

**PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265**

Public Meeting held January 23, 2025

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Kathryn L. Zerfuss
John F. Coleman, Jr.
Ralph V. Yanora

Philadelphia Gas Works Universal Service and
Energy Conservation Plan for 2023-2027
Submitted in Compliance with 52 Pa. Code
§ 62.4

M-2021-3029323

Petition for Emergency or Expedited Order
Approving Temporary Modifications to the
Universal Service and Energy Conservation Plan for
2023-2027

P-2024-3048856

ORDER

BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for disposition is the Petition of Philadelphia Gas Works (PGW), filed on September 27, 2024, at Docket Nos. M-2021-3029323 and P-2024-3048856 (September 2024 Petition). PGW seeks approval to amend its 2023-2027 Universal Service and Energy Conservation Plan (2023 USECP) to make the Energy Coordinating Agency (ECA) the current administrator and payor of PGW's Hardship Fund program and to revise the Hardship Fund provisions in Appendix O. Consistent with our May 2024 Order in this matter, we find PGW's requests and planned course of action to be reasonable and in the public interest. This Order grants the September 2024 Petition.

BACKGROUND

PGW is a city natural gas distribution operation (CNGDO) subject to Commission jurisdiction under 66 Pa.C.S. § 2212 (relating to city natural gas distribution operations). Under 66 Pa.C.S. § 2212(c), PGW is obligated to maintain universal service programs consistent with a public utility's universal service obligations under 66 Pa.C.S. § 2203 (relating to standards for restructuring of natural gas utility industry). PGW's 2023 USECP was approved subject to requisite modifications by Commission order dated January 12, 2023.

On May 3, 2024, PGW filed a Petition for Emergency or Expedited Order Approving Temporary Modifications to Hardship Funds Program for its 2023 USECP (May 2024 Petition). PGW requested, *inter alia*, an *ex parte* emergency order approving temporary modifications to its 2023 USECP. The May 2024 Petition specifically requested approval of the following as a proposed appendix (Appendix O):

- Allow a non-Utility Emergency Services Fund (UESF) administrator of PGW's Hardship Fund program.
- Replace UESF as the entity paying Hardship Grants to customers whose service is terminated or in danger of being terminated.
- Designate PGW (or its assignee) as the interim administrator or payor of the Hardship Fund program.
- Redeploy unpaid matching grants to customers whose Hardship Fund grants were approved by UESF in 2023 so that both amounts promised by UESF and PGW's matching bill credits are provided to these customers.
- Modify the total program budget to remove UESF grant amounts.

PGW noted that the modification would reduce maximum grant amounts from \$1,500 to \$750. May 2024 Petition at 7.

PGW reported it had shared its May 2024 Petition with the Office of Consumer Advocate (OCA), the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), and the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN et al.), all of which indicated that they did not oppose the Petition. Further, PGW noted that the Office of Small Business Advocate (OSBA) had stated that it took no position on the May 2024 Petition. May 2024 Petition at 1-3.

The Commission denied the request for *ex parte* emergency order and the request for a two-day comment period via Secretarial Letter on May 7, 2024. May 2024 Secretarial Letter at 2-3.

On May 9, 2024, the Commission entered an Order tentatively granting PGW's Petition (May 2024 Order). Specifically, the May 2024 Order directed PGW to:

- File and serve a status report when it had selected a new administrator for its Hardship Fund program, identifying the name and contact information for the vendor.
- File and serve a petition to rescind, retain, or modify its Hardship Fund provisions by October 1, 2024.
- File and serve monthly status reports on the 2023 Hardship Fund grants to the 344 eligible customers who did not receive their approved grants.
- File and serve monthly status reports identifying the number of Hardship Fund applications received, approved, and paid during calendar year 2024, beginning with January 2024.
- File and serve monthly status reports identifying the number of Hardship Fund applications pending over 30 days to ensure that applications are being timely processed.

May 2024 Order at 9.

In compliance with the May 2024 Order, PGW filed monthly Hardship Fund status reports on July 1st, August 1st, and August 30th at Docket Nos. M-2021-3029323 and P-2024-3048856. PGW has filed no further status reports.

SUMMARY OF THE PETITION

In its September 2024 Petition, PGW notes that its 2023 USECP currently reflects that UESF is its Hardship Fund administrator, which is no longer accurate. PGW reports that it has selected ECA to replace UESF as its Hardship Fund administrator in the short term and that it will be issuing a Request for Proposal (RFP) to find a long-term administrator. PGW seeks to update its 2023 USECP to reflect these changes. PGW asserts that it will notify the Commission within 30 days of the effective date of selecting a long-term administrator. September 2024 Petition at 6.

