



July 27, 2023

Via Email

Honorable Eranda Vero
Honorable Arlene Ashton
Office of Administrative Law Judge
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Re: Pa. PUC v. Philadelphia Gas Works, Docket No. R-2023-3037933

Judge Vero and Judge Ashton:

Please find the attached *Joint Main Brief of The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania and The Tenant Union Representative Network* in the above noted proceeding.

As indicated on the attached Certificate of Service, service on the parties was accomplished by email only.

Respectfully,

A handwritten signature in black ink, appearing to read "John W. Sweet". The signature is written in a cursive style with a horizontal line above the name.

John W. Sweet, Esq.
Counsel for CAUSE-PA

CC: *Secretary Chiavetta (Via E-file)*
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	R-2023-3037933
v.	:	
	:	
Philadelphia Gas Works	:	

JOINT MAIN BRIEF OF THE
COALITION FOR AFFORDABLE UTILITY SERVICES AND ENERGY EFFICIENCY IN
PENNSYLVANIA AND TENANT UNION REPRESENTATIVE NETWORK

THE PENNSYLVANIA UTILITY LAW PROJECT

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I. INTRODUCTION AND PROCEDURAL HISTORY

A. Introduction

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) and the Tenant Union Representative Network (TURN), through their respective counsel at the Pennsylvania Utility Law Project (PULP) and Community Legal Services (CLS), jointly file this Main Brief in support of their positions, and the recommendations advanced by their expert witness, Harry S. Geller, Esq. Mr. Geller filed extensive testimony regarding the negative effects of Philadelphia Gas Works' (PGW) proposed rate increase on low and moderate income consumers and offered recommendations for critical improvements to PGW's low income programming and customer service policies to ensure that rates are reasonably affordable for economically vulnerable consumers.

Rates and attendant policies and programs governing access to essential services are not just and reasonable if they are not also affordable and accessible to all those in need of service. To address critical affordability challenges presented by PGW's substantial proposed rate increase, CAUSE-PA and TURN urge the Honorable Administrative Law Judges (ALJs) Eranda Vero and Arlene Ashton and the Pennsylvania Public Utility Commission (Commission) to take the steps outlined below to ensure that low income consumers are protected from categorical rate unaffordability and corresponding inaccessibility of service for economically vulnerable Philadelphians. These steps would protect against the erosion of savings achievable through careful conservation and energy efficiency.

- Either deny the proposed rate increase or order PGW to address current unaffordability for low income customers and mitigate the impact of the increase on low income households.
- Reject PGW's proposal to increase its fixed customer charge.

- Order PGW to improve outreach to low income households during its annual cold weather survey.
- Order PGW to develop an auto-enrollment and recertification process for its Customer Responsibility Program (CRP) utilizing Low Income Home Energy Assistance Program (LIHEAP) data.
- Order PGW to reopen local offices in areas where CRP participation has declined.
- Require PGW to improve identification and enrollment of low income customers in universal service programs.
- Require PGW to amend its applicant identification requirements to ensure equitable, non-discriminatory access to service.
- Require PGW to improve its procedures for protecting consumers with a Protection from Abuse Order (PFA) or other court order that contains clear evidence of domestic violence.
- Require PGW to increase the budget for its Low Income Usage Reduction Program (LIURP) by an amount sufficient to serve 3,000 additional households per year.
- Require PGW to convene a meeting of its USAC to develop a “special needs” criterion for potential Home Comfort program prioritization.

B. Procedural History

On February 27, 2023, Philadelphia Gas Works (PGW) filed proposed Supplement No. 159 to its Gas Service Tariff – Pa. P.U.C. No. 2 (Supplement No. 159) requesting to increase rates by \$85.8 million, or 10.3%, effective April 28, 2023. If PGW’s proposal is approved, the bill for a typical PGW residential heating customer who uses 71 Mcf per year will increase 9.9% - amounting to approximately \$12.35 per month (from \$125.38 to \$137.73) or \$148.26 per year (from \$1,504.55 to \$1,652.81).¹ PGW seeks to increase its fixed monthly residential customer charge from \$14.90 to \$19.50, an increase of \$4.60 or 31%.²

¹ PGW St. 1 at 15.

² PGW St. 6 at 8.

On April 20, 2023, the Commission entered a Suspension and Investigation Order suspending the proposed tariff by operation of law, and opening an investigation to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained therein. (S&I Order).

On February 28, 2023, the Commission's Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance. The Office of Consumer Advocate (OCA) Filed a Statutory Rate Complaint on February 27, 2023. The Office of Small Business Advocate (OSBA) filed a Statutory Rate Complaint on March 9, 2023.

CAUSE-PA and TURN filed petitions to intervene on April 12, 2023, and April 25, 2023, respectively. POWER Interfaith (POWER) filed a petition to intervene on April 25, 2023.

On April 28, 2023, a telephonic prehearing conference was held with ALJs Vero and Ashton presiding. On May 11, 2023, a Prehearing Order was issued granting the petitions to intervene of CAUSE-PA, TURN, and POWER and setting out the procedural schedule for this proceeding.

On July 11 and 12, 2023, ALJs Vero and Ashton conducted the evidentiary hearing. Various parties identified and moved to admit evidence in the form of written statements and exhibits. CAUSE-PA and TURN jointly sponsored the expert testimony of Harry S. Geller, Esq.³ Mr. Geller's testimony detailed the impact of the proposed rate increase on low and moderate income consumers in PGW's service territory. He discussed the categorical unaffordability of current and proposed rates, and the failure of PGW's universal service programs to remediate that unaffordability, and offered comprehensive recommendations for how PGW could improve

³ CAUSE-PA St. 1; CAUSE-PA St. 1-SR.

affordability of current rates and mitigate anticipated unaffordability of any additional approved rate increase.

On July 17, 2023, the ALJs issued a Briefing Order indicating the main briefs are due July 27, 2023, and Reply Briefs are due August 4, 2023.

II. LEGAL STANDARDS

A. Burden of Proof

In any rate case filed pursuant to section 1308 of the Public Utility Code, such as the current case filed by PGW, the burden of proof is on the public utility.⁴

Public Utility Code § 315(a) (66 Pa.C.S. § 315(a)) states that in any proceeding upon the motion of the Pennsylvania Public Utility Commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility. The public utility must satisfy its burden of proof by a preponderance of the evidence, which means only that one party has presented evidence that is more convincing, by even the smallest amount, than the evidence presented by the other party.⁵

The Commission has ordered an investigation to “determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained” in PGW’s proposed tariff.⁶ The Commission’s S&I Order also requires that the parties consider the “lawfulness, justness, and reasonableness of the Philadelphia Gas Works’ existing rates, rules, and regulations.”⁷ By ordering an investigation into the propriety of existing and proposed rates on Commission motion, the Commission clearly placed the burden of justifying those rates on PGW.⁸

⁴ 66 Pa.C.S. §§ 315(a), 1308(a).

⁵ NRG Energy, Inc. v. Pa. PUC, 233 A.3d 936, 939 (Pa. Commw. Ct. 2020).

⁶ S&I Order at ¶¶1,4.

⁷ Id.

⁸ Sharon Steel Corp. v. Pa. PUC, 468 A.2d 860, 862 (Pa. Commw. Ct. 1983).

B. Just and Reasonable Rates

The paramount standard for all utility ratemaking is the constitutionally-based “just and reasonable” standard.⁹ The Commission has a “duty to set ‘just and reasonable’ rates.”¹⁰ The just and reasonable standard requires the Commission to conduct a careful weighing of the interests of customers in affordable rates against the financial needs of the utility.¹¹ This strict legal standard reflects that utility rates that are not appropriately balanced can become confiscatory, depriving customers of interests in property if they cannot maintain service at rates that are too high, and depriving utilities of revenues necessary to maintain property dedicated to public service if rates are too low. The Commission must balance the interests of customers in receiving efficient utility service at the lowest possible rates, and the interest of the utility in obtaining sufficient revenues to conduct its operations, maintain its financial integrity, and achieve access to financial markets for revenue bonds at reasonable rates.¹² This constitutionally-based standard is applicable to a municipally-owned utility like PGW with the same force and effect as it is to an investor owned utility.¹³ The requirement of “just and reasonable” rates is an exacting one, and it is applicable in the context of setting municipal utility rates just as it is in setting rates for investor owned utilities.¹⁴

In determining just and reasonable rates, the Commission has discretion to determine the proper balance between interests of ratepayers and utilities.¹⁵ However, satisfying the constitutionally based “just and reasonable” standard requires the Commission to base its decision

⁹ See 66 Pa.C.S. § 1301.

¹⁰ Popowsky v. PUC, 665 A.2d 808, 811, 542 Pa. 99, 107-108 (1995); 66 Pa. C.S. § 1301.

¹¹ Id.

¹² Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591, 607 (1944).

¹³ American Aniline Products, Inc., v. Lock Haven, 135 A. 726 (Pa. 1927).

¹⁴ See Public Advocate v. Philadelphia Gas Commission, 674 A.2d 1056, 1061 (Pa. 1996).

