

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition to Amend Philadelphia Gas Works	:	P-2020-3018867
Universal Service and Energy Conservation	:	
Plan for 2017-2022	:	

RECOMMENDED DECISION

Before

Mark A. Hoyer
Deputy Chief Administrative Law Judge

Emily I. DeVoe
Administrative Law Judge

INTRODUCTION

This decision recommends that the Joint Petition for Settlement, executed and submitted at this docket by Philadelphia Gas Works (PGW or Company), the Office of Consumer Advocate (OCA), the Tenant Union Representative Network (TURN), and the Coalition for Affordable Utility Services and Energy in Pennsylvania (CAUSE-PA) (collectively, the Joint Petitioners), and unopposed by the Office of Small Business Advocate (OSBA), be approved without modification as it is unopposed and in the public interest.¹ There is no statutory deadline for Commission action in this matter.

¹ The Settlement expressly indicates OSBA does not oppose the Settlement. *See* Settlement at p. 1.

HISTORY OF THE PROCEEDINGS

PGW is a city natural gas distribution operation as defined in Section 2212 of the Public Utility Code.² As such, PGW is subject to the same requirements, policies, and provisions regarding universal service and energy conservation programs as applicable to any other natural gas distribution company (NGDC). Philadelphia Gas Works filed its first proposed 2017-2020 Universal Service and Energy Conservation Plan (2017 USECP) on April 28, 2016, at Docket No. M-2016-2542415. The Pennsylvania Public Utility Commission (Commission) directed PGW to revise the plan,³ and the Commission ultimately approved PGW's 2017 USECP by order entered on October 5, 2017.⁴

On October 3, 2019, the Commission entered an Order at Docket No. M-2019-3012601 (*October 2019 Order*) that extended the duration of existing or proposed USECPs from three to five years, and established pilot filing schedules for future plans and impact evaluations.⁵ This Order required electric distribution companies (EDCs) and NGDCs to submit enrollment and budgetary projections for the years added to the current or proposed USECPs.⁶

On November 5, 2019, the Commission entered a Final Policy Statement and Order at Docket No. M-2019-3012599 (*Final Policy Statement and Order*) adopting certain Customer Assistance Program (CAP) policy changes and amending its CAP Policy Statement at 52 Pa. Code §§ 69.261-69.267. The *Final Policy Statement and Order*, in conjunction with the *October 2019 Order*, required EDCs and NGDCs to submit addendums to their existing or proposed USECPs indicating how they planned to implement the policy changes specified in the amended CAP Policy Statement.⁷ In particular, the Commission's amended CAP Policy

² 66 Pa.C.S. § 2212.

³ See Order dated August 3, 2017, Docket No. M-2016-2542415.

⁴ *Id.*

⁵ See Order dated October 3, 2019, Docket No. M-2019-3012601.

⁶ *October 2019 Order* at Ordering ¶ 3.

⁷ Final Policy Statement and Order at Order ¶ 6.

Statement provided that utilities should establish new maximum tiered CAP energy burdens of 6% for natural gas heating customers in Federal Poverty Income Guidelines (FPIG) tiers 51%-100% and 101%-150%, and 4% for natural gas heating customers in FPIG tier 0%-50%.⁸

On January 6, 2020, PGW filed the required cover letter and 2020 Addendum to its USECP.⁹ The January 6, 2020 filing was initially docketed at Docket No. M-2016-2542415, the proceeding for PGW's 2017 USECP. Through this filing, PGW proposed to amend its 2017-2020 USECP to extend the plan through 2022 and provided enrollment and budgetary projections for 2021 and 2022. PGW's cover letter also addressed the CAP energy burden changes specified in the amended CAP Policy Statement it proposed to implement via a pilot program. Specifically, the January 6, 2020 filing outlined a proposal to implement the new recommended energy burdens,¹⁰ eliminate a \$5.00 PPA co-pay,¹¹ set a maximum CAP credit limit,¹² and make its existing consumption limit pilot permanent.¹³ These modifications were proposed to be implemented as a pilot program through the term of PGW's Amended USECP (CRP Pilot Program). PGW requested that the Commission approve the CRP Pilot Program within 30 days to allow the Company adequate time to implement the change prior to an upcoming replacement of its customer information system (CIS).

On February 6, 2020, the Commission entered two separate Orders on Reconsideration and Clarification in response to Petitions filed by the Energy Association of Pennsylvania (EAP) and OCA for Reconsideration/Clarification of the November 5, 2019, Final CAP Policy Statement and Order at Docket No. M-2019-3012599 (*Reconsideration Order*).¹⁴

⁸ 52 Pa. Code § 69.265(2).

⁹ See Addendum to USECP filed January 6, 2020, Docket No. M-2016-2542415.

¹⁰ Cover Letter at 2.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 5.

¹⁴ 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code §§ 69.261-69.267, Docket No. M-2019-3012599, (Order on EAP Reconsideration and Clarification entered Feb. 6, 2020).

The *Reconsideration Order* clarified that utility compliance with the amended CAP Policy Statement is not mandatory, but was strongly encouraged.¹⁵ The *Reconsideration Order* also indicated, *inter alia*, that utilities proposing to voluntarily modify their USECPs pursuant to the amended CAP Policy Statement must submit a cover letter, a Petition to Amend an existing USECP, and an addendum reflecting proposed CAP changes to an existing USECP including enrollment and budgetary projections.¹⁶ The *Reconsideration Order* indicated that utilities should endeavor to implement the amended CAP Policy Statement “as quickly as possible” and ideally by January 1, 2021.¹⁷

On February 21, 2020, PGW filed a Petition for Expedited Review of the January 6, 2020, filing, consistent with the *Reconsideration Order*. The January 6, 2020 filing was re-docketed at the above captioned docket, P-2020-3018867, as a Petition to Amend PGW’s 2017 USECP.¹⁸ Through this Petition, PGW requested expedited Commission review and approval of its CRP Pilot Program in order to have time to implement the pilot program prior to the filing of PGW’s next USECP for 2023-2027 (which was to be filed by November 1, 2021). PGW had already begun its planned CIS replacement project and, as a part of that project, needed to cease implementing new system enhancements in order to ensure successful testing and implementation of the CIS. As a result, PGW requested approval of the CRP Pilot Program by March 31, 2020.

On March 2, 2020, OCA filed a Notice of Intervention and Answer opposing PGW’s Petition for Expedited Approval. Also on March 2, 2020, TURN, CAUSE-PA, and Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance) filed a Letter in Lieu of Answer in support of PGW’s Petition. OSBA filed a Notice of Intervention on March 19, 2020.

¹⁵ *Id.* at 11-12.

¹⁶ *Id.* at 12, Ordering Paragraphs 3-5.

¹⁷ *Id.* at 8-10.

¹⁸ *See* Addendum to USECP filed January 6, 2020, Docket No. P-2020-3018867.

On March 26, 2020, the Commission issued an Order granting PGW's Petition for Expedited Approval and approving PGW's Addendum and CRP Pilot Program (*March 26, 2020 Order*).

On April 10, 2020, OCA and OSBA each filed Petitions for Reconsideration of this Order. The Petitions for Reconsideration were not granted.

On May 4, 2020, OCA and OSBA filed Petitions for Review with the Commonwealth Court of Pennsylvania seeking review and reversal of the Commission's *March 26, 2020 Order*.¹⁹ OCA and OSBA argued on appeal that, by granting PGW's Petition to amend its 2017 USECP in this expedited fashion, the Commission violated the due process rights of interested parties as guaranteed by the United States and Pennsylvania Constitutions.²⁰ Upon review, the Commonwealth Court held the Commission erred in granting the Petition without providing interested parties, like OCA and OSBA, adequate notice of the grant of expedited consideration of the Petition and a meaningful opportunity to respond to the particular facts of the proposed changes to PGW's USECP set forth in the Petition.²¹ By Order entered September 29, 2021, the Commonwealth Court vacated the Commission's *March 26, 2020 Order* and remanded the matter back to the Commission for further proceedings.²² The Court directed the Commission to provide evidentiary proceedings and issue a new decision consistent with its Opinion.²³

Meanwhile, PGW had implemented the CRP Pilot Program as of September 12, 2020. Pursuant to the *March 26, 2020 Order*, PGW filed quarterly reports with the Commission on the CRP Pilot Program's implementation and costs.

