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January 27, 2023

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 127105-3265

RE: 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

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' ("PGW") Petition for Reconsideration with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Lauren M. Burge

LMB/lww

Enclosure

cc: Cert. of Service w/enc.
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CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PGW's Petition for Reconsideration upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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Dated: January 27, 2023

/s/ Lauren M. Burge

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**PETITION FOR RECONSIDERATION
OF PHILADELPHIA GAS WORKS**

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I. INTRODUCTION

On October 29, 2021, Philadelphia Gas Works (“PGW” or the “Company”) filed its proposed 2023-2027 Universal Service and Energy Conservation Plan (“USECP”). After receiving additional information and stakeholder comments, the Commission entered an Order on January 12, 2023 (“Order”) adjudicating the USECP and directing PGW to file a revised USECP conforming with the conditions set forth in the Order within 30 days of the entry date. Pursuant to Section 703(g) of the Public Utility Code, 66 Pa. C.S. § 703(g), and Section 5.572 of the Commission’s regulations, 52 Pa. Code § 5.572, PGW submits this Petition for Reconsideration and asks that the Commission modify or clarify the Order as discussed herein.

PGW has broad concerns with certain aspects of the Order, including that specific compliance timelines are costly and incompatible with the timing of PGW’s ongoing replacement of its Customer Information System (“CIS”), and that incorporating settlement terms from other proceedings’ Orders into its USECP will create confusion as to the status of those obligations and/or potentially expand their reach beyond the proceedings in which they were already negotiated and approved pursuant to an Order in an adversarial proceeding. The Commission appears to have inadvertently overlooked or did not have the information necessary to consider the practical implications or technical timeline feasibility of the Order’s requirements on these points, and therefore the Company requests reconsideration and/or clarification.

PGW also submits that the Commission overlooked or may not have considered issues such as the cost impact, policy impacts and/or technical feasibility of other substantive matters in the Order, such as those relating to final bill calculations, security deposits, LIHEAP grants, implementation of the new CIS, and unearned income for minors. Ensuring a reasonable balance between costs and the resultant benefits is important because increased costs will be borne by PGW’s non-CRP ratepayers, a significant number of whom are low-income or near low-income.

For the reasons discussed in detail below, reconsideration and/or clarification of the Order is necessary and appropriate, and PGW respectfully requests that the Commission grant this Petition for Reconsideration and modify its Order as discussed herein.

Additionally, PGW requests that all timelines associated with this matter (including the current deadline for filing the Revised USECP) be stayed pending review on the merits. **PGW requests expedited action on this stay request** as the current deadline to file the Revised USECP occurs shortly.

II. STANDARDS FOR RECONSIDERATION

Requests for reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under the Public Utility Code to rescind or amend a prior order in whole or in part.¹ Parties cannot be permitted to raise the same questions which were specifically decided against them. What the Commission expects in petitions for reconsideration are new and novel arguments not previously heard, or considerations which appear to have been overlooked by the Commission. Additionally, a Petition for Reconsideration is properly before the Commission where it pleads newly discovered evidence, alleges errors of law, or a change in circumstances.²

In this instance, as discussed below, the Commission appears to have overlooked or did not consider a number of practical considerations and technical feasibility issues that affect PGW's ability to implement the changes directed and/or to do so on the timeline required by the Order. The Commission also overlooked the cost implications of certain requirements in the Order, which increase the burden on PGW's non-CRP customers, a significant number of whom are low-income or near low-income. In fact, PGW has Pennsylvania's largest percentage of low-

¹ *Duick v. Pennsylvania Gas and Water Co.*, Docket No. C-R0597001 *et al.*, 56 Pa. P.U.C. 553 (1982).

² *Id.*

income customers in its service territory of any regulated gas/electric utility (by a significant amount).³ For the reasons discussed below, the Commission should clarify and/or reconsider its Order on the items discussed below.