¹⁵ Id. citing Pa. PUC v. Philadelphia Electric Co., 522 Pa. 338, 342-43, 561 A.2d 1224, 1226 (1989); Pa. PUC v. Pa. Gas & Water Co., 492 Pa. 326, 337, 424 A.2d 1213, 1219 (1980), cert. denied, 454 U.S. 824, 102 S. Ct. 112, 70 L. Ed. 2d 97 (1981))

on substantial evidence. The “substantial evidence” standard is a strict standard, resting squarely on the utility, which benefits from no presumption in its favor. Courts evaluating the application of the substantial evidence standard have clarified that the sufficiency of the evidence required is directly related to the nature and extent of the authority (i.e., rate increase) requested.¹⁶

At the same time, in weighing the interests of customers and the utility, the Commission must necessarily consider concerns raised regarding the quality of PGW’s customer service. Pennsylvania and federal courts have recognized, in the context of setting just and reasonable rates, that the impacts upon customer service, and the quality of service provided, are within the scope of regulatory consideration. Moreover, neither statutory law nor the Constitution imposes a unilateral obligation on customers to pay for the cost of service without a reciprocal obligation of the utility to satisfy standards of reasonable service.¹⁷ Finally, specific to PGW, the Commission adopted explicit factors to guide its determination of whether PGW’s rates are just and reasonable pursuant to the cash flow methodology, including in relevant part “PGW’s management quality, efficiency and effectiveness”; “[s]ervice quality and reliability”; and the “[e]ffect on universal service.”¹⁸

¹⁶ Lansberry v. Pa. PUC, 578 A.2d 600, 603 (Pa. Commw. Ct. 1990).

¹⁷ See Nat’l Utilities, Inc. v. Pa. PUC, 709 A.2d 972, 979 (Pa. Commw. Ct. 1998), following D.C. Transit Sys., Inc. v. Washington Metro. Area Transit Com’n, 466 F.2d 394, 411 (D.C. Cir. 1972), cert denied.

¹⁸ 52 Pa. Code § 69.2703.

III. SUMMARY OF ARGUMENT

It is unjust and unreasonable to raise rates for gas service, which is already unaffordable for a large number of PGW customers, without taking clear and articulable steps to mitigate the impact of the proposed rate increase on vulnerable households. PGW must take steps to address the unaffordability of its current rates and additional measures to curb the impact of any proposed rate increase.

PGW's proposed increase to the fixed charge will undermine the ability of consumers to save energy and money through careful conservation and the adoption of energy efficiency measures. The Commission should deny PGW's proposed fixed customer charge, which contradicts the Commission's policy goals and ratepayer investments by undercutting low-income customers' ability to reduce bills through LIURP.

PGW claims that its existing universal service programs are sufficient to address the needs of its low income customers – even in light of its proposal to substantially increase rates. However, less than half of PGW's identified low income customers, and less than a third of estimated low income customers, are enrolled in PGW's programs. As explored through testimony in this proceeding, PGW closed its regional offices – curtailing the level of customer service to vulnerable households in need of in-person assistance and driving a precipitous decline in universal service enrollment rates. If the Commission approves PGW's proposal to increase rates, the need for assistance will grow. It is imperative for the Commission to require PGW to improve the availability of customer service and increase universal service program enrollment to ensure that low income customers are adequately protected from the financial impact of increased rates. Additionally, as the proposed rate increase will have a particularly harsh impact on low income customers that are unable to control their usage as a result of inefficient housing or equipment, the

Commission should order PGW to improve the reach of its LIURP, also known as the Home Comfort program.

Further, PGW's policies and procedures regarding identification requirements for applicants are overly restrictive and unduly burdensome, especially for foreign born applicants and customers who may be unable to obtain the types of identification required by PGW. It is critical that the Commission order PGW to amend its identification requirements to ensure equitable, non-discriminatory access to service. Additionally, PGW's policies and procedures create undue roadblocks to domestic violence victims seeking special protections under the Public Utility Code, placing these vulnerable customers at risk of further harm. The Commission should direct PGW to reform its policies and procedures to better ensure victims of domestic violence can access services.

IV. ARGUMENT

A. Revenue Requirement

In this proceeding, PGW is requesting to increase rates by \$85.8 million, or 10.3%. If PGW's proposal is approved, the bill for a typical PGW residential heating customer who uses 71 Mcf per year will increase 9.9% - amounting to approximately \$12.35 per month (from \$125.38 to \$137.73) or \$148.26 per year (from \$1,504.55 to \$1,652.81).¹⁹

While some low income customers would be somewhat insulated from the increase due to their participation in PGW's CRP percentage of income payment plan (PIPP), less than half of identified low income customers and less than a third of estimated low income customers are

¹⁹ PGW St. 1 at 15.

actually enrolled in CRP.²⁰ Further, not all CRP customers are enrolled in the PIPP plan. CRP customers who are on the budget bill CRP plan will pay the full impact of the rate increase.²¹ Further, customers who are enrolled in the CRP PIPP are only provided a limited level of discount per year (known as CRP consumption limits or the Maximum CAP Credit).²² When customers reach these consumption limits, they no longer receive a discount for the remainder of the year and must pay the full tariff rate and the proposed increase would cause those customers to reach their CRP consumption limit faster.²³

CAUSE-PA/TURN witness Harry S. Geller, Esq. recommended that PGW should not increase rates unless it takes necessary measures to mitigate the impact of the increase on low income households.²⁴

An estimated 38% of PGW residential customers have “low income” – meaning their household income is at or below 150% of the federal poverty level.²⁵ PGW’s service territory is limited to the city of Philadelphia, which has a poverty rate nearly twice the statewide poverty rate.²⁶ In Philadelphia, 22.8% of residents live in poverty, versus 12.1% statewide and 12.8% nationwide. In Philadelphia, 34.2% of children live in poverty, which is double the statewide rate of 16.9%, and 21.2% of Philadelphia senior citizens live in poverty, double the statewide rate of 9.6%.²⁷

²⁰ CAUSE-PA/TURN St. 1 at 15.

²¹ Id. at 14-15.

²² CAUSE-PA/TURN St. 1-SR at 13.

²³ Id.

²⁴ CAUSE-PA/TURN St. 1 at 10, 31, 32.

²⁵ Id. at 6-7.

²⁶ Id.

²⁷ Id.

There is strong evidence that PGW’s customers already struggle to afford service at current rates.²⁸ PGW’s low income customers are disproportionately likely to be payment troubled and terminated for non-payment due to their inability to afford service.²⁹ It is inequitable to raise rates on these struggling customers when they already cannot afford service.³⁰

PGW’s proposed rate increase would worsen existing disparities in payment trouble among PGW’s low income customers.³¹ In Mr. Geller’s direct testimony, he stated:

A disproportionate percentage of PGW’s payment troubled³² residential customers are low income. **As of December 2022, PGW had 29,149 payment troubled residential customers. Of those customers, 20,785 (71%) were confirmed low income, while only 8,634 were not.** However, confirmed low income customers only make up 25% of residential customers.³³

Likewise, PGW’s proposed rate increase would in turn worsen the threat of involuntary termination for low income customers.³⁴ Low income customers already have a markedly higher rate of termination compared to residential customers as a whole. In 2022, 66% of PGW’s residential customers terminated for non-payment were confirmed low income, despite confirmed low income customers making up only 25% of PGW’s residential customer base.³⁵ During that time, more than 1 in 10 confirmed low income customers who were *not* enrolled in CRP were terminated for nonpayment – far higher than the termination rate for CRP participants.³⁶ The high

²⁸ Id. at 11.

²⁹ Id.

³⁰ Id.

³¹ Id.

³² 52 Pa. Code § 62.2 (Payment troubled is defined as “A household that has failed to maintain one or more payment arrangements in a 1-year period.”).

³³ CAUSE-PA/TURN St. 1 at 11 (emphasis added).

³⁴ Id. 1 at 11-13.

³⁵ Id.

³⁶ Id.

termination rate for PGW’s confirmed low income non-CRP customers stands in stark contrast with PGW’s 1% termination rate for non-low income residential customers.³⁷

Table 1 shows the termination rates for PGW customers in 2022 according to income status and CRP participation.

Table 1 – Residential Termination Rates by Income Status³⁸

	Residential	Residential Excluding Confirmed Low Income	Confirmed Low Income	Confirmed Low Income Excluding CRP	CRP Customers
2022 Terminations	14,410	4,862	9,548	8,170	1,378
Dec 2022 Customers	488,316	364,994	123,322	72,937	50,385
Termination Rate	3%	1%	8%	11%	3%

Involuntary termination of gas service to a home has a deep and lasting impact on the health and wellbeing of the entire household and the community as a whole - and is a common catalyst to homelessness.³⁹ When a family is unable to use a primary heating system, they often resort to dangerous, high usage / high cost heating methods – such as electric space-heaters, electric stoves, and/or portable generators – which increase the risk of carbon monoxide poisoning and house fires.⁴⁰ As of February 2023, PGW reported that at least 171 of its gas heating homes were known to be without a central heating source in the winter months, and at least 32 households were known to be using a potentially unsafe alternative heating source.⁴¹ This is dangerous to the life and health of the individual family and the surrounding community and is driven primarily by the

³⁷ Id. at T. 1.

