



COMMONWEALTH OF PENNSYLVANIA

November 20, 2015

E-FILED

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

**Re: Petition of Philadelphia Gas Works for Approval of Demand Side
Management Plan for FY 2016-2010 AND
Philadelphia Gas Works Universal Service and Energy
Conservation Plan for 2014-2016 52 Pa. Code §62.4 -
Request for Waivers
Docket No. P-2014-2459362**

Dear Secretary Chiavetta:

I am delivering for filing today the **Main Brief on Behalf of the Office of Small Business Advocate**, in the above-captioned proceeding.

Two copies have been served today on all known parties in this proceeding. A Certificate of Service to that effect is enclosed.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharon E. Webb".

Sharon E. Webb
Assistant Small Business Advocate
Attorney ID No. 73995

Enclosures

cc: The Honorable Christopher P. Pell
The Honorable Marta Guhl
Parties of Record
Robert D. Knecht

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Petition of Philadelphia Gas Works for :
Approval of Demand Side Management Plan for :
FY 2016-2020 :
And : Docket No. P-2014-2459362
Philadelphia Gas Works Universal Service :
and Energy Conservation Plan for 2014-2016 :
52 Pa. Code §62.4 – Request for Waivers :
:**

**MAIN BRIEF
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

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**For: John R. Evans
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Dated: November 18, 2015

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Regulations

I. INTRODUCTION AND STATEMENT OF THE CASE

Petition of Philadelphia Gas Works (“PGW” or “Company”) filed for Approval of Demand Side Management Plan for FY 2016-2020 (“Phase II”) and Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2014-2016 52 Pa. Code §62.4 – Request for Waivers Docket No. P-2014-2459362 that was filed with the Pennsylvania Public Utility Commission (“Commission”) on December 23, 2014. The OSBA intervened in this case to evaluate reasonableness and cost of PGW’s Demand Side Management Plan (“DSM”) and its impact on small business customers.

II. PROCEDURAL HISTORY

PGW filed the above referenced Petition on or about December 23, 2014. The OSBA filed a Notice of Intervention on January 13, 2015. On January 12, 2015, Answers to PGW's Petition were filed by the Office of Consumer Advocate ("OCA"), the Commission's Bureau of Investigation and Enforcement ("I&E), and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"). The Philadelphia Industrial and Commercial Gas Users Group ("PICGUG"), and the Tenant Union Representative Network ("TURN") and Alliance of Senior Citizens of Greater Philadelphia ("Action Alliance") (collectively "TURN *et al.*") filed Petitions to Intervene on January 13, 2015. The Clean Air Council ("CAC") filed a Petition to Intervene on January 16, 2015.

The filing was assigned to the Office of Administrative Law Judge ("OALJ") with Administrative Law Judges ("ALJs:) Marta Guhl and Christopher P. Pell. The ALJs issued Prehearing Notice scheduling a pre-hearing conference for February 17, 2015. In accordance with the Prehearing Order, the OSBA, and other parties filed prehearing memoranda.

On April 10, 2015, the Company filed its Petition for Philadelphia Gas Works to Extend Demand Side Management Plan ("Bridge Plan") and requested an extension of its Phase I Plan until August 31, 2016, or the effective date of the Phase II compliance plan filed in response to a Commission Order in the Phase II proceeding, whichever was earlier. The Commission subsequently approved the Bridge Plan in an Order entered May 7, 2015.¹

In accordance with the procedural schedule established at the prehearing conference, the OSBA filed the Direct Testimony of OSBA witness Robert D. Knecht on June 23, 2015.

On July 21, 2015, the OSBA filed the Rebuttal Testimony of Mr. Knecht.

¹ Pennsylvania Public Utility Commission v. Philadelphia Gas Works, Docket Nos. P-2009-2097639 and R-2009-2139884, Order entered May 7, 2015 ("Bridge Plan Order").

Subsequently, on August 5, 2015, the OSBA filed the Surrebuttal Testimony of Mr. Knecht.