III. BASIS FOR CLARIFICATION AND/OR RECONSIDERATION

A. Certain Compliance Timelines in the Order are Not Compatible with PGW's CIS Implementation Process that is Currently Underway.⁴

1. As PGW has previously explained in its USECP filing and in Reply Comments,⁵ it is currently in the process of replacing its Customer Information System (“CIS”). This is a total system replacement that is currently limiting the Company’s ability to implement system changes until after the replacement has been completed, and can involve a number of modifications to ordered implementation timeframes. The Commission has previously recognized the need for flexibility in USECP implementation timelines. For example, the *Staff Report Summarizing Public Comments, Feedback and Suggestions Regarding Universal Service and Energy Conservation Programs* states:

Each of the above makes similar comments such as: needing time for utilities to evaluate a USECP’s effectiveness before proposing a new USECP; having flexibility in implementing pilot programs; noting that the USECP approval process is lengthy, and USECPs are sometimes delayed past the starting date; providing BCS with sufficient time for initial review prior to formal Commission action; changing a utility’s almost constant state of “planning”; allowing USECPs to be effective for a certain time period after approval before resubmitting the next proposed USECP; and reducing the Commission's workload.⁶

2. Currently, PGW anticipates that the CIS replacement project will be completed by fall/winter 2023, although there is some possibility that the implementation timeline may be

³ PA PUC 2021 Universal Service Report at 9, *available at* https://www.puc.pa.gov/media/2188/2021_universal_service_report_rev122722.pdf.

⁴ See Order at Ordering ¶¶ 5, 8, 9 and 15.

⁵ See PGW Reply Comments at 2.

⁶ *Staff Report Summarizing Public Comments, Feedback and Suggestions Regarding Universal Service and Energy Conservation Programs* (March 28, 2018), Docket No. M-2017-2596907, at 48.

altered. A number of modifications are mandated by the Order in six months, or otherwise, and require system changes that PGW cannot currently implement. PGW submits that their start must be delayed until after implementation of the new system. PGW submits that the Order has overlooked or did not consider PGW's current practical and technical ability to implement these changes within the specified time, and therefore reconsideration and/or clarification is warranted here.

3. Specifically, compliance with the following items raise timing and technical feasibility issues that prevent PGW from complying within the timeframe set out in the Order, which requires compliance within six months⁷ of the date of the Order unless otherwise noted:

- Ordering Para. 5(c) – requiring PGW to “clarify the process used to verify eligibility for customers with season or fluctuating income and how customers are notified when year-to-date income is used.” While PGW can clarify the process in its Revised USECP, this change and notification requires additional time to implement. This will also require updates to the automated CRP system, and implementation should wait until after the CIS replacement is complete.
- Ordering Para. 5(d) – requiring PGW to clarify that “customers applying for CRP can provide the last 30 days or 12 months of income to verify eligibility.” While PGW can clarify the process in its Revised USECP, this change requires additional time to implement, as implementation cannot occur until after the CIS replacement is complete.
- Ordering Para. 5(h) – requiring PGW to “[c]larify the revised CRP recertification timeframes,” which changes the recertification timeframe from one year to two years.

⁷ Order at 93 (“Changes approved or directed shall take effect, unless otherwise indicated, within six months from the entry date of this Order.”)

Again, this change can be clarified in the Revised USECP, but cannot be implemented until after the CIS replacement is complete.

- Ordering Para. 5(o) – requiring PGW to “[c]larify that it will review CRP bill quarterly beginning with the implementation of its new CIS system.” On this point, the Order provides that if implementation will be delayed beyond September 30, 2023, PGW will file a letter with a revised implementation timeline and reasons for the extension request.⁸ PGW requests that the date for any extension request be modified to December 31, 2023, as it is already clear that the current timeframe does not provide adequate time for the change to be implemented.
- Ordering Para. 5(p) – requiring PGW to “[c]larify that customers may provide alternative forms of identification when a social security number or card is requested, including during a periodic CRP review to prevent fraud.” This change can be clarified in the Revised USECP, but the related system changes cannot be implemented until after the CIS replacement is complete.
- Ordering Para. 8 – directing PGW to “conduct quarterly review of CRP bills to determine whether the household is charged the correct billing amount beginning with the implementation of its new CIS by September 2023.” On this point, the Order provides that if implementation will be delayed beyond September 30, 2023, PGW will file a letter with a revised implementation timeline and reasons for the extension request.⁹ PGW requests that the date for any extension request be modified to December 31, 2023, as it is already clear that the current timeframe does not provide adequate time for the change to be implemented.

