



August 7, 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 Reply 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", 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, 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 Reply 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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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

JOINT REPLY 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), file this Joint Reply Brief in response to the Main Brief of Philadelphia Gas Works (PGW), as well as the Main Briefs of the Office of Small Business Advocate (OSBA), Philadelphia Industrial and Commercial Gas Users Group (PICGUG), Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. (Vicinity), the Office of Consumer Advocate (OCA), and POWER Interfaith. Consistent with the arguments advanced in CAUSE-PA/TURN’s Joint Main Brief and as further explained herein, CAUSE-PA/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 in the direct testimony of Harry S. Geller, Esq.¹ to ensure that low income consumers are protected from categorical rate unaffordability and corresponding inaccessibility of service for economically vulnerable Philadelphians.

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.² PGW asserts in its Main Brief that “a party that offers a proposal that was not included in the Company’s original filing bears the

¹ CAUSE-PA St. 1.

² 66 Pa.C.S. §§ 315(a), 1308(a).

burden of proof for such proposal.”³ However, pursuant to the Suspension and Investigation (S&I) Order, PGW bears the burden to demonstrate the “lawfulness, justness, and reasonableness of the Philadelphia Gas Works’ existing rates, rules, and regulations.”⁴ By ordering an investigation into the propriety of existing and proposed rates on Commission motion, the Commission clearly placed the burden of justifying both proposed and existing rates, rules and regulations on PGW.⁵

The Commonwealth Court has clarified that, where the Commission’s order initiates an investigation upon commission motion into the propriety of existing rates as well as the proposed rates, the burden of proof falls on the utility to show the just and reasonableness of both its existing and proposed rates.⁶ In *Sharon Steel Corporation v. Pennsylvania Public Utility Commission*, the Court stated:

By ordering an investigation into the propriety of existing and proposed rates on commission motion, the PUC clearly placed the burden of justifying those rates upon NFG. *Zucker* is inapposite because, in that case, no motion of the commission initiated the proceeding.⁷

In the current case, in response to the Commission’s S&I Order, CAUSE-PA/TURN challenge the justness and reasonableness of PGW’s proposal to increase residential distribution rates and its residential customer charge.⁸ We also challenge the lawfulness of PGW’s existing rules and regulations regarding its identification requirements for applicants and its policies for providing required protections for victims of domestic violence.⁹ We further challenge the justness and reasonableness of PGW’s rules and regulations regarding its identification of low income customers and their enrollment in its Customer Responsibility Program (CRP), and its rules and

³ PGW MB at 6.

⁴ *Id.*

⁵ *Sharon Steel Corp. v. Pa. PUC*, 468 A.2d 860, 862 (Pa. Commw. Ct. 1983).

⁶ *Sharon Steel Corp. v. Pa. PUC*, 468 A.2d 860, 862 (Pa. Commw. Ct. 1983).

⁷ *Id.*; *clarifying Zucker v. Pa. PUC*, 401 A.2d 1377 (Pa. Commw. Ct. 1979).

⁸ CAUSE-PA/TURN MB at 8-16.

⁹ *Id.* at 16-23.

regulations for its Low Income Usage Reduction Program (LIURP/Home Comfort).¹⁰ For each of these issues, PGW bears the burden of proving by a preponderance of the evidence that these rates, rules, and regulations are just, reasonable, and lawful.

B. Just and Reasonable Rates

The paramount standard for all utility ratemaking is the constitutionally based “just and reasonable” standard.¹¹ The Commission has a “duty to set ‘just and reasonable’ rates.”¹² 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.¹³ In its Main Brief, PGW points to the Commission’s Policy Statement to be examined in setting PGW’s base rates at just and reasonable.¹⁴ PGW points out a number of factors the Policy Statement says should be considered in determining just and reasonable rate levels for PGW, but omits an important factor enumerated by the Commission, namely the “[e]ffect on universal service.”¹⁵ The Public Utility Code defines the term “universal service” broadly to include the “policies, practices and services that help residential low-income retail gas customers and other residential gas customers experiencing temporary emergencies...to maintain natural gas supply and distribution services.”¹⁶

¹⁰ Id. at 24-35.

¹¹ See 66 Pa. C.S. § 1301.

¹² Popowsky v. PUC, 665 A.2d 808, 811, 542 Pa. 99, 107-108 (1995); 66 Pa. C.S. § 1301.

¹³ Id.

