



February 6, 2023

Via Efiling

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

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 the **Answer of the Tenant Union Representative Network to PGW's Petition for Reconsideration** in the above captioned matter.

Due to the ongoing COVID-19 pandemic, a copy of these Comments is being served via email, as indicated on the attached Certificate of Service.

Sincerely,

Joline R. Price, Esquire
Attorney ID No. 315405

Cc: Certificate of Service
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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 Tenant Union Representative Network to PGW’s Petition for Reconsideration** 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	
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Respectfully submitted,



February 6, 2023

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Philadelphia Gas Works Universal :
Service and Energy Conservation Plan : **M-2021-3029323**
For 2023-2027 :

**Answer of the Tenant Union Representative Network (TURN)
to the Petition of the Philadelphia Gas Works for Reconsideration of the Commission’s
January 12, 2023 Order**

I. INTRODUCTION

On January 12, 2023, the Public Utility Commission (“PUC” or “Commission”) issued an Order on Philadelphia Gas Works (“PGW”) Universal Service and Energy Conservation Plan (“USECP”) for 2023 to 2027. That Order took into account PGW comments, supplemental information and stakeholder comments, and directed PGW to make a number of changes in its revised USECP. On January 27, 2023, PGW filed a Petition for Reconsideration of the Commission’s Order. Within the Petition, PGW also requests a stay of all timelines associated with this matter, and requests expedited action on the stay request.¹

The Tenant Union Representative Network (TURN) participated in the underlying comment proceeding, and for the reasons set forth below, requests that the Commission deny PGW’s Petition for Reconsideration and request for a stay.

II. REQUEST FOR STAY

As part of its Petition, 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[,]” and requests expedited action on the stay request.² TURN opposes PGW’s request for a stay and submits that PGW has not satisfied the requirements for the Commission to suspend

¹ See Petition at 2.

² Petition at 2.

the deadlines established in its Order. Nonetheless, should the Commission entertain a stay, TURN submits that such stay must be limited in scope to the specific implementation issues PGW raises in its Petition for Reconsideration.

PGW has not shown that a stay is warranted in this case. In determining whether to grant a stay, the Commission applies the criteria established by the Pennsylvania Supreme Court in Pa. PUC v. Process Gas Consumers Grp., which found that a stay is warranted if:

- (1) The petitioner makes a strong showing that it is likely to prevail on the merits.
- (2) The petitioner shows that without the requested relief it will suffer irreparable injury.
- (3) The issuance of a stay will not substantially harm other interested parties in the proceeding.
- (4) The issuance of a stay will not adversely affect the public interest.³

The Court held that these criteria “[require] the Court to balance the interests of all parties, and the public where applicable, and [require] the applicant to demonstrate a probability of success on the merits.”⁴ The Court also held that the applicant’s requirement to demonstrate a likelihood to prevail on the merits “should not be an inflexible rule” but, instead, “must be considered and weighed relative to the other three criteria.”⁵ PGW does not address these factors in its Petition. Indeed, *PGW has made no showing that it is likely to succeed on the merits.*

Even if there were a probability of success on the merits, PGW has not met the other three prongs of the Process Gas standard for a stay. PGW does not explain in its Petition what kind of injury it will suffer if required to implement based on the timelines in the Commission’s Order, nor does PGW make any showing that any injury it may suffer would be irreparable. By

³ PA PUC v. Process Gas Consumers Group, 467 A.2d 805, at 808-09 (1983).

⁴ Id. at 809.

⁵ Id. at 809 n.8

contrast, issuance of a stay would substantially harm others – particularly the PGW customers who benefit from the programs set forth in the USECP. A wholesale stay of PGW’s revised USECP, suspending the timelines in the Commission’s Order, will fail to deliver to customers in need the updated program offerings and improved accessibility of USECP offerings the Commission expressly required of PGW going forward.

In addition, issuance of a stay would adversely affect the public interest. While PGW cites cost as a factor, and impact on other ratepayers, PGW provides no meaningful detail concerning cost impacts, nor is it appropriate to evaluate hypothetical cost impacts at the reconsideration stage.⁶ By contrast, it is in the public interest to keep customers connected to heat through enrollment in programs like CRP and LIURP. The public interest will not be served by authorizing a stay; PGW should be required to implement the Order according to its terms.

