

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105**

**INVESTIGATION INTO
FINANCIAL AND COLLECTION
ISSUES REGARDING THE
PHILADELPHIA GAS WORKS**

**PUBLIC MEETING
SEPTEMBER 30, 2004
SEP-2004-OSA-0248*
DOCKET NO. P-00042090**

MOTION OF VICE CHAIRMAN ROBERT K. BLOOM

Before the Commission for consideration is the Petition of Philadelphia Gas Works (PGW) for approval of its Senior Citizen Discount, request for waivers of certain Chapter 56 Regulations, two proposed tariff revisions, an investigation into PGW's collection practices and universal service costs. Administrative Law Judge Charles E. Rainey, Jr. (ALJ) issued his Recommended Decision. Exceptions were filed by PGW, the Office of Trial Staff, the Office of Small Business Advocate and Action Alliance, *et al.*

The Office of Special Assistants (OSA) recommendation addresses all the issues. I agree with the following recommendations:

Senior Citizen Discount:

Deny request to expand program given PGW's financial condition.

Field visit charge:

Deny proposed \$10 charge since those costs are being recovered through other charges.

Require payment arrangements for PGW liens and judgments:

Deny request given the success of its existing lien program.

Universal Service:

Conduct study and provide report by December 31, 2005.

Shelf life for termination notice:

Extends period from 30 to 60 days.

OSA recommends denying all the waiver requests for certain Chapter 56 Regulations. I disagree in some instances.

PGW has requested nine waivers of eight Regulations under Chapter 56. Each request will be addressed separately. However, it is apparent to the Commission that PGW is unique in two ways: its demographics and the fact that it is a municipally owned utility. The Commission must balance the financial integrity of PGW with consumer protection rights. While I appreciate PGW's position regarding its large collection problem, it must be stressed that there is some culpability on the part of PGW. This problem did not occur overnight. In fact, when PGW became subject to our jurisdiction, they already had a

significant collection problem and tenuous financial picture. The argument that Chapter 56 Regulations are the reason for the bleak financial picture is not accurate.

It is with that background that the Commission must evaluate the waiver request. There are customers who have the financial ability to pay who choose not to pay. PGW must take steps to ensure that those who have the financial ability to pay, meet their payment obligations. That practice must stop.

The Commission should grant the waivers as set forth below as a two year pilot. PGW shall semiannually provide to the Commission a status report for each waiver. The report shall include customers impacted and dollars saved. The report shall be served on BCS as well as parties to this proceeding. The Commission will monitor this report and will not hesitate to reconsider the waivers as warranted.

52 Pa. Code § 56.32 (Credit Standards)

PGW proposes that all new applicants for service and all customers seeking to have service restored are to pay a flat security deposit as a condition of service. However, Customer Responsibility Program¹ customers' are exempt from the deposit requirement. Specifically, PGW proposes:

Deposit amount for new customers:

\$100 for new residential non-heating customers

\$250 for new residential heating customers

Deposit for restoring service after winter termination period:

\$200 for non-heating customers

\$500 for heating customers

The purpose of a security deposit is to protect utilities from providing service to a customer who does not pay for those services. It is not meant to be a revenue source to PGW. Security deposit policies are to be based on credit worthiness of the customer and not the locality in which the customer lives. The request to require all new customers to pay a security deposit is denied. The Commission encourages PGW to implement a credit scoring tool. For example, the Commission has approved the Energy Risk Assessment Model (ERAM) for PPL, Columbia, Equitable, and Dominion². Furthermore, PGW is directed to file a cost-benefit analysis with its next base rate case filing that shows whether the acquisition and implementation by PGW of a credit scoring model such as ERAM would be cost effective.

The request to require a flat security deposit from PGW customers whose service is restored is consistent with 52 PA Code § 56.51(b). By granting this waiver, the Commission is permitting PGW to use a flat amount rather than basing the deposit on that consumer's billing history. A deposit request is particularly relevant after the winter

¹ PGW's Low-income program

² PPL Order entered February 8, 2001 (Docket No. P-00001808); Columbia Order entered February 8, 2001 (Docket No. P-00001807); Equitable Order entered November 15, 2001 (Docket No. P-00011915); Dominion Order entered September 13, 2002 (Docket No. P-00021972)

termination period. However, PGW is reminded that a security deposit is appropriate if a customer is late paying two bills. *See* 52 PA Code § 56.41(1) This is to prevent a large arrearage from accumulating.

Permitting a flat rate deposit rather than a formulistic method will ease the application of security deposits and the level of the flat rate is acceptable.

