 4-R at 20-21 (footnote omitted).

²⁶⁹ OCA St. 4-R at 21-22.

²⁷⁰ OCA St. 4-R at 22.

²⁷¹ OCA St. 4-R at 22.

²⁷² OCA St. 4-R at 24-25.

²⁷³ OCA St. 4-R at 11.

Moreover, as noted by PGW witness Dybalski testified, these programs help to keep low income customers in their homes which keeps residents in the City to be a part of the workforce and customer base.²⁷⁴ OCA MB at 28-30.

OCA asserts that 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. 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 OCA submits that allocation should be maintained in this case. OCA MB at 30.

b. Commercial Customers Also Receive Services From The CRP.

OCA maintains that OSBA witness Knecht has not taken into consideration that small commercial customers can now receive services from PGW's universal service program, since the Commission has extended some energy efficiency programming to PGW's small businesses, to be paid for through PGW's universal service surcharge. Specifically, OCA cites the Commission approved PGW's LIME program directed toward buildings that are commercial accounts.²⁷⁵ OCA contends 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. OCA MB at 30-31.

The Commission recognized the need to address small businesses and low-income customers in the form of multi-family energy efficiency measures in PGW's service territory.²⁷⁶ OCA argues that it would be unfair for the Commission, which has recently extended the universal service charge to include some commercial programs, to now allocate the universal

²⁷⁴ PGW St. 6-R at 3-4.

²⁷⁵ *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).

²⁷⁶ *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*).

service costs to only residential customers.²⁷⁷ OCA further argues that OSBA does 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. OCA submits that this new benefit to small business customers must also be considered. OCA MB at 31-32.

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

OSBA'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. OCA contends that PGW's residential ratepayers are not able to absorb these additional costs of the CRP program. Further, OCA asserts that 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.²⁷⁸ OCA MB at 32.

OCA notes that PGW witness Dybalski quantified the impact on residential customers from the proposed cost shift, which would further increase the overall rate increase for residential customers by 2.3% to a total increase of 8.6%.²⁷⁹ OCA further notes that a substantial number of PGW's low-income customers have service involuntarily disconnected for nonpayment, noting that over the past three years, the percent of households experiencing an involuntary disconnect for nonpayment has increased to nearly 13%.²⁸⁰ The percentage of low-income customers in arrears has nearly tripled from 5.1% in 2013 to 13.1% in 2015.²⁸¹ Moreover, the percentage of total residential accounts in arrears that are associated with low-income customers has increased from 12% in 2013 to 26% in 2015.²⁸² OCA argues that low-income customers will be disproportionately impacted by the proposed shift of costs to

²⁷⁷ OCA St. 4-R at 14.

²⁷⁸ OCA St. 4-R at 31 (footnotes omitted).

²⁷⁹ PGW St. 6-R at 4-5.

²⁸⁰ OCA St. 4-R at 31-32.

²⁸¹ OCA St. 4-R at 32.

²⁸² OCA St. 4-R at 32.

residential customers. OCA contends that customers are also not protected by their participation in CRP. OCA cited that participation in PGW's CRP has declined by 30% (24,262 customers) from 2010 to 2015, and 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.²⁸³ OCA MB at 32-34; OCA RB at 26-27.

Moreover, OCA notes that in the 2006 base rate proceeding, the Commission recognized the significant potential rate shock to residential customers.²⁸⁴ 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. OCA MB at 34; OCA RB at 27.

While OSBA contends that the rate shock can be mitigated, OCA disagrees. OCA submits that OSBA's proposal would result in residential customers moving further away from their cost of service. OCA notes that in future base rate proceeding, the difference would have to be made up by residential customers, so customers would see both the increase that should have been allocated in this proceeding and whatever base rate increase is approved for future rates, resulting in rate shock for customers. Moreover, OCA also argues that if universal service costs would increase in the future, as they are likely to do if rates and natural gas prices increase and CAP participation increases, the entire burden would fall on the residential customer class. (OCA Reply Brief at 28).

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

OSBA witness Knecht referenced PGW's 2006 base rate proceeding in support of OSBA's position regarding cost allocation.²⁸⁵ OCA notes that in PGW's 2006 base rate proceeding, the Commission did not change the historic allocation of PGW's universal service

²⁸³ OCA St. 4-R at 33.

²⁸⁴ *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. R-00061931, Order at 88 (September 28, 2007) (*PGW 2006 Order*).

²⁸⁵ *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Docket No. R-00061931, Order at 85 (September 28, 2007) (*PGW 2006 Order*).

costs to all firm service customers, even though the Commission had a full record to consider.²⁸⁶ OCA indicates that 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.²⁸⁷ OCA cites that 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.²⁸⁸ OCA maintains that 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.²⁸⁹ OCA MB at 35.

