**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

Public Meeting held June 13, 2019

Commissioners Present:

Gladys Brown Dutrieuille, Chairman

David W. Sweet, Vice Chairman

Norman J. Kennard, Statement

Andrew G. Place

John F. Coleman, Jr.

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

**OPINION AND ORDER**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is the Petition for Reconsideration (Petition for Reconsideration or Petition), filed by Philadelphia Gas Works (PGW), on June 4, 2018,[[1]](#footnote-2) seeking reconsideration of the Opinion and Order entered on May 18, 2018 (*May 2018 Order*) in the above-captioned proceeding. The Office of Consumer Advocate (OCA) filed its Answer to the Petition (Answer) on June 14, 2018. Also before the Commission is a Joint Petition for Settlement (Joint Petition for Settlement) that was filed by PGW and the OCA in the above-captioned matter on April 17, 2019, setting forth the terms and conditions of the Settlement (Settlement) reached between PGW and the OCA to resolve the remaining litigated issues in this proceeding and also setting forth the purported reasons why the Commission’s approval of the Settlement is in the public interest. No response has been filed to the Joint Petition for Settlement. For the reasons discussed below, we shall approve the Joint Petition for Settlement and deem PGW’s Petition for Reconsideration withdrawn.

1. **History of Proceeding**

On February 28, 2017, PGW filed Supplement No. 100 to Tariff Gas – Pa. P.U.C. No. 2 (Supplement No. 100), with the Commission to become effective April 28, 2017, at Docket No. R‑2017-2586783, proposing an annual increase in base rate revenues in the amount of $70 million, approximately an 11.6 percent increase over present rates.

On March 6, 2017, the OCA filed a Public Statement, a Notice of Appearance and a Formal Complaint. *See* Docket No. C-2017-2592092.

By Order entered March 16, 2017, the Commission suspended Supplement No. 100 by operation of law; instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase and existing rates; and, assigned the matter to the Office of Administrative Law Judge (OALJ) for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

On June 28, 2017, the evidentiary hearing was held as scheduled. During the evidentiary hearing, the written testimonies of PGW, the OCA and the remaining Parties to this proceeding were admitted into the record. The Parties agreed to waive cross-examination of all witnesses.

On July 21, 2017, a Joint Petition for Partial Settlement (Joint Petition for Partial Settlement) was filed by PGW, the OCA, and the other Parties to this proceeding, including the Commission’s Bureau of Investigation and Enforcement (I&E), the Office of Small Business Advocate (OSBA), the Retail Energy Supply Association (RESA), the Philadelphia Industrial and Commercial Gas Users Group (PICGUG), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), and Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN *et al*.). The Joint Petition for Partial Settlement was presented as having resolved all base rate issues except for two issues reserved for litigation. Among the litigated issues not resolved by the Partial Settlement was the dispute that is the subject of the present Opinion and Order between the OCA and PGW concerning PGW’s partial payment allocation practices.

On September 8, 2017, the ALJs’ Recommended Decision was issued, recommending that the Commission approve the Partial Settlement, without modification, as reasonable and in the public interest, and further recommending that the Commission dismiss without prejudice the OCA’s claims regarding PGW’s partial payment allocation practices.

On September 25, 2017, the OCA filed Exceptions to the Recommended Decision. On this same date, PGW submitted a Letter in Lieu of Exceptions. On October 2, 2017, Replies to Exceptions were filed by PGW and the OCA.

By Opinion and Order entered on November 8, 2017 (*November 2017 Order*), the Commission, in relevant part, denied the OCA’s Exceptions and adopted the ALJs’ recommendations to approve the Joint Petition for Partial Settlement and dismiss, without prejudice, the OCA’s claims regarding PGW’s partial payment allocation practices.

On November 27, 2017, the OCA filed a Petition for Reconsideration of the *November 2017 Order*. In its Petition for Reconsideration, the OCA requested that the Commission reconsider our decision to dismiss, without prejudice, the OCA’s claims regarding PGW’s partial payment allocation practices and that the Commission render a decision on the merits of its claims based on the fully-developed record in this proceeding. On December 7, 2017, PGW filed an Answer to the OCA’s Petition, requesting that we not disturb the *November 2017 Order*.

