

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

Public Meeting held March 16, 2023

Commissioners Present:

Gladys Brown Dutrieuille, Chairman  
Stephen M. DeFrank, Vice Chairman  
Ralph V. Yanora  
Kathryn L. Zerfuss  
John F. Coleman, Jr.

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

**ORDER ON RECONSIDERATION**

**BY THE COMMISSION**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition on the merits is the January 27, 2023 Petition for Reconsideration (Petition for Reconsideration) filed by Philadelphia Gas Works (PGW) regarding the Commission's January 12, 2023 Order (January 2023 Order) relative to PGW's Universal Service and Energy Conservation Plan for 2023-2027 (2023 USECP). With this Order, the Commission, grants in part and denies in part the Petition for Reconsideration, consistent with this Order.

**BACKGROUND**

On October 29, 2021, PGW filed its Proposed 2023 USECP at Docket No. M-2021-3039323. On June 16, 2022, the Commission entered an Order (June 2022 Order) requesting additional clarification and information relative to the Proposed 2023 USECP and establishing a timeline for stakeholder comments and reply comments. On

July 21, 2022, PGW filed Supplemental Information in response to the June 2022 Order. The Low Income Advocates,<sup>1</sup> the Office of Consumer Advocate (OCA), and Power Interfaith (POWER) individually filed comments on August 30, 2022 (August 2022 Comments). PGW filed reply comments on September 23, 2022 (September 2022 Reply Comments). The January 2023 Order approved the Proposed 2023 USECP with modifications. In the January 2023 Order, we required PGW to, *inter alia*, make various modifications to its Customer Assistance Program (CAP),<sup>2</sup> including:

- Notifying customers when year-to-date income is used for eligibility;
- Accepting the last 30 days or 12 months of income to verify eligibility, whichever is the most representative of household income;
- Clarifying the revised CRP recertification timeframes;
- Reviewing the CRP bill quarterly;
- Accepting alternative forms of identification when a social security number (SSN) or card is requested;
- Revising the CRP application and educational materials;
- Notifying customers enrolled in its Pilot Hardship Fund Program by letter within five days of eligibility determination;
- Charging no more than the prorated CRP amount for a CRP final bill;
- Refunding security deposits, with applicable interest, collected from customers who are income eligible for CRP;
- Removing or modifying language requiring CRP customers to apply for LIHEAP annually and assign the grant to PGW; and
- Excluding unearned income for minors (*i.e.*, under the age of 18) when determining household income for CRP.

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<sup>1</sup> The Low Income Advocates consist of the Tenant Union Representative Network (TURN), Action Alliance of Senior Citizens of Greater Philadelphia (Action Alliance), and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA).

<sup>2</sup> PGW's CAP is named Customer Responsibility Program (CRP).

January 2023 Order at 95-96, OP #5(a-h, j, and ff). PGW was also directed to include the universal service settlement provisions approved by the Commission in its 2020 Base Rate Case<sup>3</sup> and 2017 USECP proceeding<sup>4</sup> in its Revised 2023 USECP. PGW was directed to file a revised 2023 USECP consistent with the January 2023 Order within 30 days and to implement the changes approved or directed in the Order within six (6) months, unless otherwise indicated in the Order. January 2023 Order at 101, OP #19.

On January 18, 2023, PGW filed a Petition seeking a 60-day extension (until April 12, 2023) to file its Revised 2023 USECP (Petition for Extension). On January 27, 2023, PGW filed its Petition for Reconsideration requesting reconsideration of the directives described above. On February 6, 2023, OCA, CAUSE-PA, and TURN each individually filed comments in response to PGW's Petition for Reconsideration (Comments to Petition). On February 9, 2023, the Commission entered an Order approving PGW's Petition for Extension. The February 9 Order also granted PGW's Petition for Reconsideration pending review of, and consideration on, the merits of the Petition.

### **STANDARD FOR RECONSIDERATION**

PGW timely filed its Petition requesting reconsideration of the January 2023 Order. Commission jurisdiction in this matter was preserved by the February 9, 2023, Order, pursuant to Pennsylvania Rules of Appellate Procedure, Rule 1701. Pa. R.A.P. 1701 (relating to effect of appeal generally).

Before reaching the substantive issues raised in PGW's Petition for Reconsideration, we must address the standard for rehearing, reargument, reconsideration, clarification, rescission, amendment, supersedeas, or the like. Petitions

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<sup>3</sup> Order entered on November 19, 2020, at Docket No. R-2020-3017206.

<sup>4</sup> Order entered on October 27, 2022, at Docket No. P-2020-3018867.

for reconsideration are reviewed pursuant to 66 Pa. C.S. § 703(g) (relating to rescission and amendment of orders)<sup>5</sup> and 52 Pa. Code § 5.572 (relating to petitions for relief)<sup>6</sup>.