¹⁴ PGW MB at 8-9; see also 52 Pa. Code §§ 69.2701-2703.

¹⁵ 52 Pa. Code § 69.2703 (8).

¹⁶ See 66 Pa. C.S. § 2202.

“Universal service and energy conservation.” Policies, practices and services that help residential low-income retail gas customers and other residential retail gas customers experiencing temporary emergencies, as defined by the commission, to maintain natural gas supply and distribution services. The term includes retail gas customer assistance programs, termination of service protections and consumer protection policies and services that help residential low-income customers and other residential customers experiencing temporary emergencies to reduce or manage energy consumption in a cost-effective manner, such as the low-income usage reduction programs and consumer education.

Id.

Thus, in consideration of whether PGW's proposed rate increase is just and reasonable, the Commission must consider the impact of the proposed rates on PGW's universal service programs and the ability of PGW's low income consumers to connect to and maintain gas service.

III. SUMMARY OF ARGUMENT

As explained in CAUSE-PA/TURN's Main Brief, it is unjust and unreasonable to raise rates for gas service without taking clear and articulable steps to mitigate the impact 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.

CAUSE-PA/TURN expert witness Harry S. Geller, Esq. made several recommendations in his direct testimony targeted to mitigate the impact of the proposed increase through improvements to PGW's universal service programs. He also pointed out troubling issues regarding PGW's customer service and its noncompliance with Commission regulations. However, PGW has categorically rejected every recommendation made by Mr. Geller. Instead, PGW continues to seek to substantially increase its rates without taking any steps to mitigate the harm to its low income customers, who already cannot afford service at current rates.

CAUSE-PA/TURN continue to urge the Commission to order PGW to adopt Mr. Geller's recommendations to mitigate the impact of higher rates on low income customers before any rate increase is approved.

IV. ARGUMENT

A. Rate Structure

1. Cost of Service

- a. *PGW's Universal Service and Energy Conservation (USEC) charge should be recovered from all customers.*

In their respective Main Briefs, OSBA, PICUG, and Vicinity each question the Commission's rationale for the applicability of PGW's Universal Service and Energy Conservation ("USEC") charge to nonresidential customers.¹⁷ While no party specifically argues that PGW should cease its current practice of collecting the USEC charge from nonresidential customers, they each cite outdated case law and Commission policies as support for the general contention that USEC charges should only apply to residential customers.

For the last 30 years, since the inception of PGW's Customer Assistance Program (CAP) in 1993, PGW has allocated the costs of its universal service programs to all firm service customer classes.¹⁸ This cost allocation policy has been reviewed and maintained by the Commission throughout at least eight separate litigated proceedings since regulation of PGW was transferred to the Commission,¹⁹ and was explicitly affirmed by the Commission in PGW's 2003 restructuring proceeding.²⁰ In the restructuring proceeding, the Commission decided to continue the recovery

¹⁷ OSBA MB at 18; PICUG MB at 26; Vicinity MB at 27-28,

¹⁸ See Recommended Decision in the Matter of proposed Changes to PGW's Customer Service Regulations, (September 22, 1993), affirmed, Order and Resolution of the Philadelphia Gas Commission (November 9, 1993).

¹⁹ See Pa. PUC v. Philadelphia Gas Works, Docket No. R-00005654 (Order Entered February 21, 2001); Petition of Philadelphia Gas Works for Extraordinary Rate Relief Pursuant to 66 Pa. C.S. § 1308(e), Docket No. R-00017034 (Emergency Order Entered April 12, 2002); Pa. PUC v. Philadelphia Gas Works - Petition for Emergency Rate Relief, Docket No. R-2008-2073938 (Order Entered December 19, 2008); Pa. PUC v. Philadelphia Gas Works, Docket No. R-00006042 (Order Entered October 4, 2001); Pa. PUC v. Philadelphia Gas Works, Docket No. R-00017034 (Order Entered August 8, 2002); Pa. PUC v. Philadelphia Gas Works, Docket No. R-00061931 (Order Entered September 28, 2007); Pa. PUC v. Philadelphia Gas Works, Docket No. R-2009-2139884 (Order Entered July 29, 2010); Pa. PUC v. PGW, R-2017-2586783, Final Order at 74 (Entered Nov. 8, 2017).

