



February 6, 2023

Via E-File Only

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

**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 the **Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) to the Philadelphia Gas Works Petition for Reconsideration** in the above referenced proceeding.

Copies were served electronically consistent with the attached certificate of service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ria M. Pereira".

Ria M. Pereira, Esq.,
Counsel for CAUSE-PA

CC: Certificate of Service
Joseph Magee, Bureau of Consumer Services, jmagee@pa.gov (via e-mail only)
Lori Mohr, Bureau of Consumer Services, laumohr@pa.gov (via e-mail only)
Norma Bowman, Bureau of Consumer Services, nobowman@pa.gov (via e-mail only)
Christina Chase-Pettis, Office of Communications, cchasepett@pa.gov (via e-mail only)
Louise Fink-Smith, Law Bureau, finksmith@pa.gov (via e-mail only)
Erin Tate, Law Bureau, etate@pa.gov (via e-mail only)
Rhonda L. Daviston, Law Bureau, rdaviston@pa.gov (via e-mail only)

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I have, on this day, served copies of the **Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania** in the above captioned matter upon the following persons and in accordance with the requirements of 52 Pa. Code § 1.54.

SERVICE BY EMAIL ONLY

Graciela Christlieb, Esq.
Craig W. Berry, Esq.
Philadelphia Gas Works
800 West Montgomery Avenue
Philadelphia, PA 19122
Graciela.Christlieb@pgworks.com
Craig.berry@pgworks.com

Christy Appleby, Esq.
Darryl A. Lawrence, Esq.
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
CAppleby@paoca.org
DLawrence@paoca.org

Robert Ballenger, Esq.
Joline R. Price, Esq.
Community Legal Services, Inc.
1424 Chestnut Street
Philadelphia, PA 19102
rballenger@clsphila.org
jprice@clsphila.org

Lauren M. Burge, Esq.
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
lburge@eckertseamans.com

Deanne M. O'Dell, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
dodell@eckertseamons.com

Charis Mincavage, Esq.
McNees Wallace & Nurick
100 Pine Street
Harrisburg, PA 17101
cmincavage@mcneeslaw.com

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

Richard Kanaskie, Esq.
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
P.O. 3265
Harrisburg, PA 17105-3265
rkanaskie@pa.gov

Devin McDougall, Esq.
Earthjustice
1617 JFK Blvd., Suite 1130
Philadelphia, PA 19103
dmcDougall@earthjustice.org

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



Ria M. Pereira, Esq., PA ID: 316771
118 Locust Street
Harrisburg, PA 17101
Tel.: 717-236-9486
PULP@pautilitylawproject.org

Date: February 6, 2023

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Philadelphia Gas Works Universal Service and Energy :
Conservation Plan for 2023-2027 Submitted in :
Compliance with 52 Pa. Code § 62.4. :

**ANSWER OF THE COALITION FOR AFFORDABLE UTILITY SERVICES AND
ENERGY EFFICIENCY IN PENNSYLVANIA TO THE PETITION FOR
RECONSIDERATION OF THE PHILADELPHIA GAS WORKS UNIVERSAL
SERVICE AND ENERGY CONSERVATION PLAN FOR 2023-2027**

Pennsylvania Utility Law Project
On Behalf of CAUSE-PA
Ria M. Pereira, Esq.
Elizabeth R. Marx, Esq.
John W. Sweet, Esq.
Lauren N. Berman, Esq.
118 Locust Street
Harrisburg, PA 17101
717-236-9486
PULP@pautilitylawproject.org

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	STANDARD FOR REVIEW.....	3
III.	PGW’S REQUESTS FOR RECONSIDERATION FAIL TO MEET THE STANDARD FOR REVIEW AND MUST BE DENIED.....	5
	A. The Commission already expressly considered PGW’s CIS implementation as a factor in its January 12 Order, and it is inappropriate to now alter Order requirements based on PGW’s vague allegations related to CIS upgrades.	5
	B. The Commission correctly found that PGW should be required to incorporate settlement terms from other proceedings and Orders into its Revised USECP, and did not overlook or fail to consider arguments to the contrary.....	10
	C. The Commission correctly directed PGW to calculate prorated CRP Bills when determining CRP customers’ final billing and did not overlook or fail to consider arguments to the contrary.....	14
	D. The Commission correctly set forth certain improvements to security deposit requirements in its Order and did not overlook or fail to consider arguments to the contrary.	17
	E. The Commission correctly directed PGW to remove its current requirement that CRP customers apply for LIHEAP and assign the grant to PGW and did not overlook or fail to consider arguments to the contrary.....	19
	F. The Commission correctly found that PGW should not be permitted to consider unearned income of minors in determining household income for CRP eligibility and did not overlook or fail to consider arguments to the contrary.....	22
IV.	PGW’S REQUEST FOR STAY FAILS TO MEET THE REQUIREMENTS OF A STAY AND MUST BE DENIED	24

TABLE OF AUTHORITIES

Cases

2019 Amendments to Policy Statement on Customer Assistance Program,
52 Pa. Code § 69.261–69.267, Docket No. M-2019-3012599, at 50-51 (Final CAP Policy
Statement entered Nov. 5, 2019)..... 20

City of Pittsburgh v. PennDOT, 416 A.2d 461 (Pa. 1980). 4

Consolidated Rail Corp. v. Pa. PUC, 625 A.2d 741 (Pa. Commw. Ct. 1993)..... 4

Duick v. Pennsylvania Gas and Water Co., Docket No. C-R0597001 *et al.*, 56 Pa. PUC 553, 559
(1982) 4

Pa. PUC v. Process Gas Consumers Group, 467 A.2d 805 (Pa. 1983). 24

Pa. Railroad Co. v. Pa. Public Service Commission, 179 A. 850, 854 (Pa. Super. Ct. 1935)..... 4

Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2014 -2016
Submitted in Compliance with 52 Pa. Code § 62.4, Order, Docket No. M-2013-2366301, at
19-20 (Final Order entered Aug. 22, 2014)..... 9

PPL Electric Utilities Corporation Universal Service and Energy Conservation Plan for 2017-
2019 Submitted in Compliance with 52 Pa Code § 54.74, Order, Docket No. M-2016-
2554787, at 9 (order entered April 19, 2018)..... 4

Univ. of Pa. v. Pa. PUC, 485 A.2d 1217 (Pa. Commw. Ct. 1984). 4

West Penn Power v. Pa. PUC, 659 A.2d 1055 (Pa. Commw. Ct. 1995), petitions for allowance of
appeal denied, 674 A.2d 1079 (Pa. 1996) 4

Statutes

66 Pa. C.S. § 1403..... 23

Rules

52 Pa. Code § 56.32 9

52 Pa. Code § 69.265 21

I. INTRODUCTION

Pursuant to the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (Commission), 52 Pa. Code §§ 5.61(e), 5.71-.76, 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 (Petition) of Philadelphia Gas Works (PGW) for Reconsideration of the Commission's Order adjudicating its Universal Service and Energy Conservation Plan for 2023-2027 (2023-2027 USECP).