¹⁹ *Evans v. Pa. Pub. Util. Comm'n and McCloskey v. Pa. Pub. Util. Comm'n*, 421 and 422 C.D. 2020 (consolidated) slip copy 2021 WL 4451007.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

On October 25, 2021, PGW filed a Petition for Commission Action, requesting that the Commission: (1) issue an order permitting PGW to maintain its existing energy burden Pilot Program as part of its Customer Responsibility Program on a temporary basis until a final Commission order was issued in the remanded proceeding; (2) set a schedule for an expedited proceeding on remand in order to provide for the evidentiary proceedings and issuance of a new decision required by the Commonwealth Court's decision; and (3) direct the Office of Administrative Law Judge (OALJ) to develop a certified record to be submitted to the Commission for decision.

On October 29, 2021, PGW filed its USECP for 2023-2027, docketed at M-2021-3029323. On July 12, 2022, the Commission's Secretary's Bureau issued a Secretarial Letter extending the comment period on PGW's 2023-2027 USECP to August 30, 2022, and setting the deadline for reply comments for September 14, 2022. As of the date of this decision, PGW's 2023-2027 USECP matter remains assigned to the Commission's Bureau of Consumer Services (BCS).

On November 4, 2021, CAUSE-PA and TURN each filed a Petition to Intervene in the remanded matter.

On November 15, 2021, TURN/CAUSE-PA²⁴ filed a joint Answer to PGW's October 25, 2021 Petition, essentially supporting PGW's Petition. Also on November 15, 2021, OCA filed an Answer to PGW's October 25, 2021 Petition for Commission Action. In its Answer, OCA averred it did not oppose PGW's request for a temporary extension of the existing Pilot Program during the pendency of the remand proceeding, with the caveat that OCA reserves the right to request refunds to the date of the Remand Order. Further, OCA explained it opposed PGW's request for an expedited process and certification of the record.

On December 7, 2021, the Chief Administrative Law Judge assigned Administrative Law Judge Emily I. DeVoe (ALJ DeVoe) and Deputy Chief Administrative Law Judge Mark A. Hoyer (DCALJ Hoyer) to preside over the remanded matter.

²⁴ TURN and CAUSE-PA filed jointly throughout this proceeding.

On December 14, 2021, the Commission issued a notice, scheduling a prehearing conference for 11:00 a.m. on December 20, 2021. A Prehearing Conference Order was entered December 15, 2021. PGW, OCA, OSBA, CAUSE-PA, and TURN all filed prehearing conference memoranda.

The Prehearing Conference convened as scheduled on December 20, 2021. PGW, OCA, OSBA, CAUSE-PA, and TURN were represented by counsel. We adopted a litigation schedule and granted the Petitions to Intervene filed by CAUSE-PA and TURN, without objection. Additionally, we, after hearing oral argument from all parties, granted PGW's request to continue the Pilot Program during the pendency of the remand proceeding, but indicated we would issue a separate Order specifically addressing our decision regarding PGW's October 25, 2021 Petition for Commission Action. Furthermore, PGW withdrew its request for a certified record as opposed to a written decision and indicated the litigation schedule we adopted satisfied its request for an expedited hearing. We memorialized the decisions and rulings we made during the prehearing conference in a Prehearing Order dated December 28, 2021.

On January 4, 2022, we issued an Interim Order Granting in Part and Dismissing as Moot in Part PGW's Motion for Commission Action. This Interim Order clarified that PGW would continue to operate its Pilot Program during the pendency of the remand proceeding until the Commission enters a Final Order or we or the Commission otherwise direct, and that any issues regarding customer refunds would be addressed by the parties, if necessary, through litigation in this matter.²⁵

On February 1, 2022, counsel for PGW contacted us by email advising that PGW has experienced delays in responding to discovery due to staffing limitations and the parties jointly agreed to revise the litigation schedule, which, among other things, called for evidentiary hearings on July 13 and 14, 2022. The revised litigation schedule was adopted by Interim Order dated February 2, 2022. Additionally on February 2, 2022, the Commission issued a Hearing Notice Rescheduling the evidentiary hearing consistent with the revised schedule.

²⁵ January 4, 2022, Interim Order at Ordering ¶¶ 1 and 2.

On March 29, 2022, PGW served direct testimony and accompanying exhibits. On May 13, 2022, OCA, OSBA, and TURN/CAUSE-PA served direct testimony and accompanying exhibits. On June 17, 2022, PGW, OCA, and TURN/CAUSE-PA served rebuttal testimony. On July 1, 2022, OCA served surrebuttal testimony. On July 11, 2022, PGW served written rejoinder testimony.

The parties engaged in settlement discussions. As a result of those discussions, the parties achieved a settlement in principle of all issues.

On July 13, 2022, all parties, including PGW, OCA, OSBA, TURN and CAUSE-PA, filed a Joint Stipulation for the Admission of Evidence. The parties stipulated to the admission of testimony and exhibits, waived cross-examination, and requested that the evidentiary hearing be cancelled.

On July 13, 2022, the Commission issued a Hearing Cancellation Notice, cancelling the evidentiary hearings.

The Joint Stipulation for Admission of Evidence was adopted by an Interim Order dated July 13, 2022. The following exhibits were admitted into the record:

- a. Philadelphia Gas Works
 - i. PGW St. No. 1 – Direct Testimony of Denise Adamucci and Verification
 - ii. PGW St. No. 2 – Direct Testimony of H. Gil Peach, Exhibits HGP-1 and HGP-2, and Verification
 - iii. PGW St. No. 1-R – Rebuttal Testimony of Denise Adamucci and Verification
 - iv. PGW St. No. 2-R – Rebuttal Testimony of H. Gil Peach and Verification
 - v. PGW St. No. 1-RJ – Rejoinder Testimony of Denise Adamucci and Verification

- b. Office of Consumer Advocate
 - i. OCA St. 1 – Direct Testimony of Roger D. Colton, Appendix A and Verification
 - ii. OCA St. 1R – Rebuttal Testimony of Roger D. Colton and Verification
 - iii. OCA St. 1SR – Surrebuttal Testimony of Roger D. Colton and Verification
- c. Office of Small Business Advocate
 - i. OSBA St. No. 1 – Direct Testimony of Robert D. Knecht, Exhibit RDK-1 and Verification
- d. TURN and CAUSE-PA
 - i. TURN/CAUSE-PA St. 1 – Direct Testimony of Harry S. Geller, Schedules HG-1, HG-2, and HG-3, two Appendices, and Verification
 - ii. TURN/CAUSE-PA St. 1-R – Rebuttal Testimony of Harry S. Geller and Verification

On August 1, 2022, PGW, OCA, TURN, and CAUSE-PA (collectively, Joint Petitioners) filed a Joint Petition for Settlement (Joint Petition for Settlement or Settlement). There were three appendices to the Settlement, consisting of Statements in Support filed by PGW, OCA, and TURN/CAUSE-PA. The Joint Petitioners represent in the Settlement that OSBA does not oppose the Settlement.

This Recommended Decision recommends the Settlement be adopted without modification as it is in the public interest and there are no objections thereto.

FINDINGS OF FACT

1. PGW is a city natural gas distribution operation as defined in Section 2212 of the Public Utility Code 66 Pa.C.S. § 2212. As such, PGW is subject to the same requirements, policies and provisions regarding universal service and energy conservation programs as applicable to any other natural gas distribution company.²⁶

²⁶ Settlement at ¶ 1.