By Opinion and Order entered December 7, 2017, the Commission granted the OCA’s Petition for Reconsideration pending review of, and consideration on, the merits of the Petition.

By Opinion and Order entered May 18, 2018 (*May 2018 Order*), the Commission granted, on the merits, the OCA’s Petition for Reconsideration and concluded, based on review of the record and the Parties’ legal arguments, that PGW’s current partial payment allocation practices violate Sections 56.22 and 56.24 of the Commission’s Regulations, 52 Pa. Code §§ 56.22, 56.24, and Sections 1301, 1303 and 1501 of the Public Utility Code (Code), 66 Pa. C.S.§§ 1301, 1303, 1501. The Commission directed PGW to modify its partial payment allocation practices so that no priority would be given to the satisfaction of all late payment charges before applying the payment to the balance due for prior basic service and to implement such modifications within ninety days from the entry date of the Order. *May 2018 Order* at 22-23, 26, 28.

On June 4, 2018, PGW filed the Petition for Reconsideration that is before us now, seeking the Commission’s reconsideration of the *May 2018 Order*. The PGW Petition is primarily focused on the ninety-day deadline for making the modifications directed in the *May 2018 Order* but also challenges the Commission’s conclusions as to PGW’s violation of Commission Regulations and the Code. The Petition contends, *inter alia*, a lack of substantial evidence to support certain Commission’s findings of the issues.

On June 14, 2018, the OCA filed its Answer to the Petition. The OCA agreed that the Commission may need to revisit the ninety-day timeframe for implementation of the directed modifications but asserted that PGW’s proposed fifty-week timeframe may be excessive. In all other respects, the OCA argued for the Commission to leave its *May 2018 Order* intact.

By Opinion and Order entered June 14, 2018, the Commission granted PGW’s Petition, pending review of, and consideration on, the merits of the Petition.

The Parties then entered into settlement negotiations. By letter filed August 21, 2018 (*August 2018 Letter*), PGW requested that the Commission hold in abeyance any decision on the merits of PGW’s Petition so as to permit PGW and the OCA the opportunity to engage in settlement discussions on the litigated issues concerning PGW’s partial payment allocation practices. PGW stated that the settlement discussions were anticipated to be completed within a few weeks of its request. PGW noted in the *August 2018 Letter* that the OCA was in agreement with PGW’s request.

On April 17, 2019, PGW and the OCA filed the Joint Petition for Settlement, requesting the Commission approve the Settlement without modification and amend the *May 2018 Order* to provide for a fifty-eight-week period, instead of a ninety-day period, for PGW to implement the directed changes to its partial payment allocation practices.

While PGW and the OCA are the only Parties to the Settlement currently before us, the Joint Petition for Settlement represents that the other Parties to PGW’s base rate proceeding in the above-captioned dockets, including I&E, the OSBA, RESA, PICGUG, CAUSE-PA, and TURN *et al*., have indicated that they do not oppose this Joint Petition for Settlement. *See* Joint Petition for Settlement at 1.

1. **Discussion**
	1. **Legal Standards**

By the terms of Section 703(g) of the Code, the Commission has the power to amend or rescind its own orders at any time subject only to the requirements of due process. Section 703(g) of the Code states:

The commission may, at any time, after notice and after opportunity to be heard as provided in this chapter, rescind or amend any order made by it. Any order rescinding or amending a prior order shall, when served upon the person, corporation, or municipal corporation affected, and after notice thereof is given to the other parties to the proceedings, have the same effect as is herein provided for original orders.

66 Pa. C.S. § 703(g); *see also Department of Highways v. Pa. P.U.C*., 185 Pa. Super. 418, 138 A.2d 143 (1958). “Because such relief may result in disturbance of final orders, it must be granted judiciously and only under appropriate circumstances.” *See City of Pittsburgh v. Pennsylvania Department of Transportation,* 490 Pa. 264, 416 A.2d 461 (1980).