²⁰ Pa. PUC v. Philadelphia Gas Works, Docket No. M-00021612 (Order Entered April 17, 2003).

of universal service costs from all firm service customers, recognizing that such recovery was in place prior to PUC jurisdiction, conferred via the Natural Gas Choice and Competition Act.²¹

PGW's longstanding policy of allocating its USEC costs across all customer classes was most recently litigated in PGW's 2017 rate case.²² There the Commission once again affirmed PGW's longstanding policy of requiring all customers to contribute to the public purpose cost of ensuring all Philadelphians can access and maintain gas service to their home:

There are several reasons why we shall continue to approve PGW's unique allocation of universal service costs. PGW is unique in that it is a large, municipal natural gas utility situated within the City of Philadelphia and serves more low-income customers than any other jurisdictional gas utility.²³

In affirming PGW's allocation of USEC costs, the Commission explicitly recognized the benefits of universal service programs to nonresidential customers:

We also find merit in the argument of the opposing Parties that all firm customers, including commercial and industrial customers, benefit indirectly from PGW's extensive low-income assistance programs.²⁴

OSBA, PICGUG, and Vicinity ignore this clear precedent, arguing that commercial and industrial customers should not share the responsibility for these public purpose costs.

OSBA, PICGUG, and Vicinity also ignore the Commission's 2019 Final CAP Policy Statement and Order, through which the Commission adopted comprehensive reforms to its codified CAP Policy Statement.²⁵ In that Order, the Commission declared that it "will no longer routinely exempt non-residential classes from universal service obligations," and indicated that utilities should be prepared to address cross-class recovery of CAP costs in future rate case

²¹ Id. at 62, 64.

²² Pa. PUC v. Philadelphia Gas Works, Final Order, Docket No. R-2017-2586783, at 74 (Order Entered Nov. 8, 2017).

²³ Id.

²⁴ Id.

²⁵ 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261–69.267, M-2019-3012599, Final CAP Policy Statement and Order (order entered Sep. 19, 2019).

filings.²⁶ While the Commission did not order utilities to propose a *specific* allocation, it explicitly indicated a shift in policy regarding recovery of the costs of CAP costs from all ratepayer classes.²⁷ In doing so, the Commission acknowledged that “poverty, poor housing stock, and other factors that contribute to households struggling to afford utility service are not just ‘residential class’ problems.”²⁸

CAUSE-PA/TURN respectfully submit that all PGW customers should be required to pay PGW’s USEC, regardless of rate class. PGW’s universal service programs benefit all customers, as well as the city of Philadelphia as a whole. It is, therefore, just and reasonable that all customers share the cost. As such, we submit that the arguments advanced by OSBA, PICGUG, and Vicinity regarding PGW’s USEC charge should be rejected.

2. 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 Mr. Geller’s direct testimony, he explained that PGW’s proposal to increase its fixed monthly residential customer charge by 31%, from \$14.90 to \$19.50, would undermine the ability of consumers to control costs through energy efficiency and conservation.²⁹ As explained at length in CAUSE-PA/TURN’s Main Brief, increasing the fixed charge erodes the ability of consumers to effectively deploy efficiency and conservation measures to achieve bill savings to mitigate the impact of the proposed rate increase.³⁰

²⁶ Final CAP Policy Statement and Order, M-2019-3012599, at 7, 97; see also 52 Pa. Code §§ 69.625(1), 69.266(b).

²⁷ Id.

²⁸ Id. at 94.

²⁹ CAUSE-PA/TURN St. 1 at 29.

³⁰ Id.

In its Main Brief, PGW argues that Mr. Geller’s concerns that the proposed increase in customer charge will impede energy conservation efforts is without merit. PGW’s proposal, it argues, provides the necessary price signals and does not impede energy conservation.³¹ PGW argues that its proposal to increase the residential customer charge by \$4.60 per month would be “virtually unnoticeable and not act as a disincentive for energy efficiency.”³² However, PGW’s argument overlooks the extreme financial instability low income families face each day. Low income customers already struggle to afford basic necessities, and regularly make impossible trade-offs – foregoing food, medicine, and other basic needs in order to access energy services in their home. Every dollar of extra costs added to a low income consumer’s PGW bill takes away from their ability to afford other necessities such as food and medicine.³³ PGW’s proposed fixed charge increase of \$4.60 over would amount to an extra \$55.20 per year, amounting to more than one third of the proposed increase for a typical PGW residential heating customer.³⁴ Customers would have no ability to offset any of that fixed cost through usage reduction or conservation measures.