On October 29, 2021, PGW filed its Proposed 2023-2027 USECP.

On June 16, 2022, the Commission entered an Order requesting PGW provide additional information and establishing a period for interested stakeholders to provide comments and reply comments in response to PGW's 2023-2027 USECP.

On July 21, 2022, PGW filed supplemental information in response to the Commission's June 16 Order.

On August 30, 2022, the Office of Consumer Advocate (OCA), POWER Interfaith, and the Low Income Advocates (jointly comprised of the Tenant Union Representative Network (TURN) and CAUSE-PA) each filed initial Comments to the Commission's June 16 Order.

On September 23, 2022, PGW, OCA, and the Low Income Advocates filed respective Reply Comments.

On January 12, 2023, the Commission entered its Final Order adjudicating the USECP, directing PGW to file a revised USECP conforming with the conditions set forth in the Order (hereafter, Order).

On January 18, 2023, PGW filed a letter at this docket requesting an additional 60 days, until April 12, 2023, to file its revised 2023-2027 USECP in compliance with the Commission's

Order. While PGW did not file or serve this letter as a formal Petition, the Commission nevertheless docketed the letter as such.

On January 27, 2023, PGW filed the instant Petition for Reconsideration (Petition or Petition for Reconsideration). PGW argues that timely compliance with the Final Order will not be feasible due to a series of unspecified concerns related to implementation of its new customer information system (CIS). PGW additionally attempts to revive arguments previously raised through the course of this proceeding in an attempt to circumvent Order requirements that have been thoroughly investigated by the parties and the Commission. PGW requests – without any basis – that the Commission stay *all* timelines associated with the Commission’s Final Order pending a decision on the merits of its Petition.

PGW’s Petition fails to allege any new, novel, or overlooked facts or arguments to warrant reconsideration in this matter. In an attempt to circumvent the analyses and the requirements set forth in the Commission’s Order, PGW attempts to reargue issues related to incorporation of USECP terms, CRP final billing, security deposit standards, CRP requirements to apply for LIHEAP, and the unearned income of minors. Each of these issues has been thoroughly addressed by the parties and analyzed by the Commission, and plainly fails to meet the standard for reconsideration. PGW additionally raises vague, overbroad, and imprecise allegations that it will not be able to implement numerous Order requirements as a result of its pending CIS implementation. PGW’s claims lack critical specificity and seek lengthy, open-ended, unreasonable, and unsupported delays that far exceed the bounds of reasonableness .

As discussed more fully below, PGW has also failed to meet its burden of showing that a stay of Order requirements is warranted pending resolution of the merits of PGW’s Petition. PGW’s request for stay is overbroad and unsupported, as it seeks to delay implementation of *all*

aspects of the Commission's Order pending resolution of its meritless Petition for Reconsideration. CAUSE-PA was not opposed to PGW's January 18 Letter/Petition seeking a brief and definitive 60-day extension of time to file its revised USECP in compliance with the Commission's Order. But PGW's subsequent requests for indefinite delay in the instant Petition for Reconsideration go far beyond the realm of reasonableness. In place of its time-limited request for an extension of time to file its revised USECP, PGW now seeks to indefinitely delay implementation of *all aspects* of the Commission's Order, even those aspects for which it has not sought reconsideration. It is critical that the Commission not allow PGW to unnecessarily delay implementation of critical reforms to its universal service programs with this sweeping request for stay.

For these reasons and the reasons set forth more fully below, CAUSE-PA urges the Commission deny PGW's Petition for Reconsideration in its entirety, affirm its Order in this matter, and require PGW to implement the requirements under the Order without delay and in compliance with the timelines set forth under the Order.

II. STANDARD FOR REVIEW

The Commission clearly articulated the standard for granting a Petition for Reconsideration in Duick v. Pennsylvania Gas and Water Co. (Duick), concluding:

A Petition for Reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince this Commission that it should exercise its discretion under this code section to rescind or amend a prior order, in whole or in part. In this regard, [the Commission] agree[s] with the Court in the *Pennsylvania Railroad Company* case, wherein it was stated that "[p]arties...cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically decided against them..." What [the Commission] expect[s] to see raised in such

petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked by the Commission.¹

When granted, petitions for reconsideration can disrupt the balance struck in a final order. This has led Pennsylvania's appellate courts to find that such relief should be granted judiciously, and only under appropriate circumstances.² Pennsylvania courts have consistently held that the Commission is not required to expressly address every contention or argument raised by an interested party.³ Even if the Commission does not expressly discuss and dispose of a particular issue raised by a party through the course of a proceeding, the Commission is considered to have implicitly addressed and disposed of the issue without discussion.⁴ Thus, to meet the *Duick* standard for reconsideration, a party must raise a "new and novel" argument, rather than contend that the Commission failed to address an argument raised by an interested party that was not expressly discussed in a final order.

In this proceeding, PGW set forth a series of arguments in its Petition for Reconsideration that were squarely raised by the parties and considered by the Commission, or that are predicated on imprecise allegations related to infeasibility as a result of implementation of PGW's new Customer Information System (CIS). As discussed in detail below, these arguments do not raise any new or novel arguments, or any consideration that appears to have been overlooked by the

¹ Duick v. Pennsylvania Gas and Water Co., Docket No. C-R0597001 *et al.*, 56 Pa. PUC 553, 559 (1982), quoting Pa. Railroad Co. v. Pa. Public Service Commission, 179 A. 850, 854 (Pa. Super. Ct. 1935) (emphasis added) (indicating that the standard set forth in Duick may be properly applied to petitions for clarification).

² See West Penn Power v. Pa. PUC, 659 A.2d 1055 (Pa. Commw. Ct. 1995), petitions for allowance of appeal denied, 674 A.2d 1079 (Pa. 1996); City of Pittsburgh v. PennDOT, 416 A.2d 461 (Pa. 1980).

