



PHILADELPHIA GAS WORKS

800 West Montgomery Avenue • Philadelphia, PA 19122

Craig Berry, Senior Attorney
Legal Department
Direct Dial: 215-684-6049
FAX: 215-684-6798
E-mail: craig.berry@pgworks.com

August 18, 2020

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

Re: Chairman Gladys Brown Dutrieuille's Letter regarding the Emergency Order at Docket Number M-2020-3019244

Dear Secretary Chiavetta:

Pursuant to the Chairman's August 10th Letter, on behalf of Philadelphia Gas Works ("PGW"), enclosed for filing is PGW's comments responding to matters raised in the Letter. Please contact me if you have any questions.

Respectfully,

/s/ Craig W. Berry

Craig W. Berry, Esquire

Enclosure

cc: PUC Secretary Rosemary Chiavetta (email only)
Certificate of Service (email only)

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PGW's the Chairman's August 10th Letter, upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

VIA EMAIL:

Richard A. Kanaskie, Director
Bureau of Investigation & Enforcement
PA Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor Harrisburg,
PA 17120
rkanskie@pa.gov

Tanya J. McCloskey
Acting Consumer Advocate
Christine Maloni Hoover
Office of Consumer Advocate
555 Walnut Street,
5th Floor, Forum Place Bldg.
Harrisburg, PA 17101-1921
tmccloskey@paoca.org
choover@paoca.org

Elizabeth R. Marx, Esquire
John Sweet, Esquire
Ria Pereira, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
emarxpulp@palegalaid.net
pulp@palegalaid.net
Counsel for CAUSE-PA

Terrance J. Fitzpatrick Donna Clark, Esquire
Energy Association of Pennsylvania 800
North Third Street Harrisburg, PA 17102
tfitzpatrick@energypa.org
dclark@energypa.org

John R. Evans
Office of Small Business Advocate
555 Walnut Street
1st Floor , Forum Place Bldg.
Harrisburg, PA 1710
jorevan@pa.gov

Robert W. Ballenger, Esquire
Josie B. H. Pickens, Esquire
Joline R. Price, Esquire
Community Legal Services
1424 Chestnut Street
Philadelphia, PA 19102-2505
jpickens@clsphila.org
rballenger@clsphila.org
jprice@clsphila.org
Counsel for TURN et al

/s/ Craig W. Berry

Dated: August 18, 2020

Craig W. Berry, Esq.
Senior Attorney
Philadelphia Gas Works
PA Attorney I.D. # 328527
E-Mail: craig.berry@pgworks.com

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

RATIFICATION OF EMERGENCY : Docket No. M-2020-3019244
ORDER ESTABLISHING :
TERMINATION MORATORIUM :
 :
 :
 :

**COMMENTS OF
PHILADELPHIA GAS WORKS IN RESPONSE TO
CHAIRMAN BROWN DUTRIEUILLE’S LETTER OF AUGUST 10, 2020**

Philadelphia Gas Works (“PGW” or “Company”) hereby files these comments in response to Chairman Gladys Brown Dutrieuille’s Letter regarding the Emergency Order at Docket Number M-2020-3019244 (“Letter”). PGW supports the Commission’s review of the termination moratorium established by the Emergency Order. Similar to the Commission’s expressed concerns at this Docket, PGW is concerned about the impacts of COVID-19 on its customers, on their ability to pay their bills, and on the financial health of PGW. For this reason, PGW provides a detailed list of the customer protections and procedures that can be afforded to PGW customers who are behind on their natural gas bills and, particularly for its low income customers to ensure that gas service is available and affordable.

I. BACKGROUND

On March 6, 2020, Governor Tom Wolf issued a Proclamation of Disaster Emergency (“Proclamation”) in response to the COVID-19 pandemic.¹ The Proclamation provides for the suspension of “the provisions of any regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency, if

¹ Governor Tom Wolf, Emergency Proclamation of Disaster Emergency (March 6, 2020), available at: <https://www.governor.pa.gov/wp-content/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>.

strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency.”²

On March 13, 2020, the PUC issued an Emergency Order regarding the Public Utility Service Termination Moratorium and Proclamation of Disaster Emergency – COVID-19, which was ratified by the full Public Utility Commission (“PUC”) on March 26, 2020 (“Emergency Order”).³ The Emergency Order prohibited the termination of utility service by jurisdictional utilities “during the pendency of the Proclamation of Disaster Emergency . . . or unless otherwise determined by the Commission.”⁴ The Emergency Order based the determination of the need for a termination moratorium on the Governor’s Proclamation and Section 1501 of the Public Utility Code.⁵