To the extent the Commission approves any rate increase in this proceeding, recovering that increase through the variable charge would protect the ability of low income households to lower their utility costs by reducing consumption.³⁵ Specifically, assigning any rate increase to the volumetric charge would preserve the ability of low income customers to mitigate the impact of

³¹ PGW MB at 47.

³² Id.

³³ CAUSE-PA/TURN St. 1 at 8-9.

³⁴ Id. at 4-5 (Under PGW’s proposal, the bill for a typical PGW residential heating customer who uses 71 Mcf per year will increase \$12.35 per month \$148.26 per year.).

³⁵ Id. at 31.

the increased rates through participation in the LIURP program, in line with the regulatory goals for LIURP.³⁶

Regarding the impact of the increased residential customer charge on low income customers, PGW argues in its Main Brief that Mr. Geller and OCA witness Roger Colton “ignore the fact that PGW has several robust programs that provide assistance to low-income customers.”³⁷ This statement is wholly inaccurate. Mr. Geller directly addresses, in **both** his direct **and** surrebuttal testimony, the impact of the residential customer charge increase on PGW’s universal service programs.³⁸ In particular, he explained its negative impact on the effectiveness on PGW’s LIURP/Home Comfort program at reducing customer bill and arrearages and, in turn, PGW’s ability to utilize its LIURP to reduce the cost of its CRP program.³⁹

As stated above, the Commission’s Policy Statement on PGW’s cash flow ratemaking directs that, in determining just and reasonable rate levels for PGW, the Commission must consider the effect of rates on universal service.⁴⁰ PGW’s LIURP, also known as “Home Comfort,” is a critical universal service program designed to improve bill affordability and reduce arrearages and termination rates over the long term. Importantly, LIURP must work in tandem with CRP to help reduce high usage that low income households cannot afford to address on their own – reducing the overall cost of the CRP program.⁴¹ The Commission’s LIURP regulations explicitly provide that LIURP is intended to help low income customers to “reduce residential energy bills ... [and] decrease the incidence and risk of customer payment delinquencies and the attendant utility costs

³⁶ CAUSE CAUSE-PA/TURN St. 1 at 29.

³⁷ PGW MB at 48.

³⁸ CAUSE-PA/TURN St. 1 at 29-31; CAUSE-PA/TURN St. 1-SR at 12-13.

³⁹ CAUSE-PA/TURN St. 1 at 29-31; CAUSE-PA/TURN St. 1-SR at 12-13.

⁴⁰ 52 Pa. Code § 69.2703.

⁴¹ CAUSE-PA/TURN St. 1 at 23.

associated with uncollectible accounts expense, collection costs and arrearage carrying costs.”⁴² 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.⁴³ Further, as explained in CAUSE-PA/TURN’s Main Brief, PGW touts its Home Comfort program as reducing the cost of CAP/CRP when targeted to serve CRP participants, but reducing the amount of bill savings that can be achieved threatens the effectiveness of LIURP to reduce that cost.⁴⁴

As explained more fully in CAUSE-PA/TURN’s Main Brief, PGW has failed to carry its burden to demonstrate that its proposed residential customer charge is just and reasonable.⁴⁵ Thus, the fixed monthly customer charge should remain at \$14.90 to protect PGW customers’ ability to reduce their bills through conservation and efficiency measures. If the Commission approves any residential rate increase in this proceeding, that increase should be solely to the volumetric portion of the bill.

B. 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.*

In its Main Brief, PGW asserts that its current identification requirements are appropriate and necessary to confirm a customer’s identity and argues that “CAUSE-PA/TURN have not substantiated that PGW’s identification requirements violate any statute, regulation, or

⁴² *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.”).

⁴³ CAUSE-PA/TURN St. 1 at 29.

⁴⁴ CAUSE-PA/TURN MB at 15.

⁴⁵ *Id.* at 13-16.

Commission order.”⁴⁶ However, CAUSE-PA/TURN have clearly explained that PGW’s policy of requiring **two** forms of identification from an applicant to set up service, *one of which must be a photo identification issued by the state or federal government*, violates section 56.32 of Commission regulations, addressing Procedures for Applicants, which 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.⁴⁷

PGW’s policy must be amended to allow applicants without a government-issued identification to reasonably apply for service.