III. STANDARD FOR RECONSIDERATION

The standard for granting reconsideration or clarification of a prior Commission order is articulated in Duick et al. v. Pennsylvania Gas and Water Company, the Commission explained the basis for rescinding or amending a prior order:

A petition 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 this code section to rescind or amend a prior order in whole or in part. . . . What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission.⁷

⁶ Throughout the review proceeding, the participants have been free to present their views to the Commission regarding any cost impacts and their potential interrelation with various implementation timelines. Importantly, in its Order, where PGW had raised timing concerns regarding its CIS, the Commission aligned those USECP requirements with PGW’s CIS project projected timelines, establishing December 2023 implementation timelines to follow the launch of PGW’s new CIS in Fall 2023. See Order at 25, 40.

⁷ Duick et al. v. Pennsylvania Gas and Water Company, 56 Pa. P.U.C. 553, 559 (1982).

For the reasons set forth in the Answer below, PGW has not met this standard for granting reconsideration. PGW raises issues and concerns that it already raised in the underlying comment proceeding. PGW specifically stated in its Reply Comments that “[a]s a preliminary matter, PGW notes that, as stated in its USECP, it is in the process of replacing its Customer Information System (“CIS”) and modifications resulting from this USECP that require customer information system changes will need to be delayed until after implementation of the new system.”⁸ Rather than being overlooked by the Commission, many of PGW’s arguments were explicitly considered by the Commission. Where PGW raised specific timing concerns related to its CIS implementation, the Commission expressly addressed them.

IV. ANSWER TO PETITION

A. Compliance Timelines

As PGW notes in its Petition, PGW is in the process of replacing its Customer Information System (CIS). In paragraphs 1 through 5 of its Petition, PGW asserts that many changes required by the Commission should be delayed until after the full implementation of its new CIS. However, PGW does not provide sufficient detail to explain how this replacement limits PGW’s ability to implement systems changes – or, in the alternative, implement temporary measures within its current system or make manual changes until such time until PGW’s new CIS is in place. Further, PGW discussed its CIS replacement in its filings during the comment proceedings, but PGW did not articulate any specific barriers to implementation of revised USECP procedures in connection with that project. Indeed, the Commission directed PGW to include a timeline for CIS implementation in order that the Commission could align improved USECP program offerings with PGW’s CIS project.

⁸ PGW Reply Comments at 2.

Nonetheless, for each of the ordering paragraphs listed in this section of the Petition, PGW fails to provide sufficient detail as to why it is unable to comply with the timeframes. For example, Ordering Paragraph 5(d) requires PGW to accept either the last 30 days or the previous 12 months of income. PGW does not provide any explanation as to why this requirement is contingent on CIS implementation, rather than a customer service process change undertaken at the time of CRP application review. Other changes listed by PGW, like ordering paragraph 5(h), are clarification requests of changes that were initially proposed by PGW. Again, PGW's Petition is devoid of explanation as to why these proposals cannot be implemented in the time allotted.

PGW requests that the Commission reconsider its previously established timetable of six months, and instead allow PGW to provide updates on the timeline until the changes are in place. TURN submits that PGW's suggested alternative is too flexible, and could stall changes to PGW's USECP for years. The Commission should require PGW to show why each change PGW wants to delay is (1) contingent on its CIS implementation timetable, and (2) unable to be implemented through changed processes or other internal operations. To the extent the Commission is inclined to grant PGW extensions on implementation, TURN submits that PGW must be required to provide monthly updates on the status of its CIS implementation with regards to its implementation of the USECP changes, and that the Commission should set a hard deadline of three months following implementation of the CIS. In addition, PGW's request should be limited to the specific ordering paragraphs listed in its Petition, and all other timeframes should be kept as is.

B. Incorporation of Previous USECP Changes and Rate Case Settlement Provisions

PGW argues it should not be required to incorporate settlement terms from other proceedings and Commission orders into its USECP. PGW expresses concern that incorporation of those terms will create confusion, in part because those requirements were imposed with different timelines. PGW also vaguely suggests some due process concerns could arise from incorporating settlement terms from separate proceedings into its USECP.