The Commission in *Duick v. PGW*, 56 Pa. P.U.C. 553 (1982) (*Duick*), elaborated on the application of Section 703(g) and Section 5.572. “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 . . . to rescind or amend a prior order in whole or in part.” A party may not raise the same questions in a petition for reconsideration that were raised in a prior pleading. Such questions raised ought to be those that “appear to have been overlooked or not addressed by the Commission.” If “new and novel” questions are not raised, a party will not succeed in persuading the Commission that the “initial decision on a matter or issue was either unwise or in error.” *Duick* at 558.

## DISCUSSION

PGW requests reconsideration of the resolutions in the Commission's January 2023 Order requiring it to implement changes within specific timeframes and modify several provisions in its CRP. We shall address each of these issues in turn.

### A. System Changes

#### 1. PGW's Request

PGW requests that the Commission, on an expedited basis, reconsider and temporarily stay the requirements in the January 2023 Order that require it to make

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<sup>5</sup> Section 703(g) provides that “[t]he commission may, at any time, after notice and after opportunity to be heard as provided in this chapter, rescind or amend any order made by it. Any order rescinding or amending a prior order shall, when served upon the person, corporation, or municipal corporation affected, and after notice thereof is given to the other parties to the proceedings, have the same effect as is herein provided for original orders.”

<sup>6</sup> Section 5.572(a) provides that “[p]etitions for rehearing, reargument, reconsideration, clarification, rescission, amendment, supersedeas or the like must be in writing and specify, in numbered paragraphs, the findings or orders involved, and the points relied upon by petitioner, with appropriate record references and specific requests for the findings or orders desired.”

program modifications requiring system changes. PGW requests that the implementation date for these changes be suspended until after it completes work on its new Customer Information System (CIS). PGW has requested a stay for seven (7) directives in the January 2023 Order and proposed a modification for one (1), as indicated below:

- *Notifying customers when year-to-date income information is used to determine CRP eligibility and explaining how they can dispute or update this income calculation.* PGW states that it can clarify this process in its Revised 2023 USECP but that this change requires updates to the automated CRP system. PGW asserts, therefore, that this change should be implemented after the new CIS is operational.
- *Allowing customers to provide the last 30 days or 12 months of income.* PGW states that it can clarify this process in its Revised 2023 USECP but that this change requires additional time to implement. PGW asserts, therefore, that this change should be implemented after the new CIS is operational.
- *Expanding the CRP recertification timeframe for non-LIHEAP participants from every one year to every two years.* PGW states that it can clarify this process in its Revised 2023 USECP but that the change cannot be implemented until the new CIS is operational.
- *Reviewing CRP bills quarterly to determine whether the household is charged the correct billing amount.* PGW states that the directive in the January 2023 Order to implement this change by September 30, 2023, is not enough time to implement this change.
- *Accepting alternative forms of identification in lieu of a Social Security Card.* PGW states that it can clarify this process in its Revised 2023 USECP but that it cannot implement the change until the new CIS is in place.

- *Filing and serving its revised CRP application and educational materials consistent with the January 2022 Order within six months.* PGW states that it will not be able to revise its online CRP application until after the new CIS is implemented.
- *Notifying customers about their enrollment in the Hardship Fund pilot program after eligibility is determined.* PGW states that this notification causes CIS implementation issues. Additionally, PGW notes that the directive in the January 2022 Order that customers must be notified by letter within five (5) days after eligibility is determined is burdensome and costly to implement. PGW proposes instead to notify customers with a message on their bills when a grant is reflected in the billed amount.

PGW proposes to file a timeline to implement the above System Changes by December 31, 2023, and file updates to this timeline every six months thereafter until compliance is achieved. PGW asserts that this timeline will allow it to complete the CIS implementation prior to applying the identified System Changes. Additionally, PGW proposes to submit compliance reports on its progress implementing the changes every three (3) months, beginning January 6, 2024, until all changes are implemented. Petition for Reconsideration at 6-7.

## **2. Stakeholder Comments**

TURN and CAUSE-PA separately argue that PGW does not provide an explanation on how its CIS replacement limits its ability to implement system changes, or, alternatively, to implement temporary measures within its current system, or to complete manual processes until PGW's new CIS is in place. TURN Comments to Petition at 4, CAUSE-PA Comments to Petition at 8.

TURN notes that PGW discussed its CIS replacement in its filings during the USECP proceeding, but PGW did not report any specific barriers to implementation of its

proposed changes. TURN Comments to Petition at 4. CAUSE-PA contends that by raising CIS implementation as a barrier to implementation of USECP policies through a Petition for Reconsideration, PGW attempts to take away the ability of the parties and the Commission to fully investigate these issues. CAUSE-PA Comments to Petition at 7.