On August 10, 2020, Chairman Brown Dutrieuille issued a letter requesting comments “regarding the moratorium and customer protections for at-risk customers, should the absolute service termination moratorium be lifted” so that the termination moratorium can be addressed at the Commission’s August 27, 2020 Public Meeting.⁶ The Letter recognizes that “the Commonwealth finds itself in a different place than in early March when we were under a shelter-in-place directive,” which has since been lifted and businesses are now permitted to reopen.⁷ Further, the Letter articulates two drawbacks with an extended Termination Moratorium, specifically: (1) that “[m]aintaining a total moratorium for a time-period that is too lengthy may only work to accelerate the accrual of arrearages for many utility customers and place them at increased risk of default and termination in the future, when large bills inevitable

² March 6th Proclamation at 2.

³ Emergency Order, Re Public Utility Service Termination Moratorium Proclamation of Disaster Emergency – COVID-19, Docket No: M-2020-3019244, dated March 13, 2020 (“Emergency Order”).

⁴ Emergency Order at 2.

⁵ Emergency Order at 1, citing Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501.

⁶ Chairman Brown Dutrieuille’s Letter regarding the Emergency Order at Docket Number M-2020-3019244 (“Letter”) at 2.

⁷ Letter at 1.

become due,” and (2) “[m]aintaining a total moratorium may frustrate customer placement in various assistance programs and it is vital that utilities provide timely payment options and inform customers that they are behind in payment and at-risk of termination, so that those customers can be considered for participation in assistance programs.”⁸ Finally, the Letter expresses a belief that the Moratorium is not sustainable because “lack of payments to utilities could reach a critical mass where provision of safe and reliable public utility service could be impacted.”⁹

II. PGW’S COMMENTS

While a termination notice is a first step toward potentially shutting off service, as the Commission recognizes it also serves as an outreach tool. In a regular non-winter shut off season, a termination notice provides a customer with a strong incentive to reach out to PGW for assistance, whether, for example, through a payment agreement, enrollment in PGW’s Customer Assistance Program (referred to as the Customer Responsibility Program, or “CRP”), or referral assistance for non-utility social welfare services or the PUC. PGW submits that lifting the termination moratorium would provide many customers with a reason to contact PGW for help.

Even prior to the COVID-19 pandemic, a significant proportion of PGW customers were low income customers. It is important for PGW and its ratepayers that PGW have the ability to use collection tools – such as the regulated termination notification process - that will “protect [PGW’s] ability to provide natural gas for the benefit of the residents of the City of Philadelphia.” *See* 66 Pa. C.S. § 1402 (4). As detailed further herein, PGW’s plan for resuming the termination notification process has been designed to protect its vulnerable customers, particularly those who are low income including the newly low income.

⁸ Letter at 1.

⁹ Letter at 2.

Below PGW has detailed how it expects it would cautiously and strategically begin the regulated termination process if the termination moratorium is lifted in the near future. Also detailed are the customer protections PGW would be able to provide (or already provides) in conjunction with this process. PGW recognizes that the PUC's emergency powers regarding customer protections are not unlimited.¹⁰ However, PGW plans to take reasonable voluntary steps to cautiously and strategically manage customer arrearages and potential termination of service.

As a preliminary matter, PGW notes that it has not terminated a residential customer for non-payment **since November of 2019**; so those currently without service are not people who have been unable to pay their bills solely as a result of the pandemic. For customers financially impacted by COVID-19, gas bills in the late spring and summer are at their lowest; this will not remain true as the fall and winter heating season arrive so now is an opportune time to get customers enrolled in programs that can assist them so that they do not fall too far behind in their bills.

- Once the moratorium is lifted, PGW intends to begin the termination notice process immediately but in a gradual manner – the first residential, landlord and small business notices will be sent to those who were carrying arrears prior to April 1, 2020 and, when the Department of Human Services (“DHS”) begins to require a termination notice for a Crisis grant, to those who may be eligible.
- All residential customers who have arrears at the time the moratorium is lifted that could subject them to termination, including CAP customers, will be mailed one “pre-termination” (*i.e.* pre-52 Pa. Code § 56.91 notice) collection letter

¹⁰ The Courts have held that the powers of the PUC are statutory. *See PECO Energy Co. v. Pa PUC*, 791 A. 2d 1155, 1159 (Pa. 2002). As an independent agency, the PUC's authority cannot be expanded beyond its statutory mandate by the Governor under the powers granted by the Emergency Services Management Code, 35 Pa. C.S. § 7101, *et. seq.* Moreover, while this Code provision empowers the Governor to “suspend the provisions of any regulatory statute prescribing the procedures for conduct of Commonwealth business. . .”, 35 Pa. C.S. § 7301 (f) (1) (emphasis added), nothing in the Code or Governor's Emergency Proclamation authorizes suspension of substantive statutory provisions by the PUC.

reminding them of the need to stay current on their bills and providing information on how to contact PGW to enroll in available programs, if needed.