On August 11, 2015, ALJs Guhl and Pell issued a Prehearing Order indicating that, due to settlement negotiations, the hearings, originally scheduled for August 18-20, 2015 and August 25, 2015, would be rescheduled to October 27-30, 2015.

Subsequently the Company filed rejoinder testimony on October 22, 2015. After reviewing the rejoinder testimony all parties agreed to waive cross examination and as such, a telephonic hearing was held on October 28, 2015 to enter the testimony and exhibits of the OSBA and other parties into the record via stipulation.

The OSBA submits this Main Brief in accordance with the litigation schedule established by ALJs Guhl and Pell.

III. LEGAL STANDARDS

Section 332(a) of the Code, 66 Pa. C.S. § 332(a), specifies that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. The Commonwealth Court held that a “litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pennsylvania Public Utility Commission*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990).

The burden of proof is comprised of two separate and distinct burdens. The first burden is the burden of production. The burden of production informs the adjudicator which party must come forward with evidence to support a particular proposition. *See In re Loudenslager’s Estate*, 430 Pa. 33, 240 A.2d 477, 482 (1968).

The second burden is the burden of persuasion. The burden of persuasion determines which party must produce sufficient evidence to convince a judge that a fact has been established. The burden of persuasion never leaves the party upon whom it is originally placed. *Reidel v. County of Allegheny*, 633 A.2d 1325, 1329 n. 11 (Pa.Cmwlth.1993).

A party that offers a proposal not included in the original filing bears the burden of proof for that proposal. *See Brockway Glass Co. v. Pennsylvania Public Utility Commission*, 437 A.2d 1067 (Pa.Cmwlth. 1981). *See also Pennsylvania Public Utility Commission v. Duquesne Light Company*, Docket Nos. R-2013-2372129, *et al.* (Opinion and Order entered April 23, 2014).

In this proceeding, PGW may only recover “all prudent and reasonable costs associated with the development, management, financing, and operation” of its DSM II program.²

² 66 Pa. C.S. §1319, *See also, Petition of UGI Utilities, Inc. – Elec. Div. for Approval of its Energy Efficiency & Conservation Plan*, M-2010-2210316 (Order entered October 19, 2011).

IV. CONTINUATION OF DSM PLAN

A. Summary of Briefing Party's Position

In this proceeding, the Company proposes to extend its DSM I program for another year through FY 2016 and implement DSM Phase II through FY 2020. At this time, the OSBA takes no exception to continuing the program for non-CRP customers, as the program has not been in effect long enough to discern its effects on overall gas consumption for those customers.³ The OSBA takes note, however, that overall reductions in average non-CRP customer loads, appeared to have been larger before the Company's program began than they have been since.⁴

The Company proposes to continue its DSM program for qualified low income customers, now renamed CRP Home Comfort Program ("HCP"), albeit at a reduced (but evolving) budget level, and to continue to recover the costs for that program from all firm service customer classes through its Universal Service and Energy Conservation Charge ("USC").⁵ In this respect, the OSBA submits that there are two issues that the Commission must resolve.

First, the Commission must determine whether the benefits of the CWP/ELIRP/HCP inure primarily to CRP customers, or whether the benefits relate significantly to non-CRP residential customers. The OSBA's testimony in this case generally makes the case that the benefits inure to CRP customers.⁶ However, in its surrebuttal testimony in this case, the OCA presents credible evidence that much of the benefits of the CWP/ELIRP/HCP apply to non-CRP customers. That much of the benefit of the CWP/ELIRP/HCP inures to non-CRP customers would also go a long way to explaining the apparent lack of effectiveness of the program in reducing CRP customer loads. As non-CRP customers are residential customers only, and they

³ "CRP" refers to the Company's Customer Responsibility Program, which provides discounted rates to customers who have demonstrated their eligibility as low-income customers.

⁴ OSBA Statement No. 1, p.6.