OCA argues that OSBA’s reliance on the *CAP Order* is similarly misplaced.²⁹⁰ OCA notes that 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.”²⁹¹ OCA asserts that there is no showing here of detrimental impact on economic development or climate for businesses and jobs. OCA contends that it is the change in policy that would adversely affect economic development and the climate for business and jobs. OCA MB at 36; OCA RB at 24-25.

OCA also indicates that OSBA’s reliance on the Commission’s decision involving Equitable Gas Company is also misplaced.²⁹² In *Equitable*, the issue was whether the dollars from the refunds should be used to fund the hardship fund program. 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. OCA notes that 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

²⁸⁶ Id. at 88.

²⁸⁷ Id. at 88.

²⁸⁸ Id. at 85.

²⁸⁹ OCA St. 4 at 9.

²⁹⁰ *Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms Final Investigatory Order*, Docket No. M-00051923, Order (December 18, 2006) (*CAP Order*).

²⁹¹ *CAP Order* at 31, fn. 24.

²⁹² 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*, Docket No. P-00052192, Order at 14 (December 15, 2005) (*Equitable Order*).

customer class to the extent practicable.”²⁹³ However, OCA also notes that 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. Further, OCA cites that the Commission specifically denied OSBA’s request that “the Commission’s July 18th 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.”²⁹⁴ OCA indicates that the Commission specifically affirmed that the commercial class was funding the existing CAP. OCA MB at 36-37.

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. OCA submits that the Commission has determined in each of its prior litigated proceedings that PGW should maintain its historic allocation. OCA MB at 37.

OSBA cited to several other Commission Orders in support of its position regarding cost allocation.²⁹⁵ In the *Investigation Order*, as the OSBA correctly stated, the Commission did not address the issue of cost allocation and left the issue to a base rate proceeding.²⁹⁶ In support of its position, the OSBA quotes the language of the *Investigation Order* which states that cost allocation is best left to a base rate proceeding.²⁹⁷ The issue was then addressed in PGW’s 2006 base rate proceeding.²⁹⁸ OCA argues that the Commission, in the 2006 base rate case, 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. The Commission decided to maintain the historic cost allocation because

²⁹³ *Equitable Order* at 14.

²⁹⁴ *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).

²⁹⁵ OSBA M.B. at 12-13, citing *PGW Restructuring Order* at 62; *Investigation into Financial and Collections Issues Regarding the Philadelphia Gas Works*, Docket Nos. P-00042090, R-00049157, M-0002161, P-00032061, and P-00042117, Order at 23-24 (October 27, 2004) (*Investigation Order*).

²⁹⁶ OSBA M.B. at 12, citing *Investigation Order* at 23-24.

²⁹⁷ *Investigation Order* at 23-24; OSBA M.B. at 12.

²⁹⁸ *PGW 2006 Order* at 88.

of the impact that such a reallocation of costs would have on PGW's residential ratepayers.²⁹⁹
OCA RB at 22-23.

OCA asserts that the key fact identified by the Commission's Order in the 2006 base rate proceeding, that one third of PGW's customers are below 150% of the Federal Poverty Level, has not changed.³⁰⁰ Further, in each of the non-PGW case-related Orders relied upon by OSBA, OCA notes that the Commission found that universal service costs should be allocated to residential customers. However, OCA also notes that, in those cases, the Commission was continuing the existing practice of each utility of allocating universal service costs to residential customers. OCA concludes that the Commission did not want to change the existing practice, and for PGW, that existing, historic practice has been to allocate the costs to all firm service customers. OCA also notes that in *Pa. Pub. Util. Comm'n v. PPL Electric Utilities Corp.*, Docket No. R-00049255, Order at 98 (December 22, 2004), the Commission again maintained the existing practice of each utility of allocating universal service costs only to residential customers. OCA RB at 23-24.

²⁹⁹ PGW 2006 Order at 88.

³⁰⁰ PGW 2006 Order at 85.

4. TURN et al.'s and CAUSE-PA's Joint Position

TURN *et al.* and CAUSE-PA argue that OSBA's proposal to allocate universal service costs to only residential customers should be rejected for each of the following reasons: (1) Allocating the total cost solely to residential customers would result in an additional \$11.6 million in costs borne by this customer class, which would violate the principles of gradualism and result in rate shock; (2) this rate shock would overburden the majority of PGW's low income customers, who do not participate in PGW's CRP program; (3) as a municipal utility, PGW's differences from other utility service territories continue to justify maintaining the bargain made as to the allocation of costs; (4) the current allocation furthers the priorities of the Gas Choice Act and continues the status quo as it has existed for the last 25 years; and (5) the Commission's currently pending universal service review necessitates that the Commission not make changes in any one utility service territory at this time until it has thoroughly reviewed the record developed concerning, among other things, the appropriate cost allocation of universal service programs as a state-wide policy matter. Joint MB at 7-8.

a. Reallocation of universal service costs to only residential customers will result in rate shock for those customers.