2. On November 5, 2019, the Commission entered a Final Policy Statement and Order at Docket No. M-2019-3012599 adopting certain CAP policy changes and amending its CAP Policy Statement at 52 Pa. Code §§ 69.261-69.267.²⁷

3. The Commission's amended CAP Policy Statement provided that utilities should establish new maximum tiered CAP energy burdens of 6% for natural gas heating customers in FPIG tiers 51%-100% and 101%-150%, and 4% for natural gas heating customers in FPIG tier 0%-50%.²⁸

4. On January 6, 2020, PGW filed a cover letter and addendum to its USECP proposing to implement a CRP Pilot Program wherein it would adopt the maximum energy burdens consistent with the amended CAP Policy Statement and remove the obligation to pay \$5.00 per month towards pre-program arrears.

5. On February 6, 2020, the Commission entered a Reconsideration Order at Docket No. M-2019-3012599, clarifying that utility compliance with the amended CAP Policy Statement is not mandatory, but was strongly encouraged.²⁹

6. On February 21, 2020, PGW filed a Petition for Expedited Approval requesting that the Commission approve the CRP Pilot Program and other modifications as described in PGW's January 6, 2020, filing, consistent with the *Reconsideration Order*.³⁰

²⁷ *Final Policy Statement and Order*, Docket No. M-2019-3012599 (entered on November 5, 2019).

²⁸ 52 Pa. Code § 69.265(2).

²⁹ *2019 Amendments to Policy Statement on Customer Assistance Program*, 52 Pa. Code § 69.261-69.267, Docket No. M-2019-3012599, Order on EAP Reconsideration and Clarification (entered Feb. 6, 2020).

³⁰ Philadelphia Gas Works' Petition for Expedited Approval of PGW's Letter Request to Amend its Universal Service and Energy Conservation Plan Pursuant to 2019 Amendments to Policy Statement at Docket No. M-2019-3012599, filed Feb. 21, 2020.

7. On March 26, 2020, the Commission issued an Order granting PGW's Petition for Expedited Approval and approving PGW's Addendum and CRP Pilot Program.³¹

8. On May 4, 2020, OCA and OSBA filed Petitions for Review with the Commonwealth Court of Pennsylvania seeking review and reversal of the *Commission's March 26, 2020 Order*.³²

9. As of September 12, 2020, PGW implemented its CRP Pilot Program.³³

10. Pursuant to the *March 26, 2020 Order*, PGW filed quarterly reports with the Commission on the CRP Pilot Program's implementation and costs.³⁴

11. On September 29, 2021, the Commonwealth Court entered an Opinion holding that the Commission erred in granting PGW's Petition for Expedited Approval without providing interested parties adequate notice of the grant of expedited consideration and a meaningful opportunity to respond to the particular facts of the proposed changes to PGW's USECP. As a result, the Court vacated the *March 26, 2020 Order* and remanded to the Commission for further proceedings. The Court directed the Commission to provide evidentiary proceedings and issue a new decision consistent with its Opinion.³⁵

12. This instant remanded proceeding involved formal discovery³⁶ and the exchange of direct, rebuttal, surrebuttal, and written rejoinder testimony between the parties.³⁷

³¹ *Order*, Docket Nos. P-2020-3018867 and M-2016-2542415 (entered March 26, 2020).

³² *Evans v. Pa. Pub. Util. Comm'n* and *McCloskey v. Pa. Pub. Util. Comm'n*, 421 and 422 C.D. 2020 (consolidated).

³³ Settlement at ¶ 37(b).

³⁴ Settlement at ¶ 12.

³⁵ *Evans v. Pa. Pub. Util. Comm'n* and *McCloskey v. Pa. Pub. Util. Comm'n*, 421 and 422 C.D. 2020 (consolidated), slip copy 2021 WL 4451007.

³⁶ Settlement at ¶ 37(b).

³⁷ Settlement at ¶¶ 21-25.

The parties were provided the opportunity to convene for evidentiary hearings, but the parties stipulated to the admission of evidence, waived cross-examination, and requested the hearings be cancelled.³⁸

13. The parties ultimately reached a full settlement on all issues.

DESCRIPTION AND TERMS OF SETTLEMENT

In accordance with Rule 5.231 of the Commission’s Rules of Practice and Procedure, 52 Pa. Code § 5.231, the parties explored the possibility of settlement. As a result of settlement discussions, the parties achieved a settlement in principle under which all issues are resolved. The Settlement, which is fully executed by PGW, OCA, TURN, and CAUSE-PA, consists of 13 pages. OSBA was not a signatory to the Settlement, but does not oppose the Settlement. The Settlement contains, as appendices, Statements in Support of PGW, OCA, and TURN/CAUSE-PA.

Joint Petitioners agree to the settlement terms³⁹ set forth below:

III. TERMS AND CONDITIONS OF SETTLEMENT⁴⁰

29. The Joint Petitioners respectfully request that the ALJs and the Commission approve the following Settlement terms and conditions resolving all issues in this proceeding.

30. With respect to the Customer Responsibility Program (CRP), PGW’s current amended USECP for 2017-2022 will remain in place for the duration of the Plan’s term (until the USECP for 2023-2027 goes into effect), subject to the modifications identified herein. Any CRP modifications will be implemented on a going forward basis only. Modifications to

³⁸ Settlement at ¶¶ 26-27.

³⁹ Settlement at ¶¶ 29-35.

⁴⁰ For ease of reference, the terms and conditions of settlement retain the original numbering as contained within the Joint Petition for Settlement. Footnote numbering has been modified to align with the footnote numbering contained within this recommended decision.

non-CRP programs will occur only as ordered by the PUC in PGW's subsequent USECP.

(a) No party will seek refunds or any other method to recover costs, in this proceeding or otherwise, related to PGW's energy burden Pilot Program or other Plan modifications implemented in compliance with the Commission's March 26, 2020, Order.

(b) This settlement resolves all open issues related to PGW's USECP for 2017-2022. For clarity, issues of over- or under-recovery and issues regarding application of USECP charges to particular customer classes or customers are not included in this proceeding.

31. Within 90 days after a final PUC order is entered in this proceeding, PGW will disseminate and publish on its website a fax number by which customers can submit CRP applications and associated supporting documentation.

32. The parties agree to support or not oppose the continuation of the energy burdens in PGW's USECP for 2023-2027.

33. PGW provided the current projected USECP budget for calendar year 2022 in its Further Revised 2017-2022 USECP filed on April 10, 2020. If PGW's actual annual CRP costs^[41] exceed the originally projected budget by greater than 20%, PGW will take the following steps:

(a) PGW will provide this information to all parties in this proceeding.

(b) PGW will provide actual cost information in March and will schedule a meeting with the parties to this proceeding within 30 days after providing the data to discuss the costs and receive the parties' input on cost controls.

(c) Any party to this proceeding may petition the Commission before or after those meetings to address their cost control concerns.

⁴¹ "CRP costs" are defined as the total of the CRP Discount and CRP Forgiveness, as presented in Schedule 9 of PGW's Quarterly GCR filings.

(d) Parties to this proceeding retain the right to propose or oppose in any subsequent USECP proceeding or base rate proceeding going forward cost control measures that seek to protect non-participants.

(e) PGW will propose going forward cost control measures if CRP costs exceed budgeted amounts by 20% or more, or will justify why, despite this increase, no cost control measures are needed.

(f) If the Commission approves the continued use of the energy burdens approved here in PGW's currently pending USECP proceeding for the period from 2023-2027, PGW agrees to continue the requirements of this paragraph for the 2023-2027 period, with the comparison for that period being the final projected costs for the 2023-2027 period as approved by the PUC in PGW's USECP 2023-2027.

34. Within eighteen (18) months after a final PUC order is entered in this proceeding, PGW will complete a review of CRP for minimum bill, average bill, and Percentage of Income Payment Program (PIPP) customers, broken down for each by the following income tiers at a point in time: 0-50% of FPL; 51-100% of FPL; and 101-150% of FPL. The purpose of this evaluation will be to respond to the below five (5) questions. PGW will then meet with the parties to this proceeding to discuss the results of its evaluation.

(a) Did pilot program participants pay their CRP bills?

(b) How much arrearage forgiveness did pilot program participants earn?

(c) What was the average annual usage of pilot program participants?

(d) Did pilot program participants receive LIHEAP grants and what was the average grant amount?