⁵ This program has been called the Conservation Works Program ("CWP"), the Enhanced Low-Income Retrofit Program ("ELIRP") and now the CRP Home Comfort Program.

⁶ OSBA Statement No. 1, p.3-7.

have not qualified as low-income customers, it would be wholly inconsistent with the Commonwealth Court's decision in *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 1010 (Pa. Commw. Ct. 2006), as well as being inconsistent with the explicit language of Act 129 regarding energy efficiency and conservation ("EE&C") plans to assign the costs for such programs to non-residential customers. Thus, if the Commission determines that non-CRP customers are substantial beneficiaries of CWP/ELIRP/HCP, it must recover those costs solely from the Residential class, presumably through the Residential Efficiency Cost Recovery Surcharge ("ECRS").

If, however, the Commission determines that the CWP/ELIRP/HCP beneficiaries are overwhelmingly CRP customers, the OSBA respectfully submits that there is significant evidence that the program is ineffective. As the OSBA testimony shows, CRP customer consumption has not declined over the past 15 years, and average consumption by CRP customers remains substantially above non-CRP customer consumption, despite the expenditure of many millions of dollars.⁷ As such, the OSBA respectfully submits that the Commission should limit the spending on the CWP/ELIRP/HCP to the minimum necessary to meet its legal LIURP requirements, until such time as PGW presents a credible explanation for the apparent lack of success of the program.

The OSBA also objects to the Company's proposals to adopt (a) a partial rate decoupling mechanism it chooses to call a Conservation Adjustment Mechanism ("CAM"), and (b) an incentive mechanism to reward PGW for its conservation efforts even if the programs substantially fail to meet their goals. Sadly, the OSBA sees these proposals as one more cynical effort by PGW's shareholder to increase its equity stake in the Company on the backs of ratepayers, rather than any reasonable effort to design effective EE&C programs.

⁷ OSBA Statement No. 1, p. 3-7.

As to the specifics of the programs, both of these proposals are wholly inconsistent with Commission policy for EE&C programs, as Act 129 of 2008 (“Act 129”) provides that it is the public policy of the Commonwealth not to allow a utility to implement a surcharge mechanism for recovery of lost revenues due to the implementation of DSM programs.⁸ PGW must therefore demonstrate why it should be treated differently than other Pennsylvania utilities. In this respect, none of the Company’s arguments are credible. PGW’s status as a cash-flow regulated utility is irrelevant, as the other utilities EE&C programs are essentially managed on a cash flow basis. PGW’s claim that it is in dire financial straits is simply wrong, as demonstrated by the unrebutted testimony of OSBA witness Mr. Knecht.⁹

And, finally, PGW’s claim that the program is voluntary is wrong. PGW is not putting any of its own resources into this program (without reimbursement), and ratepayers must involuntarily pay the charges that PGW imposes¹⁰. While the OSBA acknowledges that PGW has no legal obligation to undertake a DSM program, that in no way justifies abandonment of all of the laws and Commission policies for EE&C plans that apply to the rest of the utilities in Pennsylvania. Thus, regardless of the merits of these proposals, PGW has failed to provide any credible reason why it should play by different rules than the rest of the utilities in the Commonwealth.

Nevertheless, even if PGW were deemed to be *sui generis*, neither program has any merit.

For the CAM, the program fails for the basic reason that it is improper single-issue ratemaking.¹¹ Implementing a rate mechanism in between base rates proceedings that allows for

⁸ See 66 Pa. C.S. §2806.1(k).

⁹ OSBA Statement No. 1, p. 10-12

¹⁰ OSBA Statement No. 3, p. 1-2.

¹¹ OSBA Statement No. 1, p. 9.

adjustments of one type of load change while ignoring all other factors affecting load, as well as all other facts affecting costs, is improper. Second, the CAM proposals fail simply because it is based on a calculation of savings which may or may not actually occur. For example, if we were to believe PGW's calculations, it would have experienced very substantial reductions in CRP customer load, for which it would be entitled to recompense under the CAM. However, as demonstrated by PGW's own data, the Company has actually achieved zero reductions in CRP customer load, and it has therefore not lost any margin at all.¹² In addition, the CAM fails for the basic reasons that it is improper single issue ratemaking.