³ See, e.g., PPL Electric Utilities Corporation Universal Service and Energy Conservation Plan for 2017-2019 Submitted in Compliance with 52 Pa Code § 54.74, Order, Docket No. M-2016-2554787, at 9 (order entered April 19, 2018) (hereinafter PPL Electric USECP for 2017-2019), citing Consolidated Rail Corp. v. Pa. PUC, 625 A.2d 741 (Pa. Commw. Ct. 1993); Univ. of Pa. v. Pa. PUC, 485 A.2d 1217 (Pa. Commw. Ct. 1984).

⁴ The Commission is not required to consider expressly or at length each contention or argument raised by the parties. Consolidated Rail Corp. v. Pa. Public Utility Commission, 625 A.2d 741 (Pa. Commw. 1993).

Commission. For these reasons, and the reasons set forth in this Answer, CAUSE-PA asserts that PGW's Petition for Reconsideration must be denied.

III. PGW'S REQUESTS FOR RECONSIDERATION FAIL TO MEET THE STANDARD FOR REVIEW AND MUST BE DENIED

PGW's Petition for Reconsideration is devoid of any new or novel facts, circumstances, or arguments to warrant reconsideration of the Commission's January 12 Order. As discussed more thoroughly below, PGW has not only had the *opportunity* to raise each of the arguments advanced in its Petition for Reconsideration, it has in fact already raised – and the Commission has already addressed – each argument and issue that it now seeks to advance in support of its request to indefinitely delay implementation of the Commission's January 12 Order. Granting any aspect of PGW's Petition for Reconsideration at this time would directly contradict the Commission's well-established standard for clarification and/or reconsideration. As such, PGW's Petition for Reconsideration must be denied in its entirety.

A. The Commission already expressly considered PGW's CIS implementation as a factor in its January 12 Order, and it is inappropriate to now alter Order requirements based on PGW's vague allegations related to CIS upgrades.

PGW previously explained in its USECP filing and Reply Comments that it is currently in the process of replacing its CIS. (Pet. at ¶ 1, p. 3). PGW indicates in its Petition for Reconsideration that, at this time, PGW anticipates that its CIS will be completed by fall/winter 2023, but that there is a possibility that this timeline may be altered. (Pet. at ¶ 2, pp. 3-4).

PGW notes that a number of modifications in the Commission's Order require implementation within 6 months of the date of the Order, which PGW alleges is infeasible based on its CIS timeline. (Pet. at ¶ 2, p. 4). PGW submits that the Order overlooked or did not consider

the following issues related to technical feasibility (Pet. at ¶ 2, pp. 3-4), and argues that these requirements should be reconsidered as follows:

- Ordering ¶ 5(c): requiring PGW to “clarify the process used to verify eligibility for customers with seasonal or fluctuating income and how customers are notified when year-to-date income is used.” PGW argues that while it can clarify process in the Revised USECP, implementation should wait until some unspecified date *after* the new CIS is complete.
- Ordering ¶ 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.” PGW argues that while it can clarify process in the Revised USECP, implementation should wait until some unspecified date *after* the new CIS is complete.
- Ordering ¶ 5(h): requiring PGW to “[c]larify the revised CRP recertification timeframes.” PGW argues that while it can clarify process in the Revised USECP, implementation should wait until some unspecified date *after* the new CIS is complete.
- Ordering ¶ 5(o): requiring PGW to “[c]larify that it will review CRP bill quarterly beginning with the implementation of its new CIS system.” The Order requires PGW to file a letter by September 30, 2023, if implementation will be further delayed. PGW requests that the Commission not require it to file such a letter until December 31, 2023, arguing that it is “already clear” that it will not implement its CIS by September 2023 – 9 months after the Commission’s Order in this proceeding.
- Ordering ¶ 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.” PGW argues that while it can clarify process in the Revised USECP, implementation should wait until some unspecified date *after* the new CIS is complete.
- Ordering ¶ 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.” As with ordering ¶ 5(o), the Order requires PGW to file a letter by September 30, 2023, if implementation will be further delayed. PGW requests that the Commission not require it to file such a letter until December 31, 2023, arguing again that it is “already clear” that it will not implement its CIS by September 2023.
- Ordering ¶ 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.” PGW requests delay until some unspecified date *after* CIS implementation.

- Ordering ¶ 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.” PGW alleges issues related to CIS implementation and argues that this requirement is administratively burdensome, unnecessary, and costly to implement. PGW requests that bill messages will be provided and grants will be reflected in bill amounts.

(Pet. at ¶ 3, pp. 4-6).

PGW advances a proposed alternative compliance process that would allow PGW to take no further steps toward compliance until December 31, 2023, at which time it would file an updated compliance timeline – followed by additional 6-month updates until some unspecified future date when compliance is eventually achieved. (Pet. at ¶ 4, p. 6). PGW further requests that it be permitted to submit a “compliance report” six days later, on January 6, 2024, with additional “compliance reports” filed every 3 months thereafter. (Pet. at ¶ 4-5, pp. 6-7). PGW does not explain how its proposed 6-month compliance timeline filings and subsequent 3-month compliance report filings will work together, or why this seemingly protracted filing schedule is prudent.

PGW’s arguments contained at Paragraphs 1-5 of its Petition for Reconsideration fail to meet the Commission’s standard for reconsideration and lack crucial specificity to warrant reconsideration. The Commission was well aware of PGW’s CIS implementation challenges when it issued its Order, and made multiple accommodations based on concerns regarding CIS implementation raised in PGW’s Reply Comments. (See Pet. at ¶ 1, p. 3 (admitting that PGW previously explained various challenges associated with its CIS implementation, both in its proposed USECP and its Reply Comments)). By raising CIS implementation as a barrier to implementation of various additional policies at this late stage, through the instant Petition for Reconsideration, PGW attempts to foreclose the parties and the Commission from undertaking a full investigation related to the implementation of various Order requirements under PGW’s current system and/or pending systems upgrades. Ultimately, PGW’s CIS implementation is not a

new or novel fact, circumstance, or argument, and – based on well-settled Commission precedent – cannot properly form the basis of reconsideration or clarification at this late stage in the proceeding.

Even if the Commission was not aware of PGW's CIS implementation (which it clearly was), or overlooked how its CIS implementation may impact other policy determinations, PGW's Petition for Reconsideration nevertheless fails to indicate the specific reasons or technical issues which make it infeasible to implement Order requirements. In turn, PGW's Petition fails to address, identify, or explain why PGW cannot implement alternate processes to at least partially comply with the Order in light of anticipated delays to its CIS implementation. For example, PGW argues that implementation of requirements contained at Ordering ¶ 5(c) related to verification of income for customers with seasonable or fluctuating incomes must wait until some unspecified future date *after* CIS implementation, but it does not identify whether PGW has explored any less restrictive alternatives to this substantial delay. CAUSE-PA submits that, rather than delay implementation of this critical policy change for a year or more, there are likely a plethora of reasonable alternatives that PGW could implement – such as inclusion of notice on the application alerting applicants to an alternative review process for those who experienced a loss of income through the year – to prevent unjust exclusion of applicants with seasonal or fluctuating income from enrollment in CRP.