In its September 2024 Petition, PGW proposes to further revise Appendix O in its 2023 USECP as follows:

- Identify ECA as the current administrator and payor of the Hardship Funds program, effective from August 19, 2024, until further notice to the Commission.
- Provide that once PGW has selected a long-term administrator for the Hardship Fund program, PGW will notify the Commission of the identity of the new administrator and the effective date of its administration, within 30 days of that effective date.

September 2024 Petition at 6.

The proposed 2024 Hardship Fund program budget and enrollments in the September 2024 Petition were consistent with the projections submitted by PGW in its May 2024 Petition, maintaining the issuance of bill credits up to \$750. September 2024 Petition at 6-7; May 2024 Petition at 7.

Table 1.
PGW Hardship Fund 2024 Budget and Enrollment

Budget Description	Budget Amount
Administrator Operating Budget	\$260,149
PGW Contribution	\$695,500
Pilot Program	\$100,000
Customer/Employee Contributions	\$2,000
Total Calendar Year 2024 Budget	\$1,057,649
Average Annual Participation	725

Source: September 2024 Petition at 7.

PGW avers these proposed amendments are in the public interest because they would allow PGW customers to continue receiving Hardship Fund grants consistent with its 2023 USECP. *Id.*

STAKEHOLDER ANSWER

On October 17, 2024, TURN and CAUSE-PA filed a joint Answer (TURN/CAUSE-PA Answer) to the September 2024 Petition. TURN/CAUSE-PA oppose PGW’s proposal to maintain a 50% reduction in the maximum Hardship Fund grant amount, arguing that this would harm low-income customers. TURN/CAUSE-PA stress the need to maintain the maximum \$1,500 grant approved in PGW’s existing 2023 USECP, rather than lowering the maximum to \$750 as PGW suggests. TURN/CAUSE-PA Answer at 2-4.

Further, TURN/CAUSE-PA raise concerns about PGW's request to use a long-term third-party administrator chosen through an RFP process. Specifically, TURN/CAUSE-PA note that PGW has not disclosed what criteria it will use for selecting a Hardship Fund administrator or assurances that the new administrator can secure similar program funding to what UESF provided in the past. TURN/CAUSE-PA Answer at 4-5.

TURN/CAUSE-PA requests the Commission refer the September 2024 Petition to the Office of Administrative Law Judge (OALJ) for further evaluation. TURN/CAUSE-PA assert that a thorough review is needed to ensure the proposed changes are in the best interest of PGW's low-income customers. TURN/CAUSE-PA Answer at 5.

PGW PRELIMINARY OBJECTION

In response to the TURN/CAUSE-PA Answer, PGW filed and served Preliminary Objections (PGW PO) under 52 Pa. Code § 5.101(a) and (d) (relating to preliminary objections).¹ PGW submits that it has no control over whether the City of Philadelphia,

¹ Section 101 provides in pertinent part:

(a) *Grounds.* Preliminary objections are available to parties and may be filed in response to a pleading except motions and prior preliminary objections. Preliminary objections must be accompanied by a notice to plead, must state specifically 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.
- (7) Standing of a party to participate in the proceeding.

* * * * *

(c) *General rule.* Preliminary objections shall be raised at one time. The preliminary objections must be set forth in numbered paragraphs, state with specificity the legal and factual grounds relied upon, and may be inconsistent. Two or more preliminary objections may be raised in one pleading.

via UESF, continues to provide the additional \$750 in Hardship Fund grants to PGW customers going forward. PGW asserts that it supports making these non-ratepayer funds available to its customers but that it cannot force the City of Philadelphia or UESF to do so. PGW states that it continues to explore whether there is a way to facilitate this. PGW PO at 4, 7-9.

PGW notes that TURN/CAUSE-PA disapproves of PGW not providing information regarding the criteria it will use in selecting a winning bidder through the RFP process. PGW submits that RFPs issued by PGW are a city-governed function and that it is not obligated to obtain Commission approval for its RFP process. PGW notes, however, that it proactively took steps to ensure that its customers continued to receive Hardship Fund grants when UESF was unable to do so. PGW PO at 9.

PGW avers that TURN/CAUSE-PA's objection to the September 2024 Petition is based on an impertinent matter and should be dismissed without further discussion. PGW PO at 4, 10.

TURN/CAUSE-PA responded to the PGW PO (TURN/CAUSE-PA Response to PO). TURN/CAUSE-PA contend that PGW has not specified which of its assertions it alleges to be impertinent and has not provided a legal and factual grounds for PGW's preliminary objections, as required by 52 Pa. Code §5.101. TURN/CAUSE-PA Response to PO at 5-6.

