

COMMONWEALTH OF PENNSYLVANIA



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January 17, 2024

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Philadelphia Gas Works Universal
Service and Energy Conservation Plan
for 2023-2027
Docket No. M-2021-3029323

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Answer in Opposition to the Petition of Philadelphia Gas Works in the above-referenced proceeding. As required under the Commission's regulations, the Office of Consumer Advocate's Answer is accompanied by a verification in accordance with 52 Pa. Code Section 1.36.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

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*4878-4733-3790

CERTIFICATE OF SERVICE

Philadelphia Gas Works Universal :
Service and Energy Conservation Plan : Docket No. M-2021-3029323
for 2023-2027 :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Answer in Opposition to the Petition of Philadelphia Gas Works, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 17th day of January 2024.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Philadelphia Gas Works Universal Service :
And Energy Conservation Plan for 2023-2027 : Docket No. M-2021-3029323
Submitted in Compliance with 52 Pa. Code :
§ 62.4

ANSWER OF THE OFFICE OF CONSUMER ADVOCATE IN OPPOSITION
TO THE PETITION OF PHILADELPHIA GAS WORKS

Pursuant to Section 5.61(e) of the Pennsylvania Public Utility Commission’s (PUC or Commission) regulations, 52 Pa. Code § 5.61(e), the Office of Consumer Advocate (OCA) provides the following Answer in Opposition to Philadelphia Gas Works’ (PGW) Petition for Extension of Implementation Timelines for Three Changes to its Customer Responsibility Program (Petition)

I. INTRODUCTION

On December 28, 2023, PGW filed its Petition to extend the timelines for implementation of three changes to its Customer Responsibility Program (CRP) from July 1, 2024 until a vague and undefined “early Spring 2025.” Petition, 1, ¶ 17. Also on December 28, 2023, PGW separately filed its Implementation Timeline letter to update the Commission on the status of the changes to its Customer Responsibility Program required by Ordering Paragraph 2 of the Commission’s March 16, 2023 Reconsideration Order. *Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2023-2027 Submitted in Compliance with 52 Pa. Code 62.4*, Docket No. M-2021-3029323, Implementation Timeline Letter (December 28, 2023)(*Implementation Timeline Letter*); *Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2023-2027*

Submitted in Compliance with 52 Pa. Code 62.4, Docket No. M-2021-3029323, Reconsideration Order, Ordering ¶ 2 (March 16, 2023)(March 16 Reconsideration Order).

The Commission’s *March 16, 2023 Reconsideration Order* for PGW’s Universal Service and Energy Conservation Plan for 2023-2027 (*2023-2027 USECP*) provided that PGW must implement eight changes to its USECP by July 1, 2024. *March 16 Reconsideration Order* at Ordering ¶ 2. The July 1, 2024 implementation date was an extension of the Commission’s originally proposed deadline of December 31, 2023 and was amended in response to PGW’s Petition for Reconsideration.¹ PGW asserts that five of the proposed changes have been or can be completed by the deadline of July 1, 2024. *See* Petition, 1-2; *Implementation Timeline Letter Attachment* at 1-2. PGW requests an extension until the early Spring of 2025 of implementation of the following measures: (1) the proposed expansion of the CRP recertification timeline for LIHEAP recipients from one year to two years; (2) the 2020 base rate proceeding Settlement provision to revise CRP bills quarterly to determine whether the household is charged the lowest billing amount; and (3) the requirement to charge CRP customers no more than their prorated CRP billing amount for usage during their final billing period. Petition. PGW states that the Company requests the extension because its Customer Information System (CIS) has been delayed for implementation until the end of the 2024-2025 heating season due to factors not “wholly in PGW’s control.” Petition, 2, ¶ 17. PGW states that the Company “has the requirements in place in the

¹ The eight changes included the following: (1) notification to customers when the year-to-date income is used to determine CRP eligibility and how to dispute the income calculation; (2) allowance for customers to provide the last 30 days or 12 months of income; (3) acceptance of alternative forms of identification in lieu of a Social Security card; (4) revisions to CRP application and educational materials; (5) notifications to customers about their enrollment in the Hardship Fund pilot program after eligibility is determined; (6) the proposed expansion of the CRP recertification timeline for LIHEAP recipients from one year to two years; (7) the 2020 base rate proceeding Settlement provision to revise CRP bills quarterly to determine whether the household is charged the lowest billing amount; and (8) the requirement to charge CRP customers no more than their prorated CRP billing amount for usage during their final billing period. *March 16 Reconsideration Order* at 5-6.

current build of the new CIS to implement the three changes subject to this Petition once the new CIS goes live.” Petition, 2.

