



September 15, 2023

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17121

Re: **Pa. PUC v. Philadelphia Gas Works, Docket No. R-2023-3037933**

Secretary Chiavetta:

Attached for electronic filing, please find the Joint Exception of The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) and Tenant Union Representative Network (TURN) in the above-captioned proceeding.

Respectfully submitted,

/s/ Robert W. Ballenger
Robert W. Ballenger

On behalf of TURN

Cc. Office of Special Assistants (Via email: ra-OSA@pa.gov)
Service list

Encl.



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

Certificate of Service

I hereby certify that I have this day served copies of the Joint Exception of CAUSE-PA/TURN 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.

VIA FIRST CLASS MAIL

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September 15, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**JOINT EXCEPTION 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

The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) and the Tenant Union Representative Network (TURN) (collectively CAUSE-PA/TURN or Joint Parties), through their respective counsel at the Pennsylvania Utility Law Project (PULP) and Community Legal Services (CLS), file one exception to the September 5, 2023, Recommended Decision issued by Administrative Law Judges (ALJs) Eranda Vero and Arlene Ashton in the matter of PGW's base rate increase proceeding (R.D.). Pursuant to Section 5.533 of the Commission's regulations and the Commission's Secretarial Letter issued in this proceeding on September 5, 2023, CAUSE-PA/TURN submit the following joint exception:

Joint Parties' Exception 1:

The ALJs err as a matter of law in authorizing PGW to require applicants for service to provide more than one form of government issued photo identification, in contravention of Commission regulation.

In addition to this single exception, CAUSE-PA/TURN submit two clarifications to the discussion set forth in the Recommended Decision, in order that the Commission be fully informed regarding subjects discussed therein.

II. BACKGROUND

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. PGW sought to increase its fixed monthly residential customer charge from \$14.90 to \$19.50, an increase of \$4.60 or 31%.¹

¹ PGW St. 6 at 8.

CAUSE-PA and TURN intervened in this proceeding and participated in the evidentiary hearings on July 11 and 12, 2023. At hearing, CAUSE-PA and TURN jointly sponsored the expert testimony of Harry S. Geller, Esq.² 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 affordability of current rates and mitigate anticipated unaffordability of any additional approved rate increase.

The parties submitted Main Briefs on July 27, 2023, and Reply Briefs on August 4, 2023. The Recommended Decision was filed and served on September 5, 2023. The Joint Parties timely submit the Exception below.

As a preliminary matter, the Joint Parties submit that the Recommended Decision misstates the position of the Joint Parties in one aspect of this proceeding and draws an incorrect inference in another aspect of this proceeding. Accordingly, for the benefit of the record, the Joint Parties offer the following two points of clarification (we are not seeking reconsideration of the issues associated with these points of clarification at this time).

In their Recommended Decision, the ALJs describe the Joint Parties' position regarding additional funding for PGW's Low Income Usage Reduction Program (LIURP) as follows:

CAUSE-PA/TURN proposed that PGW's recently approved "Home Comfort budget" of \$7.989 million be increased by an additional \$8.925 million to serve an

² CAUSE-PA/TURN St. 1; CAUSE-PA/TURN St. 1-SR.

additional 3,000 households per year to mitigate the disproportionately high impact of the rate increase on high usage customers.³

This is an incorrect summary of the Joint Parties' position regarding increased LIURP funding.

As set forth in their Main Brief, the Joint Parties offered the following recommendation:

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. 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.⁴

Contrary to the ALJs description, the Joint Parties did not assert that annual LIURP spending be increased *by an additional* \$8.925 million, but rather, that annual LIURP spending should be increased *to a total* of \$8.925 million. Although the Joint Parties are not filing exceptions to the ALJs recommendation regarding LIURP funding at this time, we nonetheless stand by our original recommendation and submit that this clarification should be reflected in the Commission's final determination.

Additionally, in evaluating the proposal of POWER Interfaith to require PGW to evaluate and integrate non-pipeline alternatives (NPAs) as a means of reducing the cost of service, the ALJs observe that "none of the other parties to the proceeding expressed support for POWER's NPAs proposals."⁵ For purposes of clarification, however, it is important to likewise acknowledge that none of the non-PGW parties expressed any *opposition* to POWER's proposals. The Joint Parties assert that, to the extent the ALJs drew a negative inference from their silence regarding POWER's

³ R.D. at 128.

⁴ CAUSE-PA/TURN M.B. at 33 (citations omitted).

⁵ R.D. at 137.

proposal, that inference is misplaced. The Joint Parties observe that POWER’s recommendations are intended to identify future cost savings for PGW’s customers, within the existing regulatory framework at the Commission, to address the economic, health, and safety threats posed by climate change in a manner consistent with the City of Philadelphia’s commitment to achieving carbon neutrality. Although the Joint Parties do not explicitly except to the ALJs’ recommendation in this respect, it is in the Commission’s interests, as well as those of its stakeholders, to explore climate-oriented solutions designed to ensure our public utilities remain resilient, efficient, and viable in the context of our changing environment.