TURN/CAUSE-PA aver that, as PGW is owned by the City of Philadelphia, the Commission should not disregard factual issues regarding additional funding for PGW's Hardship Fund grants because the additional funding is administered by a different office or division within the City government. TURN/CAUSE-PA also note that PGW fails to explain how its proposed USECP would incorporate the additional funding into its Hardship Fund if they are made available again. Further, TURN/CAUSE-PA contend the

issue of UESF's responsibility in delaying the distribution of Hardship Fund grants is relevant and appropriate for consideration in this proceeding. TURN/CAUSE-PA Response to PO at 6.

Finally, TURN/CAUSE-PA deny PGW's assertion that issuing an RFP for a long-term Hardship Fund administrator is a City of Philadelphia function outside the purview of the Commission. TURN/CAUSE-PA asserts the content of this RFP is a relevant and fact-specific inquiry and should not be confused with general City procurement processes. TURN/CAUSE-PA Response to PO at 8-9.

DISCUSSION

First, we will address the PGW PO. PGW could have filed a reply under 52 Pa. Code § 5.63 (relating to replies to answers seeking affirmative relief for new matters) to the TURN/CAUSE-PA Answer. Instead, PGW filed the PGW PO, asserting that it was appropriate because it serves judicial economy by avoiding a hearing where there is no factual dispute and that absent a factual dispute, a hearing is unnecessary. PGW PO at 7. Regardless of which regulation underpins PGW's response to the TURN/CAUSE-PA Answer, we recognize the urgent need to address this situation as Hardship Fund programs often may be the only payment assistance program available to help customers that do not qualify for other benefits. Accordingly, we will treat the PGW PO as a reply to TURN/CAUSE-PA's Answer and address herein the positions asserted.²

PGW's September 2024 Petition is consistent with the directives in the Commission's May 2024 Order which directed PGW to file a petition to retain, rescind, or modify its Hardship Fund provisions by October 1, 2024. PGW has requested

² The Commission may disregard an error or defect of procedure which does not affect the substantive rights of the parties to secure the just, speedy and inexpensive determination of a proceeding. 52 Pa. Code § 1.2.

approval to maintain the approved provisions from its May 2024 Petition and assign ECA as its short-term Hardship Fund administrator. Additionally, PGW requests to complete an RFP process to select a long-term administrator for the Hardship Fund program and to inform the Commission of the new administrator and the effective date of their administration, within 30 days of that effective date.

None of the issues arising from the September 2024 Petition amount to a dispute of fact which would require referral to the OALJ. Due process only requires an evidentiary hearing before the Commission if there are disputed questions of fact to be resolved and is not necessary if there are only questions of law, policy, or discretion. *West Penn Power Co. v. Pennsylvania Pub. Util. Comm'n*, 659 A.2d 1055, 1062 (Pa. Cmwlth. Ct. 1995). In its September 2024 Petition, PGW avers that the proposed 2024 Hardship Fund program budget and enrollments were consistent with the projections submitted by PGW in its May 2024 Petition, maintaining issuance of bill credits up to \$750. PGW's Commission approved USECP has PGW contributing up to \$750 to match a UESF grant via a bill credit and PGW will continue to issue matching bill credits, up to \$750 per customer. TURN/CAUSE-PA does not contest any of the factual averments made by PGW, but rather, TURN/CAUSE-PA oppose PGW's \$750 bill credits and aver that PGW needs to maintain the maximum \$1,500 grant approved in PGW's USECP for both PGW and UESF. TURN/CAUSE-PA raise legal questions related to PGW's proposals in the September 2024 Petition but have failed to raise any factual issues necessitating a hearing. Accordingly, the matter is ripe for our consideration.

The objections raised by TURN and CAUSE-PA focus on two specific issues related to PGW's Petition: (1) the selection of a new Hardship Fund Administrator; and (2) the reduction of the maximum Hardship Fund grant amount from \$1,500 to \$750. We shall address each issue individually below.

(1) Hardship Fund Administrator Selection

The Natural Gas Choice and Competition Act (Competition Act), 66 Pa.C.S. §§ 2202–2212, directs the Commission to encourage public utilities to use community-based organizations (CBOs) to administer their universal services programs. 66 Pa.C.S. § 2203(8). No other public utility has been required to submit its Hardship Fund administrator selection criteria to the Commission for approval. We are concerned that requiring Commission approval for selecting a universal service program administrator could lead to delays in delivering benefits to customers in need or constrain a public utility’s ability to promptly replace an underperforming administrator. We acknowledge TURN/CAUSE-PA’s concerns but are not persuaded to approve their requests. These additional proceedings could potentially increase costs recovered from public utility ratepayers³ and delay benefits to customers in need, without cause or associated benefit.