Further, while PGW argues that clarification of CRP recertification timeframes contained in Ordering ¶ 5(h) should wait until CIS implementation, PGW again fails to provide any explanation of why it cannot take intermediate steps to comply with these requirements. Rather than indefinitely delay implementation of the Commission-ordered two-year recertification timeframe, PGW could instead pause all recertifications for 12 months, and could roll out the two-

year recertification requirement thereafter – effectively replicating the impact of a two-year recertification timeframe without requiring interim systems changes.

Similarly, in response to Ordering ¶ 5(p) requiring certain clarifications related to acceptable forms of identification and social security numbers, PGW generally alleges CIS implementation is an impediment to implementation. However, PGW makes no attempt to identify an alternative process to eliminate burdensome identification and social security number requirements prior to CIS implementation, either in part or in whole, or to explain why any alternative process is infeasible. Given the long-standing regulatory prohibition on mandates for consumers to produce a Social Security number as well as a prior 2014 Commission order on the matter, CAUSE-PA finds it particularly troubling that PGW now claims it has no way of circumventing the unduly restrictive identification and Social Security number requirements in its current system. (See Low Income Advocates Comments at 23-24).⁵

CAUSE-PA strongly opposes PGW’s proposal to extend implementation of Order requirements to a date uncertain, a year or more in the future. While PGW generally proposes that it will begin to start providing updates related to compliance implementation in December 2023, PGW’s proposal could extend implementation of Order requirements indefinitely. This is especially concerning as, later in its Petition, PGW indicates that it is still “reviewing the potential impacts of such changes in its new CIS” (Pet. at ¶ 10, p. 9) – implying that even *after* CIS implementation, it may later conclude that certain Order requirements are still infeasible.

The Commission has very clearly already considered and addressed the constraints caused by PGW’s CIS implementation, and the impact of those constraints on the provisions of its January

⁵ See 52 Pa. Code § 56.32 (c); see also Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2014 -2016 Submitted in Compliance with 52 Pa. Code § 62.4, Order, Docket No. M-2013-2366301, at 19-20 (Final Order entered Aug. 22, 2014).

12 Order. As such, PGW's Petition for Reconsideration squarely fails to meet the Commission's well-established standard for reconsideration. Notwithstanding PGW's clear failure to meet the applicable standard, CAUSE-PA nevertheless asserts that PGW's request to indefinitely delay implementation of numerous Order requirements for at least a year – possibly much longer – is wholly unsupported by fact, would result in the ongoing imposition of unjust and unreasonable terms and conditions of service for PGW's low income consumers, and must be denied.

B. The Commission correctly found that PGW should be required to incorporate settlement terms from other proceedings and Orders into its Revised USECP and did not overlook or fail to consider arguments to the contrary.

In its Order, the Commission directed PGW to identify all universal service stipulations approved by the Commission in the 2020 rate proceeding and its 2017-2022 USECP to reflect in its Revised USECP. (Order at Ordering ¶¶ 5(a) and 5(b)). In the instant Petition, PGW requests reconsideration of this directive and argues that restating terms from a separate proceeding within its 2023-2027 USECP may create confusion related to the status of those terms. (Pet. at ¶ 6, p. 7). PGW similarly argues that restatement of these terms may extend or modify the terms without due process or opportunity to be heard. (Pet. at ¶ 7, p. 7). Finally, PGW argues that the terms established in other proceedings have their own compliance and implementation timelines, and inclusion of such terms within its revised 2023-2027 USECP could extend or modify those terms or otherwise cause confusion. (Pet. at ¶ 8, p. 8).

PGW's requests for reconsideration in Paragraphs 6-8 of its Petition for Reconsideration are without merit and fail to meet the standard for reconsideration. CAUSE-PA denies that the Commission overlooked or failed to consider the implications of requiring PGW to identify terms from other proceedings in its Revised USECP. To the contrary, the Commission, the parties, and

PGW discussed the interplay of prior orders and settlement terms with PGW's current proposed USECP at length throughout the underlying proceeding.

In its Order Directing Supplemental Information related to the proposed 2023-2027 USECP, the Commission noted that annual review of CRP bill amounts in the proposed 2023-2027 USECP was inconsistent with the 2020 rate proceeding settlement. (See PGW Response to Order Direct Supplemental Information at p. 12). PGW's settlement obligations were further identified and addressed by the parties through Comments. In its Comments, OCA explained the impacts of the Settlement agreement related to the 2017-2022 USECP proceeding at Docket No. P. 2020-3018867 (OCA Comments at 5-6). The Low Income Advocates similarly discussed in their Comments the impacts of reduced energy burden standards agreed to be the parties in the 2017-2022 USECP proceeding. (Low Income Advocates Comments at 6-7). In response, PGW noted in its Reply Comments that certain changes proposed by CBOs in this proceeding had already been included in the 2017-2022 USECP Settlement proposal. (PGW Reply Comments at 8-9).

Based on the information provided by PGW and through parties' Comments, the Commission rightly found that PGW had agreed to make certain modifications to its USECP pursuant to its 2020 rate case proceeding (Order at 8), and that critical matters related to PGW's PIP implementation and energy burden reduction had also been resolved by a Commission-approved settlement in a separate proceeding. (Order at 15, fn 11). The Commission similarly found that PGW was required to adjust CRP bills on a quarterly basis upon implementation of its CIS, consistent with the 2020 rate case settlement. (Order at 39-40). The Commission declined to disturb the settlement terms regarding quarterly bill adjustments, and instead directed PGW to clarify its quarterly review process in its 2023-2027 USECP, consistent with this prior settlement

term. (Id.) Importantly, while the Commission has the authority to make a different determination in this proceeding based on the facts and circumstances raised, it was not inclined to do so in this proceeding and preserved the terms of the prior settlement.

Taken together, the parties clearly had ample opportunity to engage in discussion (and did in fact engage in such discussion) related to the overlapping requirements contained in prior settlement agreements and the proposed 2023-2027 USECP. In response to the parties' discussions, the Commission rightly required the consolidation of terms associated with PGW's universal service programs within PGW's revised 2023-2027 USECP. In doing so, the Commission adequately and correctly analyzed and addressed the appropriate process for incorporation of settlement terms in the current proceeding.