⁸ Order at 40.

⁹ Order at 40.

- Ordering Para. 9 – directing PGW to “file and serve its revised CRP application and educational materials at [this docket], within six months from the date of this Order.”

Given the ongoing CIS replacement and the other changes required by the Order, PGW will not be able to revise its online CRP application until after the new CIS implementation.

- Ordering Para. 15 – requiring PGW to “notify customers enrolled in its Pilot Hardship Fund Program within five days after eligibility is determined. The notice shall identify the amount of the grant and when the household will see the grant reflected in their bill.”

In addition to creating implementation issues related to the CIS replacement, this requirement is administratively burdensome, unnecessary, and costly to implement.

PGW requests instead that a bill message will be provided, and the grant will be reflected in the billed amount.

4. As discussed, these modifications and/or clarifications will require system changes that cannot be made until after the CIS replacement is complete. As such, PGW requests that the Commission reconsider or clarify its Order such that, rather than requiring these changes to be implemented within six months, PGW instead be permitted to provide updates on the timeline for implementation in its compliance reports until the changes are in place and the Company is in compliance. PGW proposes to submit an update on the compliance timeline by December 31, 2023, and every six months thereafter until compliance is achieved. Additionally, PGW submits that it has not had adequate time to fully review the impact of these changes.

5. For these reasons, PGW respectfully requests that the Commission reconsider and/or clarify the Order to permit PGW to report on the implementation timeline starting January 6, 2024 (and thereafter at 3-month deadlines, each a “Compliance Report”) until compliance has

been achieved – rather than setting a six-month deadline for implementation – in order to allow for the CIS replacement to be completed before such changes are put in place.

B. PGW Should Not Be Required to Incorporate Settlement Terms from Other Proceedings and Orders Into Its USECP.

6. Ordering Paragraphs 5(a) and 5(b) direct PGW to identify all universal service stipulations approved by the Commission in the Company’s 2020 rate case settlement¹⁰ and its USECP for 2017-2022¹¹ and reflect those terms in its Revised USECP. However, those terms were negotiated and agreed to as the result of separate proceedings and approved pursuant to an Order. Restating them as part of this proceeding may create confusion as to their current status and/or required obligations and creates obligations not foreseen or agreed to in those separate proceedings. The settlement terms also contain items unrelated to USECP issues likely causing more confusion as to their inclusion in the Revised USECP. Importantly, PGW submits that those settlement terms speak for themselves and submits that the confusion created by identifying those stipulations as part of the Company’s Revised USECP results in more confusion than benefit.

7. PGW is also concerned about how restatement of these settlement terms in a new Commission document may extend or modify those terms as originally approved by the Commission. Due process requires notice and an opportunity to be heard.¹² Due process was satisfied for each of the settlement terms, in the docket in which the issues were comprehensively reviewed and addressed in the context of the issues of the proceeding. Extracting settlement

¹⁰ November 19, 2020 Order at Docket No. R-2020-3017206.

¹¹ October 27, 2022 Order at Docket No. P-2020-3018867.

¹² While not capable of an exact definition, “the basic elements of procedural due process are adequate notice, the opportunity to be heard, and the chance to defend oneself before a fair and impartial tribunal having jurisdiction over the case.” *Commonwealth v. Turner*, 80 A.3d 754, 764 (Pa. 2013). “[T]he fundamental requirement of due process is the *opportunity* to be heard at a *meaningful* time and in a *meaningful* manner.” *Cresco, Inc. v. PUC*, 622 A.2d 997, 1000 (Pa. Commw. Ct. 1993) (citation and quotation marks omitted; emphasis in original).

terms and placing them in a document in a different proceeding calls into question whether or not due process continues to be preserved. For these reasons, PGW submits that reconsideration is justified.