TURN and CAUSE-PA separately contend that PGW's suggested alternative timeline is too flexible and could postpone implementing the USECP changes indefinitely. TURN Comments to Petition at 5; CAUSE-PA Comments to Petition at 9. TURN recommends the Commission require PGW to show why each change PGW wants to delay (1) is contingent on its CIS implementation timetable, and (2) cannot be implemented through changed processes or other internal operations. TURN Comments to Petition at 5.

TURN recommends that PGW be required to provide monthly updates on the status of its CIS implementation with regards the identified USECP changes and that the Commission set a hard deadline of three months following implementation of the CIS if the Commission grants PGW an extension to implement these changes. TURN also recommends that approval of PGW's request for a stay in implementation should be limited to the specific changes identified in its Petition for Reconsideration. TURN Comments to Petition at 5.

CAUSE-PA asserts that PGW's request to delay implementation of these changes would result in the ongoing imposition of unfair terms and conditions of services for PGW's low-income customers and must be denied. CAUSE-PA Comments to Petition at 10.

OCA does not oppose PGW's request for an extension to implement the directives in the January 2023 Order but recommends that the Commission direct PGW to provide its first Compliance Report by January 6, 2024, and every three months thereafter.

Furthermore, OCA requests the Commission require PGW to implement all changes identified in the January 2023 Order within six months from the date its CIS is completed. OCA Comments to Petition at 3.

### **3. Resolution**

PGW has indicated it cannot meet the implementation timeline of the required USECP changes specified above because it cannot begin work on the needed system changes until its new CIS is implemented. PGW proposes to submit an alternative timeline for implementation of these changes and file regular compliance updates. This is a new and novel proposal from PGW, and thus it meets the standard for reconsideration. While we find it reasonable to allow PGW to propose an alternate implementation timeline to adopt these changes when its new CIS is operational, we agree with the stakeholders that the timeframe must be fixed and that PGW should provide regular updates until these changes are implemented. Therefore, PGW's request for a temporary stay on implementing these changes is granted.

Accordingly, PGW is directed to file an implementation timeline for the CRP changes described above by or before December 31, 2023, at this docket. All changes must be implemented within six months from the date of filing the timeline (*i.e.*, by or before July 1, 2024, if the timeline is not filed until December 31, 2023). PGW shall file monthly updates at this docket regarding its progress on implementing these CRP changes.

We find that PGW's proposal to notify customers of Hardship Fund pilot program grants via information on their bills to be a reasonable alternative to issuing a letter within five days after eligibility determination. Accordingly, we approve PGW's proposal to notify customers of their eligibility in its Hardship Fund pilot program through a message on their bills.

## **B. Incorporation of Universal Service Settlement Terms in its 2023 USECP**

### **1. Background**

On February 28, 2020, PGW filed for a general rate increase at Docket No. R-2020-3017206. On August 26, 2020, a Joint Petition for Partial Settlement (2020 Rate Case Settlement) was filed, providing, *inter alia*, for changes impacting PGW's universal service programs. These changes included providing annual training to community-based organizations on the use of the CRP application tool, reviewing and adjusting CRP amounts quarterly, and establishing a process to contact landlords to obtain approval for LIURP services for a tenant. 2020 Rate Case Settlement at 13. The Administrative Law Judge's (ALJ's) October 5, 2020, Recommended Decision recommended approval of the 2020 Rate Case Settlement, with no modification to the universal service provisions. By Order entered on November 19, 2020, *inter alia*, the Commission approved the 2020 Rate Case Settlement. November 2020 Order at OP #6.

On August 1, 2022, PGW filed a Joint Petition for Settlement (August 2022 Joint Petition for Settlement) on behalf of itself, OCA, TURN, and CAUSE-PA for approval of a settlement of the 2017 USECP proceeding. The provisions of the August 2022 Joint Petition for Settlement include maintaining the CRP pilot program energy burden levels through the duration of PGW's 2017 USECP and meeting with parties to the Settlement if CRP costs exceed the projected annual budget by greater than 20% to discuss potential cost control measures. August 2022 Joint Petition for Settlement at 8. On September 9, 2022, the ALJ issued a Recommended Decision recommending approval of the August 22 Joint Petition without modification. On October 27, 2022, the Commission entered an order adopting the Recommended Decision.

In its January 2023 Order, the Commission directed PGW to (1) identify all universal service stipulations approved by the Commission in its November 19, 2020, Order at Docket No. R-2020-3017206; and (2) identify all universal service stipulations

approved by the Commission in its October 27, 2022, Order at Docket No. P-2020-3018867. January 2023 Order at 96, OP#5(a, b).

## **2. PGW's Request**

In its Petition for Reconsideration, PGW contends that it should not be required to incorporate the settlement terms from other proceedings into its 2023 USECP. PGW expressed concern that restating these terms in a new document may extend or modify them beyond their original compliance and implementation timeframes. It also questions whether such extension or modification would violate the due process used to establish the settlement terms. For these reasons, PGW requests that the Commission remove the requirement that prior universal service settlement terms be incorporated into the Revised 2023 USECP. Petition for Reconsideration at 7-8.