CAUSE-PA firmly denies that requiring PGW to incorporate stipulation terms in its revised 2023-2027 USECP would require changes to settlement terms, engender confusion, or constitute a denial of due process rights. The parties were afforded ample due process in each of the underlying proceedings, and the Commission is not requiring PGW to make any changes to these settlement provisions – though it would have been within the Commission's right to do so based on the record facts in this proceeding. Instead, the Commission is requiring PGW to merely restate relevant terms regarding its universal service programs within the revised 2023-2027 USECP. Restatement of such terms in PGW's revised 2023-2027 USECP will not lead to confusion – but will instead consolidate the most current rules, policies, and procedures in a central location to allow consumers, advocates, and the Commission to more readily navigate USECP terms and conditions.

USECPs – including PGW’s own currently-effective USECP – regularly contain summaries of changes approved as a result of other proceedings.⁶ For example, in PGW’s currently effective 2017-2022 USECP, PGW summarizes the following programs and rules that resulted from other proceedings: the enhanced low income retrofit program (ELIRP) launched in January 2011 as part of PGW’s demand side management portfolio (Docket No R-2009-2139884; P-2009-20976639) (Plan at p. 22); an explanation of how PGW proposed in its DSM/LIURP Order docket that administrative costs of LIURP budget continue to remain combined with the DSM Plan (Plan at p. 25-26); integration of methodology from various Commission dockets related to calculation of expected program participation rates (Plan at p. 12, fns 12-16). The integration of these terms serves to clarify important rules, policies, and procedures related to PGW’s assistance programs.

Notably, PGW’s concern that incorporation of terms from other proceedings could expand or lengthen its duties and requirements in those proceedings is without merit. PGW can simply indicate in its revised 2023-2027 USECP whether certain provisions operate on different timeframes or are subject to other constraints consistent with the terms of the prior settlement and/or Commission order. PGW is responsible for drafting its revised 2023-2027 USECP, and has control over how the term is restated to ensure its obligations are not expanded. Moreover, if the Commission were to subsequently order PGW to make further revisions to its revised 2023-2027 USECP that PGW believed would expand the scope of a prior settlement and/or Commission order, it could seek further reconsideration of any such order at that time.

⁶ Even a cursory review of other approved USECPs reveals that it is commonplace for the Commission to require utilities to incorporate terms from other proceedings and/or settlements when those terms impact the terms and conditions of the utility’s universal service and energy conservation programs. See generally <https://www.puc.pa.gov/electricity/universal-service/>.

Ultimately, PGW has failed to meet the standard for reconsideration and/or clarification related to the arguments contained in Paragraphs 6-8 of its Petition for Reconsideration, and these requests for reconsideration and/or clarification should be denied.

C. The Commission correctly directed PGW to calculate prorated CRP Bills when determining CRP customers' final billing and did not overlook or fail to consider arguments to the contrary.

In its Order, the Commission requires that PGW “[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.” (Order at ordering ¶ 5(e); Order at 23-25). PGW argues in its Petition for Reconsideration that, in setting forth this requirement, the Commission overlooked or did not have information related to the technical feasibility of PGW’s current system. (Pet at ¶ 9, at 8). PGW also argues that the possibility of prorating CRP final bills was not raised prior to its January 12 Order, thereby foreclosing PGW’s ability to respond. (Id.) PGW alleges that this requirement will raise certain unspecified risks to implementation of PGW’s new CIS and may require significant costs. (Pet at ¶ 10, at 9). PGW requests that the Commission clarify its Order to eliminate any requirement that PGW prorate the CRP bill, and to link any changes to the CRP final bill to implementation of PGW’s new CIS. (Id.)

As an initial matter, CAUSE-PA contests PGW’s allegations that CRP final billing issues – including proposals that PGW prorate CRP bills – were not raised in this proceeding prior to the Commission’s January 12 Order, or that PGW did not have an opportunity to explain its concerns related to CRP final billing or examine the cost feasibility of the proposed modification.

In our initial Comments, the Low Income Advocates discussed PGW’s CRP final billing policies at length, and proposed that PGW be required to charge the lesser of the *prorated* CRP or

residential rate. (Low Income Advocates Comments at 37-41). In support, we highlighted the Commission’s findings in the March 2020 CAP Final Billing Order, which concluded:

Section 1303, 66 Pa. C.S. § 1303, provides that public utilities must bill their customers for service rendered. Section 56.11(a) of Commission regulations, 52 Pa. Code § 56.11(a), require that a public utility render bills every billing period. Utilities are henceforth on notice that these statutory and regulatory provisions will be applied to the facts in all matters wherein we are called upon to review specific final CAP bills or recovery of universal service costs. Further, Section 1303 provides that public utilities are to compute bills under the rate most beneficial to the customer. *Generally speaking, it would appear that the starting point for any specific inquiry regarding the bill for usage in a partial final billing period as a CAP participant should be a comparison between a residential tariff rate calculation for energy consumed and the CAP price prorated for the number of days of service in the billing period.* The other items on a bill such as true-ups, arrears, arrearage forgiveness, third-party assistance such as LIHEAP, and CAP credits and limits are separate considerations dependent on the customer’s payment history and the utility’s CAP provisions. We shall address how the energy utilities describe their final billing practices for CAP customers in utility-specific proceedings.

(Id. at 38 (citing Staff Review of Customer Assistance Program (CAP) Final Billing Methods, Order (CAP Final Billing Order), Docket No. M-2019-3010190) (additional emphasis added)). In other words, the Commission placed PGW “on notice” in its CAP Final Billing Order that it would explore issues related to its final billing practices in the context of this proceeding – *including the possibility of requiring utilities to prorate CAP bills*. The Low Income Advocates specifically argued in its initial Comments that – pursuant to the Public Utility Code – a customer remains in CRP at the time a final bill is issued, and is entitled to be final billed at prorated CRP or residential rates – whichever is more advantageous to the consumer. (Id. at 40-41). The OCA raised similar arguments in its initial Comments. (OCA Comments at 9).

In its Reply Comments, PGW responded directly to recommendations set forth by OCA related CRP final billing. (Reply Comments at 5). Specifically, PGW argued that OCA’s proposal that PGW prorate its final bill to charge the lesser of the prorated residential or CRP rate was too

complicated, and that any changes to its final billing practices should be delayed until its new CIS is fully implemented:

PGW does not believe that the amount of a customer's final bill should determine whether they are still a CAP participant. OCA's proposal with respect to CAP final billing is convoluted and systematically complicated. As stated above, PGW is in the process of replacing its CIS. PGW expects to implement its new CIS in the fall of 2023 and requests that any changes to the final billing of CAP customers occur after that implementation.