³⁸ CAUSE-PA/TURN St. 1 at 12, T.1.

³⁹ Id. at 13.

⁴⁰ Id. (Heating equipment is a leading cause of fires in U.S. homes. Space heaters are most often responsible for home heating equipment fires, accounting for more than two in five fires, as well as the vast majority of the deaths and injuries in home fires caused by heating equipment.).

⁴¹ Id.

inability of that family to afford PGW service. Increasing the cost of gas service and widening the affordability gap, without concurrently providing strong mitigation for those least able to afford basic services, will exacerbate the health and safety consequences to Pennsylvania’s most economically vulnerable households, who are disproportionately single parents with young children, people of color, seniors, and people with a disability.

Even where low income customers are able to avoid termination of gas service, rate unaffordability and resulting energy insecurity can have a profound impact on families – causing many to forego food, medicine, and other basic necessities in order to maintain energy services to their home.⁴² Energy insecurity is particularly pronounced for low income Black families, underscoring race-based disparities in energy burden:

According to the Energy Information Administration (EIA) Residential Energy Consumption Survey (RECS) released in 2022, 27.2% of United States residents reported experiencing energy insecurity; 19.9% reported reducing or forgoing food or medicine to pay for energy costs; and 10% reported leaving their homes at unhealthy temperatures because they could not afford to pay for energy. Importantly, energy insecurity is more pronounced for low income Black families. EIA’s RECS data revealed that 52% of Black and African American households experience energy insecurity, compared to 23.2% of white households – and nearly 40.2% of Black and African American households report foregoing food or medicine to pay energy costs, compared to 16.8% of white households.⁴³

Considering the high rate of poverty in the city of Philadelphia, and disparities in poverty rates across racial lines, Mr. Geller, CAUSE-PA and TURN’s expert witness, stressed that “it is imperative that all necessary measures be taken to mitigate the harmful effect of PGW’s rate proposal on PGW’s low income customers of any potential rate increase.”⁴⁴ He expressed deep

⁴² Id. at 9.

⁴³ Id.

⁴⁴ Id. at 10.

concern that, if PGW’s rate increase is approved, “disparities in energy insecurity across class and race divisions will grow even more pronounced.”⁴⁵

Considering the profound impact that PGW’s proposed rate increase would have on low income gas consumers in Philadelphia, it is essential that the Commission does not allow PGW to increase its residential distribution rates unless it implements the recommendations outlined in Mr. Geller’s testimony. Increasing rates on low income customers without taking steps to mitigate the impact of the increase will lead to further payment trouble and terminations for these vulnerable customers.

B. Rate Structure

1. Residential Customer Charge

a. The Commission should reject PGW’s proposed increase to the residential fixed customer charge because it would impede customers’ ability to achieve bill savings through conservation.

In its rate proposal, PGW seeks to increase its fixed monthly residential customer charge by 31%, from \$14.90 to \$19.50 - an increase of \$4.60 per month (\$55.20 annually).⁴⁶ This level of increase to the fixed charge will undermine the ability of consumers to control costs through energy efficiency and conservation.⁴⁷ This would be particularly problematic for low income customers who may be over-income for rate assistance through CRP, but may qualify for free or reduced cost energy efficiency and usage reduction services through various federal, state, and local programs.⁴⁸ Mr. Geller explained, “Regardless of the level of household usage, any increase to the fixed charge erodes the ability of consumers to effectively deploy efficiency and

⁴⁵ Id.

⁴⁶ PGW St. 6 at 8.

⁴⁷ CAUSE-PA/TURN St. 1 at 29.

⁴⁸ Id.

conservation measures to achieve bill savings.”⁴⁹ Importantly, in assessing the justness and reasonableness of PGW’s rates, the Commission must consider the effect on universal services.⁵⁰ PGW’s proposed increase to the residential fixed charge would undermine the regulatory goals for LIURP, a critical universal service program within PGW’s universal service program portfolio.⁵¹ The Commission’s LIURP regulations explicitly provide that LIURP is intended to help low income customers to reduce their bills and decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs.”⁵² Increasing the fixed customer charge at the level proposed by PGW limits the ability of LIURP to help program participants to achieve meaningful bill savings.⁵³

In his direct testimony, Mr. Geller explained that LIURP is effective at achieving these goals and producing meaningful average bill savings.⁵⁴ In 2019, the last year for which industry wide data is available, LIURP saved participating gas heating customers an average of \$249 per year – or \$20.73 per month. “For PGW’s LIURP, the actual bill savings achieved through LIURP services vary widely by year, but in the past three years for which post usage data is available (2019-2021), PGW’s LIURP services have reduced customers’ annual “asked to pay” amount by \$137, \$396, and \$53, respectively.”⁵⁵ Mr. Geller further explained that the ability to save money through energy efficiency is tied directly to a bill structure that bases costs on usage, thus as more

⁴⁹ Id.

⁵⁰ 52 Pa. Code § 69.2703(8).

⁵¹ CAUSE CAUSE-PA/TURN St. 1 at 29.

⁵² Id., see also 52 Pa. Code § 58.1 (“The programs are intended to assist low income customers conserve energy and reduce residential energy bills. The reduction in energy bills should decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs.”).

⁵³ CAUSE-PA/TURN St. 1 at 29.

⁵⁴ Id. at 30.

⁵⁵ Id.

residential customer costs are shifted to the fixed charge, the achievable bill savings and the corresponding impact on bill payment behavior will erode.⁵⁶

PGW touts that its Home Comfort program can help reduce the subsidy cost of CRP when targeted to serve CRP participants.⁵⁷ However, by reducing the amount of bill savings that can be obtained through Home Comfort program measures, the proposed increase to the fixed charge also threatens to erode the continued effectiveness of LIURP to reduce the cost of CRP.⁵⁸ For CRP customers who receive a PIPP bill, bill saving from reduced usage through LIURP participation reduces the cost of the CRP subsidy paid by other ratepayers.⁵⁹ Thus, increasing the fixed charge limits the amount of the CRP subsidy that can be reduced through participation in PGW's Home Comfort program.

Mr. Geller also explained in his testimony that in addition to undermining the effectiveness of millions of dollars in LIURP investments, PGW's' high fixed charge proposal will also undermine the bill savings achievable through the millions of ratepayer dollars invested in PGW's Demand Side Management Plan each year.⁶⁰

Given low income households are disproportionately payment troubled, and often lack the ability to reasonably control usage due to poor housing stock and older, less efficient appliances, it is critical that they continue to have access to effective conservation tools capable of producing meaningful and lasting bill reductions.⁶¹ For these reasons, PGW's fixed monthly customer charge

⁵⁶ Id.

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Id. at 31.

should remain at \$14.90. If the Commission decides to grant any residential rate increase in this case, the increase should be solely to the volumetric portion of the bill.

C. GFCP/VEPI - Class GS-XLT

CAUSE-PA and TURN do not take a position on the GFCP/VEPI - Class GS-XLT related issues in this proceeding.

D. Customer Service Issues

1. Identification Requirements

- a. *The Commission should require PGW to amend its unduly burdensome identification requirements for applicants seeking to establish service.*

PGW's identification requirements to establish service are overly burdensome, especially for foreign born applicants and other vulnerable customers. PGW's proposed tariff indicates only that, "All Applicants applying for Residential Gas Service shall provide identification, information, and documentation as required by the Company."⁶² However, its tariff does not indicate which forms of identification are required to establish service. In response to discovery, PGW indicated that it requires **two** forms of identification from an applicant to set up service, one of which must be a photo identification.⁶³ PGW indicates that it will accept the following forms of identification:⁶⁴

- Driver's License (contains name, signature and photo of applicant)
- Employee Identification Card (furnished by employer and contains a photo of the applicant)
- Welfare Identification Card (with photo of applicant)
- Military Service Identification Card (with photo of applicant)
- Student ID (with photo of applicant)

⁶² PGW Tariff at 17.

⁶³ CAUSE-PA St.1 at 19

⁶⁴ Id.

- Liquor Control Board Card (LCB)
- Passport
- Citizenship papers
- State-issued identification card (with a photo of the applicant)
- Weapons Permit (with a photo of the applicant)

In testimony, Mr. Geller explained that PGW’s requirement that applicants produce **two** forms of identification from this list is overly burdensome and that the list of documentation PGW identifies is not adequately inclusive, omitting forms of identification that reasonably should be accepted by PGW.⁶⁵ Specifically, Mr. Geller pointed out that “PGW’s list does not include foreign-issued government identification or Individual Taxpayer Identification Number (ITIN), nor does it include Philadelphia’s municipal identification.”⁶⁶ The absence of foreign-issued government identification, ITIN, or readily available and affordable identification from PGW’s accepted forms of identification is a barrier to foreign-born individuals and people facing documentation barriers to establish service.⁶⁷ PGW’s documentation barriers are also particularly problematic for individuals seeking to obtain service after experiencing homelessness, domestic violence, or other issues may not be able to readily obtain state identification, making Philadelphia’s municipal identification even more important.⁶⁸

It is unjust and unreasonable for PGW to require additional verification of identity where a Driver’s License, State-issued identification card, passport, or other government issued photo identification has been provided.⁶⁹

Section 56.32 of Commission regulations, addressing Procedures for Applicants states:

⁶⁵ Id. at 20

⁶⁶ Id.