52 Pa. Code § 56.35 (Payment of outstanding balance)

PGW proposes to require applicants for service who resided at the address for which service is being requested during the period when an outstanding arrearage accrued, to pay the outstanding arrearage as a condition of receiving service.

The request of PGW should be denied. PGW does not have the legal authority to unilaterally determine that an applicant for service is liable for the outstanding account balance of another person. That authority rests with a court or this Commission.

This issue in *John Kutas v. Bell Atlantic-PA, Inc.*, Docket No. F-00252231, entered August 26, 1996, the Commission stated:

“A determination by this Commission to assign financial responsibility for [utility] service to a beneficiary of that service who is not the ratepayer of record requires the Commission to find a sufficient nexus between the beneficiary and the utility that warrants the finding that the beneficiary is an indispensable party responsible for the contracting customer’s arrearage. This determination, which requires express Commission action, must be made on a case by case, fact-specific basis. Relevant factors to consider include, but are not limited to, the following: (1) was the non-ratepayer beneficiary an active beneficiary of the utility service, evidenced by contacting the utility about service and were such contacts regular and/or frequent; (2) did the non-ratepayer beneficiary receive an extensive amount of utility service; (3) has the non-ratepayer beneficiary become voluntarily involved, either in writing or in person, with informal or formal complaint proceedings encompassing the present service; (4) when the named ratepayer and non-ratepayer beneficiary share the same residence, has there been previous service in the non-ratepayer beneficiary’s name the included involvement by the present named ratepayer; (5) has the utility specifically filed a motion to have the non-ratepayer beneficiary joined as an indispensable party.” (Order at p. 18-19)

There is no reason to revise the Commission’s well-established standard. PGW is encouraged to seek Commission determination in all such circumstances that it deems warranted.

Finally, PGW should not permit a non-ratepayer to seek a payment arrangement. A non-ratepayer must agree to be added as a named customer of record to request such relief from PGW or the Commission.

52 Pa. Code § 56.82 (Days termination of service is prohibited)

PGW proposes that it be permitted to terminate service on Friday³. PGW states that if this modification is permitted, it will provide customer representatives and field service representatives to ensure that customers will be able to make payment arrangements and restore service on Saturday (See Waiver Petition at B-3 and B-4).

PGW's proposal should be denied. While we agree with PGW's rationale for waiving Friday shut offs, we concur with staff that the Commission is constrained by law. While the Commission does not disagree with the rationale for prohibiting Friday shut offs stems from a period when there were no ATMs and banks did not have weekend hours, such is not the case any longer. However, the Commission is constrained by law.

52 Pa. Code § 56.95 (Deferred termination when no prior contact)

PGW requests an exemption from the requirement to post a termination notice at the residence of the ratepayer and the affected dwelling not less than 48 hours before it intends to disconnect the customer's service.

Current Regulations require three notices be provided before terminating service: (1) written notice at least 10 days prior to the proposed termination (52 Pa Code § 56.91); (2) attempt personal contact at least three days prior to termination (52 Pa Code § 56.93); and (3) post a notice at the residence of the ratepayer and the affected dwelling not less than 48 hours prior to termination if personal contact is not made with the ratepayer or a responsible adult (52 Pa Code § 56.95).

PGW's proposal should be granted as modified. Specifically, this waiver shall not be permitted during the winter termination period (December 1 to March 31). The 48 hour notice is just one of several notices and contacts that a customer receives. Therefore, customers will continue to have adequate notice of the potential for termination and a reasonable opportunity to resolve the situation and retain service. In approving PGW's request to waive this Regulation, I am persuaded that this 48 hour notice could hamper PGW's collection efforts. However, PGW is reminded that the posting of notices on the doors of delinquent accounts can motivate a customer to take action to avoid termination.

52 Pa. Code § 56.97(Procedures upon ratepayer or occupant contact prior to termination)

PGW proposes to limit each customer to only one payment arrangement unless the customer drops down to a lower income level group as delineated by the Bureau of Consumer Services (BCS).

The Commission's ruling in *Mary Frayne v. PECO Energy Company*⁴ stated:

³ Termination is still prohibited on (1) Saturday or Sunday; (2) bank holiday or day preceding; (3) holiday observed by utility on day preceding; and (4) holiday observed by Commission or day preceding.