Id. PGW had the opportunity to also directly respond to the additional policy and legal arguments and recommendations advanced by the Low Income Advocates but chose not to do so.

It is simply untrue that PGW was not afforded an opportunity to raise concerns related to prorated CRP billing prior to the Commission's January 12 Order. PGW not only had this exact opportunity, it also explicitly requested in its Reply Comments that changes related to CRP final billing be delayed until at least fall 2023, when PGW alleged its new CIS would be fully implemented. In direct response to this argument, the Commission extended the timeframe for implementation of this policy revision until December 2023. Contrary to the allegations in its Petition for Reconsideration, PGW had the "opportunity to explain any concerns [and] examine the costs and feasibility" of these requirements. PGW fails to set forth any new or novel arguments in paragraphs 9-10 of its Petition for Reconsideration. Instead, these allegations must be dismissed under the standard for reconsideration articulated by *Duick*.

As discussed extensively above, PGW's vague allegations regarding its CIS implementation should not act as a barrier to implementation of the requirements set forth in the Order – including requirements regarding implementation of amended final billing policies. The Commission has already provided PGW with over 11 months to implement ordered revisions to

its CRP final billing procedures based on its stated concerns regarding CIS implementation. PGW has not set forth any reasonable basis for further reconsideration or extension of this timeframe.

As the Commission concluded in its January 12 Order, the Public Utility Code requires utilities to charge the rate most beneficial to the customer, and PGW's current policy is out of alignment with this requirement. (Order at 23-24). It would be both unjust and unreasonable for the Commission to allow PGW to continue imposing final bills that do not adhere to the Public Utility Code based only on its vague and indefinite claims regarding system constraints.

Ultimately, PGW has failed to meet the threshold standard for reconsideration of the Commission's Order and its request for reconsideration must be denied.

D. The Commission correctly set forth certain improvements to security deposit requirements in its Order and did not overlook or fail to consider arguments to the contrary.

In its Order, the Commission required that PGW refund security deposits, with interest, that were collected from customers who are income-eligible for the CRP and to inquire whether the customer would prefer the refund be applied to their bill or refunded directly to the customer. (Pet. at ¶ 11, p. 9; Ordering ¶ 5(f)).

PGW alleges in its Petition for Reconsideration that the Commission overlooked and failed to consider how PGW currently handles security deposits and the impacts of this change on program costs. (Id.) PGW argues that the Order will further increase program costs by requiring PGW to ask how customers prefer deposits to be returned and by mandating the return of deposits. (Pet. at ¶ 13-14, p. 10). In the event that the Commission continues to require PGW to comply with Commission regulation and refund security deposits to confirmed low income customers, PGW request that it be allowed to assume customers want the deposit returned rather than asking customers about how they would like the deposit to be applied. (Pet. at ¶ 15, p. 10).

PGW fails to advance any new or novel argument or identify considerations that were overlooked by the Court related to the return of security deposits. The parties engaged in a thorough investigation related to the return of security deposits in the underlying proceeding. The Low Income Advocates and OCA each raised substantial concerns about PGW's treatment of security deposits for customers who were later identified as low income, and thoroughly discussed applicable provisions of the Public Utility Code and the Commission's regulations and policies. (Low Income Advocates Comments at 35-37; OCA Comments at 12-13). In response, PGW argued in its Reply Comments against OCA's recommendation to provide customers with an option of whether to receive a refund of the deposit or have the amount applied to the customer's pre-CRP balance. (PGW Reply Comments at 6). PGW specifically argued that its "current practices [are] consistent with the applicable regulations and mitigate[] the cost of CRP forgiveness recovered as part of the USECP." (*Id.* at 7). PGW chose not to explicitly respond to additional arguments or analysis advanced by the Low Income Advocates.

The Commission did not overlook or fail to consider the parties' arguments related to security deposits, but instead engaged in a thorough review of the issues in its Order – including applicable statutes, regulation, and policy. (Order at 25-28). The Commission correctly found that Chapter 14 prohibits PGW from holding a security deposit for a customer that is income eligible for CRP, and that language of 52 Pa. Code 56.53(f) clearly requires PGW to "refund a deposit, along with any applicable interest, within 60 days upon determining that the customer or applicant from whom a deposit was collected is not subject to the deposit." (Order at 27).

PGW now attempts to recast its previous arguments as vague concerns about the potential costs to justify its current practice of unlawfully holding security deposits for confirmed low income customers, but has failed to advance any information or data to support this claim, despite

the fact that any such data is housed solely within PGW's own records. PGW's attempts to justify unlawful security deposit practices based on vague concerns about cost must be rejected. PGW has failed to meet the standards for reconsideration articulated under *Duick* and its requests for reconsideration and/or clarification contained at Paragraphs 11-15 of its Petition must be denied. It is unreasonable and inequitable to allow PGW to continue to refuse to refund security deposits to low income customers in clear violation of statute and Commission regulation, and PGW raises no new or novel arguments to the contrary. For these reasons, PGW's request for reconsideration and/or clarification related to its release of security deposits for confirmed low income customers must be denied.

E. The Commission correctly directed PGW to remove its current requirement that CRP customers apply for LIHEAP and assign the grant to PGW and did not overlook or fail to consider arguments to the contrary.

In its Order, the Commission directs PGW to eliminate its current requirement that CRP participants must apply for LIHEAP and assign their LIHEAP grant to PGW. (Ordering ¶ 5(g)). PGW argues that this requirement is unnecessary and “inconsistent with the concept of requiring CAP participants to bear certain responsibilities, such as paying the CAP bill.” (Pet. at ¶ 16, p. 11). PGW further argues, without a shred of evidence or support, that elimination of the requirement to apply for LIHEAP and direct the grant to PGW will increase CRP costs and require non-CRP ratepayers to pay for costs that should be borne by federal funds. (*Id.*) PGW asks for reconsideration so that CRP participants are required to apply for LIHEAP and clarification that the Commission fully considered the cost implications of these Order requirements. (*Id.*)

PGW's request for reconsideration and clarification contained in Paragraph 16 of its Petition for Reconsideration again fails to meet the *Duick* standard. The record in this proceeding clearly shows that the Commission duly considered the issue and determined that PGW should not

continue imposing a requirement that CRP participants apply for and direct their LIHEAP grant to PGW – even if the requirement is not strictly enforced:

- PGW Response to Order Directing Supplemental Information, p. 5: In which the Commission requested clarification regarding whether CRP customers must apply for LIHEAP annually and assign the grant to PGW.
- OCA’s Initial Comments, pp. 13-14: In which the OCA addressed and made recommendations related to clarification in Plan language related to requirements that CRP customers apply for LIHEAP.
- Order, pp. 28-29: In which the Commission addresses PGW’s supplemental information and OCA’s Comments related to CRP customers applying for LIHEAP.