PGW requests the extension of the timelines due to claimed delays to the implementation of its new Customer Information System (CIS). Petition ¶ 7. According to its Petition, PGW is in the process of completing a total system replacement of its CIS. *Id.* PGW claims that the Company cannot implement system changes to the existing CIS because doing so would add a high level of risk and cost to the implementation of the new CIS. *Id.* Under PGW’s proposal, the extension would mean the three additional changes to the USECP would not be implemented for *two years* after the *March 16 Reconsideration Order* was issued. PGW argues that the development of an “interim solution” in the existing system would be “extremely costly, inefficient, and time consuming for staff on a daily basis who will already be inundated with the training and learning that necessarily goes along with the installation of a new CIS.” Petition, 2. PGW also argues that the implementation of a so-called “work around” in the existing system for the interim “would create significant room for error, particularly for the quarterly review and final bill changes, as well as significant confusion for consumers.” Petition, 2.

The OCA opposes PGW’s requested extension for several reasons. First, the proposed changes directly impact the affordability of CRP for low-income customers and would result in an over four-year delay in the implementation of a 2020 rate case Settlement provision designed to improve CRP affordability and charge CRP participants the correct rate, and in the case of the final bill changes would continue to perpetuate full-tariffed rates being charged to CRP participants in the final bill. A further delay beyond what has already been approved, without any relief being provided to CRP participants, is unreasonable. Second, PGW’s request only “*estimates* that these three changes could be implemented before early Spring 2025.” Petition, 1. PGW has made

promises in the past about implementation that it has not been able to keep and now makes only vague and illusory promises about compliance in the future. Moreover, PGW does not state with any particularity why the delay to the implementation of its Customer Information System is outside of its control and what it did to mitigate further delay. As the issue relates to delays caused by PGW's system implementation, the Company has the obligation to develop solutions to mitigate the harm caused to CRP participants. For the reasons set forth below, the OCA opposes the proposed additional extension to implement the three remaining Commission ordered provisions of PGW's 2023-2027 USECP.

II. ANSWER

A. PGW's Overall Need for an Extension

In its Petition, PGW argues that the *March 16 Reconsideration Order* understood that the three identified changes needed to be delayed until after PGW's new CIS was implemented and provided for an extension to implement the eight changes until July 1, 2024. Petition ¶ 4. PGW states that the Company anticipated that the CIS replacement project would be completed by the fall/winter of 2023, but that the Company made clear that the implementation timeline might be altered. PGW states that the requirements as a municipally owned utility to incorporate Commission and municipal lien requirements have added more complexity than previously understood. Petition ¶ 8.

In this case, PGW is requesting an additional potential 9-month or more delay in the implementation of the three remaining changes. PGW has provided only a vague timeframe for implementation, of "early spring 2025." PGW argues that the Commission has previously recognized the need for flexibility in USECP implementation timelines. Petition ¶ 7, citing *Staff Report Summarizing Public Comments, Feedback and Suggestions Regarding Universal Service*

and Energy Conservation Programs, Docket No. M-2017-2596907, Staff Report at 48 (March 28, 2018)(*Staff Report*). The *Staff Report* provides:

Each of the above makes similar comments such as: needing time for utilities to evaluate a USECP's effectiveness before proposing a new USECP; having flexibility in implementing pilot programs; noting that the USECP approval process is lengthy, and USECPs are sometimes delayed past the starting date; providing BCS with sufficient time for initial review prior to formal Commission action; changing a utility's almost constant state of "planning"; allowing USECPs to be effective for a certain time period after approval before resubmitting the next proposed USECP; and reducing the Commission's workload.