In the 2007 PGW base rate case, both the ALJs and the Commission agreed that such a shift of the universal service costs would be "overwhelming for residential customers" and would result in rate shock.³⁰¹ TURN *et al.* and CAUSE-PA indicate that the Commission and the ALJs specifically cited rate shock in their rejection of OSBA's proposal noting that "the increase of 3.8% in addition to the current base rate increase and any increases in the GCR would result in rate shock... We cannot burden these customers with an increase in the universal service costs also."³⁰² Joint MB at 8.

TURN *et al.* and CAUSE-PA agree with PGW that a shift in universal service costs from commercial/industrial firm service customers solely to residential customers would

³⁰¹ *Pa. Pub. Util. Comm'n v. Philadelphia Gas Works*, Recommended Decision, Docket R-00061931, July 24, 2007, at 80-81.

³⁰² *Id.*

increase residential customer bills by an estimated \$11.6 million.³⁰³ TURN *et al.* and CAUSE-PA argue that there are several problems with Mr. Knecht's argument. First, TURN *et al.* and CAUSE-PA assert that OSBA's proposal was not adopted by any of the other parties to this proceeding and was not included in the Joint Petition for Partial Settlement. Instead, the parties reached a compromise position on allocation of the rate increase which assigns \$33 million of the \$42 million increase to the residential class.³⁰⁴ They further argue that OSBA's proposal would disrupt the negotiated settlement and the residential class of customers would experience a rate increase of approximately \$44.6 million, which is in excess of the amount of new revenues agreed to in the proposed settlement. They contend this shift would result in allocating additional charges amounting to 106% of the total new revenues solely to residential customers. Joint MB at 8-9.

The shift proposed by OSBA would have residential customers bearing all of the risk and costs of any increase in program expenses. TURN *et al.* and CAUSE-PA argue this is unreasonable given the 25-year history of these costs being allocated to all firm customers. Joint MB at 10.

TURN *et al.* and CAUSE-PA contend that universal service programs benefit all customer classes. They note that PGW's LIME program that is designed to target master-metered, low-income multifamily housing. They further note that there may also be program changes that create additional benefits for non-residential customers.³⁰⁵ Joint MB at 10-11.

- b. Given PGW's high number of confirmed low-income customers not enrolled in CRP, OSBA's proposed shift would overburden and create rate shock for PGW's low-income residential customers.

In 2015, PGW had 178,899 confirmed low-income customers,³⁰⁶ only 58,282 of whom were enrolled in CRP, representing a 30% decline from 2010, even though the number of

³⁰³ PGW St. 6-R at 4-5.

³⁰⁴ See Joint Petition for Partial Settlement at ¶ 17(a).

³⁰⁵ *Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2014-2016*, Final Order, Docket No. M-2013-2366301 (August 22, 2014).

³⁰⁶ See Commission's 2015 Report on Universal Service Programs & Collections Performance, at 7, available at http://www.puc.state.pa.us/General/publications_reports/pdf/EDC_NGDC_UniServ_Rpt2015.pdf

confirmed low-income customers increased by a more than 22,000.³⁰⁷ TURN *et al.* and CAUSE-PA contend that a shift in the universal service costs would constitute a large portion of the limited income of PGW’s many low-income non-CRP customers. Joint MB at 11.

PGW’s status as the utility with the most confirmed low-income customers means that rate shock will impact a large number of low-income PGW customers. In *Lloyd v. Pa. Pub. Util. Comm’n*, the Commonwealth Court specifically noted that gradualism and rate shock are valid considerations for the Commission stating “gradualism is...one of many factors to be considered and weighed by the Commission in determining rate designs.”³⁰⁸ TURN *et al.* and CAUSE-PA argue that while the \$11.6 million increase would be a shock to all of PGW’s residential customers, it would be a particular shock to Philadelphia’s low income residents, especially since most of PGW’s low-income customers are not enrolled in CRP and thus pay the costs of PGW’s universal service programs. Joint MB at 12.

- c. The benefits of PGW’s Universal Service Programs to all customer classes must be examined in light of PGW’s status as a city-owned natural gas distribution company.

