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November 6, 2024

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: 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

Petition for Emergency or Expedited Order Approving Temporary Modifications to the  
Universal Service and Energy Conservation Plan for 2023-2027 – Docket No. P-2024-3048856

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' ("PGW") Preliminary Objections with regard to the above-referenced matters. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,

/s/ *Lauren M. Burge*

Lauren M. Burge

LMB/lww

Enclosure

cc: Certificate of Service (Email Only)

## CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PGW's Preliminary Objections upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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/s/ *Lauren M. Burge*

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Lauren M. Burge, Esq.

Dated: November 6, 2024

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Philadelphia Gas Works Universal Service	:	
And Energy Conservation Plan, 2023-2027	:	Docket No. M-2021-3029323
Submitted in Compliance With 52 Pa. Code	:	
§ 62.4	:	
	:	
	:	
	:	
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Petition for Emergency or Expedited Order	:	Docket No. P-2024-3048856
Approving Temporary Modifications to the	:	
Universal Service and Energy Conservation	:	
Plan for 2023-2027	:	

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**NOTICE TO PLEAD**

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**To:**

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You are hereby notified that an Answer to the enclosed **Preliminary Objections** of Philadelphia Gas Works must be filed within 10 days of the date of service.

All pleadings, such as an Answer to Preliminary Objection, must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served to counsel for PGW and the Office of Administrative Law Judge.

File with:

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<https://efiling.puc.pa.gov/>

With a copy to:

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*/s/ Lauren M. Burge*

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Date: November 6, 2024

*Counsel for Philadelphia Gas Works*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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**PRELIMINARY OBJECTIONS OF PHILADELPHIA GAS WORKS**

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Pursuant to 52 Pa. Code § 5.101(a) and (d) of the regulations of the Pennsylvania Public Utility Commission (“Commission” or “PUC”), Philadelphia Gas Works (“PGW” or “Company”) submits the following Preliminary Objections to the Joint Answer of Tenant Union Representative Network (“TURN”) and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) (“Joint Answer”), which was filed on October 17, 2024 in response to PGW’s Petition filed on September 27, 2024.

The issue underlying the dispute in these pleadings relates to PGW’s Hardship Funds program, as described in PGW’s Universal Service and Energy Conservation Plan (“USECP”) for 2023-2027. PGW’s USECP provided that Hardship Funds were to be distributed to qualifying customers with incomes at or below 175% of the Federal Poverty Level (“FPL”) through grants paid by the Utility Emergency Service Fund (“UESF”), with matching funds provided by PGW. Unfortunately, UESF abruptly stopped paying grants that had been promised to PGW customers and also abruptly stopped accepting applications from PGW customers without notice to PGW,

resulting in qualifying customers not having access to Hardship Grant funds to assist them in avoiding termination or having service restored. As a result, earlier this year, PGW launched efforts at the Commission to address this problem to ensure continued access to Hardship Funds and provide the benefits as intended by the current USECP via a Petition filed on May 3, 2024.<sup>1</sup> Prior to filing this Petition, PGW contacted interested stakeholders, including counsel for TURN and CAUSE-PA, to discuss its proposed solution and obtain input.<sup>2</sup>

On May 9, 2024, the Commission issued a Tentative Order that, *inter alia*, approved temporary modifications to the Hardship Fund provisions in PGW’s USECP, and directed PGW to file a petition to rescind, retain or modify its Hardship Fund provisions by October 1, 2024. Subsequent to that May Order, PGW implemented a Hardship Fund program that it would administer itself via a contractor. As part of this implementation, PGW ensured that there are locations throughout the City that would accept applications.

On September 27, 2024 PGW filed its Petition to Modify its Hardship Fund provisions as required by the May 9, 2024 Tentative Order, and TURN/CAUSE-PA filed a Joint Answer to the Petition on October 17, 2024.