Staff Report at 48.

The OCA does not agree with PGW's interpretation of the *March 16 Reconsideration Order* language, or the *Staff Report* language as applied to the circumstances of the requested extension. The *March 16 Reconsideration Order* provided for a *temporary* stay of implementing the changes and did not provide for an unlimited waiver of the Company's obligations. *March 16 Reconsideration Order* at 8. The Commission's Order provided:

While we find it reasonable to allow PGW to propose an alternate implementation timeline to adopt these changes when its new CIS operation, we agree with the stakeholders that *the timeframe must be fixed* and that PGW should provide regular updates until these changes are implemented. Therefore, PGW's request for a *temporary stay* on implementing these changes is granted.

March 16 Reconsideration Order at 8 (emphasis added).

While it is true that the *Staff Report* discusses the need for flexibility, that flexibility should not be unlimited. PGW's proposal goes beyond the need for flexibility. PGW has not made any proposals as to how it will address the harms caused to customers by its delay nor has it even provided a firm commitment that the changes will actually even be implemented a year and a quarter from the date of its filing. PGW should have the responsibility to provide an interim solution to the continued problems created by the delay.

PGW makes vague claims that an interim solution or work around should not be implemented because it would be “temporary, costly, prone to error, and less efficient than what is on track to be implemented with the new CIS.” Petition ¶ 9. PGW provides no facts to support this conclusory claim. It does not discuss what solutions it examined, why it rejected them, or whether it considered alternatives. PGW also argues that the so-called “work arounds” would divert staff from the CIS system; that PGW lacks the staffing necessary to implement a temporary work around solution; and that manual solutions would need to be devised. PGW states that “this is not an efficient or prudent use of staff resources or ratepayer money.” *Id.* Again, PGW provides no facts to support these conclusory statements.

In its Petition, PGW estimates that the Company will be able to implement the changes in early Spring 2025, but PGW also estimated in its Petition for Reconsideration that it would implement the measures by July 1, 2024. Given PGW’s clear inability to provide accurate estimates or meaningfully enforceable timeframes, the Commission should view this newest estimate skeptically. There is no guarantee that the situation will not continue to exist for longer than the estimated time period. PGW’s Petition also makes claims about the high cost of implementing a solution but fails to provide any details about how much such a temporary solution would cost. PGW also does not provide any compromise solutions about what could be done by the Company in the interim. PGW’s CRP customers should not be left waiting indefinitely for a solution to the problems for which the Commission ordered resolutions.

PGW’s Petition never considers the impact of delay of the overall at least two-year delay in implementing the changes has had on CRP participants and a four-plus year delay to implement the quarterly review of bills as a part of the 2020 base rate proceeding. PGW has been committing to implement a new CIS since at least the 2020 rate case proceeding Settlement. The onus should

be placed on PGW to adhere to its rate case Settlement commitments and to the Commission's *March 16 Reconsideration Order* requirements. The impact of the delay on CRP participants must be considered as a part of this Petition. The OCA does not agree with PGW that granting this Petition is in the public interest and it is certainly not in the interest of CRP participants.

B. Expanding Recertification for Non-LIHEAP CRP Participants

As a part of its recently approved USECP, PGW proposed to expand its recertification for non-LIHEAP CRP participants from one year to two years, and the Commission granted this proposal as a part of its approval of PGW's 2024-2028 USECP. Petition ¶ 13. PGW proposes to delay implementation of this change to an estimated timeframe of early 2025. PGW states that the implementation of the new recertification timeline for non-LIHEAP participants from a 1-year to a 2-year cycle would require PGW to evaluate the current status of all its CRP participants on a manual basis with every bill cycle until the new system goes live. Petition ¶ 14. Once identified, each identified account would need to be modified manually and PGW states that it would need to develop a method to educate customers on the temporary process. Petition ¶ 14. As an alternative, PGW states that it could discontinue the need for CRP participants to recertify until the new system goes live. PGW argues that its experience during the pandemic indicates that it would cause customer confusion and additional work on the part of PGW's staff. Petition ¶ 15. PGW also claims that manually reviewing the accounts on a regular basis would be "laborious and an unnecessary use of PGW's ratepayer resources." Petition ¶ 16.