CAP programs like CRP are part of the legal obligation of natural gas utilities to ensure that low-income customers have access to affordable gas service.³⁰⁹ TURN *et al.* and CAUSE-PA assert that it is not the case that the residential rate class causes universal service costs to increase. They contend that it is businesses in Philadelphia that rely upon PGW to provide assistance (functioning as wage supplements) to employees who are not provided living wages,³¹⁰ and it is these same businesses that rely on both the City and PGW to provide social supports – such as CRP – that allow their employees to make ends meet. They note that the Commission’s Bureau of Consumer Services (BCS), in its *Final Report on the Investigation of Uncollectible Balances*,³¹¹ stated that “the problem of the inability of some low-income

³⁰⁷ OCA St. 4-R at 33.

³⁰⁸ *Lloyd v. Pa. Pub. Util. Comm’n*, 904 A.2d 1010, 1020 (Pa.Cmwlth. 2006).

³⁰⁹ 66 Pa.C.S. § 2203(8).

³¹⁰ OCA St. 4-R at 25-28

³¹¹ Bureau of Consumer Services, *Final Report on the Investigation of Uncollectible Balances*, Docket No. I-900002 (February 1992).

customers to pay their entire home energy bills is caused primarily by societal economic conditions that are unrelated to any rate class.”³¹² Joint MB at 13-14.

The Public Utility Code recognizes that PGW is different in its ratemaking provisions.³¹³ TURN *et al.* and CAUSE-PA argue that since this cost allocation has been in place for decades, the benefits of PGW’s unique characteristics must be viewed in concert with one another. Joint MB at 14-15.

As a municipal utility, PGW has different responsibilities to its customers that support allocating universal service costs to all firm service customers. TURN *et al.* and CAUSE-PA contend that the Commission has specifically recognized that PGW’s status as a city-owned NGDC makes its cost recovery different from other natural gas distribution companies.³¹⁴ Relying on OCA witness Colton’s testimony, TURN *et al.* and CAUSE-PA assert that “the offer of programs to support universal service for all customers is part of a quid pro quo that was exacted in exchange for substantial—and continuing—public perquisites provided to the natural gas utility.”³¹⁵ They maintain that commercial and industrial customers benefit from those public perquisites the same way that residential customers benefit from them. Moreover, since all classes of customers benefit from these perquisites they contribute to universal service costs in exchange for those benefits. To allocate those charges to a single class of ratepayers results in benefits being bestowed upon all ratepayers, but the total cost being borne by only the residential ratepayers. Joint MB at 15.

TURN *et al.* and CAUSE-PA indicate that witnesses for PGW, OCA, and TURN *et al.* all outlined a number of benefits conferred on the public generally and commercial customers specifically by the universal service programs including increased employee productivity,³¹⁶ decreased employee turnover,³¹⁷ promotion of economic development and job

³¹² *Id.* at 157.

³¹³ See 66 Pa.C.S. § 2212.

³¹⁴ *Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2014-2016*, Final Order, Docket No. M-2013-2366301, at 7 (August 22, 2014).

³¹⁵ OCA St. 4-R at 7 (internal citations omitted).

³¹⁶ TURN *et al.* St. 1-R at 2; OCA St. 4-R at 18; PGW St. 6-R at 4.

³¹⁷ *Id.*

creation,³¹⁸ promotion of housing stability,³¹⁹ improved work and competitive environment of the utility and service area,³²⁰ defraying the need for local government services,³²¹ improved health outcomes, particularly for children,³²² functioning as a wage supplement for low-income workers,³²³ and increased disposable income for low-wage workers.³²⁴ TURN *et al.* and CAUSE-PA argue that these benefits justify leaving the current universal service cost allocation intact. Joint MB at 16.

- d. The OSBA's proposal should be rejected in order to continue to effectuate the Gas Choice Act's provisions concerning universal service programs in PGW territory.

TURN *et al.* and CAUSE-PA maintain that the Gas Choice Act does not support OSBA's proposal that universal service costs be allocated only to residential firm service customers. Section 2212 of the Gas Choice Act entitled *City natural gas distribution operations*, states in relevant part:

In its restructuring proceeding, a city natural gas distribution operation may propose an automatic adjustment mechanism or mechanisms in lieu of or as a supplement to section 1307 (relating to sliding scale of rates; adjustments) to adjust rates for fluctuations in gas and nongas costs, including, but not limited to, an automatic adjustment mechanism or mechanisms to recover the costs of providing programs for low-income ratepayers and other assisted ratepayers. The commission may approve or modify the automatic adjustment mechanism or mechanisms proposed by the city natural gas distribution operation, or the commission may approve a section 1307 adjustment for a city natural gas distribution operation.³²⁵

TURN *et al.* and CAUSE-PA contend that for PGW, the current structure of universal service cost allocation effectuates these requirements, referencing Section 2203(6) of the Gas Choice

³¹⁸

Id.

