



COMMONWEALTH OF PENNSYLVANIA

December 20, 2021

**E-FILED**

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

**Re: Addendum to Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2017-2020 / Docket No. M-2016-2542415 : Petition to Amend Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2017-2022 / Docket No. P-2020-3018867**

Dear Secretary Chiavetta:

Enclosed please find the Prehearing Memorandum, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceedings.

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

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

Sincerely,

/s/ Sharon E. Webb

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

*Enclosures*

cc: Mr. Robert D. Knecht  
Parties of Record

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Addendum to Philadelphia Gas Works</b>	<b>:</b>	
<b>Universal Service and Energy</b>	<b>:</b>	<b>Docket No. M-2016-2542415</b>
<b>Conservation Plan for 2017-2020</b>	<b>:</b>	
<b>v.</b>	<b>:</b>	
	<b>:</b>	
<b>Petition to Amend Philadelphia Gas</b>	<b>:</b>	
<b>Works Universal Service and Energy</b>	<b>:</b>	<b>Docket No. P-2020-3018867</b>
<b>Conservation Plan for 2017-2020</b>	<b>:</b>	

**OFFICE OF SMALL BUSINESS ADVOCATE  
PREHEARING MEMORANDUM**

**I. INTRODUCTION**

The Office of Small Business Advocate (“OSBA”) is authorized to represent the interests of small business customers of utility services before the Pennsylvania Public Utility Commission (“Commission”) pursuant to the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 – 399.50 (“the Act”). In order to discharge this statutory duty, the Small Business Advocate deems it necessary to participate as a party to this proceeding. Representing the OSBA in this matter is Assistant Small Business Advocate Sharon E. Webb. Please address all correspondence in this matter as follows:

Sharon E. Webb  
Assistant Small Business Advocate  
Office of Small Business Advocate  
555 Walnut Street, 1<sup>st</sup> Floor  
Harrisburg, Pennsylvania 17101  
(717) 783-2525  
(717) 783-2831 (fax)  
[swebb@pa.gov](mailto:swebb@pa.gov)

## **II. FILING BACKGROUND**

On January 6, 2020, Philadelphia Gas Works (“PGW”) filed its 2020 Addendum and Cover Letter to its 2017-2022 Universal Service and Energy Conservation Plan (“2017 USECP”). The 2020 Addendum, filed on February 21, 2020, did not reflect the proposed language to incorporate the changes to PGW’s 2017 USECP delineated in the January 6<sup>th</sup> Cover Letter.

Subsequently on February 21, 2020, PGW filed a Petition seeking expedited review of the January 6<sup>th</sup> filing and cover letter.

After receiving PGW’s Petition for Expedited Approval of its January 6, 2020 Cover Letter, the Commission re-docketed the January 6<sup>th</sup> Cover Letter as a Petition to Amend PGW’s current USECP.

On March 2, 2020, the Tenant Union Representative Network (“TURN”), Action Alliance of Senior Citizens of Greater Philadelphia (“Action Alliance”) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) filed a letter in support of expedited review of the January 6, 2020 filing, and approval of the proposed changes to PGW’s 2017 USECP.

On March 2, 2020, the Office of Consumer Advocate filed its Answer opposing expedited review and approval of both the January 6, 2020 filing and any changes to PGW’s existing USECP.

The OSBA filed a Notice of Intervention on March 19, 2020.

On March 26, 2020 the Commission entered an order approving PGW's Cover Letter and Addendum as a "Pilot Program" for the Company's Universal Service and Energy Conservation Plan for 2017-2022.

On April 10, 2020, the OSBA and the OCA filed separate petitions for Reconsideration of the Commission's March 26, 2020 Order.

On April 30, 2020, the Commission rejected the OSBA and the OCA's Petitions for Reconsideration.

On May 4, 2020, the OSBA and the OCA separately appealed to the Commonwealth Court. The appeals were consolidated by the Commonwealth Court on September 15, 2020.

The OCA filed a brief in support of its appeal on January 21, 2021. The OSBA filed its brief on February 26, 2021.

On April 12, 2021, CAUSE-PA and TURN and Action Alliance filed a joint brief with the Commonwealth Court.

Subsequently on April 26, 2021, the OSBA and the OCA filed reply briefs with the Commonwealth Court.

Oral argument was held before the Commonwealth Court on May 12, 2021.

