

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Philadelphia Gas Works	:	
for Approval of Demand-Side	:	
Management Plan for FY 2024-2026	:	
	:	P-2014-2459362
Philadelphia Gas Works Universal	:	
Service and Energy Conservation	:	
Plan for 2014-2016, 52 Pa.Code	:	
§ 62.4 – Request for Waivers	:	

RECOMMENDED DECISION

Before
F. Joseph Brady
Administrative Law Judge

INTRODUCTION

This Decision recommends the Pennsylvania Public Utility Commission (Commission) approve, without modification, the Joint Petition for Settlement (Settlement or Joint Petition) dated February 29, 2024, filed by Philadelphia Gas Works (PGW or Company), the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), and the Tenant Union Representative Network (TURN)(collectively, the “Joint Petitioners”). Additionally, the Philadelphia Industrial and Commercial Gas Users Group (PICGUG) does not oppose the Settlement.¹

This Recommended Decision approves the Settlement without modification because it is in the public interest and is supported by substantial evidence. The Joint Petitioners request that the Commission approve the Settlement on or before the Commission’s June 13,

¹ See Joint Petition at 1.

2024 public meeting.² Upon final Commission Order, PGW proposes to submit a Further Revised EnergySense Demand Side Management Portfolio Implementation Plan, Fiscal Years 2025-2027, in compliance with the Settlement terms described below and the Commission’s final order.

HISTORY OF THE PROCEEDING

On June 16, 2023, PGW filed its proposed Phase IV Demand Side Management (“DSM”) Program Implementation Plan for Fiscal Years 2024-2026 (“Implementation Plan” or “FY24-26 Plan”). The Implementation Plan described program budgets and implementation details that PGW proposed to follow to implement its EnergySense Demand-Side Management Portfolio from September 1, 2023 to August 31, 2026. This filing was made in accordance with the Commission’s November 1, 2016 Final Order approving PGW’s DSM Phase II Plan for Fiscal Years 2016 through 2020, including the provision authorizing the continuation of PGW’s DSM programming beyond FY 2020 through ongoing triennial update filings.

On June 29, 2023, Gina L. Miller, Esquire withdrew her appearance on behalf of the Bureau of Investigation and Enforcement (I&E). Carrie B. Wright, Esquire remained as counsel on behalf of I&E.

On July 5, 2023 CAUSE-PA, through its counsel, filed a Petition to Intervene and Answer.

On July 6, 2023, the OCA, through its counsel, filed an Answer.

On July 10, 2023, the OSBA, through its counsel, filed a Notice of Intervention, Public Statement, and Notice of Appearance.

² PGW makes this request to permit it sufficient time to put all plan modifications into effect in fiscal year (FY) 2025, which begins on September 1, 2024, as required by the Settlement. *See* Joint Petition at 1. PGW seeks certainty on these items by mid-June so that the Company can take the necessary steps to implement the Plan, which may require issuing Request for Proposals (RFPs), website development, and other IT buildout. *Id.*

On July 26, 2023, TURN, through its counsel, filed a Petition to Intervene.

On July 27, 2023, PGW submitted a letter requesting that it be allowed to delay implementation of the FY24-26 Plan and instead maintain its currently effective Plan (“FY21-23 Plan”) until it receives Commission approval to implement the FY24-26 Plan.

By Call-In Telephonic Prehearing Conference Notice dated August 3, 2023, a telephonic prehearing was scheduled for August 16, 2023, and the matter was assigned to me.

On August 14, 2023, PICGUG, through its counsel, filed a Petition to Intervene.

On August 15, 2023, in accordance with a Prehearing Conference Order dated August 3, 2023, PGW, I&E, OCA, OSBA, PICGUG, TURN, and CAUSE-PA submitted prehearing memoranda.

A prehearing conference was held on August 16, 2023. Counsel for PGW, I&E, OCA, OSBA, PICGUG, TURN, and CAUSE-PA participated.

On August 18, 2023, I issued an Order which, *inter alia*, memorialized the matters decided and agreed upon by the parties attending the August 16, 2023 Prehearing Conference and granted PGW’s request to maintain its currently effective Phase III Plan until it received Commission approval to implement its Phase IV Plan.

On September 27, 2023, PGW filed direct testimony and accompanying exhibits in support of its DSM Phase IV Plan. As part of this filing, PGW submitted a Revised DSM Implementation Plan for Fiscal Years 2025-2029 (Revised DSM IV Plan), which modified PGW’s originally filed Phase IV Plan to begin in FY 2025 (instead of FY 2024) and to implement the Plan over a five-year term (rather than a three-year term as originally proposed). *See* Joint Petition at 3. From that point onward, the “Revised DSM IV Plan” became PGW’s operative proposal.

By Corrected Hearing Notice dated October 16, 2023,³ evidentiary hearings were scheduled for January 17-18, 2024.

On November 13, 2023, the OCA, the OSBA, and CAUSE-PA/TURN filed direct testimony and accompanying exhibits. On December 14, 2023, PGW filed rebuttal testimony and accompanying exhibits.