³¹⁹ TURN *et al.* St. 1-R at 2; OCA St. 4-R at 24-25; PGW St. 6-R at 4.

³²⁰ OCA St. 4-R at 19-21. PGW St 6-R at 4.

³²¹ TURN *et al.* St. 1-R-1 at 2. See also OCA St. 4-R at 24-25

³²² OCA St. 4-R at 18-20.

³²³ OCA St. 4R1 at 20-21.

³²⁴ OCA St. 4-R at 22.

³²⁵ 66 Pa.C.S. § 2212(h)(2).

Act which provides that “the Commission shall establish for each natural gas distribution company an appropriate nonbypassable, competitively neutral cost-recovery mechanism which is designed to recover fully the natural gas distribution company’s universal service and energy conservation costs over the life of these programs.”³²⁶ Joint MB at 17.

In *Met-Ed Industrial Users Group v. Pa. Pub. Util. Comm’n*, the Commonwealth Court examined whether universal service charges were nonbypassable for all customer classes after Met-Ed proposed allocating universal service costs to all customer classes. In that matter, the Commonwealth Court found that “it [was] reasonable to interpret nonbypassable in the context of deregulation.”³²⁷ TURN *et al.* and CAUSE-PA note that the court ultimately ruled, consistent with the Commission’s final order and the ALJ’s recommendation, that funding sources for universal service programs cannot be bypassed by those ratepayers that contributed prior to deregulation.³²⁸ They further note that for PGW, prior to deregulation, all firm service customers contributed to universal service costs. Accordingly, TURN *et al.* and CAUSE-PA argue that *Met-Ed* demonstrates that one aspect of the core analysis to be performed in determining which customers must not bypass universal service funding obligations is the customers who paid prior to deregulation, and that all firm service customers shared and continue to share this obligation.³²⁹ Joint MB at 17-18.

TURN *et al.* and CAUSE-PA assert that while the Commission has discretion to expand the class of customers who pay for universal service costs, it cannot contract the class of customers from those who historically paid for them. They maintain that OSBA has not presented any evidence of a change in circumstance that would justify permitting a subset of

³²⁶ 66 Pa.C.S. § 2203(6)

³²⁷ *Met-Ed Indus. Users Grp. v. Pa. Pub. Util. Comm’n*, 960 A.2d 189, 202 (Pa.Cmwth. 2008).

³²⁸ *Id.* at 202-203.

³²⁹ Of course, the *Met-Ed* Court made it clear, in interpreting *Lloyd* that:

[T]he Competition Act “only provides that it be funded by ‘non-bypassable rates’ without any requirement that it be by a rate that is directly benefited by the program.” . . . Thus, under *Lloyd*, there is no statutory requirement that the funding for special programs come only from those who benefit from the programs.

Met-Ed Indus. Users Group v. Pa. Pub. Util. Comm’n, 960 A.2d 189, 202 (Pa.Cmwth. 2008) (citing *Lloyd v. Pa. Pub. Util. Comm’n*, 904 A.2d 1010, 1027 (Pa.Cmwth. 2006), *appeal denied*, 591 Pa. 676, 916 A.2d 1104 (2007)).

customers, who historically paid for universal service costs, to now bypass them. (Joint MB at 18-19.

TURN *et al.* and CAUSE-PA note that OSBA relies upon the Commission's decision in PPL's 2004 rate case. In that proceeding, the Commission declined to change the allocation of PPL's universal service costs beyond PPL's residential rate class.³³⁰ TURN *et al.* and CAUSE-PA assert that the Commission declined to expand the group of customers who must pay nonbypassable charges for universal service program funding. They argue that OSBA fails to address its burden of proving the Commission should, in this proceeding, exempt one group of customers from paying for universal services, thereby narrowing the classes of customers who have historically paid for these nonbypassable charges. They maintain that a shift in PGW's longstanding allocation of universal services costs, which the Commission has approved, is not supported by the Gas Choice Act, and that OSBA failed to identify any other support for it. Joint RB at 10.

Further, TURN *et al.* and CAUSE-PA note that OSBA relies upon the Commission's 2006 review of customer assistance programs as support for its position.³³¹ They contend that OSBA misapplies the Commission's determination in that proceeding as it relates to PGW. They maintain that the Commission distinguished PGW's cost allocation structure in that determination, stating that "PGW's cost allocation was determined prior to the Commission's oversight of the company."³³² As noted by TURN *et al.* and CAUSE-PA, the requirement that all firm customers of PGW fund its universal service programs was in place for more than a decade prior to the Commission's 2006 review, and preserved through that review. Joint RB at 11.