⁶⁷ Id.

⁶⁸ Id.

⁶⁹ Id.

For purposes of this section, valid identification consists of one government issued photo identification. If one government issued photo identification is not available, the public utility may require the applicant to present two alternative forms of identification, as long as one of the identifications includes a photo of the individual.⁷⁰

Other sections of the Public Utility Code provide some examples of alternative forms of identification. For example, “Reasonable identification” for purposes of demonstrating residency for tenants seeking protections under the Public Utility Code’s Discontinuance of Service to Leased Premises Act (DSLPA) is defined to “include, but not be limited to, a driver's license, photo identification, medical assistance or food stamp identification or any similar document issued by any public agency which contains the name and address of the tenant.”⁷¹

In an Interlocutory Order issued in the context of PGW’s 2020 rate case, the Commission held that the Civil Rights Act of 1964 (Title VI) supplies standards which may be reasonable to apply to determine whether PGW provides reasonable access for the population it serves, which is known to have a percentage of foreign-born customers.⁷² The Commission held, “a just and reasonable rate increase for the Company depends upon the Company’s reasonable standards of communication with its utility customers, including non-English speaking and LEP customers, for whom the rate increase is sought.”⁷³

As a recipient of these federal LIHEAP dollars, PGW’s duty to equitably serve foreign born consumers extends beyond the requirements in the Public Utility Code and Commission regulations.

Title VI of the Civil Rights Act of 1964 provides:

No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subject to

⁷⁰ 52 Pa. Code § 56.32(c) (emphasis added),

⁷¹ 66 Pa. C.S. § 1527.

⁷² See Pa. PUC v. PGW, R-2020-3017206, Order on Interlocutory Appeal at 11, 13 (entered Aug. 6, 2020).

⁷³ Id. at 11.

discrimination under any program or activity receiving Federal financial assistance.⁷⁴

Title VI responsibilities extend to contractors and grant recipients of federal programs,⁷⁵ such as LIHEAP. As a recipient of federal funds, PGW is required to take reasonable steps to ensure meaningful access to all of its services.⁷⁶ The steps that are “reasonable” for a covered entity vary, depending on the size of the population served and frequency in which they have or should have contact with members of the protected class.⁷⁷

Critical to this determination is an assessment of the consequences of not providing equitable access to service. In this instance, PGW’s service is an essential component to a healthy, safe home, and the consequences of providing insufficient access to service may be severe. As a result, the requirements of Title VI are of heightened significance in reviewing whether PGW is providing reasonable access to its services.⁷⁸

Many immigrants either have pending immigration status or have entered the United States without inspection and thus cannot produce the required documentation to obtain a state-issued photo identification card or any of the other photo identification listed in PGW’s identification requirements.⁷⁹ Many individuals seeking to obtain service after experiencing homelessness, domestic violence, or other issues may not be able to readily obtain state identification, making Philadelphia’s municipal identification even more important.⁸⁰

In his direct testimony, Mr. Geller recommended that PGW amend its identification policies to include additional documentation, including Philadelphia’s municipal identification,

⁷⁴ 42 U.S.C. § 2000d.

⁷⁵ 45 C.F.R. § 80.3(b)(2).

⁷⁶ Id.

⁷⁷ Id.

⁷⁸ Id.

⁷⁹ CAUSE-PA/TURN St. 1 at 20-21.

⁸⁰ Id.

identification issued by a foreign government, USCIS documentation, and other more accessible alternative documents that can establish the applicant's eligibility for service.⁸¹ He also recommended a structure that would include certain documents which are acceptable to prove both identity and legal age, as well as documents which establish identity but require supplementation to prove legal age. He provided the following example:

Acceptable identification to prove both identity and legal age:

- A valid driver's license
- A valid state-issued identification card with photograph
- A valid passport
- A valid PHL City ID
- A USCIS-issued document card with photograph
- A military identification card
- A Homeland issued Refugee Traveling Document
- An identification document issued by a foreign government that includes the applicant's full name, birthdate, and a photograph

Acceptable identification to prove identity:

- An employment identification
- A county welfare (i.e., medical assistance or SNAP) identification card
- A student identification card
- A visa
- An identification document issued by a foreign government that includes the applicant's full name and a photograph.

Acceptable identification to prove legal age:

- A birth certification (*May be issued by foreign government*)
- A form I-94, arrival/departure record
- An identification document issued by a foreign government that includes the applicant's full name and birthdate.

Mr. Geller additionally recommended that the Commission require PGW to modify its tariff to specify all the terms and conditions required for residential service applicants, including these specific identification requirements.⁸² PGW's tariff, like all utility tariffs, should provide a

⁸¹ *Id.* at 21.

⁸² *Id.* at 22

clear and transparent accounting of all rules and conditions of service, including identification requirements, so that applicants can be prepared with necessary documents to apply for service.⁸³

It is vital to protect the rights of vulnerable foreign-born Philadelphians to equitably access gas service. Thus, PGW should be required to adopt Mr. Geller's recommended reforms to its customer identification requirements.

2. Special Protections for Victims of Domestic Violence

a. The Commission should require PGW to remove undue barriers for victims of domestic violence seeking protection under the Public Utility Code.

The Public Utility Code contains unique protections that exempt victims of domestic violence with a Protection From Abuse Order (PFA) or other court order that contains clear evidence of domestic violence from standard residential billing, collections, and termination rules under Chapter 14 – helping to ensure that victims of domestic violence are not saddled with the utility debts of a third party.⁸⁴

In response to discovery, PGW indicates that to access these special protections, PGW requires victims of domestic violence to submit photo identification along with a copy of a Protection From Abuse Order or other court order.⁸⁵ PGW's requirement mandating that victims of domestic violence must submit photo identification along with a copy of a Protection From Abuse Order (PFA) or other court order to access the relevant protections is unnecessarily burdensome for victims, hindering their ability to access crucial services when fleeing abuse.⁸⁶

⁸³ Id.

⁸⁴ See 66 Pa. C.S. § 1417, 52 Pa. Code Ch. 56, Subch. L-V.

⁸⁵ CAUSE-PA/TURN St. 1 at 22.

⁸⁶ Id. at 22-23.

Importantly, there is no provision in the Code or regulations indicating that a utility may require any documentation beyond the submission of a PFA or other court order containing evidence of domestic violence.⁸⁷ The Public Utility Code and Commission's regulations are designed to extend unique protections to victims of domestic violence, facilitating their access to essential services following their escape from abusive environments. However, PGW's procedures significantly hamper the very purpose of these protective measures by requiring a photo identification in addition to the PFA or other court order.⁸⁸

Mr. Geller explained in testimony that this requirement is “unduly burdensome for victims of domestic violence – especially for those who are already customers who would have already had to submit a photo identification to set up gas service.”⁸⁹ To add context as to just how severely PGW’s requirement could impact victims of domestic violence seeking special protections, he explained that it is common for perpetrators to destroy a victim’s vital documents in an effort to maintain power and control:

Often, victims of domestic violence must flee with little more than clothes on their back – leaving vital documents and other critical belongings behind. It is also common for an abusive intimate partner to destroy identification and other critical documents as a means of exercising power and control, making it harder for the victim to break free from the abuse and establish economic independence.

The unique protections for victims of domestic violence enshrined in the Public Utility Code are intended to help make it easier for victims to access services after fleeing abuse - without being encumbered by debts incurred during the abuse. Merely providing a copy of the PFA or other court order should be sufficient to access protections available to victims of domestic violence pursuant to the Public Utility Code and Commission regulation.⁹⁰

⁸⁷ See 66 Pa. C.S. § 1417, 52 Pa. Code § 56.251.

⁸⁸ CAUSE-PA/TURN St. 1 at 22-23.

⁸⁹ *Id.* at 22.

⁹⁰ *Id.* at 22-23

PGW's policy of requiring photo identification along with the PFA or court order imposes an undue burden on victims of domestic violence, who may be unable to produce such documentation as a result of the abuse they experienced. By requiring documentation beyond what is required by the Code and regulations, PGW potentially places these vulnerable consumers at risk of further harm.⁹¹

Section 1417 of the Public Utility Code's primary intent is to facilitate and expedite the process for victims of domestic violence to access essential services and protection without being encumbered by any debts incurred during their abusive experiences. However, PGW's requirement for additional photo identification contradicts this intent and undermines the purpose of the unique protections offered to these vulnerable individuals. By ordering PGW to eliminate the requirement that domestic violence victims produce photo identification along with the PFA or court order, the Commission will help improve these vulnerable customers' chances of breaking free from the abuse and establishing economic independence.