On January 11, 2024, the OCA, the OSBA, and CAUSE-PA filed surrebuttal testimony.

On January 16, 2024, Counsel for PGW notified me that cross-examination of all witnesses was waived. Accordingly, I canceled the evidentiary hearings scheduled for January 17-18, 2024.

Also on January 16, 2024, Carrie B. Wright, Esquire entered a Withdrawal of Appearance on behalf of I&E.

On February 20, 2024, the Joint Petitioners submitted a Joint Stipulation for the Admission of Testimony and Exhibits. The Joint Petitioners stipulated to the authenticity of the statements and exhibits listed in the Stipulation, waived the opportunity to conduct cross-examination and requested that the statements and exhibits be admitted into the record. By Order dated March 11, 2024, the Joint Stipulation for Admission of Testimony and Exhibits was approved, and the Stipulation, statements, and exhibits were admitted into the record of this proceeding. The record also closed on this date.

On February 29, 2024, a Joint Petition for Settlement was filed and served. Signatories to the Joint Petition include PGW, the OCA, the OSBA, CAUSE-PA, and TURN. Each of the Joint Petitioners provided a Statement in Support of the Joint Petition.

³ The original Hearing Notice, dated October 13, 2023, contained incorrect hearing dates.

The record in this proceeding consists of the transcript of the prehearing conference, PGW's filing, and the statements and exhibits sponsored by the Joint Petitioners (and the related Stipulation) which were admitted into the record through the March 11, 2024 Order.

TERMS AND CONDITIONS OF THE PROPOSED SETTLEMENT

The principal terms and conditions of the proposed settlement are contained in Section II, Paragraphs 15-25, of the Joint Petition. For ease of reference, the settlement terms are cited below *in verbatim*, with subheadings and paragraph numbering retained as they appear in the Joint Petition. The settlement terms are as follows:

15. The Joint Petitioners hereby respectfully request that PGW's Revised Phase IV DSM Implementation Plan (PGW Exh. DA-1) be approved as filed with the following modifications:

16. Term of the DSM Phase IV Plan

a. The Plan will be a three-year plan to be in effect from PGW's FY 2025 (beginning on September 1, 2024) through FY 2027 (ending on August 31, 2027).

b. Prior to proposing a continuation of the Plan, if the Company proposes to offer equipment rebates for gas furnaces, PGW will conduct a market baseline study to determine the typical efficiencies of gas furnaces that are sold in PGW's service territory and the percentage of total sales that occur at different efficiency levels. PGW will be permitted to recover the reasonable cost of this study in its Efficiency Cost Recovery Surcharge. As part of any request for Plan continuation PGW will include updated cost-effectiveness results using actual market baseline efficiencies to determine the cost effectiveness of any proposed gas equipment rebates.

c. By March 31, 2026, PGW will hold a stakeholder meeting to discuss the DSM Plan participation rates and marketing events. PGW will provide sixty (60) days of advance notice to stakeholders, including all parties to this case,

so that parties have sufficient time to plan for and attend the meeting.

d. At least three (3) months in advance of filing a new DSM plan, PGW will host a meeting with interested parties to present the Company's proposal. PGW will coordinate with all parties to this case to select a meeting date.

i. If PGW files a new DSM plan with the Commission, PGW will include in such DSM plan a proposal for using unspent budgeted residential program DSM incentive funds from FY25-FY27 to deliver no-cost energy efficiency measures to especially vulnerable customers in the 151-200% FPL income tier, up to the amount of \$500,000 to fund these programs, and will offer the program as part of the next DSM plan until these funds are exhausted. The criteria for qualification will include customers with a medical certificate in the prior 6 months, customers with an active Protection from Abuse ("PFA") order or court order issued by a court of competent jurisdiction providing clear evidence of domestic violence or households with senior citizens over age 65 or children under age 5. As evidence of income, such customers will orally provide income information establishing that their household income is in the 151%-200% FPL tier. As evidence of the age of household members, the customer will provide an oral statement, to be in effect at the time made and accepted for future work.

17. Within ninety (90) days after final PUC approval of the Settlement in this proceeding, PGW will file a revised FY25-FY27 DSM Plan that will include a revised budget that will allocate administrative budgets to individual programs.

a. PGW's revised budget will be limited to the amounts approved by the Commission, as the revisions will provide detailed breakouts for each of PGW's individual DSM programs set forth on Tables 1 and 2 of PGW's Revised DSM IV Plan (PGW Exhibit DA-1, p. 7).

b. PGW will revise Table 1 and Table 2 to provide for each of the program budgets to be broken out by functional category, customer incentives, administration, marketing, technical assistance, inspections, and evaluation.

18. If PGW filed a new DSM Plan proposal, PGW will provide the following information alongside its DSM proposal:

a. The budget breakout identified in Paragraph 17 above;

b. Identification of the activities that each budget is planned to be used for;

c. Excel worksheets that identify PGW's budget calculation for each individual DSM program and for PGW's overall budget.