- e. Given that the Commission's pending Universal Service Program Review will be looking at cost allocation, the Commission should

³³⁰ *Pa. Pub. Util. Comm'n v. PPL Elec. Utilities Corp.*, Docket No. R-00049255 (Order entered December 22, 2004).

³³¹ See Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms, Docket No. M-00051923 (Order entered December 18, 2006).

³³² TURN *et al.* St. 1-R at 3 citing Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms, Docket No. M-00051923 at 31, n. 24 (Order entered December 18, 2006). See also OCA Main Brief at 36.

make no changes to PGW’s longstanding universal service cost allocation.

On May 10, 2017, the Commission issued an Order initiating a comprehensive review of the entire universal service and energy conservation paradigm.³³³ TURN *et al.* and CAUSE-PA note that the Commission explicitly set out that, among other issues, it will consider issues of “cost allocation.”³³⁴ In light of this, TURN *et al.* and CAUSE-PA maintain that it would be premature for any changes to be made to PGW’s longstanding cost allocation in this proceeding when the Commission may very well be expanding – or at least reviewing – its previous policy determinations as to the appropriate class of customers who pay for universal service costs. Joint MB at 19.

³³³ *Review of Universal Services and Energy Conservation Programs*, Opinion & Order, Docket M-2017-2596907 (May 10, 2017).

³³⁴ *Id.* at 4.

f. OSBA’s Revised Proposal should be deemed waived.

TURN *et al.* and CAUSE-PA argue that OSBA’s revised proposal, described in its Main Brief, is inappropriately proposed in OSBA’s brief because the parties have not had an opportunity to previously consider and appropriately rebut it.³³⁵ They argue that OSBA’s revised proposal fails to give other parties an opportunity to investigate the altered proposal, provide expert examination and testimony on the proposal, and to understand the potential long-term implications of the change. Further, they assert the new arguments raised by the OSBA would burden the Commission with the task of determining how to effectuate OSBA’s policy position as the record does not provide support for the Commission to reach the conclusions necessary to implement OSBA’s revised proposal. Joint RB at 4-5.

g. OSBA’s New Proposed Reallocation of universal service costs to only residential customers is not adequately supported, and can only be implemented by undermining the Joint Petition.

TURN *et al.* and CAUSE-PA argue that OSBA’s Main Brief alters its proposal by attempting to update Mr. Knecht’s original scheme to fit into the allocation agreed to by all parties, including OSBA, in the Joint Petition for Partial Settlement.³³⁶ While OSBA states that the “issue to be resolved in this litigation is whether revenue allocation should be effectuated by retaining the existing USEC charge mechanism, or by modifying the USEC charges in conjunction with balancing adjustments to the volumetric distribution charges,”³³⁷ TURN *et al.* and CAUSE-PA contend it is unclear how the Commission would effectuate OSBA’s new proposal in a way that is fair to all the participants in this proceeding. They note that all parties,

³³⁵ 52 Pa.Code § 5.431(b) (“After the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding officer or the Commission upon motion.”). Moreover, the Commission, as an administrative body, is bound by the due process provisions of constitutional law and by the principles of common fairness. *See Bridgewater Borough v. Pa. Pub. Util. Comm’n*, 123 A.2d 266, 124 A.2d 165 (Pa.Super. 1956); *McCormick v. Pa. Pub. Util. Comm’n*, 30 A.2d 327 (Pa.Super. 1943). Among the requirements of due process are notice and an opportunity to be heard on the issues, to be apprised of the evidence submitted, to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal. *Davidson v. Unemployment Comp. Bd. of Review*, 151 A.2d 870 (Pa.Super. 1959); *In re Shenandoah Suburban Bus Lines, Inc.*, 46 A.2d 26 (Pa.Super. 1946).

³³⁶ OSBA M.B. at 15.

³³⁷ OSBA M.B. at 15.

including OSBA, agreed to the revenue allocation set forth in Paragraph 17 of the Joint Petition for Partial Settlement. OSBA now proposes that the Commission alter that revenue allocation by shifting universal services costs without a concrete proposal for how that could be accomplished. Joint RB at 6-7.

TURN *et al.* and CAUSE-PA assert that OSBA's proposal lacks detail to allow the parties to study this change, consult experts, and present expert testimony regarding its current, and long term, implications. They note that for the Commission to approve the Joint Petition, and also adopt OSBA's revised proposal, the Commission would have to trade universal service revenues for distribution revenues, and allocate them in an undetermined fashion that would not disrupt the allocation agreed to in the Joint Petition for Partial Settlement. They argue that OSBA is asking the Commission to undermine the certainty regarding cost allocation set forth in the Joint Petition for Partial Settlement, which is not what the parties bargained for in agreeing upon a revenue allocation in the Joint Petition for Partial Settlement. Joint RB at 7.