As to the incentive mechanism, PGW proposes that it be given a reward if it achieves any more than 70 percent of its target reductions. This program fails for two reasons. First, the program appears to be yet one more attempt by PGW's shareholder to increase its equity stake in the Company by raising rates. The OSBA respectfully submits that the issue of "how much is enough" with respect to city equity should be evaluated in base rates proceeding, not an EE&C petition. Second, Act 129 is very clear that the incentive mechanism to encourage utilities to meet their load reduction goals is a penalty for non-compliance, not a supplement to utility earnings.¹³ Thus, to the extent that PGW feels that it needs an incentive in order to operate its EE&C program efficiently and effectively, the OSBA respectfully submits that a penalty mechanism should be adopted. In the alternative, PGW's proposed mechanism should simply be rejected.

¹² OSBA Statement No. 1, p. 3-6.

¹³ OSBA Statement No. 1, p. 12-13.

B. PGW Proposal To Continue DSM

The Commission has made the preliminary determination that PGW's DSM programs are a success.¹⁴ While the OSBA respectfully disagrees that any such success has manifested itself in observable aggregate load reductions, the OSBA objections to specific provisions or elements of the DSM are highlighted in relevant sections throughout this brief and are incorporated here by reference.

C. Cost Benefit Analysis

PGW proposes certain technical modifications to the Total Resource Cost ("TRC") Test methodology that it uses to evaluate its DSM programs. These modifications include incorporating (a) the alleged benefits associated with reduced market prices ("DRIPE"), (b) the avoided but as yet un-enacted carbon taxes, and (c) certain non-market environmental benefits. These proposed changes were addressed in OSBA's testimony.¹⁵ However, as the Company's briefing outline, as approved by the ALJ, contains no section under which this issue may be addressed, the OSBA assumes that these proposed changes have been withdrawn. To the extent that the Company attempts to put these issues back on the table in its main brief, the OSBA will address these issues in its reply brief.

D. Proposed Program Term

The OSBA has no objections to the proposed program term.

V. PROPOSED NON-LIURP PROGRAMS

In this proceeding, the Company proposes to extend its DSM program for another 5 years through FY 2020. At this time, the OSBA takes no exception to continuing the program for non-CRP customers, as the program has not been in effect long enough to discern its effects on

¹⁴ OSBA Statement No. 1, p. 2, *citing* May 7, 2015 Bridge Plan Order.

¹⁵ *See* OSBA Statement No. 1 at 13, OSBA Statement No. 3 at 9.

overall gas consumption for those customers. The OSBA takes note, however, that reductions in non-CRP customer loads, at an aggregate level, appeared to be better before the Company's program began than it has since.¹⁶

A. Summary of Briefing Party's Position

Please refer to OSBA's response to Section IV, A herein above for discussion on concerns about spending and lack of impact on CRP consumption.

B. Proposed Non-LIURP Programs

The OSBA took no specific position on the specifics of the following programs.

1. **Residential Equipment Rebates**
2. **Efficient Construction Grants**
3. **Efficient Building Grants**
4. **Commercial Equipment Rebates**
5. **Home Rebates Program**

C. Proposed New Pilot Program – Efficient-Fuel Switching

The OSBA takes no position on the Efficient Fuel Switching program.

D. PGW On-Bill Repayment Program Proposal

The OSBA takes no position on the On-Bill Repayment Program.

E. OCA Confirmed Low-Income Outreach Proposal

The OSBA takes no position on the Low-Income Outreach Proposal

VI. DSM COST RECOVERY MECHANISMS

A. Summary of Briefing Party's Position

Please refer to OSBA's response to Section IV, A herein above for discussion on concerns about spending and lack of impact on CRP consumption.

¹⁶ OSBA Statement No. 1 at 3.