19. Federal funding opportunities for PGW and its customers.

a. PGW will make reasonable efforts to have a meeting with representatives from the Pennsylvania Department of Environmental Protection to discuss how best to leverage federal funding and incentives that may become available through the Inflation Reduction Act or other sources to expand and/or improve the program. Parties to this settlement will be invited to the meeting, provided that PA DEP is agreeable to inviting the parties. PGW will identify its efforts and the outcomes of those efforts in its first Annual Report for the Revised Phase IV DSM Plan.

b. PGW agrees to include information for all residential customers in three customer billing cycles, either through on-bill messaging or as a bill insert, about federal funding available to customers through rebates that they may pursue directly. The information may include, but not be limited to, the rebate opportunities identified in OCA Statement No. 1, which details rebates that will be available beginning in 2024 through the High-Efficiency Electric Home Rebate Act ("HEEHRA") and the HOMES energy rebate program. The information provided will be educational in nature and may include messaging identifying the possible availability of HEEHRA and HOMES rebate opportunities, providing a link for the DEP's website where more information about programming is available, and providing information about existing tax credits for natural gas energy efficiency measures. To the extent the equipment efficiency thresholds required to qualify for rebates in the PGW Appliance Rebate Program are lower than the efficiency thresholds required to qualify for rebates in the HOMES programs in Pennsylvania, PGW agrees

to update its marketing materials and its website with an appropriate disclosure to inform customers about the higher efficiency level required to qualify for rebates under both PGW's Program and the HOMES program.

20. PGW will cap its administrative spending at 41% of total program costs over the duration of the plan.

21. PGW will be permitted to offer variable refrigerant flow ("VRF") natural gas heat pumps as a pilot program under the Commercial Equipment Rebate ("CER") program.

a. The pilot will be limited to a total of 18 units over the course of the Phase IV Plan.

b. Customers participating in the pilot will be asked to complete an optional questionnaire with up to 10 questions about their project. This questionnaire will be developed with the opportunity for input by OSBA.

c. After 18 units are rebated, PGW will provide the customer survey results in its next filed Annual Report.

22. In its Annual Report, PGW will report to the PUC and the Parties on:

a. Small business participation in the Small Business Assessment ("SBA") and CER programs, and

b. PGW's marketing activities for the SBA and CER programs.

c. Specifically, the report will include the number of participants in each program, annual savings of each program, incentive payments made for each program, customer costs incurred under each program, and the costs and benefits of each program (TRC). The report will also include the ratio of small businesses to other commercial customers participating in the CER program.

23. PGW will notify its customers and contractors of the Low Income Rebate for Roof Insulation program. The notifications will include opportunities for additional project funding through coordination with community organizations, informational sessions with qualified contractors, and other means. PGW will provide a copy of the notifications to the

parties to this proceeding. With customer consent, PGW will facilitate the sharing of project-specific information with other low income efficiency and home repair programs within the service territory pursuant to the following terms:

a. PGW will make best efforts to meet with other organizations to identify opportunities for collaboration, including through the Weatherization Assistance Program, LIHEAP Deferral Program, Philadelphia Basic Systems Repair Program, Philadelphia Energy Authority's Built to Last Program, Philadelphia's Whole Home Repair Fund, and PECO's Act 129 and LIURP programs.

b. PGW will include a single checkbox on its low-income DSM program applications asking the customer if they consent to allowing PGW to share information about their projects with other low-income energy efficiency and home repair programs within PGW's service territory.

c. If the customer consents, PGW will provide a list of leads to the related agencies that will identify the work completed and the customer's name, address, and email address (if provided by the customer).

d. PGW will report on the outcomes of its coordination efforts in subparts a-c in its annual DSM report.

24. To increase the number of homes where air sealing occurs, PGW will market and implement its roof insulation rebate program as a combined roof insulation and air sealing rebate program. Customers who do not want to pursue air sealing, or who find themselves unable to pursue air sealing, have the right to not have air sealing. Insulation and air sealing will be installed by Building Performance Institute ("BPI") certified contractors. For the purposes of this measure, air sealing shall be defined as sealing all reasonable accessible gaps and penetrations in an attic space in order to align the home's top pressure boundary with the thermal boundary that will be created by the newly installed insulation, per building science best practice protocols established by the BPI).

25. PGW will increase its annual budget for the Low Income Smart Thermostat ("LIST") program to \$110,000 per year. PGW will evaluate program spending eight (8) months into the program year. Additionally, if the amounts budgeted for the Residential Construction Grants ("RCG") program or

EnergySense Kits (“ESK”) program are not fully spent at the end of each program year, PGW will reallocate 25% of any unspent funds from these programs to support LIST in the following year.

DISCUSSION

Applicable Law

The Settlement provides for the continuation of PGW’s voluntary DSM Program as described in the Revised Phase IV DSM Implementation Plan (“Revised Implementation Plan”) submitted as PGW Exhibit DA-1, with the changes provided by the Settlement. The Revised Implementation Plan provides for a continuation of the Company’s DSM programming, with various additions including a new EnergySense Kits (ESK) program and Small Business Assessments (SBA) program. PGW asserts that by continuing and improving on these programs, PGW will continue supporting the deployment of high efficiency natural gas equipment in order to provide PGW customers with the opportunity to reduce gas usage and associated costs, as well as supporting conservation and load management efforts in Philadelphia. It is PGW’s position that these programs help program participants save money, reduce natural gas costs, reduce carbon emissions, and improve load management.