## **3. Stakeholder Comments**

TURN states that it does not interpret the Commission's Order to modify or extend the terms of prior settlements or Commission orders. It opines that the Commission's January 2023 Order requires PGW to confirm that all applicable settlement terms relating to universal services are identified accurately within the revised 2023 USECP. TURN submits that there is no conflict or confusion to be created by identifying those provisions in the 2023 USECP. TURN Comments to Petition at 6.

OCA asserts that inclusion of the applicable Settlement terms from PGW's 2020 base rate proceeding and its 2017 USECP proceeding provides helpful information for understanding the Revised 2023 USECP. OCA and CAUSE-PA separately contend that there is no due process issue created by the Commission's directive because PGW's and other parties' procedural rights are not impacted by inclusion of the settlement terms in the 2023 USECP. They also separately state that including the Settlement terms in the 2023 USECP is helpful as it provides the most current rules, policies, and procedures in a central location to allow ease of access. OCA submits that including this information in

the 2023 USECP informs the reader of the impacts of other proceedings related to the 2023 USECP. OCA Comments to Petition at 5-6, CAUSE-PA Comments to Petition at 12.

OCA also asserts that even if some terms of the settlements apply to only a portion of the 2023 USECP's duration, that limitation should be included in the Revised 2023 USECP. OCA submits that the timelines set forth in the respective Settlements are already established and would not be extended through the duration of the 2023 USECP by referencing them in the 2023 USECP. OCA Comments to Petition at 6.

OCA and CAUSE- PA separately recommend that PGW's request for reconsideration on including the universal service Settlement terms in its 2023 USECP be denied. OCA Comments to Petition at 6, CAUSE-PA Comments to Petition at 14.

#### **4. Resolution**

PGW's contention that including the universal service Settlement provisions approved in PGW'S 2020 Rate Case at Docket No. R-2020-3017206 and its 2017 USECP proceeding at Docket No. P-2020-3017206 in its 2023 USECP may modify or extend these provisions is a new argument in this proceeding and meets the standard for reconsideration. However, PGW has not provided any specific examples of universal service settlement provisions from these proceedings which could be modified, extended, or cause confusion if referenced in the 2023 USECP. In the January 2022 Order, we did not direct PGW to modify or extend any of the terms of these Settlements. We agree with CAUSE-PA and OCA that referencing these stipulations in the 2023 USECP is helpful as inclusion provides information on past and present changes initiated outside of the 2023 USECP proceeding, some of which relate to PGW's universal service programs during at least some portion of the 2023 USECP. Such information is essential to parties relying on the 2023 USECP document. PGW's concerns that the timeframes or conditions to the settlement terms could be misconstrued if included in the 2023 USECP

can be addressed by including this information as a separate attachment or annex to the Plan. Further, it is PGW that would produce the first draft of any language purporting to include the terms. There is no reason the PGW cannot be as specific as it needs to be.

Accordingly, PGW's request for reconsideration on this matter is denied. PGW is directed include all universal service Settlement terms approved by the Commission in its November 19, 2020 Order at Docket No, R-2020-3017206 and in its October 27, 2022 Order at Docket No. P-2020-3018867 as an attachment or annex to the Revised 2023 USECP.

### **C. Prorated CRP Bill**

#### **1. Background**

The Commission addressed CAP final bills in *Staff Review of Customer Assistance Program Final Billing Methods*, Docket No. M-2019-3010190, by Order entered on March 12, 2020 (CAP Final Billing Order). The CAP Final Billing Order noted that PGW's CRP final bill is based on the residential tariff rate for the billing period and that CRP credits are not applied. CAP Final Billing Order at 7.

The CAP Final Billing Order noted that regulations require public utilities to compute bills under the "rate" most beneficial to the customer:

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.

CAP Final Billing Order at 22 (emphasis added).

In its June 2022 Order, the Commission referenced the citation above and asked PGW to describe its CRP final billing practice and explain whether this practice has changed since the Commission's CAP Final Billing proceeding. PGW was also directed to address how its final CRP billing practices reflect compliance with the relevant statutes and regulations as discussed in the CAP Final Billing Order. June 2022 Order at 21-22.

In its Supplemental Information, PGW noted that the Commission had not issued a regulation on final bills for prior CAP customers. PGW affirmed that its CRP final bill process has not changed since the CAP Final Billing Order. PGW Supplemental Information at 3.

In its January 2023 Order, the Commission directed PGW to charge CRP customers no more than their prorated CRP billing amount for usage incurred during their final billing period and directed PGW to implement this change no later than December 1, 2023. January 2023 Order at 25.