B. Recovery through Universal Service Charge (“USC”) and Efficiency Cost Recovery Surcharge (“ECRS”)

As part of its proposed DSM-II plan, PGW proposes to continue its program for customers who qualify for CRP (i.e., the low-income customer assistance program).¹⁷

In this proceeding, PGW generally proposes to scale back the magnitude of expenditures for this program, but to continue to recover all costs for the program from all rate classes through its Universal Service and Energy Conservation Charge (“USC”).¹⁸ Unlike all other utilities in Pennsylvania, PGW imposes the USC on all firm service customers, included residential and non-residential.

Both the Company and OSBA witness Mr. Knecht argue that, because CRP customers do not pay any usage charges, any load reductions that result from the program reduce the USC burden on non-CRP customers.¹⁹ As Mr. Knecht testified, if the incremental gas cost savings associated with the program exceed the cost of the program, the non-CRP customers are better off. Thus, the key question from this perspective is whether the program is cost-effective.

OCA witness Mr. Colton, however, argues that the program provides substantial benefits to residential customers who are not CRP participants. He argues that the program spending is primarily related to residences and provides benefits over the long term, such that the turnover (“churning”) in these residences necessarily implies that many of the beneficiaries are not CRP-eligible customers.

¹⁷ Over the years, this program’s name has evolved from the Conservation Works Program (“CWP”) to the Enhanced Low Income Retrofit Program (“ELIRP”) to the CRP Home Comfort Program in the current filing.

¹⁸ Although the tariff name for the USC includes “energy conservation,” the costs of PGW’s energy conservation program other than those related to CRP customers are recovered in the Efficiency Cost Recovery Surcharge (“ECRS”).

¹⁹ OSBA Statement No. 1, p.3.

The OSBA respectfully submits that the Commission must therefore make an initial determination as to whether the proposed CRP Home Comfort program benefits only CRP customers, or whether it provides substantial other benefits to non-CRP residential customers.

In this respect, the OSBA finds Mr. Colton's arguments to be credible. Mr. Colton's analysis and evidence in support of significant residential turnover among relatively low-income populations is clear and well-substantiated.²⁰ Moreover, this turnover may be a significant reason why the Company has failed to achieve any material reduction in gas consumption by CRP customers, despite approximately 25 years of spending on these programs.

If the Commission determines that non-CRP customers are substantial beneficiaries of the CRP Home Comfort Program, then the OSBA respectfully submits that the costs for the program should be recovered solely from the Residential class. It would be inconsistent with both cost causation and basic fairness principles to require non-residential ratepayers to pay for programs that benefit many residential customers who have not demonstrated that they are low-income customers. Both Act 129 and the Commonwealth Court's ruling in *Lloyd* clearly specify that the costs incurred for a particular rate class should be borne by that class.²¹ Thus, if the Commission determines that non-CRP customers are significant beneficiaries of the CRP Home Comfort Program, the OSBA submits that the costs for that program should be recovered from the Residential portion of the ECRS.²²

²⁰ OCA Statement No. 2-S, p. 2-9.

²¹ *Lloyd*, 904 A.2d 2006.

²² A similar argument arises with respect to the Company's proposed program for low-income multi-family dwellings ("LIME"). To the extent that the beneficiaries of such a program benefit commercial customers, the OSBA agrees that commercial customers should pay for them. However, if these are commercial sector programs, they should reasonably be subject to the same cost sharing rules between ratepayer and subsidizing utility as apply to other commercial programs.

However, if the Commission determines that the CRP Home Comfort Program (and all its predecessor incarnations) have provided benefits only to CRP customers, then the OSBA respectfully submits that PGW has some serious explaining to do. This issue is addressed below.

C. Proposed New Pilot Program – Efficient Fuel Switching

The OSBA takes no position on this issue.