Through their Joint Answer, TURN and CAUSE-PA essentially blame PGW for the failure of UESF to continue providing its portion of the Hardship Funds, and request costly and time-consuming litigation in an attempt to further blaming PGW, or perhaps the City of Philadelphia. They essentially allege that PGW is “removing” funding from its Hardship program when at no time was this “removed” funding paid for by PGW ratepayers. While PGW’s September 27, 2024

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<sup>1</sup> Petition of Philadelphia Gas Works for an Emergency or Expedited Order Approving Temporary Modifications to Hardship Funds Program in Universal Service and Energy Conservation Plan for 2023-2027, filed May 3, 2024 at Docket Nos. M-2021-3029323 and P-2024-3048856 (“May 3 Petition”).

<sup>2</sup> TURN, CAUSE-PA, and the Office of Consumer Advocate (“OCA”) did not oppose PGW’s May 3 Petition. The Office of Small Business Advocate (“OSBA”) took no position on the May 3 Petition at 2-3.

filing was made for the purpose of complying with the Commission's May 9, 2024 Tentative Order, the TURN and CAUSE-PA Joint Answer is focused on actions (or inaction) involving the City of Philadelphia and/or UESF. Specifically, PGW has no control over whether UESF continues to provide its portion of the Hardship Funds going forward, but the Joint Answer blames PGW for this City funding paid to UESF being currently unavailable to PGW customers. UESF's funding source of their grants comes from the City and PGW is not in control of UESF or the City's decision as to where to pay grants. As such, the Answer raises impertinent and scandalous matter relevant to the City of Philadelphia and UESF – not PGW – and should be outright dismissed without the need for any additional resources being devoted to this matter. Instead, the focus should continue to be on PGW's Hardship Fund program going forward and on PGW's continuing efforts to protect its ratepayers.

In support of these Preliminary Objections, PGW states as follows:

**I. BACKGROUND**

1. An abbreviated description of the background is set forth below. For a more detailed procedural history, see PGW's Petition filed at this docket on September 27, 2024.

2. On May 3, 2024, PGW filed a petition seeking expedited relief that would permit it to redirect available funds to the Hardship Grants Program to make up for monies that had been promised but not paid to customers by UESF. The May 3<sup>rd</sup> Petition included a proposed Appendix O to PGW's USECP outlining the necessary modifications.

3. By Tentative Order entered May 9, 2024, the Commission granted this relief so that eligible low-income customers who had already been promised grants would have access to available funds despite UESF's failure to fulfill its commitment and allow PGW to restart a

Hardship Program. The Tentative Order became effective through December 31, 2024.<sup>3</sup> The Tentative Order also directed PGW to file a petition to rescind, retain or modify its Hardship Fund provisions by October 1, 2024.

4. In compliance with the May 9, 2024 Tentative Order, PGW implemented a series of steps reflected in its approved Appendix O, which provided Temporary Additions to address specific portions of pages 29-34 in its USECP, on an interim basis. The provisions in Appendix O: (i) allowed a non-UESF administrator of PGW's Hardship' Funds Program; (ii) replaced UESF as the entity paying Hardship Grants to customers whose service is terminated or in danger of being terminated; (iii) designated PGW (or its assignee) as the interim administrator and payor of the Hardship Funds Program, effective immediately; (iv) redeployed unpaid matching grants to customers whose Hardship Grants were already approved by USEF in 2023, such that both the amounts promised by USEF and PGW's matching bill credits were provided to these customers; and (v) modified the total program budget to remove UESF grant amounts.

5. On September 27, 2024, PGW filed a Petition in compliance with the May 9, 2024 Tentative Order, proposing to modify the Hardship Fund provisions permanently. Specifically, the September 27, 2024 Petition includes a Revised Appendix O that proposes to: (i) allow for a non-UESF administrator of PGW's Hardship Funds Program; (ii) designate the Energy Coordinating Agency ("ECA") as the administrator and payor of the Hardship Funds Program, effective as of August 19, 2024, until further notice to the Commission that PGW has selected a longer term administrator; and (3) provide that once PGW has identified a long-term administrator for the program, PGW will notify the Commission of the identity of the new administrator and the effective date of their administration, within 30 days of the effective date.