## **2. PGW's Request**

In its Petition for Reconsideration, PGW contends that the issue of prorating the CRP final bill was not previously raised in the 2023 USECP proceeding prior to the January 2023 Order and that it therefore did not have the opportunity to raise concerns about this proposal or examine the cost and feasibility of this change. PGW asserts that

its current system cannot charge customers based on their prorated CRP billing amount for usage incurred during their final billing period. Furthermore, PGW reports that it cannot make system changes until its new CIS is implemented in the Fall/Winter of 2023. Additionally, PGW notes that there may be significant costs associated with systematically implementing this requirement. PGW requests that the Commission modify this directive to allow PGW to charge either the CRP price or the tariff rate for the final bill, whichever is lower, instead of based on a prorated CRP price. Additionally, PGW requests that the date for any change to the CRP final bill be made with the implementation of the new CIS. Petition for Reconsideration at 8-9.

### **3. Stakeholder Comments**

TURN, CAUSE-PA, and OCA separately submit that PGW incorrectly states that this issue was not raised in this proceeding prior to the January 2023 Order. TURN Comments to Petition 6-7, CAUSE-PA Comments to Petition at 14-15, OCA Comments to Petition at 8-9. OCA also notes that PGW's argument overlooks the Commission's June 2022 Order that specifically identified a concern with a comparison of the CRP customer being charged the full tariffed rate versus the prorated CRP bill. OCA Comments to Petition at 8-9, *citing* the June 2022 Order at 21-22.

TURN and CAUSE-PA also separately note that they made the same recommendation in their Joint Comments in the 2023 USECP proceeding:

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.

TURN Comments to Petition at 6-7 and CAUSE-PA Comments to Petition at 14-15, *citing* Low Income Advocates August 2022 Comments at 40-41.

CAUSE-PA notes that the Commission affirmed in the January 2023 Order that the Public Utility Code requires utilities to charge the rate most beneficial to the customer and that PGW's current CRP final billing policy is not in compliance with this requirement. CAUSE-PA asserts it would be both unjust and unreasonable for the Commission to allow PGW to continue charging final bills that do not adhere to the Public Utility Code. CAUSE-PA Comments to Petition at 17, *citing* the January 2023 Order at 24.

CAUSE-PA, OCA, and TURN all separately recommend that PGW's request for reconsideration on this point be denied. CAUSE-PA Comments to Petition at 17, OCA Comments to Petition at 9, TURN Comments to Petition at 7.

#### **4. Resolution**

The record does not support PGW's contention that the issue of prorating CAP (*i.e.*, CRP) bills for the final billing period was not proposed or addressed prior to the January 2023 Order. As noted above, the Commission introduced this proposal in its CAP Final Billing Order, we referred to this proposal in the June 2022 Order addressing PGW's Proposed 2023 USECP, and the Low Income Advocates recommended PGW adopt it. Further, PGW has not introduced any new or novel arguments against the proration of CRP final bills beyond citing system limitations which it cannot address prior to the implementation of its new CIS. Therefore, we find PGW has failed to meet the requirements for reconsideration on this issue relative to eliminating the requirement entirely.

We shall, however, approve PGW's request to postpone the change to its CRP final billing until after its new CIS is implemented. Accordingly, as part of its proposed CRP implementation timeline due by or before December 31, 2023, PGW shall include a proposed implementation date for charging CRP customers no more than their prorated CRP billing amount for usage incurred during the final billing period. This

implementation should occur within six months from the filing of the implementation timeline.

## **D. Security Deposit Requirements**

### **1. Background**

In its January 2023 Order, the Commission directed PGW to refund security deposits, with an applicable interest, collected from customers who are income-eligible for CRP. Further, the Commission directed PGW to only apply the security deposit to the account balance only with the customer's informed consent. January 2023 Order at 28.

### **2. PGW's Request**

In its Petition for Reconsideration, PGW states that the directive in the January 2023 Order would require it to return a security deposit if the customer becomes low income anytime in the future. PGW affirms that it screens customers when they apply for service and does not charge them a security deposit if they are determined low income. PGW asserts that requiring it to ask each customer if they want the security deposit returned to them would be unnecessarily costly. PGW requests that if the Commission does not rescind this requirement, that it allow PGW to assume the customer wants the deposit to be returned to them. Petition for Reconsideration at 10.

### **3. Stakeholder Comments**

TURN, CAUSE-PA, and OCA separately submit that the Commission made it clear in its Order that both statute and regulations prohibit requiring a security deposit for public utility service from customers who are confirmed to be eligible for CAP. Turn Comments to Petition at 7, CAUSE-PA Comments to Petition at 18, and OCA Comments to Petition at 10.

TURN notes that the Commission regulations require a public utility to refund a security deposit with interest when it is determined that the customer is not subject to a deposit. TURN Comments to Petition at 7.