(e) How many pilot program participants were removed from CRP due to termination for non-payment?

35. As part of its next USECP Impact Evaluation, PGW will include the following information regarding its CRP:

- (a) Payment frequency and bill coverage rates, by CRP type (i.e. average; minimum; 4% and 6%).
- (b) Non-payment shut off frequency, by CRP type.
- (c) Average CRP credit by CRP type.
- (d) Effectiveness of LIURP to reduce gas usage by high-consumption CRP participants.
- (e) Changes in weather-normalized usage for new participants in the CRP compared to their consumption levels as non-participants.
- (f) Trends in CRP participant weather-normalized usage levels during the past two years, compared to non-participants.

The 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 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 Settlement.⁴²

⁴² Settlement at ¶¶ 38-43.

PARTIES' POSITIONS ON THE SETTLEMENT⁴³

The Settlement addresses five issues: (1) Continuation of PGW's Current USECP for 2017-2022; (2) PGW's Proposed USECP for 2023-2027; (3) Data Tracking and Reporting; (4) Program Assessment and Adjustment; and (5) CRP Program Access.⁴⁴

Philadelphia Gas Works

Continuation of PGW's Current USECP for 2017-2022

PGW explains that the primary issues in this remand proceeding involved: (1) whether the revised energy burdens implemented as part of PGW's CRP Pilot Program are just, reasonable, and in the public interest; and (2) to the extent any changes to the current energy burdens were required, whether such changes should be applied retroactively and whether it would be reasonable and in the public interest to order "refunds" to customers paying PGW's USC and recoupment from CRP customers who received greater benefits.⁴⁵

PGW witness Ms. Adamucci testified that the CRP Pilot Program has provided significant benefits to low-income customers with actual program costs to-date being much lower than originally projected.⁴⁶ Additionally, Dr. Peach, a national expert on utility low-income programs, testified that the revised energy burdens were fully justified in terms of the economic burdens on PGW's low income customers, and even lower energy burdens could be

⁴³ The parties' positions on the Settlement have been adopted in substantially the same wording, numbering, and format as contained within the Joint Petition for Settlement, with slight non-substantive modifications. Footnote numbering has been modified to align with the footnote numbering contained within this recommended decision.

⁴⁴ Settlement at ¶¶ 29-35.

⁴⁵ See, e.g., Interim Order Granting in Part and Dismissing as Moot in Part PGW's Motion for Commission Action, Jan. 4, 2022, at Ordering ¶¶ 1-2 (providing that PGW will continue to operate its CRP Pilot Program until otherwise directed, and issues regarding customer refunds are to be addressed through litigation, if necessary).

⁴⁶ PGW St. 1 at 5, 7-8.

justified.⁴⁷ PGW argues any retroactive changes and “refunds” of program costs would have been extremely problematic, given that PGW is a cash flow entity and that refunds would require PGW to charge low-income CRP customers after the fact to attempt to “clawback” the additional benefits received as a result of the lower energy burdens.⁴⁸

In order to resolve these concerns, PGW explains that the parties agreed “[w]ith respect to the CRP, PGW’s current amended USECP for 2017-2022 will remain in place for the duration of the Plan’s term (until the USECP for 2023-2027 goes into effect)[.]”⁴⁹ This settlement term is subject to the modifications contained in the Settlement, which will be implemented on a going forward basis only.⁵⁰ The Settlement also provides that “[n]o party will seek refunds or any other method to recover costs, in this proceeding or otherwise, related to PGW’s energy burden Pilot Program or other Plan modifications implemented in compliance with the Commission’s March 26, 2020 Order.”⁵¹ As such, PGW explains the Settlement resolves all issues related to PGW’s USECP for 2017-2022, but acknowledges that issues of any over-recovery or under-recovery of costs, or application of USECP charges to particular customer or customer classes were not a part of this proceeding.⁵²

PGW explains that through these settlement terms, the parties also agreed that the amended USECP for 2017-2022, including the CRP Pilot Program and the revised energy burdens, are just, reasonable, and in the public interest, and should remain in place.⁵³ PGW maintains that this will allow low-income CRP customers to continue receiving the additional benefits under the CRP Pilot Program consistent with the Commission’s Revised CAP Policy

⁴⁷ PGW St. 2 at 8-17.

⁴⁸ PGW St. 1 at 8-9.

⁴⁹ PGW Statement in Support at 6.

⁵⁰ Settlement at ¶ 30.

⁵¹ Settlement at ¶ 30(a).

⁵² PGW Statement in Support at 6; *See* Settlement at ¶ 30(b).

⁵³ PGW Statement in Support at 7.

Statement.⁵⁴ PGW submits that these terms are in the public interest and should be approved without modification.⁵⁵

PGW's Proposed USECP for 2023-2027

As previously noted, PGW's next USECP for the 2023-2027 period was submitted to the Commission on October 29, 2021, and is currently pending at Docket No. M-2021-3029323.⁵⁶ As part of that plan, PGW proposes the continuation of the revised energy burdens. The Company explains that through this instant Settlement, the parties have agreed to terms related to the 2023-2027 USECP proceeding.⁵⁷

The parties have agreed to either support or not oppose the continuation of the energy burdens in PGW's USECP for 2023-2027.⁵⁸ While recognizing that the USECP for 2023-2027 is currently being addressed in a separate docket, PGW argues this term helps advance that separate review process by establishing that none of the parties will oppose the continuation of the revised energy burdens through the next plan period.⁵⁹

Data Tracking and Reporting

In their testimonies, OCA and TURN/CAUSE-PA argued that PGW should track and report on a variety of additional data points related to CRP.⁶⁰ The parties believed that this

⁵⁴ PGW Statement in Support at 7.

⁵⁵ *Id.*

⁵⁶ *Id.* at 9.

⁵⁷ *Id.*

⁵⁸ Settlement at ¶ 32.

⁵⁹ PGW Statement in Support at 9.

⁶⁰ OCA St. 1 at 48-52; TURN and CAUSE-PA St. 1 at 18.

information is necessary to understand how the program is working. To resolve these concerns, PGW has agreed to investigate certain data points as part of its review processes.⁶¹

First, PGW has agreed to “complete a review of CRP for minimum bill, average bill, and Percentage of Income Payment Program (PIPP) customer” within 18 months after a final order is entered in this proceeding.⁶² This review will provide data at a specific point in time, broken down by the following customer income tiers: 0-50% of FPL; 51-100% of FPL; and 101-150% of FPL.⁶³ PGW will evaluate this information to address five specific questions regarding CRP Pilot Program participants, including whether these customers paid their CRP bills, how much arrearage forgiveness they earned, their average annual usage, whether they received LIHEAP grants and the average amount of such grants, and how many were removed from CRP due to non-payment.⁶⁴ Once this evaluation is complete, PGW will meet with the parties to discuss the results. This review will provide additional information to the parties about how the CRP Pilot Program is functioning and assisting CRP customers.⁶⁵

Second, PGW has also agreed to include specific information regarding its CRP as part of its next USECP impact evaluation.⁶⁶ The specific data points to be included are: payment frequency and bill coverage rates by CRP type; non-payment shut off frequency by CRP type; average CRP credit by credit type; effectiveness of LIURP to reduce gas usage by high-consumption CRP participants; changes in weather-normalized usage for new participants in the CRP compared to their consumption levels as non-participants; and trends in CRP participant weather-normalized usage levels during the past two years, compared to non-participants.⁶⁷ This term provides a variety of additional data points that the parties requested

⁶¹ PGW Statement in Support at 10.

⁶² PGW Statement in Support at 10.

⁶³ Settlement at ¶ 34.

⁶⁴ Settlement at ¶ 34(a)-(e).

⁶⁵ PGW Statement in Support at 11.

⁶⁶ Settlement at ¶ 35.