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<sup>3</sup> May 9, 2024 Tentative Order at 11, Ordering Para. 2 and 6.

6. On October 17, 2024, TURN and CAUSE-PA filed an Answer to PGW's September 27, 2024 Petition.

## II. PRELIMINARY OBJECTIONS

### A. Applicable Legal Standards

7. The Commission's Rules of Administrative Practice and Procedure permit the filing of preliminary objections. 52 Pa. Code § 5.101(a).

8. Under Section 5.101(a) of the Commission's regulations, 52 Pa. Code § 5.101(a)(1)-(7), preliminary objections must specifically state the legal and factual grounds relied upon and be limited to the following:

- (1) Lack of Commission jurisdiction or improper service of the pleading initiating the proceeding;
- (2) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter;
- (3) Insufficient specificity of a pleading;
- (4) Legal insufficiency of a pleading;
- (5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action;
- (6) Pendency of a prior proceeding or agreement for alternative dispute resolution; and
- (7) Standing of a party to participate in the proceeding.

9. The moving party may not rely on its own factual assertions but must accept for the purposes of disposition of the preliminary objection, all well-pleaded, material facts of the other party, as well as every inference fairly deducible from those facts.<sup>4</sup> However, the Commission

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<sup>4</sup> *County of Allegheny v. Cmwlth. of Pa.*, 490 A.2d 402 (Pa. 1985).

need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations or expressions of opinion.<sup>5</sup>

10. In deciding the preliminary objections, the Commission must determine whether, based on the well-pleaded factual averments of the party, recovery or relief is possible.<sup>6</sup>

11. The filing of preliminary objections serves judicial economy by avoiding a hearing where no factual dispute exists. If no factual issue pertinent to the resolution of a case exists, a hearing is unnecessary.<sup>7</sup>

**B. The TURN/CAUSE-PA Answer Includes Impertinent Matter**

12. The Joint Answer filed by TURN and CAUSE-PA seeks modifications to PGW's Petition and referral to the Office of Administrative Law Judge on the basis of impertinent matter. The Joint Answer suggests that PGW has fallen short in some way, and as a result eligible customers are not receiving the full amount of hardship grants that should be provided under PGW's USECP. However, the concerns raised in the Joint Answer are outside of PGW's control, and in actuality, TURN and CAUSE-PA's issues are with the City of Philadelphia and/or UESF, not PGW. Neither the City nor UESF are parties to PGW's USECP and these entities are not within PGW's control. Therefore, the Joint Answer is based on impertinent matter and must be rejected.

13. The Joint Answer alleges that PGW's Petition is "seek[ing] authorization to significantly reduce (by 50%) the annual assistance available through PGW's hardship program for the duration of PGW's USECP."<sup>8</sup> However, the 50% of funds that the Joint Answer claims are being removed from the program are funds that were previously provided by the City of

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<sup>5</sup> *Stanton-Negley Drug Co. v. Dep't of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlth. 2007).

<sup>6</sup> *Department of Auditor General, et al. v. SERS, et al.*, 836 A.2d 1053, 1064 (Pa. Cmwlth. 2003); *P.J.S. v. Pa. State Ethics Commission*, 669 A.2d 1105 (Pa. Cmwlth. 1996).

<sup>7</sup> 66 Pa.C.S. § 703(a); *Lehigh Valley Power Committee v. Pa. PUC*, 563 A.2d 557 (Pa. Cmwlth. 1989).

<sup>8</sup> Joint Answer at 2.

Philadelphia through UESF, which PGW would then match. PGW has no control over these non-ratepayer funds or whether they will be made available to eligible PGW customers now or in the future. To be clear, PGW strongly supports these funds being made available to qualifying PGW customers, and the Company continues to explore whether there is a way to facilitate this. In fact, PGW's Petition proactively sought to gain permission to use the matching funds to deploy to customers effectively maintaining PGW's disbursed grant dollars. Regardless, this funding is, upon information and belief, within the control of the City of Philadelphia and/or UESF, not PGW, and therefore the issue raised by TURN and CAUSE-PA is based on impertinent matter.