As explained above, in this proceeding, PGW has the burden to prove the lawfulness, justness, and reasonableness of not only its proposed rate increase, but also of its existing rules and regulations.⁴⁸ PGW’s applicant identification requirements are not just, reasonable, or lawful because they are overly burdensome and are not in compliance with section 56.32 of the Commission’s regulations. PGW asserts that its strict identification requirements are necessary to prevent identity theft and protect others from costs associated with unauthorized usage, but cites to no evidence, regulation or law to support its contention.⁴⁹

As explained more fully in CAUSE-PA/TURN’s Main Brief, in addition to violating the Commission’s regulations, PGW’s applicant identification policies also violate the constitutional rights of foreign born applicants under Title VI because it does not accept reasonable alternatives

⁴⁶ PGW MB at 73.

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

⁴⁸ See Section II.A, above, discussing Burden of Proof.

⁴⁹ PGW MB at 72.

to identification issued by the state or federal government, including foreign-issued government identification or Individual Taxpayer Identification Number (ITIN), nor does it include Philadelphia’s municipal identification.⁵⁰ PGW’s exclusion of foreign-issued government identification, ITINs, or other readily available and reasonably affordable forms of identification from its list of accepted identification is a barrier to establishing service for foreign-born individuals.⁵¹

The Commission has 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.⁵² 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, from whom the rate increase is sought.”⁵³

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.⁵⁴ Many immigrants have pending or temporary immigration status and 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.⁵⁵ Immigrants and their families – regardless of their immigration status - should be able to access gas service necessary for the

⁵⁰ CAUSE-PA/TURN MB at 18-19.

⁵¹ Id.

⁵² See Pa. PUC v. PGW, R-2020-3017206, Order on Interlocutory Appeal at 11, 13 (entered Aug. 6, 2020).

⁵³ Id. at 11.

⁵⁴ Id.

⁵⁵ CAUSE-PA/TURN St. 1 at 20-21.

health and safety of themselves and their families without facing undue and insurmountable barriers – such requiring production of an identification the individual cannot reasonably obtain.

In addition to creating an insurmountable obstacle for immigrant applicants, PGW's unduly restrictive identification policies also potentially violate the rights of individuals seeking to obtain service after experiencing homelessness, domestic violence, or other unique circumstances that may impact their ability to readily obtain state identification - making PGW's acceptance of Philadelphia's municipal identification even more important.⁵⁶

PGW has thus failed to meet its burden to show that its applicant identification requirements are just, reasonable, and lawful. To the contrary, these overly burdensome requirements violate the Commission's regulations and create undue barriers to service for foreign born applicants and other vulnerable consumers. It is vital that the Commission ensure foreign-born Philadelphians and other vulnerable populations can equitably access gas service to their home. 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.*

Similar to its arguments about its applicant identification requirements, PGW argues, *without support*, in its Main Brief that it is reasonable for PGW to require victims of domestic violence protected by a Protection From Abuse Order (PFA) or other qualifying court order to produce a photo identification issued by the state or federal government before acknowledging

⁵⁶ Id.

critical consumer protections simply because “the Commission’s regulations provide additional rights and protections to such customers.”⁵⁷

Again, as stated above, PGW has the burden to prove the lawfulness, justness, and reasonableness of its existing rules and regulations.⁵⁸ However, PGW fails to cite any statute, regulation, or commission order supporting its contention that its requirement that domestic violence victims must submit photo identification issued by the state or federal government in order to access the domestic violence protections under the Public Utility Code. Nor does PGW provide any rationale for this overly burdensome requirement, which places domestic violence victims at risk of further harm if they are unable to access their photo identification due to the consequences of the abuse perpetrated against them.

As explained in detail in CAUSE-PA/TURN’s Main Brief, PGW’s requirement mandating that victims of domestic violence must submit photo identification along with a copy of their PFA or court order is unnecessarily burdensome for victims, hindering their ability to access crucial services when fleeing abuse.⁵⁹

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.⁶⁰ The Public Utility Code and Commission regulations are designed to extend unique protections to victims of domestic violence, facilitating their access to essential services following their escape from abusive environments, but PGW’s policies impede

⁵⁷ PGW MB at 72-73.

⁵⁸ See Section II.A, above.

⁵⁹ CAUSE-PA/TURN MB at 22-23.