PGW, the OCA, the OSBA, CAUSE-PA, and TURN have agreed to a settlement that resolves all the issues in this proceeding. Each of the Joint Petitioners have provided statements in support of the Settlement which explain why the Settlement is in the public interest. PICGUG is not opposed to the Settlement.

It is the policy of the Commission to encourage settlements. 52 Pa. Code § 5.231(a). In its policy statement regarding settlements in major rate cases, the Commission regulations provide in pertinent part:

In the Commission’s judgment, the results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often

preferable to those achieved at the conclusion of a fully litigated proceeding[.]

52 Pa. Code § 69.401.

Settlements lessen the time and expense the parties must expend litigating a case and at the same time conserve administrative hearing resources. A settlement, which allows the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and reply exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission's decision, yields significant expense savings for the company's customers. That is one reason why settlements are encouraged by long-standing Commission policy.

In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Opinion and Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. C S Water & Sewer Assocs.*, 74 Pa.P.U.C. 767 (1991). The Joint Petition will be examined in accordance with the above principles.

As discussed in more detail below, the proposed settlement is reasonable and in the public interest and therefore should be approved without modification by the Commission. It represents a just and fair compromise by all active Parties who represent a variety of interests in the serious issues that arose in this proceeding. The fact that no party opposes the settlement is significant. This conclusion is based on my analysis of the following key terms of the Settlement and accompanying statements in support.

Analysis

PGW originally filed for approval of its initial DSM on March 26, 2009, which was in effect from September 1, 2010 through August 31, 2015. The DSM has been continuously operating since that time. PGW is a natural gas distribution company; therefore,

PGW's DSM is a voluntary program. *See Petition of Philadelphia Gas Works for Approval of Demand Side Management Plan for FY 2016-2020*, Docket No. P-2014-2459362 at 70 (Tentative Opinion and Order entered Aug. 4, 2016). On June 16, 2023, PGW filed its proposed Phase IV DSM Program Implementation Plan for Fiscal Years 2024-2026. The FY24-26 Plan described program budgets and implementation details that PGW proposed to follow to implement its EnergySense Demand-Side Management Portfolio from September 1, 2023 to August 31, 2026. This filing was made in accordance with the Commission's November 1, 2016 Final Order in this docket (Docket No. P-2014-2459362) approving PGW's DSM Phase II Plan for Fiscal Years 2016 through 2020, including the provision authorizing the continuation of PGW's DSM programming beyond Fiscal Year ("FY") 2020 through ongoing triennial update filings. Due to the ongoing litigation in this proceeding, PGW filed a letter on July 27, 2023 proposing to delay implementation of the Phase IV Plan and instead maintain its currently effective Phase III Plan until it receives Commission approval to implement the Phase IV Plan. This request was granted in an Order issued on August 18, 2023, and PGW's Phase III Plan remains in place at this time.

According to the Joint Petitioners, the Settlement achieves a reasonable and beneficial result while curtailing the costs of litigation in avoiding evidentiary hearings, briefing, and, expending further time by the Commission and the parties. The Joint Petitioners arrived at the Settlement terms after extensive review of discovery by the statutory advocates and engaging in in-depth discussions. They state that the Settlement terms and conditions constitute a carefully crafted package representing reasonable negotiated compromises on the issues addressed herein. The Joint Petitioners, through their respective statements in support, advocate that the proposed Settlement is just, reasonable, in the public interest and should be approved without modification.

Term of the DSM Phase IV Plan (Settlement ¶16)

Pursuant to the Settlement, the parties agreed to implement the Phase IV Plan for a three-year term, to be in effect from PGW’s FY 2025 (which begins on September 1, 2024) through FY 2027 (ending on August 31, 2027).⁴

The settled upon three-year term is consistent with the plan term in prior DSM phases. Additionally, the three-year term gives PGW the flexibility to update and adjust for changes in costs of natural gas and energy efficiency measures, new technology, and changes in law or policy.⁵ This type of adaptability is important as policies and technologies evolve over the next three years.⁶ Adopting a three-year DSM term will better protect ratepayers from variable costs and inaccurate projections that are more likely to develop over a longer plan period.⁷

Furthermore, initiation of the Plan’s term in FY 2025 (rather than in FY 2024 as proposed in the original filing) recognizes the time spent on litigation and allows sufficient time for PGW to implement the program in September 2024 after obtaining Commission approval.⁸ At the same time, this will also permit PGW to have more regulatory certainty because it will have an opportunity to receive Commission action in this case before the DSM IV Plan term begins.⁹ Accordingly, I find these terms are reasonable, in the public interest, and should be approved without modification.

⁴ Joint Petition at ¶ 16.a.

⁵ OCA Stmt. B, p. 4.

⁶ *Id.*

⁷ OCA Stmt. B, p. 5.

⁸ PGW Stmt. A, p. 6.

