

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	R-2022-3034229
v.	:	P-2022-3034264
	:	
Philadelphia Gas Works	:	

Pre-Hearing Memorandum of Tenant Union Representative Network

Tenant Union Representative Network (TURN), through counsel Community Legal Services, Inc., hereby submits the following Pre-Hearing Memorandum pursuant to the Prehearing Conference Order of September 20, 2022.

I. History of the Proceeding.

On June 30, 2022, Philadelphia Gas Works (PGW) filed a Petition for Emergency Order, seeking permission to suspend operation of the Weather Normalization Adjustment (WNA) Clause then in effect in its approved Gas Service Tariff. The basis of this request, which was granted by Chairman Brown Dutrieuille on July 1, 2022, and subsequently ratified by the Commission on July 14, 2022, was that PGW’s WNA had produced an unprecedented \$12.3 million in customer charges, which PGW desired to return to ratepayers. In its July 14, 2022 Ratification Order, the Commission required PGW to file a report on its internal investigation of the operation of the WNA and provide parties 20 days to respond.

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 (Petition). The tariff supplement proposed changes would add a control cap to PGW’s Weather Normalization

Adjustment (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 15, 2022, PGW filed its report, concluding that the spike in WNA charges imposed on consumers in May 2022 was attributable to “mid to late month warm weather” and was not caused by “misapplication of or error in applying the long-standing WNA formula.” (PGW Report at 14). PGW’s report gave several examples of how its proposed 25% cap on WNA credits and charges would work, if implemented.

On August 22, 2022, the Office of Consumer Advocate (OCA) filed an Answer to PGW’s Petition. 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 OCA filed its comments to PGW’s report. On September 6, 2022, TURN and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed joint comments to PGW’s report. In general, OCA and TURN/CAUSE-PA expressed their support for further inquiry into PGW’s WNA, in order to ensure the rates produced are just and reasonable, and expressed doubt as to the ability of PGW’s 25% cap to adequately result in just and reasonable rates.

On September 7, 2022, TURN filed its Petition to Intervene in these proceedings. On September 15, 2022, PGW filed a letter expressing its lack of objection to separate Petitions to Intervene filed by TURN and CAUSE-PA. PGW’s letter urged the Commission to narrow its review, and preclude OCA, TURN and CAUSE-PA from conducting a full review of PGW’s proposed WNA, thereby limiting consideration solely to PGW’s 25% cap. On September 13,

2022, TURN/CAUSE-PA and OCA each filed letters responsive to PGW's September 7, 2022 letter, questioning the appropriateness of PGW's letter and urging the Commission to ensure that review of PGW's WNA is not limited as proposed by PGW.

On September 15, 2022, the Commission entered an order initiating an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in PGW's proposed WNA tariff (including the 25% cap), suspending the operation of PGW's proposed tariff, and referring this matter to the Office of Administrative Law Judge for the prompt scheduling of such hearings as may be necessary to issue a Recommended Decision.

On September 16, 2022, an Initial Telephonic Prehearing Conference Notice was issued, scheduling the conference for September 28, 2022. On September 20, 2022, Administrative Law Judge (ALJ) Marta Guhl issued a Prehearing Conference Order requiring prehearing memoranda to address designated agenda items (identified below) to be submitted by noon on September 27, 2022.¹

II. Agenda Items for Discussion

1. Plan and Schedule for Discovery

TURN will work with the parties to develop any appropriate modifications to discovery rules that support the prompt and robust exchange of all relevant information.

¹ Counsel for TURN did not receive this order electronically, but instead received a duplicate of the September 16, 2022 Initial Telephonic Hearing Conference Notice. Counsel was informed of the Prehearing Conference Order on September 23, 2022 via email from counsel for PGW.

2. Possibility of Settlement

TURN 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 encourage the parties to engage in settlement early in the process.

3. Issues

TURN has preliminarily reviewed PGW's WNA filing, and generally intends to examine the operation of the WNA, the effectiveness (or lack thereof) of PGW's proposed 25% cap, and the overall justness and reasonableness of PGW rates and charges. In particular, this examination must consider:

- The rates and charges resulting from, or to result from, the operation of PGW's WNA as currently in effect;
- The rates and charges resulting from, or to result from, the operation of PGW's WNA as it may be adjusted as proposed by PGW;
- The rates and charges resulting from, or to result from, the operation of PGW's WNA as it may be adjusted as proposed by other parties, including TURN; and
- The impact of the alteration or elimination of PGW's WNA on customer rates and charges in the short and long term.

TURN anticipates that other issues may come up during the course of this proceeding and reserves the right to examine any other issues that arise in the course of this proceeding.

4. Amount of Hearing Time

TURN anticipates working with the parties to develop a proposal for such on-the-record hearing examination as is necessary, efficient, and effective to produce a complete and adequate record to support the issuance of a Recommended Decision by Your Honor in this proceeding.

5. Witnesses

TURN has not yet identified witness(es) to present testimony in this matter. TURN will inform the parties and Your Honor in the event TURN intends to introduce witness testimony, including whether such witness testimony will be sponsored by any other party to these proceedings.

6. Schedule for Testimony, Hearings, and Briefs

TURN has engaged in discussions via email with the other parties regarding a litigation schedule and timing of hearings. TURN will continue to confer with the parties regarding any potential modifications to the schedule proposed by Your Honor in the Prehearing Conference Order.

7. Public Input Hearings

TURN anticipates that public input hearings may be appropriate given the subject matter of these proceedings. TURN has conferred with PGW and submits that two public input hearings (one in the morning and one in the evening) should be scheduled for this proceeding.

III. Service on TURN

TURN will be represented in this proceeding by Robert W. Ballenger and Kintéshia S. Scott, who will accept electronic delivery of documents.

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IV. Conclusion

TURN respectfully requests that this memorandum be entered into the record of this proceeding.

Respectfully submitted,

/s/ Robert W. Ballenger

Robert W. Ballenger, Esquire

Kintéshia S. Scott, Esquire

COMMUNITY LEGAL SERVICES, INC.

1424 Chestnut Street

Philadelphia, PA 19102

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CERTIFICATE OF SERVICE

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

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September 27, 2022

/s/ Robert W. Ballenger
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