On September 29, 2021, the Commonwealth Court issued an unreported memorandum opinion vacating the Commission's March 26<sup>th</sup> Order and remanding the matter for further proceedings consistent with its opinion in the matter ("Remand Order").

On October 25, 2021, PGW filed a Petition for Commission Action requested that the remanded proceeding be litigated on an expedited basis.

On December 7, 2021 the matter was assigned to the Office of Administrative Law Judge with Deputy Chief Administrative Law Judge Mark A. Hoyer and Administrative Law Judge Emily I. DeVoe.

Subsequently, on December 9, 2021, Judge Hoyer and Judge DeVoe contacted the parties and directed the parties to identify a mutually agreeable time for a prehearing conference. The parties subsequently agreed and communicated to the ALJs.

On December 14, 2021, the Commission issued a notice and scheduling order for the telephonic prehearing conference on December 20, 2021 at 11am. On December 15, 2021, the ALJs issued a prehearing order requiring the filing of a Prehearing Memorandum on December 20, 2021 by 9am.

### **III. IDENTIFICATION OF WITNESSES**

Assisting in the development and presentation of the OSBA's case in this proceeding will be:

Mr. Robert D. Knecht  
Industrial Economics Incorporated  
2067 Massachusetts Avenue  
Cambridge, MA 02140  
(617) 354-0074  
(617) 354-0463 – Fax  
[rdk@indecon.com](mailto:rdk@indecon.com)

The OSBA requests that all parties serve copies of all documents, including discovery, testimony, and briefs, upon Mr. Knecht, simultaneously with service upon the OSBA.

#### **IV. IDENTIFICATION OF ISSUES**

The OSBA is participating in this case to ensure that the interests of small business customers of PGW are adequately represented and protected. As appropriate and necessary, the OSBA will investigate and analyze the claims and proposals of PGW and other parties, primarily through discovery, filing of testimony as necessary, cross-examination of witnesses appearing for other parties, and briefing of the issues that arise in this proceeding.

The OSBA and other parties have not been afforded adequate notice and a meaningful opportunity to be heard on the changes proposed in PGW's January 6, 2020 Cover Letter and February 26, 2020 Petition for Expedited Approval. In its Remand Order, the Commonwealth Court determined that the OCA and the OSBA had been denied adequate notice and opportunity to be heard by the 30 day paper pleadings process provided by the Commission. Remand Order at \*37-38. Further, the Commonwealth Court directed the Commission to "provide evidentiary proceedings and issue a new decision consistent with this Opinion." Remand Order at \*44.

The Commission in a recent order acknowledged that "[t]he typical USECP review process can take up to eight months from start to finish, depending on the complexity of the issues raised in the proceeding. (...) We find that a systematic review of utility universal service programs, through the comprehensive and collaborative process...is necessary and appropriate."<sup>1</sup> The OSBA respectfully submits that PGWs request for an expedited process and certification of the record should be denied.

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<sup>1</sup> Universal Service and Energy Conservation Plan (USECP) Filing Schedule and Independent Evaluation Filing Schedule, Docket No. M-2019-3012601, p. 8-9. (Order entered October 3, 2019)

**V. SERVICE OF DOCUMENTS**

The OSBA agrees to accept electronic delivery of documents on the due date as satisfying the in-hand requirement. Due COVID-19 pandemic, the OSBA, like many other parties, is not currently issuing hard copies of documents. Once the OSBA is able to resume normal operations from its physical location the OSBA will reinstate the practice of issuing hard copies of documents to follow the email service.

**VI. SETTLEMENT**

The OSBA is willing to enter into settlement discussions at any phase of this proceeding.

**VII. PROCEDURAL SCHEDULE**

The OSBA will work with the ALJs and the other parties to develop a mutually acceptable litigation schedule.

Respectfully submitted,

/s/ Sharon E. Webb

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Sharon E. Webb  
Assistant Small Business Advocate  
Attorney ID # 73995

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Dated: December 20, 2021

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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	:	<b>Docket No. M-2016-2542415</b>
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<b>v.</b>	:	
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	:	
<b>Petition to Amend Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2017-2020</b>	:	
	:	<b>Docket No. P-2020-3018867</b>
	:	

**CERTIFICATE OF SERVICE**

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

The Honorable Mark A. Hoyer  
Deputy Chief Administrative Law Judge  
Pennsylvania Public Utility Commission  
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/s/ Sharon E. Webb

DATE: December 20, 2021

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