⁹ OCA Stmt. B, p. 5.

In addition, PGW has agreed to take certain steps to allow for feedback from the parties. The Company will hold a stakeholder meeting by March 31, 2026 to discuss participation rates and marketing events for the DSM.¹⁰ This will provide PGW and the parties an opportunity to discuss these aspects of the program midway through the Phase IV Plan term. Additionally, at least three months before filing a new DSM plan, PGW will host a meeting with interested parties to present its next plan proposal.¹¹

These terms are an important avenue for both consumers and their advocates to stay informed about the progress and plans of DSM programming that will impact PGW's customers.¹² These terms will help ensure that the program will be subject to more frequent review, ensuring appropriate Commission oversight of PGW's DSM in the context of the rapidly evolving energy transition.¹³ These terms will also help to ensure that future proposals include evaluation of the continued effectiveness of gas equipment rebates, and that the parties have an opportunity to review and provide input into any future DSM proposal prior to filing.¹⁴ Accordingly, I find these terms are reasonable, in the public interest, and should be approved without modification.

The Settlement also provides that if PGW files a new DSM plan, it will include a proposal for using unspent budgeted residential program DSM incentive funds from FY 2025 to FY 2027 to deliver no-cost energy efficiency measures to especially vulnerable customers in the 151% to 200% Federal Poverty Level ("FPL") income tier, up to the amount of \$500,000, which will be offered as part of the next phase of the DSM plan until the funds are exhausted.¹⁵ Criteria for participation as an "especially vulnerable customer" will include customers with a medical

¹⁰ Joint Petition at ¶ 16.c.

¹¹ Joint Petition at ¶ 16.d.

¹² OCA Stmt. B, p. 5.

¹³ CAUSE-PA Stmt. D, p. 7.

¹⁴ *Id.*

¹⁵ Joint Petition at ¶ 16.d.i.

certificate in the prior 6 months, customers with an active Protection from Abuse (“PFA”) order or court order issued by a court of competent jurisdiction providing clear evidence of domestic violence or households with senior citizens over age 65 or children under age 5.¹⁶ Under these terms, unspent residential funds from the Phase IV DSM program will provide benefits to certain customers under any future plan PGW proposes, and will target this group of customers that does not generally qualify as “low-income” but is considered especially vulnerable based on the identified criteria.¹⁷

Furthermore, under the Settlement, PGW has agreed that, if it proposes a continuation of the DSM plan in the future and proposes to offer equipment rebates for gas furnaces, it will conduct a market baseline study to determine the typical efficiencies of gas furnaces that are sold in its service territory and the percentage of total sales that occur at different efficiency levels.¹⁸ Information from this study will be used in the future DSM plan to determine the cost-effectiveness of any proposed natural gas equipment rebates.¹⁹

These low-income terms will provide additional benefits to low-income customers such as access to smart thermostats and other efficient equipment, as well as roof insulation and air sealing measures to help them conserve energy and better manage their natural gas bills.²⁰ These terms also ensure that if PGW has excess DSM Plan funding, it will be targeted to assisting vulnerable customers who have a demonstrated need for assistance, thereby maximizing the cost-efficiency of program funding.²¹ Accordingly, I find these terms are reasonable, in the public interest, and should be approved without modification.

¹⁶ *Id.*

¹⁷ PGW Stmt. A, p. 15.

¹⁸ Joint Petition at ¶ 16.b.

¹⁹ *Id.*

²⁰ PGW Stmt. A, p. 15.

²¹ CAUSE-PA Stmt. D, p. 8.

PGW's Revised Budget (Settlement ¶ 17)

Through its testimony, the OCA requested a greater level of detail in the budgets presented in the DSM filing.²² To address these concerns, PGW has agreed to file a further revised FY 2025-FY 2027 DSM Plan within ninety (90) days after final Commission approval of the Settlement to include a revised budget.²³ The revised budget will allocate administrative budgets to individual programs, and will break out the budgets in Tables 1 and 2 by functional category, customer incentives, administration, marketing, technical assistance, and evaluation.²⁴

These terms will provide additional budgetary information to the parties and the Commission, allowing for a more streamlined review of the budgets if PGW files a new DSM plan.²⁵ Ensuring that PGW breaks out the budget for each functional category is necessary to better enable a determination of whether each program budget is reasonable and appropriate for the costs they are designed to recover.²⁶ Accordingly, I find these terms are reasonable, in the public interest, and should be approved without modification.

Budgets for Future PGW DSM Proposals (Settlement ¶ 18)

In conjunction with its commitments to provide a revised DSM V budget, the Settlement requires PGW to provide more comprehensive and timely budget information as part of any future DSM filing. More specifically, PGW has committed that future DSM Plans will include all of the budget breakout information identified in Paragraph 17 of the Joint Petition, and also identify the activities that each budget will fund.²⁷ Additionally, PGW will include the

²² OCA St. 1 at 6-9.

²³ Joint Petition at ¶ 17.

²⁴ *Id.*

²⁵ PGW Stmt. A, p. 8.

²⁶ OCA Stmt. B, p. 6.