The onus should be on PGW to create a compromise solution in the interim. If a manual interim solution is not possible, then PGW's alternative solution to discontinue recertifications for non-LIHEAP CRP participants should be considered. In effect, if delayed implementation is not possible until 2025, CRP participants should receive the benefit of the delay in the system changes

and not the burden of them. As such, the OCA recommends that PGW be required to suspend recertifications during any delay in implementing this settlement requirement that extends beyond July 1, 2024. As was done during the pandemic, a reasonable timeline for reinstating recertifications could be rolled out on a staggered basis so that it will not overwhelm staff. An education campaign could also be developed to inform customers about the change once it is instituted with the CIS. Presumably, the Company planned to provide an education process once the one-year to two-year recertification process change occurred. The purpose of the change to the recertification process is to retain CRP customers in the program and to provide the continued benefits of a more affordable bill. Halting recertifications until such time as PGW can implement the permanent solution is a reasonable interim solution.

C. Reviewing CRP Bills Quarterly

PGW also requests an extension to implement its 2020 base rate proceeding commitment wherein it agreed to review its CRP monthly bill amounts quarterly upon implementation of the new CIS so as to ensure that customers were paying the lesser of their PIPP amount or average bill amount. *Pa. PUC v. PGW*, Docket No. R-2020-3017206, Joint Petition for Partial Settlement at 13, ¶ 13 (Aug. 26, 2020) (Settlement). Under the Settlement, if the average bill amount exceeds the household's energy burden, the customer shall be switched to a CRP percentage of income bill. *Id.* PGW stated in its Petition that the Commission acknowledged the then-anticipated CIS implementation date of September 30, 2023 for the new CIS and "permitted PGW to inform the Commission if an extension was necessary." Petition ¶ 18. The Commission required PGW to file a letter with revised proposed implementation and reason for the delay. The timeline was further extended to July 1, 2024 as a result of the Commission's *March 16 Reconsideration Order*. The proposed delay, in this case, will be more than a 1 year and half beyond the Commission's original

proposed September 30, 2023 implementation timeline. The timeline proposed here is well beyond the scope that would have been anticipated by the January 2023 Order, and a nearly five-year delay from the time of the 2020 base rate proceeding Settlement is not reasonable.

In its Petition and in support of the extension, PGW argues that it would otherwise be required to implement a process to review each and every CRP participant bill on a daily, bill cycle basis to determine whether correct billing amount. Petition ¶ 19. PGW argues that it would be time-consuming, inefficient, could not be achieved manually, would otherwise modify the structure of the CRP, and would give forgiveness for CRP arrears. Petition ¶ 19. PGW claims that once identified, each of the accounts would need to be manually adjusted prior to billing or a new bill would need to be issued if CSRs are unable to keep up with the increased work. Petition ¶ 19. In order to do it manually, the customer's CRP would need to be restarted as a new CRP plan with new effective and recert dates and any CRP bill arrears would convert to preprogram arrearage subject to forgiveness. Petition ¶ 19. PGW argues that a manual fix would increase the universal service surcharge and that there is an increased risk of manual errors. Petition ¶ 19. PGW argues that because the Settlement is tied to the new CIS, it is reasonable to grant the extension of time. Petition ¶ 19.

The OCA does not agree that it is reasonable to grant a further extension of time to PGW. PGW's Petition does not consider the impact of paying a higher rate than otherwise eligible for by CRP participants. The Company has a responsibility and an obligation to provide a remedy for CRP customers. The onus should be on PGW to develop a reasonable resolution to the problem rather than simply identifying reasons why it cannot comply. PGW is required under the law to charge customers the most affordable rate available to them, including to CRP participants, and PGW is not doing this without the quarterly review of the bills. *See* 66 Pa. C.S. § 1303. If CRP

participants are being charged the full percentage of income bill and the customer's usage is lower, then the CRP participant is potentially being overcharged for their usage. Moreover, if the customer is being charged the average bill and their usage is higher, the CRP participant could also be paying more than is necessary as a CRP participant. CRP participants have already waited more than three and a half years since the time of the Settlement agreement in August of 2020. By 2025, customers will have waited nearly five years for a resolution. At the very least, if the Commission is inclined to grant PGW's extension, it should require PGW to cease termination of all CRP customers during this further delay to its implementation time frame.