VII. PGW PROPOSED TWO NEW COST ELEMENTS FOR ECRS

Introductory Matter

In Phase I of its DSM, PGW generally adopted the policies and practices of the EE&C programs that apply to electric distribution companies (“EDCs”) under Act 129. In this proceeding, PGW proposes to modify several aspects of established practice on the grounds that PGW is special. Specifically, the Company proposes the following modifications:

- Adoption of a Conservation Adjustment Mechanism (“CAM”) for recovery of margin lost as a result of theoretical savings associated with the plan. For EDCs, such a mechanism is explicitly banned by legislation (§2806.1(k)).

- Implementation of an incentive mechanism, which would financially reward PGW if it achieves anything more than 70 percent of its DSM goals. In contrast, the incentive mechanisms specified by Act 129 are limited only to penalties for inadequate performance.

In support of the disparate treatment, PGW makes several arguments as to why it is special. Specifically, PGW argues that (a) its EE&C program is voluntary, (b) it is cash flow regulated, and (c) it is in dire financial straits.

None of these are credible arguments.

First, PGW’s program is not voluntary. PGW is not putting in any of its own resources in support of this program, and is passing on the entirety of the costs to ratepayers. Ratepayers must involuntarily pay these charges, unless they should voluntarily choose to freeze in the winter.²³

²³ OSBA Statement No. 3, p. 1-2.

Second, PGW's status of being cash-flow regulated has no bearing on this case. PGW has offered no evidence that its status as cash flow regulated makes any difference for an EE&C plan. As the Commission is well aware, the other Pennsylvania utilities that have EE&C programs, both mandatory and "voluntary," essentially operate their EE&C programs on a cash basis. In general, utility conservation expenditures are not capitalized but are expensed in the period in which they occur. As such, all Pennsylvania utilities effectively operate their EE&C programs on a cash flow basis.

Finally, PGW is no longer in financial distress. Since the Company's last base rates case, it has substantially increased the city equity, and it has resumed paying an \$18 million dividend to its shareholder (despite the fact that the shareholder has not contributed any equity). This improved financial status was detailed in Mr. Knecht's direct testimony, and was not rebutted.

Thus, because PGW has failed to demonstrate that it is fundamentally different than other Pennsylvania utilities, the OSBA respectfully submits that PGW should be treated the same as other utilities, and these programs should be rejected on that basis. However, even if the Commission deems PGW to be special, the programs fail on their merits, as discussed below.

A. Summary of Briefing Party's Position

Please see the summary above for the summary of the OSBA's position.

B. Conservation Adjustment Mechanism ("CAM")

Please Section IV, A above herein for the OSBA's position on the CAM.

C. Performance Incentives

Please Section IV, A above herein for the OSBA's position on the proposed performance incentives.

VIII. DSM II BUDGET

- A. Summary of Briefing Party's Position**
- B. Proposed Budgets (Non-LIURP Programs)**
- C. PGW Proposed Budget for CRP Home Comfort Program (LIURP)**

This section of OSBA's brief is offered only if the Commission makes a determination that the Company's CWP/ELIRP/HCP spending provides the vast majority of benefits to CRP customers. For the reasons discussed earlier, it may very well be the case that the reason CRP spending has failed to reduce CRP customer consumption is that the benefits go to customers who are not CRP customers and have not qualified as low-income. If that is the case, the OSBA submits that the costs must be recovered solely from Residential customers, and the OSBA takes no position as to the CWP/ELIRP/HCP budget.

However, if the Commission determines that the vast majority of CWP/ELIRP/HCP spending relates to CRP customers and that those costs should be recovered in the USC, the OSBA respectfully submits that PGW has an obligation to demonstrate that those programs are cost effective. It has failed to do so.

As demonstrated in Mr. Knecht's un rebutted surrebuttal testimony, the massive spending for energy conservation measures for CRP customers over the past 15 years has resulted in virtually no reduction in load.²⁴ In contrast, non-CRP residential customers, who for the most part received no energy conservation subsidies from the Company, achieved material reductions in load over that period. Thus, as shown in Mr. Knecht's analysis, CRP customer load substantially exceeds non-CRP customer consumption, by an ever increasing amount.