OCA argues that PGW's actions are leveraging the technicality that the customer has not yet been activated as a CRP participant to apply the deposit to the pre-program balance. OCA states that if PGW applies the deposit plus accrued interest to the account pre-CRP activation, the deposit is being used to reduce the pre-program arrears without the customer's explicit consent or understanding that the balance will otherwise be reduced with monthly CRP payments. OCA Comments to Petition at 10. OCA states it does not oppose PGW's proposal to send the security deposit directly back to customers without seeking consent. OCA Comments to Petition at 11.

OCA, TURN, and CAUSE-PA separately request that PGW's request for reconsideration does not meet the *Duick* standard for reconsideration and should be denied. OCA Comments to Petition at 11, TURN Comments to Petition at 7, and CAUSE-PA Comments to Petition at 19.

#### **4. Resolution**

Both 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. *See* 66 Pa.C.S. § 1404(a.1)<sup>7</sup> and 52 Pa. Code § 56.32(e)<sup>8</sup>. Commission regulations also state that a public utility must “refund a deposit, along with any applicable interest, within

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<sup>7</sup> 66 Pa.C.S. § 1404(a.1) provides that “no public utility may require a customer or applicant that is confirmed to be eligible for a customer assistance program to provide a cash deposit.”

<sup>8</sup> 52 Pa. Code § 56.32(e) provides that “a public utility may not require a cash deposit from an applicant who is, based upon household income, confirmed to be eligible for a customer assistance program. An applicant is confirmed to be eligible for a customer assistance program by the public utility if the applicant provides income documents or other information attesting to his or her eligibility for state benefits based on household income eligibility requirements that are consistent with those of the public utility's customer assistance programs.”

60 days upon determining that the customer or applicant from whom a deposit was collected is not subject to a deposit ....” *See* 52 Pa. Code § 56.53(f).

PGW argues that the requirement that it must seek customer consent on whether to apply the security deposit to the account or to refund it directly would be unnecessarily costly and burdensome to the program. This argument is new to this proceeding, and we find it meets the standard for reconsideration. We have no opposition to PGW’s alternative proposal of refunding security deposits plus interest directly to customers, instead of seeking consent prior to issuing the refund. Accordingly, this aspect of PGW’s Petition for Reconsideration is approved and shall be reflected in PGW’s Revised 2023 USECP.

## **E. Application of LIHEAP Grants**

### **1. Background**

PGW’s Proposed 2023 USECP states a “program requirement” for CRP participation includes “apply[ing] for LIHEAP each year and assign[ing] the grant to PGW.” Proposed 2023 USECP at 7. In the June 2022 Order, the Commission questioned whether this provision was an actual requirement for CRP. June 2022 Order at 24.

In its Supplemental Information, PGW clarified that it does not penalize CRP customers for not applying for LIHEAP or for not assigning the grant to PGW. PGW proposed to keep the requirement in the USECP because it encourages its CRP participants to apply for LIHEAP. PGW Supplemental Information at 5.

In its August 2022 Comments, OCA noted that while it supports PGW’s goal of encouraging all CAP customers to apply for LIHEAP, it opposes including misleading and incorrect information in PGW’s USECP. OCA recommended the Commission

require PGW to amend its USECP to encourage customers to apply for LIHEAP but not require them to do so. OCA August 2022 Comments at 15.

In its January 2023 Order, the Commission directed PGW to remove this provision from its Revised 2023 USECP or revise the language to reflect that it is not a “program requirement” that CRP customers apply for LIHEAP each year and assign the grant to PGW. January 2023 Order at 29.

## **2. PGW’s Request**

In its Petition for Reconsideration, PGW notes that its CAP costs are the highest in Pennsylvania and that this program change will only reduce LIHEAP participation for PGW customers. PGW asserts that its ratepayers will be responsible for covering increased costs (such as unpaid CAP bills) that federal dollars could cover through LIHEAP. PGW proposes to keep the requirement to apply for LIHEAP for its CAP customers, as it serves as an encouragement to apply for LIHEAP, without a penalty for failing to do so. Petition for Reconsideration at 11.

## **3. Stakeholder Comments**

TURN asserts that PGW provides no evidence that its current LIHEAP requirement is causing customers to direct LIHEAP money to PGW, especially given its own statement that there is no penalty to customers for not applying for LIHEAP. TURN also contends that PGW’s statement that removing an unenforced LIHEAP requirement from its USECP could result in higher CAP costs is unsupported. Finally, TURN notes that this issue was directly addressed by the Commission in this proceeding and does not warrant reconsideration. TURN Comments to Petition at 7-8.

OCA supports encouraging a CRP participant to apply for LIHEAP but notes they may decide that it is better for their grant to be issued to their PECO electric bill instead. OCA submits a customer should not be penalized for choosing to apply the LIHEAP

grant to the electric vendor instead of PGW. OCA notes that there is no basis to include a provision that PGW acknowledges it will never enforce. OCA Comments to Petition at 12.