⁶⁷ Settlement at ¶ 35(a)-(f).

and that can be used in their understanding of the program going forward.⁶⁸ PGW submits that providing this additional information is in the public interest and this settlement term should be approved.⁶⁹

Program Assessment and Adjustment

In their testimony, OCA and OSBA raised concerns about costs associated with the CRP Pilot Program.⁷⁰ Since non-CRP customers bear the costs of the CRP Pilot Program, they argue it is necessary to balance the benefits received by low-income CRP customers with the costs to other, non-CRP customers.⁷¹ OCA, in particular, recommended that PGW be required to follow a process for addressing program costs if those costs were to increase beyond a certain threshold, as well as potentially adopting certain cost control measures if warranted.⁷²

In order to address these concerns, PGW explains that the parties agreed PGW will take certain steps if its actual annual CRP costs exceed the originally projected budgets by greater than 20%.⁷³ Those steps include: providing this information to the parties in this proceeding; providing actual cost information in March of each year and scheduling a meeting within 30 days of providing the data to discuss costs and receive the parties' input on "cost controls;" and either proposing going forward CRP cost control measures or justifying why no CRP cost control measures are needed.⁷⁴ PGW notes the parties also reserved their rights to

⁶⁸ PGW Statement in Support at 11.

⁶⁹ *Id.*

⁷⁰ OCA St. 1 at 35-48; OSBA St. 1 at 5-8.

⁷¹ *See the Commission's Final Policy Statement and Order* at 8 ("[t]he Commission balances the interest of customers who benefit from CAPs with the interests of the other residential customers who pay for such programs.").

⁷² OCA St. 1 at 41.

⁷³ Settlement at ¶ 33.

⁷⁴ Settlement at ¶ 33(a), (b), and (e).

petition the Commission to address their cost control concerns, or to propose or oppose any cost control measures in any subsequent USECP or base rate proceeding.⁷⁵

PGW submits that this process to address an increase of CRP costs of 20% over the originally projected budget is in the public interest.⁷⁶ These settlement terms provide PGW and the parties with the opportunity to identify cost increases and determine whether and how they should be addressed with CRP customers going forward.⁷⁷ The terms are also consistent with terms approved as part of other utilities' implementation of the revised energy burdens,⁷⁸ as well as statements by Commissioner Coleman strongly encouraging such an approach.⁷⁹ PGW argues this provides a level of protection for non-CRP customers by helping to contain CRP costs, while allowing CRP customers to continue benefitting from the revised energy burdens.⁸⁰ For these reasons, PGW submits that this settlement term is in the public interest and should be approved.⁸¹

CRP Program Access

During settlement discussions, the low-income advocates expressed the need for additional methods for qualifying low-income customers to submit CRP applications.⁸² In order

⁷⁵ Settlement at ¶ 33(c) and (d).

⁷⁶ PGW Statement in Support at 8.

⁷⁷ *Id.*

⁷⁸ *See* Duquesne Light Co. Universal Service and Energy Conservation Plan for 2020-2025 Submitted in Compliance with 52 Pa. Code § 54.74, Docket No. M-2019-3008227, Order entered April 21, 2022, at 24, 27-28.

⁷⁹ Peoples Natural Gas Co. LLC and Peoples Gas Co. LLC 2019-2024 Universal Service and Energy Conservation Plan submitted in compliance with 52 Pa. Code § 62.4, Docket No. M-2018-3003177 et al., Statement of Vice Chairman John F. Coleman, Jr., dated May 12, 2022 (“The Commission recently approved a Joint Petition for Settlement in Duquesne Light Company’s 2020-2025 USECP which contained a provision whereby Duquesne Light Company will notify the parties to their proceeding and seek their input if USECP costs will exceed the projected budget by 10% . . . I believe similar provisions should be considered for inclusion in all USECPs.”).

⁸⁰ PGW Statement in Support at 8-9.

⁸¹ *Id.* at 9.

⁸² PGW Statement in Support at 11.

to resolve this concern, PGW agreed that, within 90 days after a final order is entered in this proceeding, the Company “will disseminate and publish on its website a fax number by which customers can submit CRP applications and associated supporting documentation.”⁸³ This term will provide an additional avenue for low-income customers to submit application materials to enroll in CRP and benefit from these assistance programs,⁸⁴ and PGW argues it is in the public interest.

The Office of Consumer Advocate

Continuation of PGW’s Current USECP for 2017-2022

OCA explains that the Settlement provides that PGW’s current amended USECP for 2017-2022 will remain in place until the Company’s pending 2023-2027 USECP goes into effect.⁸⁵ Any CRP modifications will be implemented on a going-forward basis only and as ordered by the Commission in PGW’s subsequent USECPs.⁸⁶ The Settlement also provides that no party will seek refunds related to PGW’s pilot program.⁸⁷

OCA supports these terms and believes they are in the public interest.⁸⁸ OCA notes CRP Pilot Program costs were greatly reduced from those projected in PGW’s original filing with the Commission.⁸⁹

⁸³ Settlement at ¶ 31.

⁸⁴ PGW Statement in Support at 11.

⁸⁵ *See* Settlement at ¶ 30.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ OCA Statement in Support at 8.

⁸⁹ PGW St. 1 at 7-8.

Additionally, OCA acknowledges that OCA witness Colton supported the pilot program changes to the revised energy burdens contingent upon further analysis of the on-going costs of the program and the development of objective outcome measures.⁹⁰

OCA argues the goal of the revised energy burdens is to improve affordability for low-income customers so that those customers can remain connected to service, but the cost impact on other ratepayers should also be considered.⁹¹ OCA submits the Settlement balances these objectives and provides a framework to monitor the energy burdens and measure the outcomes of the program going-forward.⁹² OCA argues the additional Settlement terms will allow the parties to evaluate the actual annual costs of the CRP discount if the actual CRP costs exceed the budgeted projections by greater than 20%; to evaluate whether the revised energy burdens are effectively addressing the needs of low-income customers; to evaluate the impact on the ratepayers who pay the costs of the program; and to evaluate whether additional cost control measures should be considered in the future.⁹³ The OCA submits that the pilot program's revised energy burdens should be approved as in the public interest.⁹⁴

⁹⁰ OCA St. 1 at 10.

⁹¹ The Commission noted this balance in its CAP Policy Statement Order when it provided: “[t]he Commission balances the interests of customers who benefit from CAPs with the interests of the other residential customers who pay for such programs. *See Final Investigatory Order on CAPs: Funding Levels and Cost Recovery Mechanisms*, Docket No. M-00051923 (Dec. 18, 2006), at 6–7.

⁹² OCA Statement in Support at 9.

⁹³ *Id.*

⁹⁴ *Id.*

PGW's Proposed USECP for 2023-2027

The Settlement provides that the parties agree to support or not oppose the continuation of the energy burdens in PGW's 2023-2027 USECP.⁹⁵ OCA explains it also supports continuation of the revised energy burdens through the 2023-2027 USECP.⁹⁶

Data Tracking and Reporting

In his Direct Testimony, OCA witness Mr. Colton specifically recommended that PGW develop outcome measures to evaluate the effectiveness of the revised energy burdens.⁹⁷ Mr. Colton also recommended additional reporting metrics to assist with future evaluation of the program.⁹⁸ OCA notes that pursuant to the Settlement, PGW will collect important information that will allow for an evaluation of the effectiveness of the program.⁹⁹

Within 18 months of the final Commission Order in this proceeding, PGW “will complete a review of CRP for minimum bill, average bill, and Percentage of Income Payment Program (PIPP) customers, broken down for each by the following income tiers at a point in time: 0-50% of FPL; 51-100% of FPL; and 101-150% of FPL.”¹⁰⁰ The evaluation will be designed to answer five questions:

⁹⁵ Settlement at ¶ 32.

⁹⁶ OCA Statement in Support at 9-10. OCA is mindful that PGW's 2023-2027 USECP is separately pending before the Commission at Docket No. M-2021-3029323 and whether the proposed energy burdens are carried forward in that proceeding will be subject to further review by the Commission. However, consistent with the settlement reached at this docket, OCA will support continuation of the existing energy burdens in its comments at that docket and in the proceedings initiated therein subject to the Commission's approval of this settlement with all conditions intact, including the cost monitoring and outcome evaluations reached in the settlement of the captioned matter. OCA Statement in Support at fn. 7.