²⁷ Joint Petition at ¶ 18.

Excel worksheet that identifies PGW’s budget calculation for each individual DSM program and for PGW’s overall budget.²⁸

The provision of this essential budget information is necessary to permit a full and timely evaluation of the budget and to ensure that a comprehensive record is available for the Commission’s review as well.²⁹ These terms will provide greater information to the parties and the Commission if PGW requests a future continuation of the DSM plan that includes natural gas equipment rebates and will help ensure that PGW’s DSM program remains cost effective in the future. Accordingly, I find these terms are reasonable, in the public interest, and should be approved without modification.

Federal Funding Opportunities (Settlement ¶ 19)

PGW has agreed to make reasonable efforts to meet with representatives of the Pennsylvania Department of Environmental Protection (“PA DEP”) to discuss ways to leverage federal funding and incentives that may become available through the Inflation Reduction Act (IRA) or other sources.³⁰ PGW will invite the parties to such a meeting if agreeable to PA DEP, and PGW will report on these efforts in its first Annual Report for the Phase IV DSM Program.³¹

Further, the Company has agreed to provide certain educational information to all residential customers about federal funding that may be available directly to customers through rebates under the High-Efficiency Electric Home Rebate Act (“HEEHRA”) and the Home Energy Performance-Based, Whole-House Rebates (HOMES) program.³² This includes providing information in three customer billing cycles, either through on-bill messaging or as a

²⁸ *Id.*

²⁹ OCA Stmt. B, p.7.

³⁰ Joint Petition at ¶ 19.a.

³¹ *Id.*

³² Joint Petition at ¶ 19.b.

bill insert.³³ The information provided will be educational and it may include messaging identifying the possible availability of HEEHRA and HOMES rebate opportunities, providing a link for the DEP’s website for more information, and providing information about existing tax credits for natural gas energy efficiency measures.³⁴ Both the HEEHRA and HOMES rebates are anticipated to become available to Pennsylvanians in mid-2024, which is squarely within both the as-filed DSM IV Plan and Revised DSM IV Plan terms. To the extent the equipment efficiency thresholds required to qualify for rebates in the PGW Appliance Rebate Program are lower than the efficiency thresholds required to qualify for rebates in the HOMES programs in Pennsylvania, PGW agrees to update its marketing materials and its website with an appropriate disclosure to inform customers about the higher efficiency level required to qualify for rebates under both PGW’s Program and the HOMES program.³⁵

Seeking federal funding and advising customers of direct rebate opportunities is wholly consistent with PGW’s stated DSM program goals of: (1) reducing customer bills; (2) maximizing customer value; and (3) helping the Commonwealth and the City of Philadelphia reduce greenhouse gas emissions and reduce PGW’s overall carbon footprint.³⁶ Moreover, PGW’s commitment to pursuing federal funding could also offset ratepayers’ costs. This same rationale applies to PGW’s commitments to educate customers about direct rebate opportunities under the terms of the Settlement, as empowering customers to lower gas use and costs is consistent with PGW’s programming goals and it will also maximize PGW’s DSM budget funds by empowering customers to avail themselves of outside funding.³⁷ Additionally, PGW’s agreement to be held accountable to identify its efforts and the status of such efforts as part of its

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ OCA Stmt. B, p. 10.

³⁷ *Id.*

annual reports will ensure that its efforts are tracked for evaluations.³⁸ Accordingly, I find these terms are reasonable, in the public interest, and should be approved without modification.

Administrative Spending (Settlement ¶ 20)

PGW's revised proposal for its Phase IV DSM had higher administrative costs relative to historical spending, and relative to typical administrative cost ratios.³⁹ In addition, the administrative costs in the proposed plan represented a significantly larger proportion of portfolio costs than in the current plan.

In order to address these concerns, PGW has agreed to cap its administrative spending at 41% of total program costs over the duration of the Phase IV Plan.⁴⁰ This administrative spending cap will provide sufficient funding to administer the program while also appropriately containing administrative costs. Accordingly, I find these terms are reasonable, in the public interest, and should be approved without modification.

Variant Refrigerant Flow Natural Gas Heat Pumps (Settlement ¶ 21)

Under the terms of the Settlement, PGW has agreed to offer variable refrigerant flow heat pumps as a pilot program.⁴¹ The pilot will offer rebates for up to 18 units over the course of the Phase IV Plan.⁴² PGW will develop an optional questionnaire, with input from OSBA, of up to 10 questions to gather information from customers installing the VRF natural

³⁸ *Id.*

³⁹ PGW St. No. 1, p. 5

⁴⁰ Joint Petition at ¶ 20.

⁴¹ Joint Petition at ¶ 21.

⁴² Joint Petition at ¶ 21.a.

gas heat pumps.⁴³ After 18 units have been rebated, PGW will then share the customer survey results as part of its next filed DSM Annual Report.⁴⁴

These settlement terms will allow PGW to implement a limited VRF Pilot Program in a manner that will provide PGW and parties with important information about the outcome of the pilot program for future evaluation.⁴⁵ This offering will allow commercial customers to reduce their natural gas usage, allow PGW to gather information to assess whether to continue offering such rebates in the future, and the reporting will inform the Commission's understanding of the maturity of the technology and market readiness to support adoption of the technology.⁴⁶ Accordingly, I find these terms are reasonable, in the public interest, and should be approved without modification.