The Commission’s long-standing policy is to encourage settlements. *See* 52 Pa. Code §§ 5.231 and 69.401. A settlement may reduce or eliminate the substantial time, effort, and expense that otherwise may be used or incurred in litigating a proceeding. Rate cases, in general, are expensive to litigate and settlements may reduce a utility’s rate case expense; an expense which, if reasonable and prudently incurred, is entitled to be recovered from customers through rates approved by the Commission, as a cost of regulation. Thus, a settlement, whether full or partial, benefits not only the named parties directly but also may indirectly benefit the customers of the public utility through potential expense savings. For this and other sound reasons, settlements are encouraged by long‑standing Commission policy. *See November 2017 Order*, slip op, at 13-14.

In order to accept a settlement, the Commission must determine that the proposed terms and conditions of the settlement are in the public interest. *Pa. PUC v. York Water Co.*, Docket No. R‑00049165 (Order entered October 4, 2004); *Pa. PUC v. Philadelphia Gas Works*, Docket No. M‑00031768 (Order entered January 7, 2004); *Pa. PUC v. C S Water and Sewer Assoc.*, 74 Pa. P.U.C. 767 (1991) (*CS Water and Sewer)*; *Pa. PUC v. Philadelphia Electric Co.*, 60 Pa. P.U.C. 1 (1985). The focus of the inquiry for determining whether a proposed settlement should be approved by the Commission is whether the proposed terms and conditions foster, promote and serve the public interest. *Pa. PUC, et al. v. City of Lancaster – Bureau of Water*, Docket Nos. R-2010-2179103, *et al*. (Order entered July 14, 2011), citing *Warner v. GTE North, Inc*., Docket No. C‑00902815 (Order entered April 1, 1996) and *CS Water and Sewer.*

Any issue that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. It is well-settled that the Commission is not required to consider expressly or at length each contention or argument raised by the parties. [*Consolidated Rail Corp. v. Pa. PUC,* 625 A.2d 741 (Pa. Cmwlth. 1993);](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=5&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b625%20A.2d%20741%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=ad2b02d95c2a9216e83b92a3570d4785) *also see, generally,* [*University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).](file://C:\research\buttonTFLink?_m=69761b6202cb4178e2a6e6fe02f5751b&_xfercite=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b2000%20Pa.%20PUC%20LEXIS%2067%20%5d%5d%3e%3c\cite%3e&_butType=3&_butStat=242&_butNum=6&_butInline=1&_butinfo=%3ccite%20cc=%22USA%22%3e%3c!%5bCDATA%5b485%20A.2d%201217%5d%5d%3e%3c\cite%3e&_fmtstr=FULL&docnum=5&_startdoc=1&_startchk=1&wchp=dGLSzS-lSlbz&_md5=9b1cc8319afd12440738bb82d74455ef)

* 1. ***May 2018 Order***

In the *May 2018 Order*, after reconsidering the Parties’ prepared written testimonies, as admitted into the record, and the Parties’ Briefs and Exceptions addressing the issues concerning PGW’s partial payment allocation practices, we found that the evidentiary record and legal arguments of the Parties had been fully developed in this proceeding. Accordingly, we agreed with the OCA in the *May 2018 Order* that to require the Parties to relitigate a new complaint raising the same claims, evidence and arguments on the merits, would not promote an efficient use of the Commission’s or the Parties’ time and resources. We therefore concluded that a separate on-the-record proceeding would not be necessary to reach a disposition on the merits of the OCA’s claims involving PGW’s partial payment allocation practices. *See* *May 2018 Order* at 16. We deemed the OCA’s claims regarding PGW’s partial payment allocation practices as having been bifurcated from our final determination in the *November 2017 Order* and held in abeyance for a final decision on the merits.[[2]](#footnote-3) *Id.* at 16-17.

