



September 27, 2022

VIA E-File

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

**Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works,
Docket No. R-2022-3034229, P-2022-3034264**

Prehearing Memorandum of CAUSE-PA

Dear Secretary Chiavetta:

Please find the attached **Prehearing Memorandum of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** in the above noted proceeding.

As indicated on the attached Certificate of Service, service on the parties was accomplished by email only.

Respectfully Submitted,

John W. Sweet, Esq.
Counsel for CAUSE-PA

CC: *Honorable Marta Guhl, mguhl@pa.gov
Athena Delvillar, sdelvillar@pa.gov
Certificate of Service*

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:		
	:		
v.	:	Docket No.	R-2022-3034229
	:		P- 2022-3034264
Philadelphia Gas Works	:		

**PREHEARING MEMORANDUM
OF THE COALITION FOR AFFORDABLE UTILITY SERVICES
AND ENERGY EFFICIENCY IN PENNSYLVANIA**

On September 19, 2022, Administrative Law Judge Marta Guhl issued a Prehearing Conference Order setting a telephonic prehearing conference for Thursday, September 28, 2022, at 10:00 a.m., and requiring parties to file a Prehearing Memorandum no later than 12:00 pm on Wednesday, September 27, 2022. In response, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), through its counsel at the Pennsylvania Utility Law Project, hereby files this Prehearing Conference Memorandum.

I. Background

On June 30, 2022, Philadelphia Gas Works (PGW) filed a Petition for Emergency Order (Emergency Petition), Docket No. P-2022-3033477, with the Pennsylvania Public Utility Commission (Commission). The Company’s Emergency Petition requested that the Commission approve tariff modifications designed to suspend operation of PGW’s Weather Normalization Adjustment (WNA) for May 2022 because its application of the WNA during that month resulted in rate shock for customers – imposing charges in that month totaling more than \$11.3 Million.

On July 1, 2022, the Office of Consumer Advocate (OCA) filed an Answer to the Emergency Petition supporting the suspension of the WNA and urging the Commission to open an investigation and suspend the WNA until it can be thoroughly evaluated.

Also on July 1, 2022, Chairman Dutrieuille issued an Emergency Order granting PGW's requested relief. The Commission ratified Chairman Dutrieuille's order at its July 14, 2022, Public Meeting, and further ordered PGW to conduct an investigation into the failure of the WNA mechanism and provide a report on August 15, 2022 with its findings.¹

On July 14, 2022, the Commission issued a Ratification Order requiring PGW to file a report with the Commission on or before August 15, 2022, summarizing its investigation of the Weather Normalization Adjustment (WNA) charge, and invited interested parties to submit responsive comments.

On August 2, 2022, PGW, filed Supplement No. 152 to Gas Service Tariff - Pa. P.U.C. No. 2 to become effective October 1, 2022, and a Petition for Approval on Less than Statutory Notice of Tariff Supplement Revising Weather Normalization Adjustment. The tariff supplement proposed changes would add a control cap to PGW's WNA Clause so that its customers would not be billed a WNA charge or credit greater than 25% of total delivery charge excluding the WNA.

On August 12, 2022, PGW filed its Weather Normalization Report in response to the Ratification Order explaining that, in May 2022, mid to late month warm weather variance compared resulted in large WNA charges. However, PGW could not identify any misapplication or error in applying the WNA formula. PGW has proposed a 25% "cap" on the maximum charge or credit that can be imposed by the WNA.

¹ Petition of Philadelphia Gas Works for Emergency Order, Docket No. P-2022-3033477, (Emergency Order of Chairman Gladys Brown Dutrieuille entered July 1, 2022)

On August 22, 2022, the OCA filed an Answer to PGW's filings. The OCA stated that PGW did not provide evidence as to how it determined that a 25% cap was the appropriate level of protection for customers. The OCA also stated that the only reasonable approach is to suspend the WNA mechanism until a revised formula, free from its current defects, can be developed.

On September 1, 2022, the OCA filed Comments in response to PGW's investigation explaining that a 25% rate cap may not be sufficient to protect PGW's customers from future rate shock and recommending total suspension of the WNA pending an investigation by the Commission and a revision of the WNA formula.

On September 6, 2022, CAUSE-PA and Tenant Union Representative Network (TURN) each individually filed Petitions to Intervene, requesting full intervenor status as an active party to the proceeding. On the same day CAUSE-PA and TURN filed Joint Comments. The Joint Comments supported OCA's recommendation that PGW's WNA remain suspended until the Commission's investigation is complete and explained that the proposed cap does not equitably resolve issues inherent in PGW's WNA and that additional information is needed to assess PGW's WNA and its proposed cap and determine an appropriate path forward.

On September 9, 2022, PGW filed a letter indicating that it does not oppose CAUSE-PA's intervention in this proceeding, but also seeking to preliminarily narrow the issues to be considered by the Commission in this proceeding.

On September 13, 2022, CAUSE-PA and TURN filed a joint letter in response to PGW's September 9, 2022 letter, appreciating PGW's non-objection to their intervention, but pointing out that PGW's letter amounted to an improper pleading seeking to unduly narrow the proceeding.