Annual Reporting (Settlement ¶ 22)

For the Phase IV Plan, PGW has agreed to include in its Annual Reports information on small business participation in the CER program and the new SBA program, as well as PGW's marketing activities for the SBA and CER programs.⁴⁷ The reports will detail the number of participants, annual savings, incentive payments, customer costs, and costs and benefits for each of these programs, and the ratio of small businesses to other commercial customers participating in the CER program.⁴⁸

These settlement terms will provide more information on small business participation to the parties and the Commission, which can be used to assess the success of

⁴³ Joint Petition at ¶ 21.b.

⁴⁴ Joint Petition at ¶ 21.c.

⁴⁵ OCA Stmt. B, p. 11.

⁴⁶ PGW Stmt. A, pp. 10-11; OSBA Stmt. C, p. 5.

⁴⁷ Joint Petition at ¶ 22.a and b.

⁴⁸ Joint Petition at ¶ 22.c.

efforts to encourage small business participation.⁴⁹ Furthermore, PGW's Annual Reports are integral parts of evaluating the effectiveness of PGW's DSM IV programming, especially in recognition that evolutions in law, policy, and/or economics may necessitate modifications of PGW's DSM IV programming.⁵⁰ PGW's commitment to continuing and refining its Annual Reports will ensure that stakeholders are able to evaluate the effectiveness and efficiency of the Revised DSM IV Plan if changes in law, policy, regulation, and the economy emerge and impact the assumptions that underlie PGW's DSM programming.⁵¹ Accordingly, I find these terms are reasonable, in the public interest, and should be approved without modification.

Low Income Rebate for Roof Insulation Program (Settlement ¶ 23)

Under the terms of the Settlement, PGW has committed to notifying customers and contractors of the Low Income Rebate for Roof Insulation program.⁵² Notifications will include opportunities for additional project funding through coordination with community organizations, informational sessions with qualified contractors, and other means.⁵³ PGW will provide a copy of the notifications to the parties to this proceeding.⁵⁴ With customer consent, PGW will facilitate the sharing of project-specific information with other low income efficiency and home repair programs, with the recognition that PGW will use its best efforts to collaborate and that it must seek customer consent.⁵⁵

These terms provide benefits to PGW's low-income customers through additional marketing to promote roof insulation and air sealing rebates. They are intended to optimize

⁴⁹ PGW Stmt. A, p. 11.

⁵⁰ OCA Stmt. B, p. 11.

⁵¹ *Id.*

⁵² Joint Petition at ¶ 23.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

assistance to low-income customers through program coordination that may increase customers' access to insulation and air sealing that is typically lacking in Philadelphia rowhomes – the most prevalent affordable housing stock – and reasonably targeted to combine the availability of frequently associated insulation and air sealing measures.⁵⁶ Accordingly, I find these terms are reasonable, in the public interest, and should be approved without modification.

Roof Insulation Rebate Program (Settlement ¶ 24)

Under the terms of the Settlement, PGW will market and implement its roof insulation rebate program as a combined roof insulation and air sealing rebate program.⁵⁷ Customers who do not want to pursue air sealing, or who find themselves unable to pursue air sealing, have the right to not have air sealing.⁵⁸ Insulation and air sealing will be installed by Building Performance Institute (BPI) certified contractors.⁵⁹ For the purposes of this measure, air sealing shall be defined as sealing all reasonable accessible gaps and penetrations in an attic space in order to align the home's top pressure boundary with the thermal boundary that will be created by the newly installed insulation, per building science best practice protocols established by the BPI.⁶⁰

These terms will help increase the number of homes where air sealing occurs in conjunction with roof insulation jobs, which will help prevent property damage to customers' homes.⁶¹ This is a meaningful effort to help increase the amount of air sealing that will occur in keeping with the best building practices. Accordingly, I find these terms are reasonable, in the public interest, and should be approved without modification.

⁵⁶ TURN Stmt. E, p. 4.

⁵⁷ Joint Petition at ¶ 24.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ CAUSE-PA Stmt. D, p. 12.

Low Income Smart Thermostat Program (Settlement ¶ 25)

As part of the Settlement, PGW will increase its annual budget for the LIST program from the proposed \$60,000 to \$110,000 per year.⁶² Additionally, if the amounts budgeted for the Residential Construction Grants (“RCG”) or ESK programs are not fully spent at the end of each program year, PGW will reallocate 25% of any unspent funds to support the LIST program in the following year.⁶³

The LIST program provides for the installation of smart thermostats in the homes of eligible low-income customers at no cost. Smart thermostats help low-income customers manage their gas usage and decrease their bills, particularly during the heating season.⁶⁴ Reduced energy usage lowers costs for both the low-income consumers and those who pay for the costs of the low-income programs.⁶⁵ Accordingly, I find these terms are reasonable, in the public interest, and should be approved without modification.