- h. OSBA's revised proposed reallocation of universal service continues to present risks of rate shock, which concerns are heightened among the majority of low-income PGW customers who are not eligible for or do not participate in CRP.

TURN *et al.* and CAUSE-PA maintain that the potential for rate shock to residential customers, remains a concern with OSBA's revised proposal. They note that while OSBA claims there is a revenue neutral way to shift these costs, it is only "revenue neutral within the context of this proceeding" and "[g]oing forward, the cost responsibility for the USEC programs will remain with the residential class."³³⁸ TURN *et al.* and CAUSE-PA assert that the cost of PGW's CRP program will increase as a result of the proposed \$42 million rate increase set forth in the Joint Petition for Partial Settlement, as the amount of discounts required to make CRP customers' bills affordable increases in equal proportion to the base rate increase. Joint RB at 8).

³³⁸ OSBA M.B. at 15.

TURN *et al.* and CAUSE-PA argue that residential customers, faced with the negotiated rate increase agreed to in the Joint Petition for Partial Settlement, and also asked to absorb future higher costs as a result of OSBA's revised allocation proposal for universal services cost, will be exposed to potential rate shock. They contend that the Commission should reject OSBA's revised proposal because it may contribute to rate shock, particularly for the more than 100,000 low income PGW customers who are not eligible for or do not participate in PGW's CRP program. Joint RB at 8-9.

5. Recommendation

We agree with the arguments advanced in this proceeding by PGW, OCA, TURN *et al.* and CAUSE-PA. We note that there is nothing in PGW's allocation of universal service costs to all firm customers that violates the Public Utility Code or the Commission's regulations. Moreover, PGW's allocation of universal service costs and related rate design has been found to be just, reasonable and in the public interest in several past proceedings.

Due to the size of PGW's universal service program, 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 \$42 million rate increase under the Partial Settlement, is not appropriate at this time. The parties that oppose reallocation of the universal services cost in this proceeding estimated that exempting firm commercial and industrial customers would transfer an additional \$11.6 million in universal service costs to the residential class, and that transferring these costs would increase PGW's proposed overall rate increase for residential customers by 2.3%. It appears that this would result in an overall increase for residential customers of about 8.6% (2.3% plus 6.3%).

We must also take into consideration the fact that a substantial number of PGW's low-income customers have service involuntarily disconnected for nonpayment. Specifically, the percent of households experiencing an involuntary disconnect for nonpayment has increased to nearly 13%, and the percentage of low-income customers in arrears has nearly tripled from 5.1% in 2013 to 13.1% in 2015. Moreover, 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.

Based on the evidence presented in this proceeding, we find that low-income customers will be disproportionately impacted by OSBA's proposed shift of costs to residential customers.

It should also be noted that customers are not necessarily protected by their participation in CRP. Several parties cited that participation in PGW's CRP has declined by 30% (24,262 customers) from 2010 to 2015, and 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.

We also note that there is the issue of the Commission approved LIME program that benefits tenant buildings that are commercial accounts. The Commission recognized the need to address small businesses and low-income customers in the form of multi-family energy efficiency measures in PGW's service territory. The Commission specifically carved out within the LIME program a benefit to these small business customers. We agree that this new benefit to small business customers must also be considered in light of OSBA's proposal.

While it is true that Section 2212(e) of the Public Utility Code, 66 Pa.C.S. § 2212(e), provides that "the commission shall follow the same ratemaking methodology and requirements that were applicable to" PGW prior to the Commission assuming jurisdiction over PGW, we note that the Code also provides that "this section shall not prevent the commission from approving changes in the rates payable by any class of ratepayers of the city natural gas distribution operation so long as the revenue requirement and the overall rates and charges are not adversely affected by such changes." Although we are declining to impose a new cost allocation in this proceeding, the Public Utility Code does not prohibit such a reallocation. We note that PGW is the only NGDC that does not allocate costs for universal service programs to only residential customers.

The Commission has determined that, because PGW has followed this allocation policy prior to coming under its regulatory authority, PGW is an exception to the general policy applied to other Commission regulated companies that all of the universal service costs should be allocated to residential customers. For the reasons previously stated, we will recommend

approval of the cost allocation advanced in this proceeding by PGW, OCA, TURN *et al.* and CAUSE-PA. However, since Section 2212(e) of the Code allows the Commission to approve “changes in the rates payable by any class of ratepayers of the city natural gas distribution operation,” we will also recommend that PGW be required to submit data in its next base rate case to adjust the universal service cost allocations for the removal of all non-residential customer classes. The parties will be able to utilize this information to assess the full impact that will result from shifting the universal service cost allocation fully to the residential class. Moreover, this will provide all parties with sufficient time to prepare for a potential shift in the universal service costs allocation in the next rate proceeding.