8. Additionally, the universal service stipulations from the 2020 rate case and 2017-2022 USECP had their own compliance and implementation timelines that may differ from the blanket compliance timelines set in this Order. Many of those stipulations have already been completed, particularly for the 2020 rate case terms. It would be inappropriate and potentially confusing to now incorporate those settlement terms into this USECP, and may result in the modification or extension of such terms. The Commission appears to have overlooked or not considered the implications of these requirements, and therefore reconsideration is appropriate here. For these reasons, PGW requests that the Commission reconsider Ordering Paragraphs 5(a) and 5(b) and remove the requirement that prior universal service stipulations be incorporated into the Revised USECP.

C. **PGW Should Not Be Directed to Calculate a Prorated CRP Bill When Determining a CRP Customer's Final Bill.**

9. Ordering Paragraph 5(e) directs PGW to “[a]mend its final billing policy to charge customers no more than their prorated CRP billing amount for usage incurred during their final billing period, beginning no later than December 1, 2023.”¹³ In ordering this change, the Commission overlooked or did not have the information to recognize that this is not technically feasible for the Company to implement in its current system. Prorating the CRP final bill was not raised in this proceeding prior to the Order, and as a result PGW did not have the opportunity to explain any concerns or examine the cost and feasibility of modifications required. Further,

¹³ See also Order at 23-25.

PGW wishes to ensure that the Commission considered and recognizes that there may be significant costs associated with systematically implementing this requirement.

10. From a technical perspective, PGW is not presently making changes in its CIS due to the implementation of the new CIS. Such modification is likely unachievable, and very inadvisable as it raises significant risks for the new CIS implementation, and is unnecessarily costly. Additionally, PGW is reviewing the potential impact of such a change in its new CIS, although it notes that there may be significant costs associated with this requirement. As such, the Company requests that the Commission clarify its Order and direct PGW to apply either the CRP rate or the tariff rate to the final bill, whichever is lower, but to remove the requirement that PGW prorate the CRP bill. Regardless, the date for any change to the CRP final bill should be linked to implementation of the new CIS.

D. The Order's Security Deposit Requirements Are Administratively Burdensome and Will Increase Program Costs.

11. The Order directs PGW to refund security deposits, with applicable interest, collected from customers who are income-eligible for CRP. Further, PGW is to ask the customer whether they want the funds paid to them directly.¹⁴ It appears that the Commission may have overlooked or not considered how PGW currently handles security deposits, or the impact that such a change may have on program costs.

12. As PGW explained in the Company's Reply Comments, PGW currently screens applicants and does not collect a security deposit from customers who provide information verifying that they are low income.¹⁵ The order indicates that it is necessary to return a security deposit if the customer later becomes low income.¹⁶ The initial collection of the deposit was

¹⁴ Order at 27-28; Ordering ¶ 5(f).

¹⁵ Reply Comments at 6.

¹⁶ See PGW Reply Comments at 6-7.

consistent with the requirements of Chapter 14, and application of the deposit should also be done consistent with Chapter 14.

13. Additionally, PGW is concerned that this requirement will further increase program costs. This change largely removes PGW's ability to apply legally collected deposits to a customer's arrears before they enter CRP, a program which provides significant financial benefits, at cost to other ratepayers (many of whom are low-income or near low-income). Instead of this application, other ratepayers will pay for this debt. Further, PGW submits that it is unnecessarily costly to ask each customer whether they want the funds back to use for other (non-heat) spending. It is reasonable to assume that a customer would prefer to get the money for non-heat purposes, and have other ratepayers pay for their arrears.

14. With respect to the financial burden on non-CRP customers, PGW's total CAP costs are already the highest in Pennsylvania, with a total cost in 2021 of over \$66 million, or \$1,118 per CAP customer.¹⁷ In general, PGW wishes to note its concern about cost impact of this portion of the Order and that its non-CRP ratepayers will be required to cover these costs, and ensure that the Commission has considered this as part of the Order.¹⁸

15. Assuming the Commission accepts the increase in program costs discussed above, it is quite reasonable to assume that low income customers will choose to have the refunded security deposit sent to them directly rather than applied to their account balance. Therefore, if the PUC does not reverse this decision, PGW requests that it be allowed to assume the customer wants the deposit to be returned instead of bearing the administrative costs related to asking if they customer wants a check issued and mailed to them.