⁹⁷ OCA St. 1 at 5-6, 11-48.

⁹⁸ OCA St. 1 at 48-52.

⁹⁹ OCA Statement in Support at 14.

¹⁰⁰ Settlement at ¶ 34.

- (a) Did pilot program participants pay their CRP bills?
- (b) How much arrearage forgiveness did pilot program participants earn?
- (c) What was the average annual usage of pilot program participants?
- (d) Did pilot program participants receive LIHEAP grants and what was the average grant amount?
- (e) How many pilot program participants were removed from CRP due to termination for non-payment?¹⁰¹

Additionally, PGW will also evaluate the effectiveness of the CRP as part of its next USECP Impact Evaluation. PGW will include the following information by CRP type: payment frequency and bill coverage rates by CRP type; non-payment shut-off frequency; and average CRP credit.¹⁰² PGW will include the effectiveness of LIURP to reduce gas usage by high consumption CRP participants; changes in weather-normalized usage for new participants in CRP compared to their consumption levels as non-participants; and trends in CRP participant weather-normalized usage levels during the past two years, compared to non-participants.¹⁰³

OCA explains that the proposed metrics to be completed within 18 months of a final Commission Order and the issues to be addressed in PGW's next impact evaluation reasonably address OCA witness Colton's recommendation to implement outcome measures and reporting metrics.¹⁰⁴ OCA maintains that the proposed metrics and data to be included in the impact evaluation will provide critical information to evaluate the effectiveness of revised energy burdens and whether additional changes are necessary in the Company's next USECP.¹⁰⁵ OCA

¹⁰¹ Settlement at ¶ 34(a)-(e).

¹⁰² Settlement at ¶ 34(a)-(c).

¹⁰³ Settlement at ¶ 34(d)-(f).

¹⁰⁴ Settlement at ¶¶ 34-35.

¹⁰⁵ OCA Statement in Support at 16.

submits that this information will allow the stakeholders and the Commission to determine whether the revised energy burdens are reasonably achieving their identified objectives, the impact on ratepayers who pay the costs of the program, and whether further changes such as additional cost control measures are necessary in the Company’s next USECP.¹⁰⁶ The OCA submits that the provision is in the public interest and should be approved.¹⁰⁷

Program Assessment and Adjustment

Under the Settlement, PGW will continue to monitor the impact of the revised energy burdens on the actual CRP costs and will provide information to the parties about the actual cost information if the actual annual CRP costs exceed the originally projected budget by greater than 20%.¹⁰⁸ If this criterion is met, PGW will provide the actual cost information to all parties in this proceeding and will schedule a meeting within 30 days of providing the data to receive input on the need for cost controls.¹⁰⁹ Any party would be able to petition the Commission before or after those meetings to address cost control concerns or to raise or oppose cost control measures in any subsequent USECP or base rate proceeding.¹¹⁰ The Settlement also provides that “PGW will propose going forward cost control measures if CRP costs exceed budgeted amounts by 20% or more, or will justify why, despite this increase, no cost control measures are needed.”¹¹¹ Finally, the Settlement provides that:

[i]f the Commission approves the continued use of the energy burdens approved here in PGW’s currently pending USECP proceeding for the period from 2023-2027, PGW agrees to continue the requirements of this paragraph for the 2023-2027 period, with the comparison for that period being the final

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ Settlement at ¶ 33.

¹⁰⁹ Settlement at ¶ 33(a)-(b).

¹¹⁰ Settlement at ¶ ¶ 33(c)-(d).

¹¹¹ Settlement at ¶ 33(e).

projected costs for the 2023-2027 period as approved by the PUC in PGW's USECP 2023-2027.^[112]

OCA explains that OCA witness Colton specifically recommended that a review of the costs be initiated if costs exceeded 20% of the budget. Mr. Colton testified:

I recommend that if the three-year average per-participant cost increases by 20% or more, PGW should be required to: (1) make an informational filing with the Commission explaining the basis for the cost increases and the steps that PGW is doing to control costs; (2) convene its Universal Service Advisory Committee to assess the extent to which additional responsive actions are appropriate; (3) agree that, if a mutually agreed-upon course of action is not agreed to within the Universal Service Advisory Committee, stakeholders could petition the Commission to amend the USECP with specifically-stated proposed demonstrably responsive actions; and (4) propose in its next filed USECP cost containment measures that seek to protect non-participants.^[113]

OCA explains that the Settlement reasonably addresses OCA's concerns regarding actual CRP cost increases and the potential need for cost control measures should CRP costs significantly increase.¹¹⁴ OCA notes that, under the Settlement, the actual CRP costs will be monitored, and the Settlement provides a pathway to address potential significant increases to the costs of the program.¹¹⁵ PGW will proactively monitor increases to the CRP costs of greater than 20% and will affirmatively meet with the parties to explain the reasons for the increases and identify programmatic cost containment measures that may be implemented.¹¹⁶

As OCA witness Colton testified, 20% is an appropriate benchmark to evaluate cost increases. Mr. Colton explained:

¹¹² Settlement at ¶ 33(f).

¹¹³ OCA St. 1 at 41 (footnote omitted).

¹¹⁴ OCA Statement in Support at 11.

¹¹⁵ Id.

¹¹⁶ Settlement at ¶ 33.

[t]he 20% figure is selected to be sufficiently large that it will not trigger a response simply due to normal fluctuations in program costs, but is not so large that the trigger is never exercised. The 20% figure should be considered in the context of each of the three discrete groups I identify above. While a 20% increase in total CRP costs may not give rise for concern for the third group (i.e., those over 300% of Poverty), it may well give rise for concern for either the first or second group.^{117]}

OCA submits that the Settlement provides important protection for customers if the costs of the CRP discount significantly increase.¹¹⁸ The parties will have the opportunity to provide feedback if actual CRP costs exceed the projected budget by 20%¹¹⁹ and will be better able to monitor the costs of the program to better understand the reasons for the cost increases.¹²⁰ OCA explains that, under the Settlement, if CRP exceeded budgeted amounts by 20% or more, in the next USECP, PGW will propose going forward cost control measures or will justify why, despite this increase, no cost control measures are needed.¹²¹ OCA submits that this Settlement provision will address OCA's concerns related to potential unconstrained increases to the budget and provide a forum to address the need for additional cost control measures.¹²²

CRP Program Access

The Settlement also provides that “within 90 days after a final PUC order is entered in the proceeding, PGW will disseminate and publish on its website a fax number by which customers can submit CRP applications and associated supporting documentation.”¹²³

¹¹⁷ OCA St. 1 at 41. The three discrete groups referenced in Mr. Colton's Direct Testimony are: “(1) customers who are income-eligible for CRP but who do not participate; (2) customers who are *not* income-eligible for CRP, but who have insufficient income to be self-sufficient; and (3) customers who have income that is generally considered to be adequate for the household to be self-sufficient.” OCA St. 1 at 36 (emphasis in original).

¹¹⁸ OCA Statement in Support at 11.

¹¹⁹ *Id.*

¹²⁰ *Id.* at 12.

¹²¹ Settlement at ¶ 33(e).

¹²² OCA Statement in Support at 12.

¹²³ Settlement at ¶ 31.

One of the outcome objectives that OCA witness Colton identified in his direct testimony is how effectively PGW is serving its low-income customer population.¹²⁴ OCA witness Colton testified that “[o]nly if participation rates within PGW’s low-income population improves will the offer of deeper discounts, and thus lower burdens, truly improve the affordability of service to Philadelphia’s “low-income population.”¹²⁵

OCA argues that allowing customers to fax CRP applications and supporting documentation will provide one more pathway for customers to enroll in the program,¹²⁶ and that improved access to CRP enrollment and recertification is a key element to improving the outcomes for PGW’s enrollment of low-income customers in its programs.¹²⁷ OCA submits that the provision is in the public interest and should be approved.¹²⁸

TURN/CAUSE-PA

Continuation of PGW’s Current USECP for 2017-2022

In paragraph 30 of the proposed Settlement, the parties agree that PGW’s CRP Pilot Program, as outlined in PGW’s current amended USECP for 2017-2022, will remain in place until the effective date of PGW’s pending USECP for 2023-2027, subject to modifications contained in the Settlement.¹²⁹ Importantly, the Settlement provides that any modification to the current program contained in the Settlement will be implemented on a forward-going basis, and

¹²⁴ OCA St. 1 at 16-20.