The requirement to submit photo identification alongside the Protection from Abuse Order or other court order is unjust and unreasonable and fails to recognize the unique challenges faced by these individuals. Merely providing a copy of the PFA or other court order should be sufficient to access the protections available to victims of domestic violence, as enshrined in the Public Utility Code and Commission regulation. Based on this evidence, it is clear that PGW's current procedures violate the Public Utility Code and, as such, should be revised to ensure seamless and expedited access to vital services for victims of domestic violence.

⁹¹ Id.

E. Low Income Customer Service Issues

1. Customer Responsibility Program (CRP) Enrollment

Pursuant to the reporting requirements in the Commission’s regulations, PGW tracks its low income customer population two ways: estimated low income customers and confirmed low income customers.⁹² The “estimated low income customer” count, uses census data provided by the Commission’s Bureau of Consumer Services (BCS) and PGW residential customer count to estimate the likely number of low income customers in its service territory.⁹³ For “confirmed low income,” PGW counts only CRP participation, receipt of a LIHEAP Cash or Crisis grant, and participation on a low income payment agreement, in the past 2 years.

As of December 2022, PGW reported 123,322 confirmed low income customers, accounting for 25% of residential customers.⁹⁴ PGW also reported 187,901 estimated low income customers, accounting for 38% of its residential customers⁹⁵. In other words, PGW has confirmed that at least 25% of its residential customers have low income and, based on census data proportional to PGW’s customer base, more than 1 in 3 residential households in PGW’s service territory have low income.

In testimony, Mr. Geller explained that, while both the estimated low income and confirmed low income metrics show that a substantial number of PGW’s customers are low income, the estimated low income customer count presents a more accurate picture of PGW’s low income consumers.⁹⁶ He explained, “The confirmed low income customer count provides only a

⁹² 52 Pa. Code §§ 62.2, 62.4, 62.5.

⁹³ CAUSE-PA/TURN St. 1 at 7.

⁹⁴ Id.

⁹⁵ Id.

⁹⁶ Id. at 8.

limited assessment of the low income population – counting only some of PGW’s customers who have either affirmatively obtained assistance or otherwise reported their income level to the Company.”⁹⁷ Mr. Geller explained: “Reliance on collections and termination data for only confirmed low income customers, masks the extent of unmet need for rate assistance to reasonably afford service because that number is not truly representative of the low income consumers served by PGW.”⁹⁸ Thus, for purposes of evaluating the effectiveness of its universal service program participation and outreach, it is more accurate to utilize the proportional census-based estimated low income customer count.⁹⁹

PGW’s CRP provides low income customers with either a discounted PIPP bill or a budget bill, if more affordable, and arrearage forgiveness.¹⁰⁰ However, PGW’s assistance programs are reaching only a small percentage of confirmed low income customers and an even smaller percentage of its estimated low income customers.¹⁰¹ As of December 2022, less than half of PGW’s confirmed low income customers were enrolled in CRP and less than a third of its estimated low income customers were enrolled.¹⁰² Simply put, “It is unacceptable that less than half of customers whom PGW has identified as low income were enrolled in the program.”¹⁰³ Thus, improving CRP participation is critical considering PGW’s proposal to substantially increase rates and will help PGW reduce the pronounced disparities in the number of payment troubled low income customers and debt burden carried by those same customers.¹⁰⁴

⁹⁷ Id.

⁹⁸ Id. at 14-15.

⁹⁹ Id.

¹⁰⁰ Id. (In 2022, 3% of CRP participants were terminated for non-payment versus 11% of confirmed low income customers who were not enrolled in CRP.).

¹⁰¹ Id.

¹⁰² Id.

¹⁰³ Id.

¹⁰⁴ Id.

To that end, Mr. Geller recommended several outreach, enrollment, and screening policies and practices to better identify low income customers and make appropriate referrals to enroll in universal service programming, including to: (1) reopen district offices in low income neighborhoods with the highest drop in CRP participation; (2) include outreach to assist with enrollment in CRP as part of its annual cold weather survey; (3) screen all new and moving customers for income level at the time their service is established; and (4) develop an auto-enrollment process for CRP utilizing LIHEAP data when it becomes available through the Department of Human Service. The basis for each of these recommendations is discussed in turn.

a. The Commission should require PGW to reopen district offices in low income neighborhoods with the highest decline in CRP participation.

PGW's witness, Ms. Denise Adamucci, testified that PGW sought to reduce costs by permanently closing PGW's five service centers (also referred to as district offices) in the Spring of 2022.¹⁰⁵ Ms. Adamucci stated that customers can now make payment through new programs at non-PGW retail locations and apply for CRP at Neighborhood Energy Centers.¹⁰⁶ While it is important that PGW establish accessible options for customer payment and application for CRP, Mr. Geller expressed concern that PGW's service center closures are directly contributing to PGW's ongoing decline in CRP enrollment.¹⁰⁷

In Mr. Geller's testimony in PGW's 2020 base rate proceeding, he explained that CRP enrollment as of April 2020 was only 54,980 customers and that he was troubled by PGW's reports that CRP enrollment has fallen almost 8.5% in program participation.¹⁰⁸ Data provided by PGW

¹⁰⁵ PGW St. 1 at 8-9.

¹⁰⁶ Id.

¹⁰⁷ CAUSE-PA/TURN St. 1 at 16-17.

¹⁰⁸ Id.

showed that from August 2018 through the beginning of June 2020, PGW received 49,058 applications (56% of total applications) in its district offices, compared to 14,135 applications online and 23,907 applications by mail.¹⁰⁹ At the time of that testimony, in June 2020, PGW's district office closures were necessitated by the public health risk posed by COVID-19.

In his testimony in the current proceeding, Mr. Geller explained: "The permanent closure of those offices, where PGW historically received 56% of all CRP applications, is a significant customer service change and has likely contributed to PGW's decline in CRP enrollment."¹¹⁰ For these reasons, Mr. Geller recommended that PGW consider reopening local offices in areas where CRP participation has declined the greatest extent.¹¹¹ While PGW claims that Neighborhood Energy Centers (NECs) provide many of the services previously provided by the district offices,¹¹² Mr. Geller explained that NECs have existed throughout PGW's service territory for decades in conjunction with district offices.¹¹³ As a result, the suggestion that NECs can absorb PGW customer service functions is dubious, at best.

PGW has not demonstrated that the NECs alone are able to provide the same level and type of services that district offices previously provided, nor that by themselves they achieve the same levels of customer contacts that the combination of NECs and district offices provide.¹¹⁴ To achieve the higher CRP enrollment levels necessary to mitigate the proposed rate increase, PGW must reopen certain district offices in areas with the highest concentration of low income customers. Thus, CAUSE-PA and TURN respectfully urge the Commission to order PGW to

¹⁰⁹ Id.

¹¹⁰ Id.

¹¹¹ Id.

¹¹² PGW St. 1-R at 20-21.

¹¹³ CAUSE-PA/TURN St. 1-SR at 10.

¹¹⁴ Id.

reopen district offices in the neighborhoods with the highest decline in CRP participation to help curb the decline in CRP enrollment and help mitigate the impact of any rate increase approved in this proceeding.

b. The Commission should require PGW to include outreach to assist with enrollment in CRP as part of its annual cold weather survey, pursuant to 52 Pa. Code. §56.100(h)-(i).

PGW's most recent reported cold weather survey results, from winter 2022, show that PGW customers whose service has been terminated continue to remain without service at the close of the survey period in significantly greater proportion than all other gas utilities.¹¹⁵ As of February 1, 2023, PGW's survey results reveal that more than 33% of the customers terminated within the past year (3,682 of 11,042) remained without heat related residential service.¹¹⁶ In his direct testimony, Mr. Geller explained that, since the majority of customers experiencing termination are low income households, "it is imperative that PGW combine CRP outreach and enrollment assistance with both its pre-December 1 and February 1 winter surveys."¹¹⁷ Thus, he recommended that PGW should include outreach to assist with enrollment in CRP as part of its annual cold weather survey pursuant to 52 Pa. Code. §56.100(h)-(i).

The annual cold weather survey provides a unique and valuable opportunity to identify and interact with customers most in need of assistance to avoid the dangers of attempting to survive the winter season without their primary heating source. Thus, CAUSE-PA and TURN urge the Commission to order PGW to include outreach to assist with enrollment in CRP as part of its annual cold weather survey.

¹¹⁵ CAUSE-PA/TURN St. 1 at 17-18.

¹¹⁶ Id.

¹¹⁷ Id.