⁴ Docket No. C-20029005, entered September 10, 2003

“A utility certainly has the discretion to give more than one arrangement, but it is not required to do so unless there is a change in circumstances. A utility should not exercise its discretion to offer multiple payment arrangements, unless there is a change in circumstances. By way of example and not limitation, changes in circumstances could include a showing that there has been a change of income level or other relevant matters. By this comment, we expressly do not approve of the practice of permitting additional payment arrangement requests based only upon the passage of time.” (Emphasis added) (P.6)

PGW asserts that there is no definition of what constitutes a change in circumstance.

PGW’s proposal should not be granted. While a change in circumstance could include a number of events (loss of job, death of spouse, change in number in household), the end result or impact on the person’s income level may be dispositive.

When a customer’s income level is reduced so as to drop to the lower income level, a second payment arrangement is required. PGW fails to take into consideration that there are legitimate life circumstances, other than a decrease in income, that cause even those consumers with the best of intentions to not be able to meet a prior commitment in the form of a payment arrangement. The impact of a serious medical problem or an increase in family size are examples of legitimate change in circumstances that should be considered when a consumer requests to enter into a new payment arrangement.

In instances where the consumer has not maintained the terms of a payment arrangement, it is appropriate that PGW request the customer to pay the amount of the missed payments, referred to as a lump sum, on that prior payment arrangement.

52 Pa. Code § 56.100 (Winter termination procedures)

PGW requests permission to terminate Income Levels 3 and 4 customers for non-payment during the winter termination period (December 1 through March 31) without having to file a written request on a case-by-case basis.

PGW’s request to terminate Income Level 4⁵ should be granted. The Commission has opined that Level 4 customers have, in most cases, the ability to pay their bill but choose not to pay.⁶ In effect, by permitting those customers who have the financial ability to pay but are not paying, PGW is providing free gas during the winter months when consumption peaks. It also places an unfair burden on customers of all Income Levels who do pay their bill.

⁵ Level 4 income starts at 301% of the Federal Poverty Guidelines as adjusted annually.

⁶ *Saul Segan v. PECO Energy*, Docket No. C-00967954, entered April 28, 1997; *Rev. John W. Gay, Jr. v. Pennsylvania Power and Light*, Docket No. Z-00302293, entered September 10, 1996; *Calvin D. Hughey v. Equitable Gas*, Docket No. Z-00275463, entered March 1, 1996.

52 Pa. Code § 56.115 (Restoration of Service – Medical Certificate)

PGW proposes to extend the time period for it to restore service to customers after receipt of a medical certificate from the next working day to within 7 days from April 1 to November 30.

PGW's proposal should be denied. This request cannot be supported due to the potential health and safety issues that could arise if service is not promptly restored to a location where a doctor has certified that the absence of service will aggravate a medical problem. PGW is reminded that a medical certificate is intended to provide the ratepayer with enough time to resolve the payment issue or to make alternative arrangements for the person with the medical problem. Medical certificates are not intended to shield the consumer from meeting their ultimate obligation to pay for the service they receive. PGW is encouraged to monitor accounts with medical certificates to ensure that the ratepayer is meeting their obligation. Further if PGW believes that the consumer is using the medical provisions of our Regulations to avoid payment then PGW should consider filing a petition to have the medical certificate rules waived for that location. See 52 Pa. Code § 56.118.

52 Pa. Code § 56.191 (Restoration of Service – by next working day)

PGW proposed to extend the current requirement to restore by the next working day to within 7 days from April 1 to November 30 after receiving either: (1) payment of outstanding charges plus a reconnection fee; (2) payment of amounts due under a settlement or payment agreement plus a reconnection fee; or (3) adequate assurances that any unauthorized use or practice will cease, plus payment of a reconnection fee.

PGW's proposal should be denied. When customers pay the amount necessary to restore service, they should be rewarded with prompt service. PGW's argument is not persuasive given its representation regarding Friday turn-offs.

52 Pa. Code § 56.191 (Restoration of Service – Payment of outstanding charges and reconnection fee)

PGW requests permission to require Income Level 3 and Level 4 customers who have been shut off for non-service, to pay their full balance and related charges as a condition for restoration of service.

The Regulations permit outstanding charges and the reconnection fee may be amortized over a reasonable period of time.

PGW's request should be granted for Income Level 4 customers. This group of customers have the ability to pay but choose not to pay. It is not appropriate that other income level customers carry the costs associated with these customers.

THEREFORE, I MOVE THAT:

1. The Exceptions of the Philadelphia Gas Works are granted in part and denied in part.
2. Waivers are to be granted to the Philadelphia Gas Works on a two year pilot basis consistent with this Motion.
3. The Office of Special Assistants shall prepare the appropriate Order consistent with this Motion.

DATE

ROBERT K. BLOOM
VICE CHAIRMAN