RECOMMENDATION

The Settlement provides a host of benefits to both participating customers and PGW customers as a whole. By supporting the deployment of high efficiency natural gas equipment, the DSM Program provides PGW customers with reductions in natural gas usage and associated costs, and also supports conservation and load management efforts in Philadelphia.⁶⁶ The DSM Program makes high efficiency natural gas equipment more accessible to customers by reducing up-front costs of installing this equipment, and thereby helps reduce customer bills,

⁶² Joint Petition at ¶ 25.

⁶³ *Id.*

⁶⁴ PGW Stmt. A, p. 13.

⁶⁵ *Id.*

⁶⁶ PGW Stmt. A, p. 5.

reduce carbon emissions, and improve load management.⁶⁷ Approval of the Revised Implementation Plan and the Settlement will result in continued financial and customer satisfaction benefits for PGW's customers, while providing economic and environmental benefits for PGW ratepayers.⁶⁸

The Phase IV DSM Program's overall budget for FY 2025 to FY 2027 is approximately \$7.6 million,⁶⁹ but is projected to provide significant benefits that exceed the costs to PGW customers, indicating that the Program is cost-effective.⁷⁰ The program is also projected to provide natural gas savings of 138,508 MMBtu in FY 2025-2027, and lifetime natural gas savings of over 2.6 million MMBtu over the life of the measures installed as part of the program.⁷¹ The measures will result in savings to electricity and water usage as well.⁷² While the voluntary DSM Program is limited in scope and therefore can provide direct benefits to only a subset of PGW's 500,000 customers, it nonetheless provides reasonable benefits to both participating customers and PGW's customers as a whole.⁷³

Furthermore, the Settlement represents an outcome that is preferable to the time, expense, and uncertainty of litigation before the Commission and potentially, appellate courts, the reasonable costs of which may be borne by the ratepayers. Additionally, it is noted that statutory advocates, the OCA and the OSBA, are Joint Petitioners and in full support of the Joint Settlement. When the statutory advocates fully support a settlement, it is strong evidence that the terms and conditions are just and reasonable and in the public interest. *See, Pa. Pub. Util.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ Revised Implementation Plan at 7, Table 1. (Note that figures may be updated in the compliance plan that will be filed after the Commission issues a final Order.)

⁷⁰ Revised Implementation Plan at 8-10. (Note that figures may be updated in the compliance plan that will be filed after the Commission issues a final Order.)

⁷¹ Revised Implementation Plan at 8, Tables 3 and 4. (Note that figures may be updated in the compliance plan that will be filed after the Commission issues a final Order.)

⁷² Revised Implementation Plan at 9, Tables 5-7. (Note that figures may be updated in the compliance plan that will be filed after the Commission issues a final Order.)

⁷³ PGW Stmt. A, p. 6.

Comm'n v. T.W. Phillips Gas and Oil Co., Docket No. R-2010-2167797 (Order entered Nov. 4, 2010), (holding that the support of OTS, which is the predecessor of I&E, the OCA and OSBA was evidence that the settlement was reasonable and in the public interest).

Based on the totality of the record, I find that the Joint Petitioners sustained their burden to prove by substantial evidence that the Settlement is in the public interest. Accordingly, I recommend the Settlement be approved without modification.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of, and the parties to, this proceeding. 66 Pa.C.S. § 2203(8).

2. PGW is a city natural gas distribution operation as defined in the Public Utility Code, 66 Pa.C.S. § 102.

3. Electric utilities are required to implement cost-effective energy efficiency and conservation plans to reduce energy demand and consumption within their service territories, but no such mandate exists for natural gas utilities, like PGW. 66 Pa.C.S. § 2806.1.

4. There is no statutory, legislative, or policy mandate requiring natural gas utilities, like PGW, to offer demand-side management plans.

5. The policy of the Commission is to promote settlements. 52 Pa. Code §§ 5.231.

6. Despite the Commission policy to promote settlements, the Commission's determination to approve the proposed settlement is whether the proposed terms and conditions foster, promote and serve the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Opinion and Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. C S Water & Sewer Assocs.*, 74 Pa.P.U.C. 767 (1991).

7. The Joint Petition for Settlement submitted by PGW, the OCA, the OSBA, CAUSE-PA, and TURN is just, reasonable and in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Opinion and Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. C S Water & Sewer Assocs.*, 74 Pa.P.U.C. 767 (1991).

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the Joint Petition for Settlement submitted by Philadelphia Gas Works, the Office of Consumer Advocate, the Office of Small Business Advocate, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, and the Tenant Union Representative Network filed on February 29, 2024, at Docket No. P-2014-2459362 be admitted into the record.

2. That the Joint Petition for Settlement submitted by Philadelphia Gas Works, the Office of Consumer Advocate, the Office of Small Business Advocate, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, and the Tenant Union Representative Network filed on February 29, 2024, at Docket No. P-2014-2459362 be adopted, including all terms and conditions, without modification.

Date: March 29, 2024

/s/
F. Joseph Brady
Administrative Law Judge