In attempting to relitigate the issue on reconsideration, PGW fails to advance any new or novel arguments or identify considerations that were overlooked by the Commission.

PGW fails to acknowledge that the Commission previously issued clear guidance on the matter in its Final CAP Policy Statement. As the Commission explained in its final order adopting revisions to its CAP Policy Statement, low income customers “may participate in more than one CAP – or may use their LIHEAP grant to obtain a deliverable fuel source.”⁷ Allowing customers flexibility related to applying for LIHEAP and assigning LIHEAP grants is wholly consistent with the competing obligations that CAP customers face. Notably, PGW raised and the Commission rejected very similar arguments against this policy in the context of this broader statewide proceeding.⁸

PGW now attempts to reargue the issue by advancing vague, alarmist concerns about the potential impact of the policy on CRP costs borne by other ratepayers. Notably, PGW does not

⁷ 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261–69.267, Docket No. M-2019-3012599, at 50-51 (Final CAP Policy Statement entered Nov. 5, 2019) (Final CAP Policy Statement).

⁸ Energy Affordability for Low-Income Customers in Pennsylvania, Joint Reply Comments of the Low Income Advocates, Docket No. M-2017-2587711 (Low Income Advocates Comments filed May 8, 2019).

even attempt to provide any quantification of claimed costs. This is likely because, in reality, there is simply no evidence that requiring CRP participants to apply for LIHEAP will in any way reduce CRP costs borne by other ratepayers. The Department of Human Services requires that LIHEAP grants be applied to a recipient's "asked to pay" amount and forbids utilities from using LIHEAP grants to offset CAP costs borne by other ratepayers.⁹ As such, there is simply no merit to PGW's bald claim that eliminating the requirement for CRP participants apply for and direct their LIHEAP grant to PGW will have any impact on CRP costs.

It is unreasonable and inequitable to grant PGW's request for reconsideration based on these meritless, regurgitated arguments. The Commission has already fully considered the matter and concluded that PGW should encourage but not require CAP participants to apply for LIHEAP, consistent with the policy pronounced in its recently revised CAP Policy Statement.¹⁰ As such, the Commission must reject PGW's request for reconsideration set forth in Paragraph 16 of its Petition for Reconsideration.

⁹ Pa. DHS, LIHEAP State Plan Fiscal Year 2023, at B-12, § 601.45, https://www.dhs.pa.gov/Services/Assistance/Documents/Heating%20Assistance_LIHEAP/FY23_LIHEAP-Approved_State_Plan.pdf ("Application of Benefits. Public utilities that operate CAPs will apply the LIHEAP Cash component only to the customer's monthly 'Asked to Pay' amount. No LIHEAP funds may be applied to CAP unbilled usage amounts.").

¹⁰ See 52 Pa. Code § 69.265(8)(v); 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261–69.267, Docket No. M-2019-3012599, at 50-51 (Final CAP Policy Statement entered Nov. 5, 2019) (Final CAP Policy Statement).

F. The Commission correctly found that PGW should not be permitted to consider unearned income of minors in determining household income for CRP eligibility and did not overlook or fail to consider arguments to the contrary.

In its Order, the Commission requires that PGW exclude unearned income for minors when calculating household income for CRP eligibility. (Order at 34; Ordering ¶ 5(j)). In its Petition for Reconsideration, PGW requests reconsideration of this requirement and argues that the Commission did not fully consider the cost implications associated with excluding unearned minor income or the reasons behind PGW's current practices. (Pet. at ¶ 17, p. 11). PGW reiterates arguments raised in its reply comments that unearned income of minors is intended to help cover costs of certain living expenses. (PGW Reply Comments at 4; Pet. at ¶ 17, p. 12). PGW characterizes unearned income of minors as payment received by adults that are used similarly to adult employment wages. (Id.)

PGW also argues that the Commission overlooked or failed to consider the cost impact of excluding unearned income for minors from CRP calculation. (Pet. at ¶ 18, p. 12). While acknowledging that it cannot project the cost impact of this requirement, PGW alleges that it will substantially increase CRP costs. (Pet. at ¶ 18, p. 12). PGW argues that, if the Commission requires PGW to implement this requirement, the Commission should first engage in a rulemaking proceeding to fully analyze the impacts of these issues of CRP costs. (Pet. at ¶ 19, p. 12).

PGW's grounds for reconsideration set forth in Paragraphs 17-19 of its Petition for Reconsideration were squarely addressed by the parties through this proceeding and fail to meet the requirements for reconsideration. In its June 2022 Order, the Commission noted that PGW's USECP did not specify if CRP eligibility was decided based on the income of *all* household members or only adult members. The Commission subsequently directed PGW to clarify how income is calculated. (June 2022 PGW 2023-2027 USECP Order). PGW responded that it does

not count earned income of a minor but does count unearned income, consistent with how household income is calculated for LIHEAP. (PGW Supp. Information at p. 8). OCA and the Low Income Advocates each independently argued through comments that PGW should be required to exclude unearned income of minors when determining CRP eligibility. (Low Income Advocates Comments at 28-29; OCA Comments at 17-18).

PGW argued in response that its household income calculation was consistent with certain forms of federal assistance such as LIHEAP. (PGW Reply Comments at 4). PGW had the opportunity to raise concerns about costs or advance arguments for why it believes the clear definition of household income from Chapter 14 is somehow inapplicable to determinations about eligibility for universal service programs. And it was certainly on notice that the Commission has repeatedly concluded that earned and unearned child income must be excluded from household income, consistent with the Public Utility Code. But it chose not to raise these arguments in comments or reply comments – instead waiting until after the Order to collaterally attack the Commission’s application of a statutory definition.

In its Final Order, the Commission correctly found that the statutory language in Chapter 14, which defines household income as inclusive only of adult income, is controlling and directed PGW to exclude all minor income (earned and unearned) from its income eligibility determination for CRP. (Order at 34)¹¹.