⁶⁰ See 66 Pa. C.S. § 1417, 52 Pa. Code § 56.251.

these protective measures by requiring additional documentation beyond what is required in the statute and regulations.⁶¹

As Mr. Geller explained in his direct testimony, victims of domestic violence must often “flee with little more than clothes on their back – leaving vital documents and other critical belongings behind.”⁶² It is common for abusers to destroy identification and other critical documents to exercise power and control, and to make it harder for the victim to flee from the abuse.⁶³ The unique protections for victims of domestic violence in the Public Utility Code are intended to help make it easier for victims to access services after fleeing abuse. Thus, 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.⁶⁴

PGW has failed to carry its burden to demonstrate that its existing rule that domestic violence victims must provide photo identification to access the protections provided under the Code and regulations is just, reasonable, and lawful. To the contrary, 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.⁶⁵ Thus, the Commission should order PGW to cease this practice.

⁶¹ CAUSE-PA/TURN MB at 22.

⁶² CAUSE-PA/TURN St. 1 at 22-23.

⁶³ Id.

⁶⁴ Id. at 22-23

⁶⁵ Id.

C. Low Income Customer Service Issues

1. Customer Responsibility Program (CRP) Enrollment

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

In its Main Brief, PGW rejects Mr. Geller's recommendation that it reopen district offices in low income neighborhoods with the highest decline in CRP participation.⁶⁶ PGW cites to the money it has saved and the fact that it has enlisted Neighborhood Energy Centers (NECs) to provide some of the services that were previously provided by the district offices.⁶⁷

However, as explained in CAUSE-PA/TURN's Main Brief, 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 significant decline in CRP enrollment.⁶⁸ Further, NECs have existed throughout PGW's service territory for decades *in addition* to PGW's district offices.⁶⁹ 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 NECs can achieve the same levels of customer contacts that the combination of NECs and district offices could provide.⁷⁰

Thus, although PGW asserts that they "are not required" to maintain district offices, CAUSE-PA/TURN stand by our recommendation that in order to achieve the higher CRP enrollment levels necessary to mitigate the proposed rate increase, PGW should be required to reopen district offices in areas with the highest concentration of low income customers.

⁶⁶ PGW MB at 70.

⁶⁷ Id.

⁶⁸ CAUSE-PA/TURN MB at 27.

⁶⁹ Id.

⁷⁰ Id.

b. 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 Mr. Geller's direct testimony, he pointed out the high termination rate of low income customers who are not enrolled in CRP and PGW's low CRP enrollment rate.⁷¹ He explained that the proposed rate increase would inevitably worsen the already high rate of terminations for low income customers if PGW did not take immediate action to improve CRP enrollment levels.⁷²

In its Main Brief, PGW asserts that its "PGW's current screening practices are reasonable and should be maintained."⁷³ PGW provides no evidentiary support for this argument other than PGW witness Denise Adamucci's assertion that in her experience, customers do not want to be asked repeatedly about their income.⁷⁴

In his surrebuttal testimony, Mr. Geller explained in response to this assertion that PGW's CRP enrollment rates are inadequate in light of PGW's disproportionately high levels of low income customer arrears and involuntary termination rates.⁷⁵ Thus, he explained that PGW's current screening practices are insufficient because PGW is content 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.⁷⁶ Proactive screening for CRP eligibility will help reduce the number of payment troubled customers and reduce the arrearages held by low income customers. On the other hand, waiting until customers experience acute payment trouble before

⁷¹ CAUSE-PA/TURN St. 1 at 11-12, 15-16.

⁷² Id.; see also CAUSE-PA/TURN MB at 24-26.

⁷³ PGW MB at 77.

⁷⁴ Id.

⁷⁵ CAUSE-PA/TURN St. 1-SR at 11.

⁷⁶ Id.

screening for CRP eligibility contributes to increased arrearages and involuntary terminations – exacerbating costs shouldered by other PGW customers.⁷⁷

Regarding Ms. Adamucci’s concerns about repeatedly inquiring about customers’ income status, he explained, “There is a significant difference in a customer’s perception when they are informed that they may be eligible for a discount on their bill if they provide their household income – as opposed to when they are coldly asked their income without further context for why that information is being requested.”⁷⁸ Simply asking the single question of whether customers would like to provide their income in order to be screened for eligibility for reduced rates and debt forgiveness would not unduly lengthen customer calls and would not be negatively perceived by most consumers. Mr. Geller explained that such an inquiry would not be out of the ordinary and provided the example of credit card companies and banking institutions that routinely inquire about income status as a matter of course.⁷⁹ Just asking a quick question about whether a customer may qualify for universal service programs would be neither difficult nor time consuming and would not unduly contribute to call hold times and call abandonment rates.⁸⁰

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. Thus, PGW should be required to adopt Mr. Geller’s call screening recommendations to offset the impact of the proposed increase on universal service.⁸¹

⁷⁷ Id.