CAUSE-PA notes that PGW fails to acknowledge that the Commission previously issued clear guidance on the matter in its Order amending the CAP Policy Statement. CAUSE-PA asserts that the Commission already removed provisions in the CAP Policy Statement which proposed penalizing CAP customers for not participating in LIHEAP.<sup>9</sup> Additionally, CAUSE-PA notes that 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 paid by other ratepayers. CAUSE-PA asserts that there is no merit to PGW's claim that eliminating the requirement for CRP participants apply for and direct their LIHEAP grant to PGW will have any impact on CRP costs. CAUSE-PA Comments to Petition at 20-21, *citing* the November 2019 Order at 50-51.

OCA, TURN, and CAUSE-PA all separately assert that PGW's request for reconsideration or clarification does not meet the *Duick* standard for reconsideration and should be denied. OCA Comments to Petition at 12, TURN Comments to Petition at 8, CAUSE-PA Comments to Petition at 21.

#### **4. Resolution**

We find that PGW has not introduced any new information or data into the record or raised any new or novel arguments against the removal of the requirement for CRP customers to apply for LIHEAP and assign their grant to PGW. PGW argued that this policy encourages customers to apply for LIHEAP without penalty, which is an argument that we previously rejected. January 2023 Order at 29.

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<sup>9</sup> We hasten to remind the stakeholders that the CAP Policy Statement is guidance for public utilities.

PGW has provided no evidence or data to support its claims that removing this provision as a “requirement” would result in fewer customers applying for LIHEAP and increased costs to ratepayers. A public utility’s USECP should accurately reflect its current program policies, procedures, and requirements. As PGW has confirmed this provision is not a requirement for CRP participation, it must not be identified as such in its 2023 USECP. Accordingly, we find PGW has failed to meet the requirements for reconsideration on this issue and deny this aspect of the Petition for Reconsideration.

## **F. Unearned Income of Minors**

### **1. Background**

The Public Utility Code defines household income as the “combined gross income of all adults in a residential household who benefit from the public utility service.” 66 Pa.C.S. § 1403 (relating to definitions). The Commission incorporated this definition for household income in the CAP Policy Statement (2020).<sup>10</sup> In its June 2022 Order, the Commission directed PGW to clarify, *inter alia*, how household income will be calculated for CRP and whether earned or unearned income of minors will be counted. June 2022 Order at 27.

In its Supplemental Information, PGW reported it does not count the earned income of minors in its CRP household income calculation but does count the unearned income of minors such as Social Security income. PGW noted that this policy is consistent with how the Department of Human Services determines household income for LIHEAP eligibility. PGW also reported that it does not have sufficient data to project how excluding unearned income of minors would increase CRP costs but maintained the increase could be “significant.” PGW Supplemental information at 8.

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<sup>10</sup> See 52 Pa. Code § 69.262 (relating to definitions).

Both OCA and the Low Income Advocates recommended that the Commission direct PGW to exclude all income from minors in its calculation of household income for CRP eligibility. OCA August 2022 Comments at 18, Low Income Advocates August 2022 Comments at 28-30.

In its January 2023 Order, the Commission directed PGW to exclude unearned income for minors when determining household income for CRP eligibility and to include this clarification in its Revised 2023 USECP. PGW was directed to implement this change within six months from the date of the Order. January 2023 Order at 34.

## **2. PGW's Request**

In its Petition for Reconsideration, PGW notes that it counts unearned income for minors when determining household CRP eligibility because unearned income, such as Social Security income, is intended to help cover living expenses such as food, rent and utilities. PGW also notes that the parent or guardian receives these payments, not the minor. PGW contends this change will significantly increase CRP costs, which are currently the highest CAP costs in Pennsylvania, and result in reducing the bill for many customers to a “zero income bill” (*i.e.*, minimum CRP payment of \$25 a month). PGW submits that its current policy is reasonable and creates a balance between helping low-income customers while being mindful of the costs for non-CRP ratepayers. Petition for Reconsideration at 11-12.

PGW asserts the Chapter 14 definition of “household income” is not applicable to a USECP and, if the Commission wishes to incorporate this change, it should do so in a rulemaking proceeding where the cost impacts can be more fully considered. Petition for Reconsideration at 12.

### **3. Stakeholder Comments**

TURN and OCA separately contend that PGW has not raised any new arguments related to this change in its Petition for Reconsideration. Moreover, TURN submits that PGW provides no reasoning or data for its claim that excluding unearned income of minors will lead to an increase in CRP costs. TURN Comments to Petition at 8, OCA Comments to Petition at 13.

OCA, TURN, and CAUSE-PA separately assert that PGW's request for reconsideration on this issue does not meet the *Duick* standard for reconsideration and should be denied. TURN Comments to Petition at 8, OCA Comments to Petition at 14, and CAUSE-PA Comments to Petition at 26.

