



November 14, 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**

Dear Secretary Chiavetta:

Please find the attached **Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) to the Petition of Philadelphia Gas Works (PGW) for Leave to Withdraw** 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: Administrative Law Judge Marta Guhl, mguhl@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	:		

**ANSWER OF THE COALITION FOR AFFORDABLE UTILITY SERVICES
AND ENERGY EFFICIENCY IN PENNSYLVANIA
TO
THE PETITION OF PHILADELPHIA GAS WORKS
FOR LEAVE TO WITHDRAW**

Pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (PUC or Commission), 52 Pa. Code §§ 5.61-5.62, 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 Answer to the Petition of Philadelphia Gas Works (PGW) for Leave to Withdraw.

I. Background

1. 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). PGW’s Emergency Petition requested that the Commission approve tariff modifications designed to suspend operation of its Weather Normalization Adjustment (WNA) for May 2022 because application of the rate mechanism resulted in rate shock for customers – imposing charges in that month totaling more than \$11.3 Million.

2. 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 Brown Dutrieuille issued an Emergency Order granting PGW's requested relief. The Commission ratified Chairman Brown Dutrieuille's Emergency Order at its July 14, 2022, Public Meeting, and further ordered PGW to conduct an investigation into the failure of the WNA mechanism and file a report with its findings by August 15, 2022. On July 14, 2022, the Commission issued a Ratification Order requiring PGW to file a report with the Commission.
3. 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 to add a control cap to PGW's WNA so that its customers would not be billed a WNA charge or credit greater than 25% of total delivery charge, excluding the WNA.
4. On August 12, 2022, PGW filed its Weather Normalization Report in response to the Ratification Order explaining that, in May 2022, a mid to late month warm weather variance resulted in large WNA charges. However, PGW could not identify any misapplication or error in applying the WNA formula.
5. 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.

6. On September 1, 2022, the OCA filed Comments in response to PGW's investigation explaining that a 25% cap may not be sufficient to protect PGW's customers from future rate shock and recommending suspension of the WNA pending an investigation by the Commission and a revision of the WNA formula.
7. On September 6, 2022, CAUSE-PA and Tenant Union Representative Network (TURN) each individually filed Petitions to Intervene in the instant proceeding, requesting full intervenor status as an active party to the proceeding.
8. Also on September 6, 2022, CAUSE-PA and TURN filed Joint Comments supporting OCA's recommendation that PGW's WNA remain suspended until the Commission's investigation is complete. In its Joint Comments, CAUSE-PA and TURN noted deep concerns that PGW's WNA is producing unjust and unreasonable charges, especially as applied to low income consumers, and explained that PGW's 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/TURN Joint Cmts. at 3).
9. On September 9, 2022, PGW filed a letter indicating that it did not oppose CAUSE-PA's intervention, but nevertheless requested that the Commission preliminarily narrow the issues to be considered by the Commission in this proceeding to only consider PGW's proposed 25% cap, arguing that the application of its WNA – and whether the charge is just and reasonable - is otherwise outside the scope of this proceeding.
10. On September 13, 2022, CAUSE-PA and TURN filed a joint letter in response to PGW's September 9, 2022 letter, expressing appreciation for PGW's non-objection to their intervention, but pointing out that PGW's letter sought to unduly narrow the proceeding to

consideration of the 25% cap.

11. On September 15, 2022, the Commission issued an Order suspending 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 not only ordered a review of PGW's proposed tariff filing, but also ordered that consideration should be given to the reasonableness of PGW's existing rates, rules, and regulations. (Suspension Order at 2). In short, the Commission plainly refused to foreclose consideration of the justness and reasonableness of PGW's existing WNA mechanism in the context of this proceeding.
12. On November 8, 2022, PGW filed a Petition for Leave to Withdraw, requesting leave to withdraw Supplement No. 152 to Gas Service Tariff – Pa. P.U.C. No. 2 and the Petition for Approval on Less than Statutory Notice of Tariff Supplement Revising Weather Normalization Adjustment.
13. Also on November 8, 2022, PGW filed a Motion to Hold Procedural Schedule in Abeyance, requesting that the litigation schedule in this proceeding be held in abeyance pending a decision on its Withdrawal Petition.

II. Discussion

14. CAUSE-PA opposes PGW's Petition for Leave to Withdraw Supplement No. 152 to Gas Service Tariff – Pa. P.U.C. No. 2 and the Petition for Approval on Less than Statutory Notice of Tariff Supplement Revising Weather Normalization Adjustment.
15. CAUSE-PA respectfully asserts that withdrawal of the current proceeding would be improper because the parties have already expended substantial resources in the current litigation. Further delay will cause the parties – and ratepayers – to shoulder additional costs and will unnecessarily delay resolution of this critical issue.