D. Charging CRP Customers No More Than the Prorated Amount on the Final Bill

Under the *January 12 Order* and the *March 16 Reconsideration Order*, the Commission directed PGW to charge CRP participants no more than their prorated CRP billing for usage during the final billing period. PGW was originally directed to implement the changes by December 1, 2023. *January 12 Order* at 25; *March 16 Reconsideration Order* at 25. Under the *March 16 Reconsideration Order*, the timeline was extended to July 1, 2024. *March 16 Reconsideration Order* at Ordering ¶ 2. In its Petition, PGW argued that the proposed timeline should be extended until an estimated early spring 2025. PGW stated that the CIS currently cannot charge customers based on their prorated CRP billing amount for usage incurred during the final billing period. Petition ¶ 22. PGW claims that the Company cannot implement processes to change the current CIS as it is transitioning to the new CIS. *Id.* PGW states that all solutions involve significant, laborious manual processes that are prone to error and will increase customer confusion. *Id.* PGW argues that under a manual process that the Company must issue a final bill to the customer as is currently done and then on a daily basis PGW would need to manually evaluate each issued final bill and cancel and issue a new bill, if warranted. *Id.* PGW states that the calculation is not simple

as the employee would need to break the amount into a per day amount for actual usage and for the PIPP amount and calculate it by the cycle days for comparison. *Id.* PGW estimates that in some months that it could be nearly a thousand or more customers and PGW would have to manually review. The issuance of two final bills with a manual process would be costly and confusing. *Id.*

As noted above, PGW's Petition does not consider the impact on CRP participants of its current final billing and that its current final billing policy is contrary to the law. An extension of the timeline would perpetuate for at least another nine months a practice that is contrary to the law. The onus should be placed upon PGW to determine a solution to resolve the issue. PGW cannot be permitted to continue to charge final bill customers the full residential tariffed rate.

PGW's current policy limits the CRP participant's status to the date of termination or disconnection and before their final bill is issued. There is nothing in the law to support PGW's interpretation. The OCA submits that a customer does not stop being a customer until *30 days after* the final bill is issued and that if they are enrolled in CRP at the time of termination, they are a CRP customer until 30 days after the final bill is issued.

The OCA submits that PGW's request for an extension should be denied. In the alternative, if the Commission is inclined to grant PGW's request, the OCA submits that PGW should be required to assess no more than their prorated CRP billing for usage during the final billing period for all customers or applicants who are seeking reconnection of service during the period of PGW's delay. While this would not be fully compliant with the required change, it would seek to ensure that those households seeking to reconnect are not punished because of PGW's continued delays. PGW should not be permitted to continue to charge a final CRP bill that disregards the customer's

status as a CRP participant and charges the customer the full residential-tariffed rate, allowing PGW to be unjustly enriched by the overcharge.

E. Conclusion

The OCA respectfully requests that PGW's proposed extensions until an estimated spring 2025 be denied, that PGW be required to develop an interim solution if a CIS solution is not possible or, in the alternative, that the Commission impose the solutions suggested by the OCA in this Answer. CRP participants should not have to continue to bear the burden of unaffordable rates as a result of PGW's inability to implement a new CIS. Moreover, PGW's proposal to only estimate a timeline for changes until "early spring 2025" should not be permitted. A binding, firm timeframe should be established for any further extension of time.

III. CONCLUSION

WHEREFORE, for the reasons set forth above, the Office of Consumer Advocate respectfully requests that Philadelphia Gas Works' Petition be denied and that PGW be required to implement temporary solutions for each of the three delayed changes identified.

Respectfully Submitted,

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