- c. *The Commission should require PGW to screen applicants and customers for income level and provide appropriate referrals at the time their service is established and during non-emergency calls.*

In his direct testimony, Mr. Geller recommended that, for existing customers, PGW should routinely screen for income level on any non-emergency calls, and/or should inquire whether there has been any update to their income information already noted in their account.¹¹⁸ He explained that, upon establishing an online account, and once annually thereafter, customers should be given the opportunity to self-disclose any changes in income and that all customers identified as low income should be referred to PGW's universal service programs.¹¹⁹ He also recommended that consumers should be able to opt out of disclosing their income if they so choose but should first be informed that they may be eligible for lower rates or energy efficiency measures.¹²⁰

In her rebuttal testimony, PGW's witness Ms. Adamucci asserts that PGW's current practice of only screening customers who are having trouble paying their bills is adequate.¹²¹ However, PGW's CRP enrollment rates are inadequate and its low income customer arrears and termination rates are disproportionately high.¹²² It is not sufficient to wait for economically distressed customers to reach the point of potential loss of an essential service before offering information about and referrals to CRP.¹²³ In his surrebuttal testimony, Mr. Geller explained that, "PGW needs to be more proactive in identifying and enrolling low-income customers to actively prevent the unnecessary accrual of arrears before the customer runs into payment trouble." Being more proactive will help reduce the number of payment troubled customers and, in turn, reduce

¹¹⁸ CAUSE-PA/TURN St. 1 at 18

¹¹⁹ Id.

¹²⁰ Id.

¹²¹ PGW St. 1-R at 22.

¹²² CAUSE-PA/TURN St. 1 at 10.

¹²³ Id.

the arrearages held by low income customers.¹²⁴ On the other hand, as Mr. Geller explained, “[W]aiting until customers have payment trouble before screening for program eligibility will continue to contribute to increased arrearages and service termination among low income customers.”¹²⁵

In her rebuttal testimony, Ms. Adamucci asserts that Mr. Geller’s recommendation would constitute “harassing” customers and contribute to longer hold and call wait times.¹²⁶ However, as Mr. Geller explained, “Simply asking the single question of whether customers would like to provide their income in order to be screened for eligibility in a universal service program will not unduly lengthen customer calls and would not be perceived, as Ms. Adamucci alleges, as ‘harassing them repeatedly to disclose personal income information.’”¹²⁷ Just asking the question would not be difficult or time consuming – nor would it be out of the ordinary. Credit card companies and banking institutions routinely inquire about income status as a matter of course.¹²⁸

Improving the identification of low income customers, and better matching them to critical rate assistance and usage reduction services, is essential to PGW’s ability to provide just and reasonable rates and services to low income households.¹²⁹ The benefit of simply asking customers whether they are interested in being screened for available rate assistance programs far outweighs any of the alleged downfalls.¹³⁰ Thus, CAUSE-PA and TURN urge the Commission to order PGW to adopt a process to routinely screen for program eligibility on any non-emergency calls.

¹²⁴ Id.

¹²⁵ Id. at 10-11.

¹²⁶ PGW St. 1-R at 22.

¹²⁷ CAUSE-PA/TURN St. 1-SR at 11.

¹²⁸ Id.

¹²⁹ CAUSE-PA/TURN St. 1 at 19.

¹³⁰ Id.

d. PGW should be required to develop an auto-enrollment process for CRP utilizing LIHEAP data when it becomes available through the Department of Human Services.

Pennsylvania's Department of Human Services (DHS) has taken steps to develop a data sharing policy that will allow it to provide utilities with detailed LIHEAP enrollment information for the express and limited purpose of facilitating enrollment in utility-run assistance programs.¹³¹ In Mr. Geller's direct testimony, he noted that PGW representatives were engaged in this stakeholder process to develop the consensus data sharing policy.¹³² He also explained that DHS recently announced during the May 2023 LIHEAP Advisory Committee Meeting that it will begin sharing data with utilities pursuant to this policy in Fall 2024.¹³³ Mr. Geller recommended that PGW begin planning now to effectively utilize LIHEAP enrollment data to facilitate auto-enrollment in CRP as soon as that data becomes available.¹³⁴

The availability of LIHEAP data sharing and auto enrollment could be vital to curbing the decline in PGW's CRP enrollment and improving the CRP enrollment for hard-to-reach customers. Thus, CAUSE-PA and TURN urge the Commission to order PGW to develop an auto-enrollment process for CRP utilizing LIHEAP data when it becomes available from DHS.

2. Low Income Usage Reduction Program (LIURP) Accessibility

PGW's LIURP, also known as the Home Comfort program, is a critical universal service program designed to improve bill affordability and reduce arrearages and termination rates over the long term.¹³⁵ LIURP works in tandem with CRP to help reduce high usage that low income

¹³¹ Id. at 18.

¹³² Id.

¹³³ Id.

¹³⁴ Id.

¹³⁵ Id. at 23.

households cannot afford to address on their own.¹³⁶ PGW's LIURP program can help mitigate the impact of the proposed rate increase on low income high-use households by installing a range of efficiency and weatherization measures to reduce unnecessarily high usage.¹³⁷ However, Mr. Geller explained that, due to PGW's underbudgeting and restrictions regarding access to the program, it is not operating in a manner to meet the true need for low income customers to access energy efficiency and weatherization services to offset the impact of the proposed rate increase.¹³⁸

a. The Commission should require PGW to increase LIURP funding to serve an additional 3,000 households per year to mitigate the disproportionately high impact of the rate increase on high usage customers.

Prior to the COVID-19 pandemic, PGW's Home Comfort program historically served between 2,000 to 3,000 customers per year; however, production dropped off significantly in 2020 due to the pandemic and accompanying work stoppage and has not returned to pre-pandemic levels.¹³⁹ In 2022, PGW's Home Comfort program only served 1,894 customers.¹⁴⁰

PGW's Home Comfort budget for 2023-2027 was recently approved to remain at \$7,988,818, but this approval was made prior to PGW's proposal in this proceeding to dramatically increase rates – thereby increasing the need for comprehensive usage reduction services.¹⁴¹ Since 2013, PGW's LIURP budget has only increased by approximately 3.7% since 2013, while PGW's rate proposal would increase the bill for a typical customer would increase by 9.9%.¹⁴²

¹³⁶ Id.

¹³⁷ Id.

¹³⁸ Id.

¹³⁹ Id. at 24.

¹⁴⁰ Id. at 24, T.2.

¹⁴¹ Id. at 24.

¹⁴² Id.

According to PGW’s most recent needs assessment, there are 44,168 LIURP-eligible customers in need of services, and it would take 17 years to treat all of those customers based on the average number of jobs completed each year between 2017 – 2020.¹⁴³ In his direct testimony, Mr. Geller explained that, “If the total were based on the average cost per job from 2022 alone, it would take 23 years to treat all 44,168 homes.”¹⁴⁴ As of the most recent case selection, 15,683 customers met the criteria for treatment by the Home Comfort program. Of these, 9,604 (61%) were CRP customers, and 6,079 (39%) were not CRP customers.¹⁴⁵ Of course, as Mr. Geller explained in testimony, “[T]his needs assessment was conducted before PGW proposed to dramatically increase residential rates – further increasing the need for comprehensive efficiency and weatherization to help reduce disproportionately high energy burdens for low income households.”¹⁴⁶

To help offset the disproportionate impact of the proposed rate increase on low income, high usage customers, Mr. Geller recommended that PGW increase funding for the Home Comfort program sufficient to allow it to serve a similar number of homes as it served pre-pandemic. Mr. Geller recommended that the Commission increase PGW’s budget by an amount sufficient to serve 3,000 households per year.¹⁴⁷ At PGW’s reported per job cost of \$2,975, it would require a LIURP budget of \$8,925,000 to serve this number of households.¹⁴⁸

CAUSE-PA and TURN respectfully urge the Commission to order PGW to increase its Home Comfort program budget as recommended by Mr. Geller to improve the program in a

¹⁴³ Id. at 26.

¹⁴⁴ Id.

¹⁴⁵ Id.

¹⁴⁶ Id. at 26-27.

¹⁴⁷ Id. at 28.

¹⁴⁸ Id.

manner that will help offset the impact of the proposed rate increase on PGW's low income, high usage customers.

b. The Commission should require PGW to explore the establishment of a "special needs" criterion for potential Home Comfort program prioritization of households between 151-200% FPL.

PGW's Home Comfort program exclusively serves customers at or below 150% FPL.¹⁴⁹ However, in its Final Order in PGW's most recent Universal Service Plan proceeding, the Commission encouraged PGW to work with its Universal Service Advisory Committee (USAC) to develop a "special needs" criterion for customers above 150% FPL for potential Home Comfort program prioritization.¹⁵⁰

The ability to reduce gas bills through energy efficiency and conservation measures is especially critical for households with income above 150% FPL but less than 200% FPL.¹⁵¹ These customers are ineligible for CRP or LIHEAP and will be required to pay the full unmitigated impact of PGW's proposed rate increase.¹⁵² In his testimony, Mr. Geller explained that it is critical that these households be able to reduce their energy costs through energy efficiency and conservation programming, thus they should be eligible for energy efficiency and conservation services through LIURP.¹⁵³ He recommended that PGW convene a meeting of its USAC to develop a "special needs" criterion for potential Home Comfort program prioritization.¹⁵⁴

¹⁴⁹ Id. at 27.