In turning to our disposition on the merits of the OCA’s claims, we determined in the *May 2018 Order* that PGW’s current practice – applying a customer’s partial payments out-of-sequence so that any outstanding prior and current late payment charges are paid in full prior to applying such payments to outstanding amounts due for other prior basic service charges – constitutes a violation of Section 56.24 of our Regulations, 52 Pa. Code § 56.24, and a violation of PGW’s obligation to provide adequate and reasonable service under Section 1501 of the Code, 66 Pa. C.S. § 1501. *May 2018 Order* at 19, 27, 28. In the *May 2018 Order* we directed PGW to modify its practices to stop the practice of applying a customer’s partial payment to the satisfaction of all late payment charges due before applying the payment to the balance due for prior basic service. *May 2018 Order* at 22. We also directed PGW to apply a customer’s partial payment to basic services first without giving priority to late payment charges over other types of basic charges. *Id.* As for timing to implement the Commission’s directives inthe *May 2018 Order*,we provided PGW with ninety days to comply with the requirement to modify its partial payment allocation practices. *May 2018 Order* at 23.

Finally, in the *May 2018 Order*, we determined that PGW’s methodology of applying a partial payment against more recent, non-interest-bearing late payment charges followed by older, interest-bearing principal, effectively resulted in charging customers interest in excess of the eighteen percent simple interest annual limit, in violation of Section 56.22(a) of our Regulations, 52 Pa. Code § 56.22(a). *May 2018 Order* at 26, 28. We concluded that any interest rate charged by PGW that exceeds the eighteen percent simple interest annual maximum established in our Regulations is a *de facto* unjust and unreasonable rate, in violation of 66 Pa. C.S. § 1301. *Id*. In addition, we stated that any interest rate charged by PGW that exceeds the eighteen percent simple interest annual maximum established in Rule 4.2 of PGW’s Tariff is a violation of 66 Pa. C.S. § 1303, which prohibits utilities from charging or receiving any rate greater than that established in its Commission-approved tariff. *Id*. We directed the same remedy for the foregoing violations as we did for PGW’s violation of Section 56.24 of our Regulations. *Id*. at 26.

* 1. **PGW Petition for Reconsideration and the OCA’s Answer**

In its Petition, PGW argues that we should reconsider the *May 2018 Order*, arguing, in summary, as follows: (1) that substantial evidence of the record does not support a finding that PGW charges more than eighteen percent simple interest on an annual basis to residential customers who submit partial payments to pay their bill, *see* Petition at 4, 14‑16; (2) that our interpretation of Section 56.24 of our Regulations as contained in the *May 2018 Order* unlawfully circumvents the regulatory review process and establishes impermissible binding norms, *see* Petition at 3, 10-13; and (3) that we failed to consider in the *May 2018 Order* the significant costs associated with the required modifications to its payment posting practices (including the expense to be incurred by PGW to upgrade its billing system and the increase in bad debt expense to be experienced by PGW as a result of the decline in collection of late payment charges) and the resulting rate impacts on customers who pay their bills on time and in full, *see* Petition at 2-3, 16-17.

In addition, PGW requests in the Petition that we amend and extend the ninety-day deadline established in the *May 2018 Order* to at least fifty weeks, and up to fifty-seven weeks, from the entry date of the *May 2018 Order*. PGW is of the opinion that an extension of time is essential based on substantial evidence in the record related to the modifications it has identified[[3]](#footnote-4) are necessary to be made to its automated billing system in order to bring its partial payment posting practices into compliance with the requirements of 52 Pa. Code § 56.22 and § 56.24. *See* Petition at 1-3, 9-10, 16-17. Attached to the Petition is the Verified Statement of Frank Weigert, stating in relevant part as follows:

7. Consistent with the record in this proceeding, the system-wide modifications involve new code development, wide-ranging quality assurance and user acceptance testing, which are necessary to ensure that the implementation of new partial payment application practices does not result in massive, Company-wide billing errors.

8. During this proceeding, PGW estimated it would take approximately 57 weeks to reprogram its system, including 33 weeks to develop the code and 24 weeks for quality assurance and user acceptance testing.