Accordingly, we recommend that PGW maintain its current universal services cost allocation with the requirement that PGW submit the aforementioned data regarding adjustments to its universal service cost allocation in the next rate proceeding.

X. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and parties in this case. 66 Pa.C.S. § 1308(d).

2. To determine whether a settlement should be approved, the Commission must decide whether the settlement promotes the public interest. *Pa. Pub. Util. Comm’n v. CS Water & Sewer Assoc.*, 74 Pa. PUC 767 (1991); *Pa. Pub. Util. Comm’n v. Philadelphia Electric Co.*, 60 Pa. PUC 1 (1985).

3. The Joint Petition for Partial Settlement is in the public interest and is consistent with the requirements contained in *Lloyd v. Pa. Pub. Util. Comm’n*, 904 A.2d 1010 (Pa.Cmwlth. 2006).

4. The rates, terms and conditions contained in the Philadelphia Gas Works’ base rate increase filing of February 27, 2017, as modified by the Partial Settlement, are just, reasonable and in the public interest and are in accord with the rules and Regulations of the

Commission and the provisions of the Public Utility Code. See 66 Pa.C.S. § 315(a); 52 Pa.Code §§ 69.2703(a), (b).

5. The burden of proof in a ratemaking proceeding is on the public utility. See 66 Pa.C.S. § 315(a); *Lower Frederick Twp. v. Pa. Pub. Util. Comm'n.*, 48 Pa. Commw. 222, 226-27, 409 A.2d 505, 507 (1980) (citations omitted). See also, *Brockway Glass v. Pa. Pub. Util. Comm'n.*, 63 Pa. Commw. 238, 437 A.2d 1067 (1981).

6. A party proposing an adjustment to a ratemaking claim bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. See, e.g., *Pa. Pub. Util. Comm'n v. PECO Energy Co.*, Docket No. R-891364, *et al.*, 1990 Pa. PUC LEXIS 155 (Order entered May 16, 1990); *Pa. Pub. Util. Comm'n v. Brezewood Telephone Co.*, Docket No. R-901666, 1991 Pa. PUC LEXIS 45 (Order entered January 31, 1991).

7. A party that raises an issue that is not included in a public utility's general rate case filing bears the burden of proof regarding that issue. *Pa. Pub. Util. Comm'n et al. v. Columbia Gas of Pennsylvania, Inc.*, R-2010-2215623 at 28 (Opinion and Order dated October 14, 2011).

8. The Philadelphia Gas Works' present method of allocation of universal service costs to all firm customers is just, reasonable and in the public interest and is in accord with the rules and Regulations of the Commission and the provisions of the Public Utility Code. See 66 Pa.C.S. § 315(a); 66 Pa.C.S. § 1307.

9. The Office of Small Business Advocate has not met its burden of showing that the cost responsibility for universal service charges should be shifted entirely to residential customers.

XI. ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the rates, rules and regulations contained in Supplement No. 100 to PGW's Gas Service Tariff – PA. P.U.C. No. 2 not be permitted to be placed in effect;
2. That 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 (proposed tariff modifications) and Exhibit 2 (proof of revenues) to the Joint Petition for Settlement.
3. That upon entry of the Commission's Order approving the Joint Petition for Partial Settlement, 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 upon at least one day's notice.
4. That the Office of Consumer Advocate's proposals regarding the Philadelphia Gas Works' partial payment allocation practices be denied.
5. That the Office of Small Business Advocate's proposals regarding the Philadelphia Gas Works' allocation of universal service costs be denied.
6. That the complaint of the Office of Consumer Advocate at Docket No. C-2017-2592092 be dismissed without prejudice regarding the issue of partial payment allocation. The formal Complaint is otherwise satisfied as to all other issues and shall be marked closed.
7. That the complaint of the Office of Small Business Advocate at Docket No. C-2017-2593497 be dismissed regarding the issues of universal service cost allocation. The formal Complaint is otherwise satisfied as to all other issues and shall be marked closed.

8. That the complaint of Philadelphia Industrial and Commercial Users Group at Docket No. C-2017-2595147 be deemed satisfied and marked closed.

9. That the complaint of William Dingfelder at Docket No. C-2017-2593903 be dismissed and marked closed.

10. That upon acceptance and approval by the Commission of the tariff supplements and proof of revenues filed by the Philadelphia Gas Works consistent with this Order, this proceeding be marked closed.

Date: August 28, 2017

/s/
Christopher P. Pell
Deputy Chief Administrative Law Judge

/s/
Marta Guhl
Administrative Law Judge