¹²⁵ OCA St. 1 at 18.

¹²⁶ OCA Statement in Support at 17.

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ Settlement at ¶ 30.

will not be applied retroactively.¹³⁰ As such, the parties agree not to seek any refunds or to otherwise alter previously approved cost recovery for the CRP Pilot.¹³¹

TURN/CAUSE-PA argue that this portion of the Settlement affirms PGW’s CRP Pilot Program and ensures that low-income CRP participants will continue to receive more affordable rates consistent with the Commission’s CAP Policy Statement and in furtherance of the Commission’s statutory universal service program obligations.¹³²

TURN/CAUSE-PA maintain that it is critical to maintain improved rate affordability within PGW’s CRP.¹³³ As TURN/CAUSE-PA Witness Mr. Geller explained in direct testimony, “[l]ow income customers struggle on a daily basis to make ends meet, and often make untenable choices between paying for utility services and other critical necessities – including food, medicine, and housing.”¹³⁴ TURN/CAUSE-PA notes that PGW’s service territory, which encompasses the City of Philadelphia, has a substantial low-income population,¹³⁵ and in 2020, 27.5% of PGW’s residential customers were confirmed to be low income.¹³⁶ TURN/CAUSE-PA argues that, across the city, various demographic groups – including people of color, seniors, children, and renters – are disproportionately likely to live in poverty.¹³⁷ TURN/CAUSE-PA explains that these same demographic groups are, in turn, more likely to face disproportionately high energy burdens and correspondingly high rates of payment trouble and involuntary termination.¹³⁸ TURN/CAUSE-PA notes that, in 2020, approximately

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² TURN/CAUSE-PA Statement in Support at 4-5; *see* TURN/CAUSE-PA St. 1 at 8-9; 66 Pa.C.S. § 2203(8); 52 Pa. Code § 69.261 *et seq.*

¹³³ TURN/CAUSE-PA Statement in Support at 5.

¹³⁴ TURN/CAUSE-PA St. 1 at 13.

¹³⁵ TURN/CAUSE-PA Statement in Support at 5.

¹³⁶ TURN/CAUSE-PA St. 1 at 13.

¹³⁷ *Id.* at 13-15.

¹³⁸ *Id.*

83.7% of PGW’s confirmed low-income customers were payment troubled (excluding CRP participants),¹³⁹ and in 2019, 68% of all involuntary terminations were for confirmed low income customers – two times higher than the overall residential termination rate.¹⁴⁰ TURN/CAUSE-PA argues it is critical that CRP provide an appropriate level of assistance to reduce these disparities in payment trouble and termination.¹⁴¹ TURN/CAUSE-PA notes that is the stated purpose of a Customer Assistance Program: to provide an alternative path to collections for those who are unable to pay.¹⁴²

TURN/CAUSE-PA argues continuation of PGW’s CRP Pilot Program will also provide benefits to other residential, commercial, and industrial customers across PGW’s service territory.¹⁴³ TURN/CAUSE-PA notes the Commission has previously concluded, “all firm customers, including commercial and industrial customers, benefit indirectly from PGW’s extensive low-income assistance programs.”¹⁴⁴ TURN/CAUSE-PA argue these benefits include reduced collections and uncollectible account rates, reduced involuntary terminations, and improved family and community stability.¹⁴⁵

TURN/CAUSE-PA argues the preservation of PGW’s CRP Pilot Program until the effective date of its next USECP will improve rate affordability for thousands of low-income Philadelphians.¹⁴⁶ TURN/CAUSE-PA argues that ongoing rate affordability for CRP participants will likewise deliver associated benefits to the communities in which they live and work.¹⁴⁷

¹³⁹ *Id.* at 14.

¹⁴⁰ *Id.* at 14. Note that due to the pandemic, 2019 was the last year for which full-year representative termination data was available.

¹⁴² *See* 52 Pa. Code § 69.261.

¹⁴³ TURN/CAUSE-PA Statement in Support at 6.

¹⁴⁴ TURN/CAUSE-PA St. 1-R at 10; *Pa. Pub. Util. Comm’n v. Phila. Gas Works*, R-2017-2586783 at 74 (Nov. 8, 2017), available at <https://www.puc.pa.gov/pdocs/1543224.docx>.

¹⁴⁵ TURN/CAUSE-PA Statement in Support at 6.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

PGW's Proposed USECP for 2023-2027

TURN/CAUSE-PA explains that Paragraph 32 of the proposed Settlement affirms the justness and reasonableness of PGW's CRP Pilot Program.¹⁴⁸ Pursuant to this paragraph, the parties agree to either support or not oppose continuation of the energy burden standards in PGW's pending USECP for 2023-2027, which is currently pending review.¹⁴⁹ By agreeing not to oppose PGW's reduced energy burden standards in its pending USECP for 2023-2027, TURN/CAUSE-PA argues the proposed Settlement will help to preserve the parties' and the Commission's resources necessary to raise and respond to conflicting positions and will provide greater consistency and stability for CRP participants.¹⁵⁰

Data Tracking and Reporting

TURN/CAUSE-PA notes the proposed Settlement contains several provisions designed to improve data tracking and reporting regarding the CRP Pilot Program, helping to ensure that the Commission, the parties, and stakeholders have access to information necessary to assess the program.¹⁵¹ TURN/CAUSE-PA argues Paragraph 34 provides that PGW must review each CRP rate by income tier to determine rates of CRP bill coverage, payment frequency, average usage, receipt of LIHEAP, and program removal.¹⁵²

In his direct testimony, Mr. Geller explained that several factors impacted full analysis of PGW's CRP Pilot Program, including the fact that PGW does not currently track certain data necessary to examine the full extent of the benefits driven by the CRP Pilot.¹⁵³

¹⁴⁸ *Id.*

¹⁴⁹ Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2023-2027 Submitted in Compliance with 52 Pa. Code § 62.4, Docket No. M-2021-3029323.

¹⁵⁰ TURN/CAUSE-PA Statement in Support at 6.

¹⁵¹ *Id.* at 7.

¹⁵² *Id.*

¹⁵³ TURN/CAUSE-PA St. 1 at 16.

Mr. Geller recommended that PGW “improve data collection, tracking and storage practices to enable a third-party evaluation to more accurately determine the ways in which the Pilot Program has benefited CRP customers.”¹⁵⁴

TURN/CAUSE-PA argues the proposed Settlement will help improve PGW’s data collection and tracking – helping to facilitate a more holistic review of how CRP benefits participants and the broader Philadelphia community.¹⁵⁵ For these reasons, TURN and CAUSE-PA submit that this proposed Settlement term is vital to facilitating the shared interests of the settling parties that CRP be accessible on an ongoing basis to low-income customers, facilitate CRP customer payment, and consider other available resources, such as LIHEAP.¹⁵⁶

Program Assessment and Adjustment

TURN/CAUSE-PA explains that Paragraph 33 of the proposed Settlement establishes a trigger for automatic review of PGW’s CRP Pilot Program if costs exceed more than 20% of the projected budget.¹⁵⁷ The review, if triggered, would require PGW to notify the parties of the higher-than-anticipated costs, and organize a meeting to discuss the costs and identify whether PGW should implement cost control mechanisms.¹⁵⁸ Following this meeting, the proposed Settlement requires PGW to either propose cost control measures or explain why cost control measures are unnecessary.

TURN/CAUSE-PA argues this provision of the proposed Settlement will help to ensure a touch-point to review and assess PGW’s CRP Pilot Program and, if warranted, to make additional adjustments to the program. TURN/CAUSE-PA believe this is a reasonably balanced approach, as it does not prejudge whether program reforms are necessary. Rather, it establishes a

¹⁵⁴ TURN/CAUSE-PA St. 1 at 18.