¹⁷ PA PUC 2021 Universal Service Report at 73, available at https://www.puc.pa.gov/media/2188/2021_universal_service_report_rev122722.pdf.

¹⁸ The OCA has also raised concerns about costs and the potential need for cost control measures, particularly as part of PGW's 2017-2022 USECP proceeding. *See, e.g.*, OCA's August 30, 2022 Comments, Appendix A.

E. Removing the Requirement that CRP Customers Apply for LIHEAP and Assign the Grant to PGW Will Increase Program Costs.

16. Ordering Paragraph 5(g) directs PGW to remove the program requirement that CRP customers must apply for LIHEAP and assign the grant to PGW.¹⁹ PGW wishes to note that this change is unnecessary and inconsistent with the concept of requiring CAP participants to bear certain responsibilities, such as paying the CAP bill. As discussed above, PGW's total CAP costs are the highest in Pennsylvania by a significant margin, and this program change may only serve to reduce LIHEAP monies for PGW customers. Pennsylvania's CAP and LIHEAP programs are, inefficiently, not integrated as they are in many other states. For this reason, PGW submits that Pennsylvania ratepayers bear costs that federal monies should pay. With this policy change, PGW ratepayers may bear significantly more costs (unpaid CAP bills) that federal monies should pay. PGW proposes that it is good policy to continue to require application for a LIHEAP grant in its CAP customer obligations as it can serve as an encouragement to apply for LIHEAP monies with no penalty for a customer's failure to do so. PGW requests clarification that the Commission fully considered this potential cost implication in issuing its Order.

F. PGW Should Be Permitted to Consider Unearned Income for Minors in Determining Household Income for CRP Eligibility.

17. The Order requires that PGW exclude the unearned income for minors when determining household income for CRP eligibility and benefits.²⁰ PGW requests reconsideration of this requirement, as the Commission has not fully considered the reasons behind PGW's current practice or the cost implications of this change. As PGW has previously explained, it does not currently consider earned income for minors, but does consider *unearned* income for minors in determining household CRP eligibility. This is in part because unearned income, such

¹⁹ See also Order at 29.

²⁰ Order at 34; Ordering ¶ 5(j).

as Social Security income, is intended to help cover living expenses such as food, rent and utilities. Therefore, this money is used similar to employment wages earned by an adult with children in the home. These payments are also typically made to the parent or guardian, not to the minor themselves.

18. The Commission has overlooked or failed to consider the potentially sizeable cost impact of this change. While PGW does not yet know the full impact of the change, it appears that it will likely result in a significant increase in CRP costs which, as noted above, are already by far the highest in Pennsylvania. For many customers, this change will result in their bill reducing to a zero income bill (i.e. \$25 a month). Despite the non-binding guidance in the Commission's policy statement, PGW believes that its current approach is reasonable and supported and strikes a balance between providing meaningful assistance to low income customers while also being mindful of the costs imposed on non-CRP ratepayers. For these reasons, PGW submits that reconsideration on this point is appropriate and necessary.

19. Further, if the Commission wishes to implement such a costly requirement, PGW submits that the PUC should engage in a rulemaking proceeding to fully analyze this issue and the impact on CAP costs and ensure consistency across utilities. The Commission has applied the Chapter 14 definition of household income here which is not applicable in this USECP context,²¹ and has done so without considering the resulting cost implications. A more substantive process is necessary in this instance and can result in a regulation, rather than a policy statement, that has been more fully considered.

²¹ PGW Reply Comments at 4.

IV. CONCLUSION

For the foregoing reasons, PGW respectfully requests that the Commission grant this Petition and reconsider and/or clarify its Order to: (1) modify compliance timelines that are incompatible with PGW's CIS replacement; (2) remove the requirement that PGW incorporate universal service settlement terms from other Orders into this USECP; (3) remove the requirement that PGW calculate a prorated CRP bill when determining a CRP customer's final bill; (4) further consider the cost implications of the changes related to security deposit refunds and LIHEAP grants; and (5) permit PGW to continue considering unearned income for minors when determining household income for CRP eligibility. PGW further requests that all timelines associated with this matter be stayed pending review on the merits.

Respectfully Submitted,

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