### **4. Resolution**

We find that PGW has not introduced any new information or data into the record or raised any new or novel arguments against amending the definition of household income for CRP consistent with Section 1403 of the Public Utility Code, 66 Pa.C.S. § 1403. PGW has not provided any authority that it is improper for the definition of “household income” in Section 1403 to be used in the context of calculating household income for CAP eligibility.<sup>11</sup> PGW argues that it should not be required to exclude unearned income for minors because it will significantly increase costs, which is an argument that we previously rejected. January 2023 Order at 29. Further, PGW has not provided any new data or cost projections to demonstrate how this change may impact CRP costs. Accordingly, this aspect of the Petition for Reconsideration is denied.

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<sup>11</sup> Additionally, we are not persuaded to establish a rulemaking, as recommended by PGW, before requiring public utilities to adopt the definition of “household income” in Section 1403 in their USECPs. *See* 66 Pa.C.S. § 1403. The entirety of Chapter 14 of the Public Utility Code is already applicable to universal service program participants as it relates to “protecting responsible customers of public utilities.” *See* 66 Pa.C.S. § 1401. Section 1402 also provides that the General Assembly “finds and declares [. . . and . . . ] seeks to ensure that service remains available to all customers at reasonable terms and conditions.” *See* 66 Pa.C.S. § 1402.

We do, however, understand PGW's concerns regarding how increases to CRP costs can impact the affordability of non-CRP ratepayer bills. The CAP Policy Statement suggests cost control measures public utilities can adopt to limit the costs of CAPs. These include increasing minimum monthly payments, setting maximum CAP credit limits, and establishing annual consumption limits. *See* 52 Pa. Code § 69.265(3). We encourage PGW to work with parties to this proceeding and with its USAC to determine whether additional CRP cost control measures may be necessary to mitigate any potential impact on ratepayer bills.

### **CONCLUSION**

Accordingly, PGW is directed to file an implementation timeline for the CRP changes described above by or before December 31, 2023, at this docket. All changes must be implemented within six months from the filing date of the timeline. PGW shall file monthly updates at this docket regarding its progress on implementing these CRP changes.; **THEREFORE,**

### **IT IS ORDERED:**

1. The Petition for Clarification and Reconsideration pursuant to 66 Pa. C.S. § 703(g) and 52 Pa. Code § 5.572 filed by Philadelphia Gas Works on January 27, 2023 is granted in part and denied in part on the merits, consistent with this Order.

2. That Philadelphia Gas Works shall file and serve a timeline at this docket by or before December 31, 2023, to implement the following CRP changes, consistent with the Order entered on January 12, 2023, within six months:

- Notifying customers when year-to-date income information is used to determine CRP eligibility and explaining how they can dispute or update this income calculation.
- Allowing customers to provide the last 30 days or 12 months of income.

- Expanding the CRP recertification timeframe for non-LIHEAP participants from every one year to every two years.
- Reviewing CRP bills quarterly to determine whether the household is charged the correct billing amount.
- Accepting alternative forms of identification in lieu of a Social Security Card.
- Revising CRP application and educational materials.
- Notifying customers about their enrollment in the Hardship Fund pilot program after eligibility is determined.
- Charging CRP customers no more than their prorated CRP billing amount for usage incurred during their final billing period.

3. That Philadelphia Gas Works shall file and serve monthly updates at this docket regarding its progress on implementing the CRP changes, beginning in January 2024, until all changes are implemented.

4. That Philadelphia Gas Works proposal to notify customers of their eligibility in its Hardship Fund pilot program through a message on their bill is approved.

5. That Philadelphia Gas Works shall refund security deposits, with applicable interest, directly to customers. This change eliminates the need for Philadelphia Gas Works to seek customer input on whether to apply the refund to the customer's account.

6. That all other changes approved or directed in the January 12, 2023 Order shall be implemented in the timelines established in that Order.

7. That Philadelphia Gas Works shall file a Revised 2023-2027 Universal Service and Energy Conservation Plan, conforming to the conditions established in the

January 12, 2023 Order and reflecting the implementation timeline modifications approved in this Order, within thirty (30) days of the entry date of this Order.

8. That the Revised 2023-2027 Universal Service and Energy Conservation Plan shall include all universal service stipulations approved by the Commission in its November 19, 2020, Order at Docket No. R-2020-3017206; and October 27, 2022, Order at Docket No. P 2020 3018867, either as an attachment or annex.

**BY THE COMMISSION,**

A handwritten signature in black ink, appearing to read "Rosemary Chiavetta", written in a cursive style.

Rosemary Chiavetta  
Secretary

(SEAL)

ORDER ADOPTED: March 16, 2023

ORDER ENTERED: March 16, 2023