September 15, 2022, the Commission suspended the proceedings until April 1, 2023, and sent the matter to the Office of Administrative Law Judge for evidentiary hearings and a Recommended Decision. The Commission stated that, “Investigation and analysis of this proposed tariff filing and the supporting data indicate that the proposed changes in rates, rules, and regulations may be unlawful, unjust, unreasonable, and contrary to the public interest.”² The Commission Ordered: “That this investigation shall include consideration of the lawfulness, justness, and reasonableness of the Philadelphia Gas Works’ existing rates, rules, and regulations.”³

II. Issues to be Presented

In addition to compliance with sound rate making principles, including the requirement that rates be just and reasonable, PGW must also ensure whether rates are affordable and accessible those served. Excessive charges levied through ratemaking mechanisms such as PGW’s WNA fall hardest on low income families, exacerbating existing disparities in payment trouble and termination rates across low income customer groups.

CAUSE-PA asserts that the Commission should suspend PGW’s WNA until its investigation is complete and questions the justness and reasonableness of PGW’s proposal to implement a control cap on its WNA and submit that the proposed cap does not equitably resolve issues inherent in PGW’s WNA, nor does it alleviate the heavy burden the charge has on low income consumers.

CAUSE-PA has conducted an initial review of PGW’s WNA report and its proposed tariff changes and testimony, and questions whether PGW’s proposal will prevent the WNA

² Suspension Order at 2.

³ Id. at 3.

from producing additional rate spikes resulting unjust and unreasonable rates that would impose severe hardship on low and moderate income residential customers.

CAUSE-PA identifies the following specific issues of concern, which must be addressed in this proceeding, though it reserves the right to raise additional issues which may arise through the course of this proceeding:

- i. The conformity to law and the effect of PGW's WNA adjustment on low and moderate income households;
- ii. Whether PGW's proposed 25% rate cap will prevent future rate spikes and rate shock for PGW residential customers;
- iii. Whether additional necessary reforms or modifications to the WNA can ensure its proper operation to produce just and reasonable results for customers;
- iv. Whether PGW's should be allowed to continue to apply its WNA to residential bills.

III. Witnesses and Testimony

CAUSE-PA is still in the process of identifying potential witness to testify in this matter and reserves the right to call such witnesses as may be warranted upon proper notice to Your Honor and the parties.

CAUSE-PA supports the inclusion of consumer testimony through the holding of public input hearings in this matter.

IV. Discovery

CAUSE-PA is ready and willing to discuss any discovery modifications proposed by other parties in their Prehearing Memorandum.

V. Settlement

CAUSE-PA is willing and ready to engage in settlement discussions in an attempt to resolve or narrow the issues in this proceeding, with any and all parties, and encourages the parties to engage in settlement early in the process.

VI. Service on CAUSE-PA

CAUSE-PA is represented by the attorneys at the Pennsylvania Utility Law Project. All documents should be served on CAUSE-PA as follows:

John W. Sweet, Esq., PA ID: 320182
Elizabeth R. Marx, Esq., PA ID: 309014
Ria M. Pereira, Esq., PA ID: 316771
Lauren N. Berman, Esq., PA ID: 310116

PENNSYLVANIA UTILITY LAW PROJECT
118 Locust Street
Harrisburg, PA 17102
Telephone: 717-236-9486
Facsimile: 717-233-4088
E-mail: pulp@pautilitylawproject.org

CAUSE-PA requests that the parties agree to accept electronic service in this proceeding.

VII. Representation of CAUSE-PA at Prehearing Conference

For the purposes of the Prehearing Conference, CAUSE-PA will be represented by John W. Sweet, Esq.

VIII. Litigation Schedule

CAUSE-PA is involved in discussions with other parties to reach a mutually agreeable litigation schedule.

WHEREFORE, CAUSE-PA respectfully submits this Prehearing Conference Memorandum.

Respectfully submitted,

PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA



John W. Sweet, Esq., PA ID: 320182
Elizabeth R. Marx, Esq., PA ID: 309014
Ria M. Pereira, Esq., PA ID: 316771
Lauren N. Berman, Esq., PA ID: 310116

118 Locust Street
Harrisburg, PA 17101
Tel.: 717-236-9486
Fax: 717-233-4088

pulp@putilitylawproject.org

Date: September 27, 2022

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:		
	:		
v.	:	Docket No.	R-2022-3034229
	:		P- 2022-3034264
Philadelphia Gas Works	:		

Certificate of Service

I hereby certify that I have this day served copies of the **Prehearing Memorandum of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania** upon the parties of record in the above captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54.

VIA Email

Karen O. Moury, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
kmoury@eckertseamans.com

Aron J. Beatty, Esq.
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
abeatty@paoca.org

Robert W. Ballenger, Esquire
Joline R. Price, Esquire
Kinteshia Scott, Esq.
Community Legal Services, Inc.
1410 West Erie Avenue
Philadelphia, PA 19140
rballenger@clsphila.org
jprice@clsphila.org
kscott@clsphila.org

Sharon E. Webb, Esq.
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
swebb@pa.gov

Carrie Wright, Esq.
Erika L. McLain, Esq.
Bureau of Investigation and Enforcement
PA Public Utility Commission
Commonwealth Keystone Building
PO Box 3265
400 North Street, 2nd Floor West
Harrisburg, PA 17105-3265
carwright@pa.gov
ermclain@pa.gov

Respectfully Submitted,
PENNSYLVANIA UTILITY LAW PROJECT
Counsel for CAUSE-PA

A handwritten signature in black ink, appearing to read "John W. Sweet". The signature is written in a cursive style with a horizontal line above the name.

John W. Sweet, Esq., PA ID: 320182
118 Locust Street
Harrisburg, PA 17101
717-710-3839
pulp@pautilitylawproject.org

September 27, 2022