The issue of whether to exclude household income of minors has been thoroughly examined by the Commission in its Order and through the guidance provided by the Final CAP Policy Statement. Indeed, in the Final CAP Policy Statement and Order, the Commission adopted the definition of income as prescribed in Chapter 14 of the Public Utility Code. Chapter 14

¹¹ 66 Pa. C.S. § 1403.

unambiguously defines household income as “[t]he combined gross income of all adults in a residential household who benefit from the public utility service.”¹²

Despite ample investigation into this issue, PGW summarily rejects the Commission’s guidance found in the Final CAP Policy Statement and instead generally – and without any further analysis or support – asserts that inclusion of unearned income for minors when determining CRP eligibility is reasonable and consistent with the law. (Pet. at ¶¶ 17-19, p. 11-12.) PGW’s blatant attempts to relitigate issues related to the inclusion of unearned income of minors must be foreclosed under the standards of *Duick*. As such, the requests for reconsideration contained at paragraphs 17-19 of PGW’s Petition for Reconsideration should be denied.

IV. PGW’S REQUEST FOR STAY FAILS TO MEET THE REQUIREMENTS OF A STAY, AND MUST BE DENIED

PGW alleges in its Petition for Reconsideration that all timelines associated with this matter (including the current deadline for filing a Revised USECP) should be stayed pending review on the merits. PGW requests expedited action on this stay request.

In considering a request for stay, the Commission analyzes factors set forth in Pennsylvania Public Utility Commission v. Process Gas Consumers Group (*Process Gas*).¹³ Pursuant to the precedent set forth in *Process Gas*, a stay may be granted when a Petitioner: (1) makes a strong showing that they are likely to prevail on the merits; (2) shows that without the requested relief, the Petitioner will suffer irreparable injury; (3) shows that the issuance of a stay will not substantially harm other interested parties in the proceeding; and (4) shows that the issuance of a stay will not adversely affect the public interest.¹⁴ (*Process Gas* at 808-809). The Pennsylvania

¹² Id.

¹³ Pa. PUC v. Process Gas Consumers Group, 467 A.2d 805 (Pa. 1983).

¹⁴ Id. at 808-809.

Supreme Court has held that these criteria require a balancing of the interest of the parties and the public, where applicable.¹⁵

PGW's request for expedited stay in the Petition for Reconsideration fails to meet the standard for granting a stay set forth in *Process Gas*. First, as discussed throughout this Answer, PGW's Petition for Reconsideration is without merit. PGW fails to advance any specific new or novel arguments, or considerations that appear to have been overlooked by the Commission. Instead, PGW relies in its Petition for Reconsideration on arguments that it has previously advanced and that have been investigated by the parties and the Commission – and on imprecise allegations related to its pending CIS implementation. These pleadings show that PGW will likely fail on the merits. PGW has therefore failed to meet the first factor under *Process Gas*.

PGW fails to meet the second factor under *Process Gas*, as it has not shown that it will suffer irreparable injury without the broad requested relief. While PGW generally alleges that certain Order requirements may require additional costs and administration or may be infeasible as a result of their pending CIS implementation, it has not alleged such harm with particularity – nor has it identified what harm would result from compliance with uncontested aspects of the January 12 Order while its Petition for Reconsideration is pending review before the Commission. As noted in the outset of this Answer, in its January 18, 2023 Letter/Petition, PGW separately requested an extension of time to file its revised 2023-2027 USECP until April 12, 2023. CAUSE-PA does not oppose this time-limited and specific request. PGW's initial request for an extension of time to file its revised 2023-2027 USECP in compliance with the Commission's January 12 Order will provide ample time for the Commission to dispense of PGW's meritless requests for

¹⁵ Id.

reconsideration – without delaying implementation of uncontested aspects of the Commission’s Order.

PGW also fails to allege the third factor under *Process Gas*, as it fails to show that the issuance of a stay will not substantially harm other interested parties in the proceeding. CAUSE-PA asserts that failure to implement the necessary changes required by the Order – including both contested and uncontested directives – will result in harm to CAUSE-PA’s members and other low income PGW customers. As the Low Income Advocates explained in Joint Comments in the underlying proceeding, the recommendations and observations advanced by the Low Income Advocates were targeted to help improve the affordability, accessibility, and reach of PGW’s universal service and energy conservation programs. (Low Income Advocate Comments at 92). Altering Order requirements, or otherwise shunting critical reforms to an uncertain date in the future due to nebulous concerns about system upgrades, will impede access and affordability of PGW’s programs for low income customers who already struggle daily to make ends meet. In requesting a stay, it is PGW’s burden to explain how its request for stay would not substantially harm the parties, and PGW has failed to do so. For these reasons and the reasons set forth in this Answer, PGW fails to meet the third requirement pursuant to the *Process Gas* standard, and its request for stay must be denied.

PGW has also not alleged, and therefore has not shown, that issuance of a stay will not adversely affect the public interest. Again, it is squarely against the public interest to alter the requirements set forth in the Order based on the insufficient and imprecise pleadings set forth in PGW’s Petition for Reconsideration. Low income consumers in PGW’s service territory are struggling *now* to access assistance programs and to afford their monthly bills – it is inequitable, unjust, and unreasonable to alter Order requirements that were thoroughly investigated by the

parties and the Commission based on the allegations in the Petition for Reconsideration. As such, PGW fails to meet the fourth requirements under the *Process Gas* standard.

In sum, PGW has failed to meet each requirement under the *Process Gas* standard. As discussed, imposing a stay on implementation of the Commission's January 12 Order is overbroad, unnecessary, and would likely result in substantial harm to tens of thousands of PGW's low income consumers. As such, PGW's sweeping request for a stay pending full resolution of the instant Petition must be denied.

V. CONCLUSION

For the reasons set forth in this Answer, CAUSE-PA respectfully asserts that the Commission must deny PGW's Petition for Reconsideration in its entirety. CAUSE-PA in turn requests that the Commission deny PGW's sweeping request that all timelines associated with this matter be stayed pending review on the merits. The Commission should direct PGW to implement the requirements and provisions of its Order entered on January 12, 2023 in a prompt and timely manner, consistent with Order requirements.

Respectfully Submitted,



Ria M. Pereira, Esq., PA ID: 316771
Elizabeth R. Marx, Esq., PA ID: 309014
John W. Sweet, Esq., PA ID: 320182
Lauren Berman, Esq., PA ID: 310116
118 Locust Street, Harrisburg, PA 17101
717-710-3825
pulp@pautilitylawproject.org

Dated: February 6, 2023

VERIFICATION

I, Elizabeth R. Marx, hereby state that the facts set forth in the Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) at the above captioned docket are true and correct to the best of my knowledge, information, and belief, and that we expect to be able to prove the same at a hearing held in this matter. I understand that the statements made herein are subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsifications to authorities.)

February 6, 2023
Date



Elizabeth R. Marx, Esq.
Counsel for CAUSE-PA