16. Withdrawing the current proceeding in favor of filing another proceeding several months in the future would cause undue delay in remediating the critical issues underlying PGW's WNA. Indeed, additional delay would mean that PGW's WNA would continue to operate in the 2023-2024 heating season without safeguards, prolonging the period in which ratepayers must shoulder potentially unjust and unreasonable rates and exposing consumers to ongoing risk of unmitigated rate shock. CAUSE-PA and TURN explained in its September 6 Joint Comments that the WNA can have a perverse impact on the annual savings achievable by consumers who participate in the Low Income Usage Reduction Program and other energy efficiency and conservation programs, and that this impact falls hardest on low income families - exacerbating existing disparities in payment trouble and termination rates across low income customer groups. CAUSE-PA and TURN explained that, if left unabated, the WNA will increase exponentially – disproportionately impacting low and moderate income consumers:

PGW's proactive steps to raise the issue, while commendable, do not assuage our deep concern that PGW's WNA imposes unjust and unreasonable rates on PGW's customers – and are likely falling hardest on PGW's low and moderate income households that will continue to be less able to reduce their energy burden through conservation and efficiency adoption. **PGW projects that its WNA will more than double in FY 2022 – from \$11.6 million collected in 2021 to \$24.1 million collected in 2022, assuming a cap on the fee is implemented as proposed. Without the proposed cap, WNA charges would nearly triple, reaching \$34.4 million.** (PGW Report at 13). This exponential increase in the WNA warrants further attention and inquiry to ensure PGW's customers will not face additional rate shock or inequitable financial burden as a result of PGW's WNA.

(CAUSE-PA/TURN Joint Cmts. at 3 (emphasis added)).

17. PGW's proposal that it would file another emergency petition to reverse the charges in the event of another WNA billing spike is insufficient because it would seek to reverse the charges after the fact - rather than taking steps to prevent another WNA rate spike from

occurring in the first place. Low income customers, by definition, lack the necessary resources to afford their monthly expenses and cannot afford to be excessively billed by PGW's WNA only to await reversal of the charges in the future.

18. In its Petition, PGW asserts that withdrawal of its proposed 25% WNA cap would resolve the current controversy and end the contested activity, satisfying the standard for withdrawal. (PGW Petition at ¶ 21, citing Petition of DRIVE for a Declaratory Order Regarding the Expansion of its Community Broadband Network, Docket No. P-2021-3025296). However, withdrawal of the current proceeding without safeguards to prevent additional WNA billing spikes will not remediate the current controversy regarding the cause of the WNA billing spikes and the justness and reasonableness of PGW's WNA. Furthermore, the contested activity - PGW's WNA billing methodology - will continue unabated, resulting in the ongoing imposition of charges that may be unjust and unreasonable – and may expose consumers to ongoing risk of rate shock. See (Order entered July 14, 2022).

19. CAUSE-PA respectfully asserts that, if PGW no longer believes its initial proposal is sufficient, there is adequate time within the existing litigation schedule in this proceeding for PGW to propose an alternative. As explained in CAUSE-PA's Answer to PGW's Motion to Hold Procedural Schedule in Abeyance, CAUSE-PA is willing to work with the parties to identify reasonable modifications to the *existing* litigation schedule to allow additional time for PGW to develop a revised proposal and supportive testimony, provided the revised schedule does not extend resolution of the matter into the 2023-2024 heating season and does not delay discovery.

20. CAUSE-PA respectfully asserts that if the Commission grants PGW's Petition for Leave to Withdraw, the Commission should suspend PGW's WNA until the investigation is complete and comprehensive reforms necessary to produce just and reasonable rates are identified, ordered, and implemented.

III. Conclusion

21. WHEREFORE, CAUSE-PA respectfully requests that the Commission deny the Petition of Philadelphia Gas Works (PGW) for Leave to Withdraw Supplement No. 152 to Gas Service Tariff – Pa. P.U.C. No. 2 and the Petition for Approval on Less than Statutory Notice of Tariff Supplement Revising Weather Normalization Adjustment. In the alternative, CAUSE-PA respectfully requests that, if the Commission decides to grant PGW's Petition to Withdraw, the Commission should order that PGW's WNA mechanism be suspended until a comprehensive solution is approved by the Commission and implemented by PGW.

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@pautilitylawproject.org

Date: November 14, 2022

Verification

I, **Elizabeth R. Marx**, legal counsel for the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), hereby states that the facts contained in the foregoing pleadings are true and correct to the best of my knowledge, information, and belief, that I am duly authorized to make this Verification, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).



Elizabeth R. Marx, Esq.
*On behalf of the Coalition for Affordable Utility
Services and Energy Efficiency in Pennsylvania*

Dated: November 14, 2022

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

Certificate of Service

I hereby certify that I have this day served copies of the **Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) to the Petition of Philadelphia Gas Works (PGW) for Leave to Withdraw** 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
Daniel Clearfield, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
kmoury@eckertseamans.com
dclearfield@eckertseamans.com

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

Harrison Breitman, Esq.
Darryl Lawrence, Esq.
Christy Appleby, Esq.
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
hbreitman@paoca.org
dlawrence@paoca.org
cappleby@paoca.org

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

Charis Mincavage, Esq.
Adelou A. Bakare, Esq.
McNees Wallace & Nurick, LLC
100 Pine Street, PO Box 1166
Harrisburg, PA 17108-1166
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com

Todd S. Stewart, Esq.
Hawke McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
tsstewart@hmslegal.com

Robert W. Ballenger, Esq.
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102
rballenger@clsphila.org

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

A handwritten signature in black ink, appearing to read "John W. Sweet", with a horizontal line above it.

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

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