III. EXCEPTION

The Joint Parties submit that the ALJs erred in recommending PGW continue to be allowed to violate Commission regulation by imposing onerous identification requirements for individuals applying for service. The ALJs appear to mistakenly confine the Joint Parties’ position to the groups of customers the Joint Parties’ identified as being the most at risk: namely, foreign born applicants and victims of domestic violence.⁶ Although the Joint Parties expressed heightened concern for those whom PGW’s policy likely constitutes a more significant obstacle, the ALJs appear to overlook the core issue involved: that PGW’s practice of requiring two forms of identification from all applicants is a violation of Commission regulations. As the Joint Parties clearly explained: “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.”⁷

⁶ R.D. at 117 (“In the absence of substantial evidence, we cannot conclude that PGW’s documentation requirements are unreasonable or that they should be modified as proposed by CAUSE-PA/TURN for all members of the populations it identifies as being particularly vulnerable and burdened by PGW’s documentary requirements.”).

⁷ CAUSE-PA/TURN Main Brief, at 17.

The ALJs mistakenly describe the issue presented as “whether PGW’s current requirements are reasonable if their application by PGW provides equitable access to gas service.”⁸ The ALJs err in focusing the equitable application of PGW’s policies, rather than their lawfulness. The Commission has, pursuant to its statutory authority, adopted customer service regulations binding and enforceable against PGW. PGW is required to “obey, observe, and comply” with Commission regulation, or else face civil penalties.⁹ The ALJs explicitly acknowledge that there is no factual disagreement because PGW admits its documentation requirements exceed what is permitted by Commission regulation,¹⁰ thus there is no basis for assessing their reasonableness. As the Joint Parties explained, PGW’s policy is in violation of PUC regulation.¹¹ An unlawful policy is, *ipso facto*, unreasonable as well. PGW’s identification policy must be reformed and brought into compliance with Commission regulation.

As explained in CAUSE-PA/TURN’s main brief, PGW’s current policy requires that applicants for service submit two forms of identification to set up service, one of which must be a government issued photo identification.¹² However, the Commission’s regulations are clear and unambiguous in permitting utilities to require *no more than a single form of government issued photo identification*:

Prior to providing public utility service, a public utility may require the applicant to provide the names of each adult occupant residing at the location and proof of their identity. 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. In lieu of requiring identification, the public utility may ask, but may not require, the individual to provide the

⁸ R.D. at 117.

⁹ 66 Pa. C.S. § 3301(a).

¹⁰ R.D. at 115.

¹¹ CAUSE-PA/TURN Reply Brief at 11.

¹² CAUSE-PA MB at 16.

individual's Social Security Number. Public utilities shall take all appropriate actions needed to ensure the privacy and confidentiality of identification information provided by their applicants and customers.¹³

The ALJs inexplicably conclude that PGW's practice of requiring additional identification from applicants who have already produced government issued photo identification is nonetheless reasonable based solely upon their observation that "[i]dentity theft is a well-known phenomenon."¹⁴ While identity theft may or may not be a well-known phenomenon, PGW has not presented any evidence showing that adherence to the Commission's regulation would lead to an increase in identity theft – nor any evidence showing that requiring two forms of identification has effectively reduced identity theft. The mere mention of identity theft does not justify PGW's policy and practice of violating the Commission's regulation. Moreover, PGW has not formally sought a waiver of or exemption from the Commission's regulation. Indeed, PGW's practice of requiring two forms of identification, which is not set forth in its tariff and is contrary to Commission's clear regulation, was revealed through discovery conducted by the Joint Parties in this rate proceeding and has, to Joint Parties' knowledge, never previously been presented for the Commission's approval.¹⁵ Notably, PGW *also* refuses to accept Philadelphia's municipal identification, which is by definition a "government issued photo identification." This form of identification issued by PGW's owner, the City of Philadelphia, falls squarely within the types of identification that should be accepted by PGW under Section 56.32(c) of the Commission's regulations.

¹³ 52 Pa. Code § 56.32(c) (emphasis added).

¹⁴ R.D. at 115.

¹⁵ See CAUSE-PA St. 1, Appendix B (PGW Response to CAUSE-02-26).

Because PGW’s tariff simply states that PGW requires applicants to provide such “identification, information, and documentation as required by the Company,”¹⁶ the Joint Parties submitted that PGW’s tariff should include a description of acceptable forms of identification.¹⁷ The Joint Parties’ witness, Mr. Harry Geller, developed a specific and detailed list of forms of suitable identification which separately listed those documents that would prove both identity and age and those that would require supplementation.¹⁸ The Joint Parties disagree with the ALJs’ contention that this specific list is “somewhat complex” as well as the ALJs’ apparent concern with the potential cost of implementing the recommended list.¹⁹ Indeed, if Mr. Geller’s recommendation were adopted, PGW would require less documentation from applicants, resulting in an inherent increase in efficiency and cost savings. Nonetheless, the Joint Parties submit, for purposes of this Exception, that PGW must at least be required to follow Commission Regulation Section 56.32(c) and discontinue its unlawful practice of requiring more documentation than permitted.

¹⁶ See CAUSE-PA/TURN St. 1 at 20.

¹⁷ CAUSE-PA/TURN Main Brief at 20.

¹⁸ CAUSE-PA/TURN St. 1 at 21-22.

¹⁹ R.D. at 116.

IV. CONCLUSION

For the foregoing reasons, CAUSE-PA/TURN respectfully request that the Commission grant their exception and modify the ALJs Recommended Decision as set forth herein.

Respectfully Submitted,

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