The OSBA therefore respectfully recommends that CRP Home Comfort spending continue only at a relatively modest level, until such time PGW is able to provide a convincing explanation as to why a program, which the Commission has determined benefits only CRP

²⁴ OSBA Statement No. 3, p. 4.

customers, has failed to result in any material reduction in CRP customer load. While the OSBA understands that there are certain minimum LIURP spending which PGW must undertake regardless of how ineffective it is, the OSBA respectfully submits that the spending should be minimized until such time as PGW can provide a credible explanation as to why the program has so catastrophically failed.

IX. CRP HOME COMFORT PROGRAM (LIURP)

- A. Continuation of CRP Home Comfort as PGW's LIURP within DSM II portfolio**
- B. CRP Home Comfort Program Eligibility Criteria**
- C. PGW Proposed New Low-Income Multifamily ("LIME") Program**
- D. Chapter 58 Waiver Requests**
- E. De Facto Electric Heating Proposal**
- F. Restore Service Program**

IX. OTHER ISSUES

X. CONCLUSION

WHEREFORE, The OSBA respectfully requests that the Pennsylvania Public Utility Commission:

1. Approve PGW's Phase II program be approved with as modified above herein;
2. Deny PGW's proposed CAM and performance incentive mechanisms.

Respectfully Submitted,



Sharon E. Webb
Assistant Small Business Advocate
Attorney I.D. No. 73995

For: John R. Evans
Small Business Advocate

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Harrisburg, PA 17101**

Dated: November 19, 2015

Appendix A – Proposed Findings of Fact

3. Phase I of PGW's DSM Plan will expire on August 31, 2016, or on the effective date of the Phase II Compliance Plan filed in response to a Commission Order in the Phase II proceeding, whichever is earlier. *Bridge Plan Order*, Order entered May 7, 2015.

4. PGW proposes to continue its Phase II DSM Plan through FY 2020. Petition 1, and PGW St. 3 at 5.

5. PGW seeks to recover \$25 million in DSM plan costs through the Efficiency Cost Recovery Surcharge ("ECRS") and Universal Service Charge ("USC"), each of which applies to all firm customers. Petition, p. 4 and OSBA Statement No. 2, p. 1.

4. The proposed CAM would allow PGW to recover lost margins associated with reduced gas usage from the Company's DSM programs. Petition, p. 19.

5. The proposed performance incentive mechanism would compensate PGW for achieving 70% more of its conservation target. OSBA Statement No. 1, p. 12.

6. The proposed CAM would allow PGW to postpone base rate proceedings and comprehensive review of the Company's sales volumes, operating costs, and rate levels. OSBA Statement No. 1, p. 10.

Appendix B – Proposed Conclusions of Law

1. Section 332(a) of the Code, 66 Pa. C.S. § 332(a), specifies that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. PGW as the proponent of a Commission order therefore bears the burden of proof in this proceeding.
2. PGW has failed to provide evidence in support of its claims for a CAM or performance incentives.
3. The CAM is rejected as it is contrary to the Commission's prohibition on single issue ratemaking.
4. CRP customer consumption has not declined over the past 15 years, and average consumption by CRP customers remains substantially above non-CRP customer consumption, despite the expenditure of many millions of dollars. OSBA Statement No. 1, p. 3.
5. PGW's status of being cash-flow regulated has no bearing on this case.
6. PGW has offered no evidence that its status as cash flow regulated makes any difference for an EE&C plan.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Philadelphia Gas Works for :
Approval of Demand Side Management Plan for :
FY 2016-2020 :
And : **Docket No. P-2014-2459362**
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and Energy Conservation Plan for 2014-2016 :
52 Pa. Code §62.4 – Request for Waivers :

CERTIFICATE OF SERVICE

I certify that I am serving true and correct copies of the foregoing, on behalf of the Office of Small Business Advocate, by e-mail, and/or first-class mail (unless otherwise noted) upon the persons addressed below:

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