¹⁵⁵ TURN/CAUSE-PA Statement in Support at 8.

¹⁵⁶ *Id.*

¹⁵⁷ Settlement at ¶ 33.

¹⁵⁸ *Id.*

deliberative process to collaboratively examine relevant data and determine whether program features are the driver of higher than projected costs.

CRP Program Access

Pursuant to Paragraph 31 of the proposed Settlement, PGW will disseminate and publish on its website a fax number by which customers can submit CRP applications and associated supporting documentation. TURN/CAUSE-PA argues this Settlement provision serves the recognized and mutually embraced objectives of ensuring availability of CRP to all qualifying low-income customers, regardless of their ability to access PGW services in person or via PGW's website. TURN/CAUSE-PA notes that while some low-income customers may be able to utilize internet resources to apply for and recertify eligibility for CRP, there are certainly many low-income customers for whom these resources are still not adequately available.

Given the closure of PGW's customer service centers, TURN/CAUSE-PA aver that it is essential that additional pathways be created to ensure that CRP-eligible customers have the ability to provide PGW with the necessary information to enroll and continue to participate in CRP. TURN/CAUSE-PA submits that, by publishing and disseminating a fax number, these customers will be able to utilize other community-based resources, including Neighborhood Energy Centers, elected official constituent services offices, and other non-profit and community organizations to submit their CRP applications and documentation to PGW. TURN/CAUSE-PA maintains that the proposed Settlement's inclusion of this term is vital to the interests of the low-income PGW customers, and their allies, who are members of TURN and CAUSE-PA.

DISCUSSION

The Commission encourages parties in contested on-the-record proceedings to settle cases.¹⁵⁹ Settlements eliminate the time, effort, and expense of litigating a matter to its ultimate conclusion, which may entail review of the Commission's decision by the appellate

¹⁵⁹ See 52 Pa. Code § 5.231.

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 the parties of interest 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.¹⁶⁰ In their supporting statements, PGW, OCA, and TURN/CAUSE-PA take the position that this Settlement resolves the issues in this case, is in the public interest, and should be approved.

With regard to the amended USECP for 2017-2022, all parties agree it will remain in effect until the Company’s pending 2023-2027 USECP goes into effect, and any CRP modification will be implemented on a going-forward basis only and as ordered by the Commission in PGW’s subsequent USECPs. The parties also agree they will support or not oppose the continuation of the energy burdens in PGW’s 2023-2027 USECP, and they will not seek refunds related to PGW’s Pilot Program.

The goal of the Commission’s revised energy burdens is to improve affordability for low-income customers, but the Commission must also remain cognizant of the cost impact on other ratepayers.

As a preliminary matter, we note the energy burdens in PGW’s 2017-2022 USECP are compliant and consistent with the Commission’s CAP Policy Statement and are presumptively reasonable. All parties agree those energy burdens should remain in effect through the effective date of the Company’s 2022-2027 USECP.

At issue in the instant matter was: (1) what obligation PGW would have to (a) monitor and report data related to its program’s outcomes, costs, and effectiveness and

¹⁶⁰ Pa. Pub. Util. Comm’n v. CS Water & Sewer Assocs., 74 Pa. PUC 767 (1991).

(b) perform additional outreach to its low-income customers; and (2) the extent to which refunds were appropriate.

As an initial matter, the parties agree actual costs of the revised energy burdens have been greatly reduced from the Company's initial projections.¹⁶¹

PGW has agreed to monitor the impact of the revised energy burdens on the actual CRP costs and provide information to the parties about the actual cost information if the actual annual CRP costs exceed the originally projected budget by greater than 20%. The Settlement provides that if this occurs, PGW will schedule a meeting, and any party may petition the Commission before or after those meetings to address cost-control concerns or to raise or oppose cost-control measures in any subsequent USECP or base rate proceeding. These settlement terms ensure there will be on-going monitoring of the program's cost-effectiveness and cost-efficiency, and a process for the parties to seek relief from the Commission if they believe Commission-imposed cost control measures are necessary.

PGW has also agreed to complete a review of its CRP within eighteen months of a final Commission Order in this proceeding, including compiling and reporting data to answer five specific questions in a way that will allow the parties to evaluate the success of the CRP program objectives. PGW will gather data designed to answer the following questions: (1) Did pilot program participants pay their CRP bills? (2) How much arrearage forgiveness did pilot program participants earn? (3) What was the average annual usage of pilot program participants? (4) Did pilot program participants receive LIHEAP grants and what was the average grant amount? (5) How many pilot program participants were removed from CRP due to termination for non-payment? The collection and dissemination of this data will allow for greater accountability and transparency, which is in the public interest.

Further, as part of its next USECP Impact Evaluation, PGW has agreed to provide the following data by CRP type: payment frequency and bill coverage rates by CRP type; non-payment shut-off frequency; and average CRP credit. PGW will also include the effectiveness of

¹⁶¹ OCA Statement in Support at 9.

LIURP to reduce gas usage by high-consumption CRP participants; changes in weather-normalized usage for new participants in CRP compared to their consumption levels as non-participants; and trends in CRP participant weather-normalized usage levels during the past two years, compared to non-participants.

The proposed metrics and information included in the impact evaluation will provide critical information to evaluate the effectiveness of revised energy burdens and whether additional changes are necessary in the Company's next USECP. That information will give the stakeholders and the Commission the ability to determine whether the revised energy burdens are reasonably achieving their identified objectives, the impact on ratepayers who pay the costs of the program, and whether further changes such as additional cost control measures are necessary in the Company's next USECP. Therefore, this settlement term is in the public interest.

With regard to outreach to low-income customers, PGW has agreed that, within 90 days after a final PUC order is entered in the instant proceeding, it will disseminate and publish on its website a fax number by which customers can submit CRP applications and associated supporting documentation. Allowing customers to fax CRP applications and supporting documentation will provide one more pathway for customers to enroll in the program. Improved access to CRP enrollment and recertification is a key element to improving the outcomes for PGW's enrollment of low-income customers in its programs and is in the public interest.

Additionally, all parties agree that they will not seek refunds from PGW customers. Refunds of program costs would have been extremely problematic, given that PGW is a cash flow entity and that refunds would require PGW to charge low-income, CRP customers after the fact in an attempt to "clawback" the additional benefits they received as a result of the lower energy burdens. Therefore, this settlement term is in the public interest.

Finally, the parties agree to either support or not oppose the energy burdens in PGW's 2023-2027 USECP. While recognizing that the USECP for 2023-2027 is currently being addressed in a separate docket, this term helps advance that separate review process by

establishing that none of the parties will oppose the continuation (assuming the PUC determines to continue them) of the revised energy burdens through the next plan period and is in the public interest.

This Settlement strikes an appropriate balance between increasing accessibility of the CRP program to PGW's low-income customers, maintaining reasonable energy burdens on PGW's low-income customers, while also monitoring the program's cost-effectiveness and evaluating the program's measurable outcomes.

We recommend the Commission adopt the Joint Petition for Settlement and approve the Settlement without modification. This Recommendation is based in part upon the representations made by OCA and TURN/CAUSE-PA that the Settlement is in the interest of PGW's customers and is a fair, just, and reasonable resolution to PGW's Petition.

Accordingly, we recommend that the Commission approve the Settlement because it is in the public interest.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. § 2212; 52 Pa. Code §§ 69.261-69.267.

2. The Joint Petition for Settlement executed and submitted at this docket by Philadelphia Gas Works, the Office of Consumer Advocate, and TURN/CAUSE-PA, and unopposed by the Office of Small Business Advocate, is in the public interest.

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Settlement executed and submitted at this docket by Philadelphia Gas Works, the Office of Consumer Advocate, the Tenant Union Representative Network and the Coalition for Affordable Utility Services and Energy in Pennsylvania, and unopposed by the Office of Small Business Advocate, be approved without modification.

2. That the Secretary's Bureau mark this docket closed.

Date: September 9, 2022

_____/s/
Emily I. DeVoe
Administrative Law Judge

_____/s/
Mark A. Hoyer
Deputy Chief Administrative Law Judge