¹⁵⁰ Id., see also PGW Universal Service and Energy Conservation Plan for 2023-2027, M-2021-3029323, Final Order at 62-63 (order entered Jan. 12, 2023).

¹⁵¹ CAUSE-PA/TURN St. 1 at 27.

¹⁵² Id.

¹⁵³ Id.

¹⁵⁴ Id.

CAUSE-PA and TURN respectfully assert that the Commission should order PGW to develop a “special needs” criterion for potential Home Comfort program prioritization in accordance with its order in PGW’s Universal Service Plan Proceeding. Doing so will help mitigate the impact of any approved rate increase on high usage, moderate income homes that are ineligible for other programming.

V. RATE CASE TABLES

CAUSE-PA and TURN are not submitting specific adjustments to PGW’s revenues. However, to the extent that the recommendations of Harry S. Geller, Esq. not adopted, CAUSE-PA and TURN respectfully assert that PGW’s rates should remain at the levels shown under the heading “present rates” in the rate case tables supplied by the Honorable ALJs Vero and Ashton.

VI. CONCLUSION

For the reasons set forth above, and in the direct and surrebuttal testimony of Harry S. Geller, Esq., CAUSE-PA and TURN urge the Honorable Administrative Law Judges Eranda Vero and Arlene Ashton and the Pennsylvania Public Utility Commission to take immediate steps to remediate categorically unreasonable and unaffordable rates. In the event that the Commission allows any rate increase, CAUSE-PA and TURN urge the ALJs and the Commission to take necessary steps detailed herein to ensure that low income consumers are protected from the impact of any rate increase.

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APPENDIX A: PROPOSED FINDINGS OF FACT

1. PGW is requesting to increase rates by \$85.8 million, or 10.3%. If PGW's proposal is approved, the bill for a typical PGW residential heating customer who uses 71 Mcf per year will increase 9.9% - amounting to approximately \$12.35 per month (from \$125.38 to \$137.73) or \$148.26 per year (from \$1,504.55 to \$1,652.81). PGW St. 1 at 15.
2. An estimated 38% of PGW residential customers have "low income" – meaning their household income is at or below 150% of the federal poverty level. CAUSE-PA/TURN St. 1 at 6-7.
3. PGW's service territory is limited to the city of Philadelphia, which has a poverty rate nearly twice the statewide poverty rate. Id.
4. In Philadelphia, 22.8% of residents live in poverty, versus 12.1% statewide and 12.8% nationwide. Id.
5. In Philadelphia, 34.2% of children live in poverty, which is double the statewide rate of 16.9%, and 21.2% of Philadelphia senior citizens live in poverty, double the statewide rate of 9.6%. Id.
6. There is strong evidence that PGW's customers already struggle to afford service at current rates. Id. at 11.
7. PGW's low income customers are disproportionately likely to be payment troubled and terminated for non-payment due to their inability to afford service. Id.
8. It is inequitable to raise rates for customers when they already cannot afford service. Id.
9. PGW's proposed rate increase would worsen existing disparities in payment trouble rates and involuntary termination of service among PGW's low income customers. Id. at 11, 13.
10. As of December 2022, PGW had 29,149 payment troubled residential customers. Of those customers, 20,785 (71%) were confirmed low income, while only 8,634 were not. However, confirmed low income customers only make up 25% of residential customers. Id. at 11.
11. In 2022, 66% of PGW's residential customers terminated for non-payment were confirmed low income, despite confirmed low income customers making up only 25% of PGW's residential customer base. Id.
12. In 2022, 11% of confirmed low income customers who were not enrolled in CRP were terminated for nonpayment. Id.
13. In 2022, only 1% of customers who were not confirmed low income were terminated for nonpayment. Id.

14. As of February 2023, PGW reported that at least 171 of its gas heating homes were known to be without a central heating source in the winter months, and at least 32 households were known to be using a potentially unsafe alternative heating source. Id.
15. Even where low income customers are able to avoid termination of gas service, rate unaffordability and resulting energy insecurity can have a profound impact on families – causing many to forego food, medicine, and other basic necessities in order to maintain energy services to their home. Id. at 9.
16. Energy insecurity is particularly pronounced for low income Black families, underscoring race-based disparities in energy burden. Id.
17. In its rate proposal, PGW seeks to increase its fixed monthly residential customer charge by 31%, from \$14.90 to \$19.50 - an increase of \$4.60 per month (\$55.20 annually). PGW St. 6 at 8.
18. Increases to the fixed charge will undermine the ability for consumers to control costs through energy efficiency and conservation, which is problematic for customers who are over-income for rate assistance through CRP but may qualify for free or reduced cost energy efficiency and usage reduction services through various federal, state, and local programs. CAUSE-PA/TURN St. 1 at 29.
19. Increasing the fixed customer charge at the level proposed by PGW limits the ability of the LIURP program to help program participants to achieve meaningful bill savings and undermines the explicit regulatory goals of the program. Id.
20. In addition to undermining the effectiveness of millions of dollars in LIURP investments, PGW's high fixed charge proposal will also undermine the bill savings achievable through the millions of ratepayer dollars invested in PGW's Demand Side Management Plan each year. Id. at 30.
21. Given low income households are disproportionately payment troubled, and often lack the ability to reasonably control usage due to poor housing stock and older, less efficient appliances, it is critical that they continue to have access to effective conservation tools capable of producing meaningful and lasting bill reductions. Id. at 31.
22. PGW indicated that it requires two forms of identification from an applicant to set up service, one of which must be photo identification. Id. at 19.
23. PGW's requirement that applicants produce two forms of identification from this list is overly burdensome and that the list of documentation PGW identifies is not adequately inclusive. Id.
24. The absence of foreign-issued government identification, ITIN, or readily available and affordable identification from PGW's accepted forms of identification is a barrier to foreign-born individuals – as well as individuals seeking to obtain service after experiencing homelessness, domestic violence, or other unique hardships that make it difficult to obtain state-issued identification. Id.

25. PGW's requirement mandating that victims of domestic violence must submit photo identification along with a copy of a Protection From Abuse Order (PFA) or other court order to access the relevant protections is unnecessarily burdensome for victims, hindering their ability to access crucial services when fleeing abuse. Id. at 22-23.
26. It is common for perpetrators of domestic violence to destroy a victim's vital documents in an effort to maintain power and control. Id.
27. By requiring documentation beyond what is required by the Code and regulations, PGW potentially places victims of domestic violence at risk of further harm. Id. at 23.
28. As of December 2022, PGW reported 123,322 confirmed low income customers, accounting for 25% of residential customers. Id. at 7.
29. Reliance on collections and termination data for confirmed low income customers, as opposed to estimated low income customers, masks the extent of unmet need for rate assistance to reasonably afford service because that number is not truly representative of the low income consumers served by PGW. Id. at 14-15.
30. For purposes of evaluating the effectiveness of its universal service program participation and outreach, it is more accurate to utilize the proportional census-based estimated low income customer count, rather than the confirmed low income customer count which only includes those whose income has already been verified. Id.
31. PGW's assistance programs are reaching only a small percentage of confirmed low income customers and an even smaller percentage of its estimated low income customers. Id.
32. As of December 2022, less than half of PGW's confirmed low income customers were enrolled in CRP and less than a third of its estimated low income customers were enrolled in PGW's CRP. Id.
33. Improving CRP participation is critical considering PGW's proposal to substantially increase rates, and will help PGW reduce the pronounced disparities in the number of payment troubled low income customers and debt burden carried by those same customers. Id.
34. PGW's service center closures are directly contributing to PGW's ongoing decline in CRP enrollment. Id. at 16-17.
35. From August 2018 through the beginning of June 2020, PGW received 49,058 applications (56% of total applications) in its district offices, compared to 14,135 applications online and 23,907 applications by mail. Id.
36. The permanent closure of those offices, where PGW historically received 56% of all CRP applications, is a significant customer service change and has contributed to PGW's decline in CRP enrollment. Id.