14. The Joint Answer states that "PGW provides no explanation for why its hardship fund administrator going forward would be incapable of obtaining the same or similar funding, presumably from the City of Philadelphia, in the same or similar fashion that UESF has done for many years."<sup>9</sup> Similarly, the Joint Answer states that TURN and CAUSE-PA have sought "to obtain more information regarding the source of the City's contribution to UESF in order to determine whether such funding would be available to the successful bidder . . . [O]ur understanding is that PGW has been unable to secure any commitments from the City to continue funding its hardship program pursuant to the Petition."<sup>10</sup> These statements clearly evidence that TURN and CAUSE-PA are aware that it is the City of Philadelphia, not PGW, that provides the funds at issue, yet the Joint Answer improperly attempts to blame PGW for the fact that these funds are not currently available. This raises scandalous or impertinent matter, as TURN and CAUSE-PA's concerns are with the City of Philadelphia and/or UESF, not PGW.

15. The Joint Answer also observes that PGW's proposed budget would no longer be a "match" meaning that "PGW's ratepayer funded hardship assistance would stand alone, without

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<sup>9</sup> Joint Answer at 4.

<sup>10</sup> Joint Answer at 4, fn. 7.

the historic level of *contribution from the City of Philadelphia* that has been available, on an annual basis, *through UESF*."<sup>11</sup> Importantly, PGW is committed to providing its portion of the hardship funds, and has proactively taken aggressive and through steps to continue the Hardship Program, including through its Petitions filed with the Commission on May 3, 2024 and September 27, 2024. But again, PGW has no control over the funds that have historically been provided by the City through UESF (as TURN and CAUSE-PA clearly understand as evidenced in the Joint Answer). This is impertinent matter as TURN and CAUSE-PA's concern is clearly with the City and/or UESF and the willingness of those entities to make such funds available to PGW customers, and not with PGW itself.

16. The Joint Answer also states that "every effort should be made to ensure that the maximum grant amount of \$1500, as set forth in PGW's current USECP, is again available."<sup>12</sup> As explained above, PGW also supports the maximum grant amounts being made available to its customers. PGW, however, cannot force the City and/or UESF to provide such funds. In the context of PGW's September 27, 2024 Petition, this is impertinent matter as TURN and CAUSE-PA's issue is clearly with entities other than PGW.

17. The Joint Answer also faults PGW for providing "no information regarding the criteria PGW would utilize in selecting a winning bidder,"<sup>13</sup> or how it will evaluate bids in selecting a long-term administrator.<sup>14</sup> This also raises impertinent matter. RFPs issued by PGW are a City-governed function. PGW is under no obligation to obtain approval for its RFP process, and thus this is also impertinent matter.

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<sup>11</sup> Joint Answer at 4 (emphasis added).

<sup>12</sup> Joint Answer at 3.

<sup>13</sup> Joint Answer at 2-3.

<sup>14</sup> Joint Answer at 4.

### III. CONCLUSION

Philadelphia Gas Works respectfully requests that the Commission: (a) grant these Preliminary Objections; (b) dismiss the Answer; and (c) grant any other relief in favor of PGW that is deemed to be reasonable, appropriate and in the public interest.

Respectfully Submitted,

/s/ Lauren M. Burge

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Dated: November 6, 2024

*Counsel for Philadelphia Gas Works*

**VERIFICATION**

I, Denise Adamucci, hereby state that: (1) I am the Senior Vice President for Customer Service & Regulatory Affairs for Philadelphia Gas Works (“PGW”); (2) I have reviewed the statements set forth in the foregoing Preliminary Objections as to their accuracy; and (3) the facts set forth therein are true and correct to the best of my knowledge, information and belief. I understand that statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: November 6, 2024

/s/ Denise Adamucci  
Denise Adamucci  
Senior Vice President for Customer & Regulatory Affairs  
Philadelphia Gas Works