9. Because PGW has initiated the project and some initial work has been done, PGW is better able to forecast the time needed. PGW now estimates being able to complete the changes within 50 weeks.

10. Further support for the estimated 50-week timeline is set forth in the attachment.

*See* Petition, Verified Statement of Frank Weigert, ¶¶ 7-10.

The OCA’s Answer responds to each of the issues raised in the Petition. *See generally* OCA Answer at 3-12. Except for PGW’s request for an extension of the ninety-day time frame, the OCA rejects PGW’s arguments as failing to meet the standards of *Duick* because the OCA argues that PGW fails to present any considerations that are new, novel, overlooked, or otherwise not addressed in the *May 2018 Order*. *Id*. With respect to PGW’s request for an extension of the ninety-day deadline, the OCA generally supports the Commission’s directive that PGW promptly comply with the Commission’s Regulations but submits that the Commission may need to revisit the ninety-day deadline and give more time for PGW to implement the modifications in its billing system and conduct required testing to avoid unintended disruption of other aspects of its billing system. OCA Answer at 4-5.

* 1. **Joint Petition for Settlement**

In the Joint Petition for Settlement, PGW and the OCA submit that the terms and conditions of the Settlement fully resolve the issues raised during this proceeding by the OCA concerning PGW’s partial payment allocation practices without the need for further litigation, including appellate remedies, and is the only remaining open issue in this proceeding. Joint Petition for Settlement at 1. PGW and the OCA submit that the Settlement terms and conditions are in the public interest because they provide for a reasonable resolution of issues that PGW and the OCA have been litigating for nearly two years. Joint Petition for Settlement at 6. According to the Parties, such resolution ensures that PGW’s partial payment allocation practices will be modified in the manner directed by the *May 2018 Order*, while also affording PGW adequate time to continue undertaking new code development and wide-ranging quality assurance and user acceptance testing. *Id*. Through these measures, the Parties assert that PGW will increase the likelihood that the implementation of the new practices will not result in significant, Company-wide billing errors or other implementation errors. *Id*. The Parties assert that rushing the time in which these billing system changes are implemented will increase the potential for errors to the detriment of customers and add additional cost and time to the process. *Id*.

The Parties assert that the result achieved by the Settlement is supported by the record in this proceeding, wherein PGW’s witness estimated that it would take thirty-three weeks to develop the code to reprogram the complex changes that would be entailed and another twenty-four weeks for quality assurance and user acceptance testing. Because PGW has begun the process for making these changes, PGW anticipates that a fifty-eight-week period from the date of the *May 2018 Order* will be sufficient. Joint Petition for Settlement at 7.

PGW and the OCA further submit that the Settlement avoids the need for any further litigation of these issues, including appellate remedies, thereby eliminating any delay caused by the appellate process, and reducing associated costs for both PGW and the Commission. The Parties also assert that the Settlement is consistent with the Commission’s policies promoting negotiated settlements. Joint Petition for Settlement at 7 (citing 52 Pa. Code §§ 5.231, 69.391, 69.401-69.406).

**Settlement Terms and Conditions**

The Settlement terms and conditions as presented in the Joint Petition for Settlement are as follows:

1. PGW commits to making the modifications directed by the May 18, 2018 Order no later than July 2, 2019. Attached as Exhibit A is a timeline for implementation, which describes in detail each step of the process, along with an estimated amount of time for completion.
2. By this Settlement, PGW does not admit that its current partial payment allocation practices violate any Commission regulations or provisions of the Public Utility Code.
3. Upon approval of this Settlement and amendment by the Commission of the required implementation timeframe set forth in the May 18, 2018 Order to reflect the timeframe for modification of PGW’s billing system as set forth herein, PGW’s pending Petition for Reconsideration shall be deemed withdrawn. Further, PGW will forego any appellate remedies in connection with the May 18 Order.

Joint Petition for Settlement at 5-6.