37. PGW has not demonstrated that the Neighborhood Energy Centers, alone, are able to provide the same level and type of services that district offices previously provided. CAUSE-PA/TURN St. 1-SR at 10.
38. PGW's most recent reported cold weather survey results, from winter 2022, shows that PGW customers whose service has been terminated continue to remain without service at the close of the survey period in significantly greater proportion than all other gas utilities. CAUSE-PA/TURN St. 1 at 17-18.
39. As of February 1, 2023, PGW's survey results reveal that more than 33% of the customers terminated within the past year (3,682 of 11,042) remained without heat related residential service. Id.
40. Improving the identification of low income customers, and better matching them to critical rate assistance and usage reduction services, is essential to PGW's ability to provide just and reasonable rates and services to low income households. CAUSE-PA/TURN St. 1 at 19.
41. Pennsylvania's Department of Human Services (DHS) has taken steps to develop a data sharing policy that will allow it to provide utilities with detailed LIHEAP enrollment information for the express and limited purpose of facilitating enrollment in utility-run assistance programs. Id.
42. Due to PGW's underbudgeting and restrictions regarding access to its LIURP/Home Comfort Program, it is not operating in a manner to meet the true need for low income customers to access energy efficiency and weatherization services to offset the impact of the proposed rate increase. Id. at 23.
43. Prior to the COVID-19 pandemic, Home Comfort historically served between 2,000 to 3,000 customers per year; however, production dropped off significantly in 2020 due to the pandemic and accompanying work stoppage and has not returned to pre-pandemic levels. Id. at 24.
44. In 2022, Home Comfort only served 1,894 customers. Id. at 24, T2.
45. PGW's current LIURP budget was approved prior to PGW's proposal in this proceeding to dramatically increase rates – thereby increasing the need for comprehensive usage reduction services. Id. at 24.
46. Since 2013, PGW's LIURP budget has only increased 3.7%, while PGW's rate proposal would increase the bill for a typical customer by 9.9%. Id.
47. According to PGW's most recent needs assessment, there are 44,168 LIURP-eligible customers. Id. at 26.
48. Based on the average LIURP cost per job in 2022, it would take 23 years to treat all 44,168 homes. Id.

49. PGW's Home Comfort program exclusively serves customers at or below 150% FPL. *Id.* at 27.
50. It is critical that households with income between 151-200% FPL be able to reduce their energy costs through energy efficiency and conservation programming, as these households are not eligible for CRP or LIHEAP. *Id.* at 27.

APPENDIX B: PROPOSED CONCLUSIONS OF LAW

1. In any rate case filed pursuant to section 1308 of the Public Utility Code, such as the current case filed by PGW, the burden of proof is on the public utility. 66 Pa.C.S. §§ 315(a), 1308(a).
2. The public utility must satisfy its burden of proof by a preponderance of the evidence. NRG Energy, Inc. v. Pa. PUC, 233 A.3d 936, 939 (Pa. Commw. Ct. 2020).
3. In addition to considering the lawfulness, justness, and reasonableness of proposed rates, the Commission's S&I Order also requires that the parties consider the "lawfulness, justness, and reasonableness of the Philadelphia Gas Works' existing rates, rules, and regulations." S&I Order at ¶¶ 1,4.
4. By ordering an investigation into the propriety of existing and proposed rates by Commission motion, the burden of justifying those rates rests on PGW. Sharon Steel Corp. v. Pa. PUC, 468 A.2d 860, 862 (Pa. Commw. Ct. 1983).
5. The Commission has a "duty to set 'just and reasonable' rates." 66 Pa.C.S. §1301
6. The just and reasonable standard requires the Commission to conduct a careful weighing of the interests of customers in affordable rates against the financial needs of the utility. Popowsky v. PUC, 665 A.2d 808, 811, 542 Pa. 99, 107-108 (1995). This strict legal standard reflects that utility rates that are not appropriately balanced can become confiscatory, depriving customers of interests in property if they cannot maintain service at rates that are too high, and depriving utilities of revenues necessary to maintain property dedicated to public service if rates are too low.
7. The Commission must balance the interests of customers in receiving efficient utility service at the lowest possible rates, and the interest of the utility in obtaining sufficient revenues to conduct its operations, maintain its financial integrity, and achieve access to financial markets for revenue bonds at reasonable rates. Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591, 607 (1944). This constitutionally based standard is applicable to a municipally owned utility like PGW with the same force and effect as it is to an investor owned utility. American Aniline Products, Inc., v. Lock Haven, 135 A. 726 (Pa. 1927).
8. The requirement of "just and reasonable" rates is an exacting one, and it is applicable in the context of setting municipal utility rates just as it is in setting rates for investor owned utilities. . Public Advocate v. Philadelphia Gas Commission, 674 A.2d 1056, 1061 (Pa. 1996).

9. In determining just and reasonable rates, the Commission has discretion to determine the proper balance between the interests of ratepayers and utilities. Id. citing Pa. PUC v. Philadelphia Electric Co., 522 Pa. 338, 342-43, 561 A.2d 1224, 1226 (1989); Pa. PUC v. Pa. Gas & Water Co., 492 Pa. 326, 337, 424 A.2d 1213, 1219 (1980), cert. denied, 454 U.S. 824, 102 S. Ct. 112, 70 L. Ed. 2d 97 (1981)).
10. Courts evaluating the application of the substantial evidence standard have clarified that the sufficiency of the evidence required is directly related to the nature and extent of the authority (i.e., rate increase) requested. Lansberry v. Pa. PUC, 578 A.2d 600, 603 (Pa. Commw. Ct. 1990).
11. Pennsylvania and federal courts have recognized, in the context of setting just and reasonable rates, that the impacts upon customer service, and the quality of service provided, are within the scope of regulatory consideration.
12. Neither statutory law nor the Constitution imposes a unilateral obligation on customers to pay for the cost of service without a reciprocal obligation of the utility to satisfy standards of reasonable service. See Nat'l Utilities, Inc. v. Pa. PUC, 709 A.2d 972, 979 (Pa. Commw. Ct. 1998), following D.C. Transit Sys., Inc. v. Washington Metro. Area Transit Com'n, 466 F.2d 394, 411 (D.C. Cir. 1972), cert denied.
13. In assessing the justness and reasonableness of PGW's rates, the Commission must consider the effect on universal services. 52 Pa. Code § 69.2703(8).
14. LIURP is intended to help low income customers to reduce their bills and decrease the incidence and risk of customer payment delinquencies and the attendant utility costs associated with uncollectible accounts expense, collection costs and arrearage carrying costs." 52 Pa. Code § 58.1.
15. Section 56.32 of Commission regulations, addressing Procedures for Applicants states:

For purposes of this section, valid identification consists of one government issued photo identification. If one government issued photo identification is not available, the public utility may require the applicant to present two alternative forms of identification, as long as one of the identifications includes a photo of the individual. 52 Pa. Code § 56.32(c)
16. Under the Public Utility Code's Discontinuance of Service to Leased Premises Act (DSLPA) is defined to "include, but not be limited to, a driver's license, photo identification, medical assistance or food stamp identification or any similar document issued by any public agency which contains the name and address of the tenant." 66 Pa. C.S. § 1527.

17. The standards applicable under the Civil Rights Act of 1964 (Title VI) are relevant to determine whether PGW provides reasonable access for the population it serves. Pa. PUC v. PGW, R-2020-3017206, Order on Interlocutory Appeal at 11, 13 (entered Aug. 6, 2020).
18. Title VI of the Civil Rights Act of 1964 provides:

No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. 42 U.S.C. § 2000d.
19. As a recipient of federal Low Income Home Energy Assistance Program (LIHEAP) funds, PGW is required under Title VI to take reasonable steps to ensure meaningful access to all of PGW's services. 45 C.F.R. § 80.3(b)(2).
20. PGW's service is an essential component to a healthy, safe home, and the consequences of providing insufficient access to service may be severe. As a result, the requirements of Title VI are of heightened significance in reviewing whether PGW is providing reasonable access to its services. Id.
21. The Public Utility Code contains unique protections that exempt victims of domestic violence with a Protection From Abuse Order (PFA) or other court order that contains clear evidence of domestic violence from standard residential billing, collections, and termination rules under Chapter 14 – helping to ensure that victims of domestic violence are not saddled with the utility debts of a third party. 66 Pa. C.S. § 1417, 52 Pa. Code Ch. 56, Subch. L-V.

APPENDIX C: PROPOSED ORDERING PARAGRAPHS

It is hereby ORDERED that:

1. PGW shall not place into effect the rates, rules, and regulations contained in Supplement No. 159 to its Gas Service Tariff – Pa. P.U.C. No. 2, the same having been found to be unjust, unreasonable, and therefore unlawful.
2. PGW’s fixed customer charge shall remain at \$14.90.
3. PGW shall begin to provide additional outreach to low income households during its annual cold weather survey.
4. PGW shall develop an auto-enrollment and recertification process for its Customer Responsibility Program (CRP) utilizing Low Income Home Energy Assistance Program (LIHEAP) data.
5. PGW shall reopen local offices in areas where CRP participation has declined the most.
6. PGW shall improve identification and enrollment of low income customers in universal service programs.
7. PGW shall amend its applicant identification requirements to ensure equitable, non-discriminatory access to service.
8. PGW shall cease requiring photo identification from consumers with a Protection from Abuse Order (PFA) or other court order that contains clear evidence of domestic violence seeking protection under the Public Utility Code.
9. PGW shall increase the budget for its Low Income Usage Reduction Program (LIURP) by an amount sufficient to serve 3,000 additional households per year.
10. PGW shall develop a “special needs” criterion for potential Home Comfort prioritization.

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, et al. :
 :
v. : Docket No. R-2023-3037933
 :
Philadelphia Gas Works :

Certificate of Service

I hereby certify that I have this day served copies of *Joint Main Brief of The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania and The Tenant Union Representative Network* upon the parties of record in the above captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54 in the manner and upon the persons listed below.

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