⁷⁸ Id.

⁷⁹ Id.

⁸⁰ Id.

⁸¹ See Final CAP Policy Statement Order at 46, where the Commission stated:

We note that enrolling low-income customers into CAPs as early as possible generally puts them in the best position to maintain good payment habits and avoid accruing utility debt. Waiting until a customer has broken a payment agreement or otherwise fallen into arrears could make it harder for a household to succeed in a CAP.

- c. *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 on to order PGW to develop an auto-enrollment process for CRP utilizing LIHEAP data when it becomes available from DHS.⁸² In his direct testimony Mr. Geller recommended that PGW develop an auto-enrollment process for CRP utilizing LIHEAP data when it becomes available through the Department of Human Services.⁸³

In PGW's Main Brief, it objects to this recommendation, citing Ms. Adamucci's testimony that there are "a variety of issues with this proposal, regarding both logistics and costs."⁸⁴ In Ms. Adamucci's rebuttal testimony, she asserts that issues related to PGW's universal service programs should be addressed in the context of a statewide docket.⁸⁵ In its Main Brief, PGW submits that issues affecting its low-income programming are better addressed in other, more focused proceedings, not in a base rate case.⁸⁶ CAUSE-PA/TURN respectfully assert that PGW's argument should be rejected because the issues pointed out in Mr. Geller's testimony are directly related to the impact of PGW's proposed rate increase on universal services . As noted above, the impact of PGW's rates on universal services is an express consideration in determining just and reasonable rates for PGW.⁸⁷

⁸² CAUSE-PA/TURN St. 1 at 18.

⁸³ Id.

⁸⁴ PGW MB at 75.

⁸⁵ PGW St. 1-R at 10.

⁸⁶ PGW MB at 73.

⁸⁷ 52 Pa. Code § 69.2703.

In the current proceeding, PGW has proposed to substantially increase its rates for basic gas service. The mere existence of a statewide docket, for which there is no timeline for a Commission decision nor any guarantee that statewide changes will result, does not relieve PGW of its continuing duty to provide just and reasonable rates and comprehensive universal service programming to its customers. PGW should not be permitted to obtain a rate increase now, to be borne by those customers least able to afford it, while avoiding its responsibility to make the adjustments necessary to mitigate the effect of that rate increase.⁸⁸

As Ms. Adamucci acknowledges in her testimony, PGW is in a unique position as a municipal utility serving the dense urban area of Philadelphia, which has both higher poverty levels and higher cost of living than other areas of the state.⁸⁹ It is thus all the more imperative that PGW take steps to ensure that any proposed rate increase will not lead to increased arrearages and terminations among its struggling low income customers.

PGW has the burden of demonstrating that its proposed rate increase is just and reasonable. The Policy Statement on PGW's ratemaking procedures and considerations states that the Commission must consider the impact of the proposed rate increase on universal service.⁹⁰ Thus, it is proper to evaluate the impact of the proposed rate increase on PGW's universal service programs, as well as ways to mitigate the impact of the proposed rate increase through improvements to those programs. The issue simply comes down to the fact that PGW's low income customers bear an unjustifiably disproportionate level of arrears and service terminations as compared to the average PGW residential customer.⁹¹ While arrearages worsened through the

⁸⁸ CAUSE-PA/TURN St 1-SR at 7.

⁸⁹ PGW St. 1 at 4-5.

⁹⁰ 52 Pa. Code § 69.2703.

⁹¹ CAUSE-PA/TURN St. 1-SR at 4.

pandemic, the disparity in arrears and terminations between low income and non-low income residential consumers is not new and will be exacerbated by PGW's rate increase.⁹²

2. Low Income Usage Reduction Program (LIURP) Accessibility

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

In its Main Brief, PGW opposes CAUSE-PA/TURN's recommendation that PGW increase its total LIURP budget to \$8,925,000 to reach its pre-pandemic levels of serving approximately 3,000 households per year.⁹³ PGW claims it has the highest total universal service spending and the highest LIURP spending as a percentage of residential sales, as compared to other Pennsylvania electric and natural gas utilities.⁹⁴ While this may be true, PGW also serves the largest city in Pennsylvania with a poverty rate nearly double the statewide poverty rate.⁹⁵ Thus, this level of spending is necessary to respond to the level of need in its service territory and, even at current levels, PGW's LIURP budget remains inadequate to serve identified need.