Incorporated into paragraph (a) of the Settlement is an Exhibit A summarizing each step PGW has made or anticipates making as part of its system updates along with an estimated time for completion. Exhibit A indicates that PGW already has prepared full business and technical requirements for this project and that certain significant milestones (coding and unit testing, and testing quality assurance) have already been completed as of the entry date of this Order. It also details the remaining steps to be taken by PGW in order to achieve completion on or before July 2, 2019. *See* Exhibit A to Joint Petition for Settlement.

Also incorporated into paragraph (a) of the Settlement is a footnote that further clarifies PGW’s commitment to the July 2, 2019 implementation date. In the footnote, PGW states that while it believes it is currently on track to meet its commitment by July 2, 2019, circumstances beyond its control have already occurred during the process of implementing the change to its billing system, including the serious illness and subsequent death of its primary coder, which delayed completion of the complex coding changes. Given the complexity of the coding changes, PGW explains that it is imperative that it thoroughly test the coding changes prior to fully implementing them and that such testing takes significant time and can lead to additional coding changes and related re-testing. PGW submits that to the extent that other delays interfere with deployment by July 2, 2019, it will promptly inform the OCA and the Commission, along with a detailed explanation and a new implementation date, and thereafter provide bi-weekly status updates to the OCA and the Commission. PGW recognizes that the OCA retains all procedural rights to respond to a notification of a delay, if the OCA deems it necessary. Joint Petition for Settlement at 6.

* 1. **Disposition**

We conclude that adoption of paragraph (a) of the instant Settlement between the OCA and PGW is in the public interest as to the extension of time and related conditions to be granted for PGW to modify its billing system consistent with the direction in the *May 2018 Order* to PGW to amend its partial payment allocation practices. In paragraph (a) of the Settlement, PGW commits to bringing its payment posting practices into compliance with the requirements of 52 Pa. Code § 56.22 and §  56.24, as directed in the *May 2018 Order*, through the implementation of modifications to its automated billing system and processes, by no later than July 2, 2019, subject to the following condition: should PGW experience delays that interfere with deployment by July 2, 2019, PGW will promptly inform the OCA and the Commission along with a detailed explanation for the delay and a new implementation date, and thereafter PGW will provide bi-weekly status updates to the OCA and the Commission on its progress. In paragraph (a), PGW represents that it has been taking, and will continue to take, necessary steps to achieve implementation of the wide-scale modifications to its billing system on or before the July 2, 2019 implementation date. PGW also represents in paragraph (a) that circumstances beyond its control have occurred during the implementation process which have caused delay in completion of complex coding changes. The foregoing commitments and representations are made by PGW with full recognition that the OCA retains all procedural rights to respond to a notification of a delay, if the OCA deems it necessary.

In our opinion, approval of paragraph (a) of the Settlement promotes the public interest because it grants a reasonable extension of time to permit PGW to implement modifications to its automated billing system and processes in order to bring its partial payment posting practices into compliance with the requirements of 52 Pa. Code § 56.22 and § 56.24, as directed in the *May 2018 Order*. We accept the Parties’ representation in the Joint Petition for Settlement that our granting of additional time will increase the likelihood that the implementation of the compliant practices will not result in significant, Company-wide billing errors or other implementation errors. Additionally, since the OCA and PGW are the only Parties to litigate the issue of PGW’s partial payment allocation practices in this proceeding, and since the OCA and PGW agree to all the terms of paragraph (a), our adoption of the Settlement will eliminate the possibility of an appeal related to this proceeding, thus saving the Parties and the Commission the additional time and expense relating to the Parties’ prosecution and/or defense of such appeal.

Based on the foregoing, we shall amend the *May 2018 Order* to direct PGW to achieve compliance with the directives in the *May 2018 Order* by no later than July 2, 2019, subject to the conditions and representations set forth in paragraph (a) of the Settlement, which includes the incorporated footnote and Exhibit A.

Paragraph (b) of the Settlement states that PGW “does not admit that its current partial payment allocation practices violate any Commission regulations or provisions of the Public Utility Code.” Paragraph (c) states that PGW’s Petition for Reconsideration will be deemed withdrawn upon our approval of the new timeframe for PGW to complete modifications to its billing system and that PGW will forego any appellate remedies in connection with the *May 2018 Order* upon our approval of the Settlement.