TURN submits that PGW's concerns are misplaced. TURN does not interpret the Commission's Order to modify or extend in any way the terms of prior settlements and/or Commission orders. Rather, for administrative simplicity, the Commission's Order requires PGW to ensure that all applicable terms governing its USECP offerings are identified accurately within the revised USECP itself. With regards to USECP changes agreed upon and implemented prior to October 29, 2021, TURN submits that those should already have been incorporated into PGW's filed USECP, unless PGW was proposing specific changes to those provisions. Furthermore, as to prior settlement provisions, TURN submits that there is no conflict or confusion to be created by identifying those provisions in the USECP, whether in the body of the document or an appendix to it. To the extent the Commission shares PGW's concern that the source of those USECP provisions (e.g., prior Rate Case settlements and/or orders) is important to preserve, PGW can simply make note of that source in its revised USECP.

C. CRP Final Billing

In paragraphs 9 and 10 of its Petition, PGW asserts that it cannot calculate a prorated CRP bill when determining a CRP customer's final bill, as doing so would not be feasible in its current system. PGW incorrectly submits that prorating the CRP final bill was not raised in this proceeding prior to the Order. TURN, in its Joint Comments with CAUSE-PA, specifically proposed that "PGW should be directed to compare the CAP bill ("CAP bill, pro-rated" or "PIPP

bill, pro-rated”) to the residential tariff rate bill (“residential tariff rate bill”) for the days service is connected for the final month, and charge the lesser of the two.”⁹ As the Commission points out in its Order, prorating a CAP bill is also explicitly referenced in the CAP Final Billing Order.¹⁰ As such, PGW’s request for reconsideration should be denied.

D. Refund of Security Deposits

In paragraphs 11 through 15 of its Petition, PGW asserts that it should be allowed to continue its current practices with regard to security deposits collected from customers who become CRP eligible, including applying the refund to preprogram arrears for CRP customers. PGW requests reconsideration based on administrative burden and potential cost impacts. However, as the Commission clearly explains in its Order, “[b]oth the statute and Commission regulations prohibit requiring a cash deposit for public utility service from customers who are confirmed to be eligible for a CAP. . . . Commission regulations also state that a public utility must ‘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 a deposit. . . .’”¹¹ The Commission squarely addressed this issue in its Order, and reconsideration is not warranted. To the extent the Commission believes PGW needs further approval to process refunds of deposits to eligible customers, TURN supports the Commission providing such approval and clarification in response to PGW’s Petition.

E. LIHEAP Application Requirement

In paragraph 16 of its Petition, PGW asserts that removal of the program requirement that CRP customers must apply for LIHEAP is unnecessary and could reduce LIHEAP money

⁹ See Joint Comments of TURN and CAUSE-PA at 40-41.

¹⁰ Order at 23-24.

¹¹ See Order at 27-28.

directed to PGW. However, PGW provides no justification for its statements that its current LIHEAP requirement is actually causing customers to direct LIHEAP money to PGW, especially given its own statement that there is no penalty to customers for not directing LIHEAP money. Furthermore, PGW's assertion that removing unenforceable LIHEAP language from its USECP could result in higher CAP costs is completely unsupported. The Commission squarely addressed these exact arguments in its Order.¹² As a result, reconsideration is not warranted.

F. Unearned Income of Minors

In paragraphs 17 through 19 of its Petition, PGW requests reconsideration of the Commission's directive to exclude unearned income of minors in determinations of CRP eligibility. This issue of whether or not PGW should be considering unearned income of minors was raised in the comment proceeding, and does not warrant reconsideration. PGW addressed this issue in its Reply Comments, and all of the arguments it raises here were raised or could have been raised in those comments.¹³ PGW provides no justification for its assertion that excluding unearned income of minors will lead to an increase in CRP costs. The issue was squarely addressed by the Commission and does not warrant reconsideration.

¹² See Order at 28-29.

¹³ See PGW Reply Comments at 4.

V. CONCLUSION

For all of the foregoing reasons, TURN respectfully requests that the Commission deny PGW's Petition for Reconsideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joline R. Price".

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February 6, 2023

VERIFICATION

I, Joline Price, Counsel to the Tenant Union Representative Network (TURN), hereby state that the facts contained in the foregoing pleading 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).



Date: February 6, 2023

Joline Price, Esq.

Counsel for TURN