As explained in CAUSE-PA/TURN's Main Brief, 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.⁹⁶ In 2022, PGW's Home Comfort program served less than 2,000 customers.⁹⁷ Since 2013, PGW's LIURP budget has only increased by approximately 3.7% since 2013, while PGW's rate proposal *in this case alone* would increase

⁹² Id.

⁹³ PGW MB at 78.

⁹⁴ Id.

⁹⁵ CAUSE-PA/TURN St. 1 at 6-8.

⁹⁶ Id.

⁹⁷ Id.

the bill for a typical customer would increase by 9.9%.⁹⁸ Since 2013, PGW has increased rates twice before, in 2017 and again in 2020, without adequately addressing the increased need for comprehensive usage reduction services necessary to cope with increased rates.

PGW asserts in its Main Brief that it is inappropriate to set the LIURP budget based on the number of homes to be served because it does not recognize the additional cost of full weatherization versus smaller projects.⁹⁹ However, this is the measure utilized in PGW's own LIURP needs assessment as recognized by the Commission in all universal service and energy conservation proceedings. According to PGW's own needs assessment, there are 44,168 LIURP-eligible customers in need of services, and it would take 17 to 23 years to treat all of those customers.¹⁰⁰ Of course, recognizing that deep weatherization will require a higher per job cost and that inflation has likely driven up the cost of materials since PGW's most recent LIURP needs assessment, the CAUSE-PA/TURN's per job recommendation is meant as a proxy to demonstrate the need for PGW to increase its LIURP budget, which has been stagnant for over a decade despite the growing need for services.

CAUSE-PA/TURN stand by our position and respectfully urge the Commission to order PGW to increase its Home Comfort program budget as recommended by Mr. Geller to help meaningfully offset the impact of the proposed rate increase on PGW's low income, high usage customers.

⁹⁸ Id.

⁹⁹ PGW MB at 79.

¹⁰⁰ CAUSE-PA/TURN St. 1 at 26.

- 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.¹⁰¹ In his direct testimony, Mr. Geller recommended that PGW explore the establishment of a “special needs” criterion for potential Home Comfort program prioritization of households between 151-200% FPL.¹⁰² However, in its Main Brief, PGW opposes this recommendation because it does not consider 151-200% FPL to be “low income” for purposes of the program.¹⁰³ PGW asserts that PGW does not need to expand LIURP to non-low-income customers; the program already has plenty of customers to be served.¹⁰⁴

As explained above and in our Main Brief, CAUSE-PA/TURN recognize that there is a large existing need for LIURP services among customers at or below 150% FPL.¹⁰⁵ This is why we are recommending that PGW increase its LIURP budget to meet that existing need. However, we in turn submit that PGW should allow households with special needs, who are slightly over the 150% FPL threshold, to also access comprehensive usage reduction services, as these households do not have the ability to access rate assistance through CRP or LIHEAP to offset the impact of PGW’s rate increase. 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

¹⁰¹ *Id.* at 27.

¹⁰² CAUSE-PA/TURN St. 1 at 27-28.

¹⁰³ PGW MB at 80.

¹⁰⁴ *Id.*

¹⁰⁵ CAUSE-PA/TURN MB at 31-33.

Comfort program prioritization.¹⁰⁶ 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 because they are ineligible for CRP or LIHEAP and will be required to pay the full unmitigated impact of PGW's proposed rate increase.¹⁰⁷ Thus, it is critical that these households be able to reduce their energy costs through energy efficiency and conservation programming.¹⁰⁸

CAUSE-PA/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. CONCLUSION

For the reasons set forth above, and in our Main Brief, CAUSE-PA/TURN urge the Honorable Administrative Law Judges Eranda Vero and Arlene Ashton and the Pennsylvania Public Utility Commission to order PGW to take immediate steps to remediate categorically unreasonable and unaffordable rates. In the event that the Commission allows any rate increase, CAUSE-PA/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.

¹⁰⁶ 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).

¹⁰⁷ Id.

¹⁰⁸ Id.

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