- Until December 1, 2020, PGW will provide residential customers with additional time to contact PGW prior to termination; PGW will not terminate residential customers for non-payment until 20 days after the 52 Pa. Code § 56.91 notice.
- PGW will offer payment agreements to small business customers, except those who have evidenced a longer term poor payment history.
- PGW currently reports monthly termination notice, termination, reconnection, and debt data to the Bureau of Consumer Services (BCS) pursuant to 52 Pa. Code § 56.231. This monthly data provides significant information pertinent to the Commission's concerns expressed at this Docket and PGW believes it could be utilized to track performance over time.
- PGW expects that its new pilot CAP –which provides reduced energy burdens of 4% or 6% – will be implemented shortly, in September 2020.¹¹ This pilot CAP will be available to the newly unemployed and those who have become low income as a result of COVID-19 or otherwise. PGW expects that its CAP will provide low income customers with significant protection as it provides a more affordable bill and arrearage forgiveness earned with payments.
- All recipients of the Crisis recovery grant will receive a further 30-day hold on terminations once the moratorium is lifted, per DHS requirements. Currently, it is estimated that approximately 16,000 PGW customers will benefit from this additional 30-day hold.
- PGW will continue its LIHEAP and CAP outreach campaigns, and can perform hardship fund outreach after the Crisis recovery program ends on August 31, 2020 and before the 2021 LIHEAP program opens. PGW's hardship fund grant is significant, generally up to \$1,500.
- PGW currently allows income verification for payment agreements verbally, over the phone, and does not require verification of income reported by the customer. With respect to CAP participation self-certification, given the significant cold winter weather experienced in Philadelphia, and the depth of the discount provided in PGW's CAP - and the related costly potential risk of fraud - PGW does not allow self-certification for its CAP. PGW does not believe self-certification would be good policy for its program. In addition, PGW's CAP

¹¹ Order, Re Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2017-2022 and Petition to Amend Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2017-2022, at Docket Nos: M-2016-2542415 and P-2020-3018867, dated March 26, 2020.

enrollment work is performed by PGW employees who are members of Philadelphia Gas Works Local 686. Any limitation (or expansion) of that work would require negotiation with and agreement by Local 686.

- The Commission, by Secretarial Letter, provided initial guidance on how COVID-19 related costs, including those related to the moratorium, might be addressed.¹² However, as a “cash flow” ratemaking utility, PGW has limited means to carry COVID-19 related costs. Accordingly, PGW is concerned that traditional methods of cost recovery for the costs that are accumulated and deferred in a regulatory asset will likely place PGW at risk. Therefore, PGW will likely require alternative cost recovery methods from the Commission.

Based on the above, PGW submits that fully lifting the termination moratorium will enable PGW to better assist customers in enrolling in appropriate assistance programs, while mitigating the accumulation of unpaid balances that could present PGW and PGW’s broader customer base with significant financial hardship and risk.

III. CONCLUSION

PGW appreciates the Commission’s willingness to review its termination moratorium in light of the evolving nature of the COVID-19 pandemic in the Commonwealth. As discussed above, PGW agrees with the Commission that lifting the termination moratorium will help facilitate placement of customers who are behind in their bills with the appropriate assistance programs, such as CRP. Further, given the apparent extended nature of the COVID-19 pandemic and the measured reopening of the Commonwealth, lifting the termination moratorium now will mitigate customer defaults due to large unpaid balances and protect PGW and PGW ratepayers from having to address the impact of those unpaid balances on PGW’s finances.

¹² Secretarial Letter, Re COVID-19 Cost Tracking and Creation of Regulatory Asset, at Docket No. M-2020-3019775, dated May 13, 2020.

Respectfully submitted,

/s/ Craig W. Berry

Craig W. Berry, Esq.
Senior Attorney, Legal Department
Philadelphia Gas Works
800 W. Montgomery Ave.
Philadelphia, PA 19122
Tel (215) 684-6049
Fax (215) 684-6798
Craig.Berry@pgworks.com

Dated: August 18, 2020