Accordingly, we approve PGW's request to appoint ECA as the interim current administrator of its Hardship Funds program, until further notice by PGW. PGW is directed to notify the Commission of the new Hardship Fund administrator selected by the proposed RFP process and the effective start date of that administrator within 30 days of that date.

(2) Grant Amount

The Competition Act mandates that the Commission “ensure that universal service and energy conservation policies, activities are appropriately funded and available in each natural gas distribution service territory.” 66 Pa.C.S. § 2203(8). As an CNGDO serving over 470,000 customers, PGW must administer its universal service programs, including its Hardship Fund, consistent with its Commission-approved USECP. 52 Pa. Code § 62.4

³ PGW’s universal service costs, including Hardship Fund costs, are recovered from its ratepayers.

(relating to universal service and energy conservation plans). However, neither the statute nor the Commission's regulations mandate a specific minimum or maximum amount for Hardship Fund grants. The Commission does not find reason to establish a specific hardship grant amount for PGW.

PGW's Commission approved USECP has PGW contributing up to \$750 to match a UESF grant via a bill credit. *See* PGW USECP at 25-29. PGW will continue to issue matching bill credits, up to \$750 per customer. September 2024 Petition at 6-7. Accordingly, PGW is not modifying its current USECP. We note that PGW's maximum grant amount of \$750 is the largest grant amount offered by public utilities required to maintain a Hardship Fund program, with the next largest grant amount being \$600 by UGI Utilities, Inc. (UGI).⁴ Therefore, we are not persuaded to grant TURN/CAUSE-PA's request to require PGW to increase its Hardship Fund contributions above \$750. Accordingly, we approve PGW's request to continue the issuance of bill credits up to \$750 per eligible customer from its Hardship Fund program.

CONCLUSION

The Commission hereby grants, consistent with this Order, the PGW September 2024 Petition to amend the Hardship Fund provisions in its 2023 USECP, as specified in Appendix O. The modified 2023 USECP will remain in effect on an ongoing basis until the 2023 USECP is further modified consistent with completion of the RFP process and selection of a long-term Hardship Fund program administrator.

⁴ *See* UGI's 2020-2025 USECP, https://www.puc.pa.gov/media/2953/usecp_ugi_electric-gas_revised030424.pdf, at 5 and 14.

We also direct PGW to:

- File and serve a status report when it has selected a new administrator for its Hardship Fund program, identifying the name and contact information for the administrator.
- File and serve a petition to amend its 2023 USECP to reflect the new Hardship Fund administrator once PGW has selected a long-term administrator for the program within 30 days of the effective date of any agreement with the new administrator. The updated USECP must include updated budget amounts and projected enrollment numbers for the Hardship Fund program for 2025-2027.
- File and serve quarterly status reports identifying the number of Hardship Fund applications received, approved, and paid during calendar year 2025.
- File and serve quarterly status reports identifying the number of Hardship Fund applications pending over 30 days to ensure that applications are being timely processed through December 2025.

THEREFORE,

IT IS ORDERED:

1. That the Petition filed by Philadelphia Gas Works on September 27, 2024, is granted, consistent with this Order.
2. That Philadelphia Gas Works shall file at this Docket and serve a status report when it has selected a new administrator for its Hardship Fund program, identifying the name and contact information for the administrator.

3. That Philadelphia Gas Works shall file at this Docket and serve a petition to amend its 2023 USECP to reflect the new Hardship Fund administrator once PGW has selected a long-term administrator for the program within 30 days of the effective date of any agreement with the new administrator. The updated USECP must include updated budget amounts and projected enrollment numbers for the Hardship Fund program for 2025-2027.

4. That Philadelphia Gas Works shall file at this Docket and serve quarterly status reports identifying the number of Hardship Fund applications received, approved, and paid during calendar year 2025.

5. That Philadelphia Gas Works shall file at this Docket and serve quarterly status reports identifying the number of Hardship Fund applications pending over 30 days through December 2025.

6. That this Order be served on all parties of record at Docket No. M-2021-3029232.

7. That the contact persons for this proceeding are Norma Bowman, Bureau of Consumer Services, nobowman@pa.gov; Stephanie Wilson, Law Bureau, stepwilson@pa.gov; and Louise Fink Smith, Law Bureau, finksmith@pa.gov.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: January 23, 2025

ORDER ENTERED: January 23, 2025