Whether PGW admits that its current partial payment allocation practices violate Commission Regulations or provisions of the Public Utility Code is of no moment, as we have already determined in the *May 2018 Order* that PGW’s practices constitute violations and need to be changed, and PGW has agreed to modify its practices. Accordingly, except for our decision herein to amend the *May 2018 Order* to extend the deadline for PGW to achieve compliance with the directives therein, this term as well as the withdrawal of the Petition for Reconsideration are acceptable. Therefore, the *May 2018 Order* shall remain in full force and effect. We conclude that our approval of paragraphs (b) and (c) of the Settlement is in the public interest since it will bring final resolution to this matter and eliminate the possibility of an appeal related to this proceeding, thus saving the Parties and the Commission the additional time and expense relating to the Parties’ prosecution and/or defense of such appeal.

1. **Conclusion**

Based upon our review of the record in this proceeding, we shall grant the Joint Petition for Settlement and deem PGW’s Petition for Reconsideration withdrawn, consistent with this Opinion and Order; **THEREFORE,**

**IT IS ORDERED:**

1. That the Joint Petition for Settlement, filed on April 17, 2019, by Philadelphia Gas Works and the Office of Consumer Advocate, in the above-captioned dockets, is approved.

2. That the Petition for Reconsideration, filed on June 4, 2018, by Philadelphia Gas Works, in the above-captioned dockets, is deemed withdrawn.

3. That the Opinion and Order entered May 18, 2018, in the above-captioned dockets, both in the body of the Opinion and Order and in Ordering Paragraph No. 10 thereto, is amended such that Philadelphia Gas Works is directed to bring its payment posting practices into compliance with the requirements of 52 Pa. Code § 56.22 and § 56.24, through the implementation of modifications to its automated billing system and processes, by no later than July 2, 2019, subject to the representations and conditions set forth in paragraph (a) of the Settlement.

4. That, within ten (10) days of completion of upgrading its billing system, Philadelphia Gas Works shall file a verification statement pursuant to 52 Pa. Code § 1.36 with the Secretary’s Bureau at this docket indicating compliance with the directives in the May 18, 2018 Opinion and Order.

5. That, should Philadelphia Gas Works experience delays that interfere with deployment by July 2, 2019, Philadelphia Gas Works shall promptly inform the Office of Consumer Advocate and the Secretary of the Commission, along with a detailed explanation for the delay and a new implementation date, and, thereafter, Philadelphia Gas Works shall provide bi-weekly status updates to the Office of Consumer Advocate and the Secretary of the Commission on its progress.

6. That the Opinion and Order entered May 18, 2018, in the above-captioned dockets, remains in full force and effect except as expressly modified herein with regard to the extension of time granted herein.

7. That a copy of this Opinion and Order be served on all the Parties to this proceeding at the above-captioned dockets.

**BY THE COMMISSION,**

 

 Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: June 13, 2019

ORDER ENTERED: June 28, 2019

1. Upon the letter request filed by PGW on August 21, 2018, the Petition was held in abeyance until the present, pending Settlement discussions by the Parties. [↑](#footnote-ref-2)
2. Since the issues relating to PGW’s partial payment allocation practices did not directly impact the new base rates that were to take effect within the statutory time period, we noted that bifurcation was a permitted exercise of our discretion to allow us to take additional time to reach a thorough and well-reasoned decision on the issues based on the sufficiently developed record in this proceeding. *See May 2018 Order* at 17. [↑](#footnote-ref-3)
3. To be clear, in the *May 2018 Order* we did not direct PGW to develop, implement and test wide-scale modifications to its billing system in order achieve compliance with our Regulations. While we acknowledge herein that the record evidence demonstrates that such steps were identified by PGW as being necessary for it to achieve compliance with existing Regulations, we did not direct these steps in the *May 2018 Order*. [↑](#footnote-ref-4)