

**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA 17120**

Philadelphia Gas Works Universal Service and  
Energy Conservation Plan for 2017-2022

Public Meeting March 26, 2020  
3018867-LAW  
Docket No. M-2016-2542415

Petition to Amend Philadelphia Gas Works  
Universal Service and Energy Conservation Plan  
for 2017-2022

Docket No. P-2020-3018867

**JOINT STATEMENT OF COMMISSIONER JOHN F. COLEMAN, JR. AND  
COMMISSIONER RALPH V. YANORA**

Before the Commission for consideration and disposition are two universal service plan filings made by Philadelphia Gas Works (PGW or Company). If the filings are approved, PGW estimates that the cost of its customer assistance program (CAP)<sup>1</sup> will increase by approximately \$27 million for a total program cost of \$87 million in 2021. PGW expects program costs to continue to increase beyond this total.

We continue to emphasize the need for transparency in these proceedings, which includes a meaningful opportunity for comments. Based on the magnitude of the costs associated with PGW's amended CAP, we believe a comprehensive review of the filings is necessary. A full and complete review can be conducted in an efficient manner to support the Commission's goal of reviewing universal service plan amendments as expeditiously as possible. We also continue to emphasize the need to fully appreciate the cost impact of universal service plans.

**Procedural History**

On January 6, 2020, PGW filed an Addendum and Cover Letter to its current Universal Service and Energy Conservation Plan (2017-2020 USECP) in response to our Orders on the USECP Filing Schedule<sup>2</sup> and the CAP Policy Statement.<sup>3</sup> The Addendum is a redline of PGW's current USECP to include the additional years of 2021 and 2022. The Addendum also includes a consumer education and outreach plan, and enrollment and budgetary projections for 2021 and 2022.

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<sup>1</sup> PGW's CAP is called the Customer Responsibility Program, or CRP.

<sup>2</sup> Universal Service and Energy Conservation Plan (USECP) Filing Schedule and Independent Evaluation Filing Schedule, Docket No. M-2019-3012601 (Order entered October 3, 2019).

<sup>3</sup> 2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code Sections 69.261-69.267, Docket No. M-2019-3012599 (Order entered November 5, 2019).

The Cover Letter addresses the new CAP Policy Statement guidelines. Embedded within the Cover Letter is a request by PGW to implement a Pilot Program with respect to some of the new guidelines. As proposed, the Pilot Program reduces the maximum energy burdens, removes the monthly co-pay for pre-program arrears and modifies the current consumption limit. In the Cover Letter, PGW also requests that the Commission approve the Pilot Program within 30 days to accommodate PGW's replacement of its customer information system. The Commission did not formally respond to PGW's requests.

On February 21, 2020, PGW filed a Petition for Expedited Approval of its January 6, 2020 Cover Letter by March 31, 2020, again, to accommodate the replacement of its customer information system.<sup>4</sup> As a secondary reason for expedited approval, PGW states that early approval of the Pilot Program will allow the company to analyze how the energy burden changes impact PGW and its ratepayers. PGW also requests approval of an amended USECP. However, PGW has not filed an amended USECP which includes language to incorporate the Pilot Program, so there is no such amended USECP before the Commission to approve.<sup>5</sup> Finally, the Petition includes a request for an abbreviated 10-day answer period. The Commission did not formally respond to PGW's request for an abbreviated answer period.

After receiving PGW's Petition for Expedited Approval, the Commission re-docketed the January 6, 2020 Cover Letter as a petition to amend PGW's current USECP. The Commission did not formally notify the parties to PGW's USECP proceeding that it planned to treat the Cover Letter as a petition to amend. Therefore, these parties did not receive proper notice to answer the January 6, 2020 Cover Letter.<sup>6</sup>

The parties did, however, receive notice of PGW's Petition for Expedited Approval. The Tenant Union Representative Network, Action Alliance of Senior Citizens of Greater Philadelphia and the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (collectively, Low Income Advocates) filed a Letter in support of expedited review of the Cover Letter and approval of the proposed Pilot Program. The Office of Consumer Advocate (OCA) filed an Answer opposing expedited review and approval of the Cover Letter and any changes to PGW's existing USECP. On March 19, 2020, just one week ago, the Office of Small Business Advocate filed a Notice of Intervention.

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<sup>4</sup> PGW is clearly requesting approval of the Pilot Program embedded within the Cover Letter because neither the Cover Letter nor the USECP Filing Schedule Addendum require Commission approval. The Cover Letter and the Addendum are simply informational filings under Section 504 of the Public Utility Code (Code). 66 Pa.C.S. § 504; See Petition of Energy Association of Pennsylvania for Reconsideration/Clarification of the November 5, 2019 Final CAP Policy Statement and Order at Docket No. M-2019-3012599, Docket No. P-2020-3016889 (Order entered February 6, 2020) at 10 (Reconsideration Order).

<sup>5</sup> PGW did attach a one-page Appendix H to its Petition for Expedited Approval to provide further limited detail about the Pilot Program.

<sup>6</sup> It does not appear that the Commission has provided formal notice to the parties at the Reconsideration Order that it intends to modify the filing requirements set forth therein to allow Commission staff to treat the cover letters, which were required from all utilities as informational filings, as petitions to amend. Petitions to amend were required from utilities that voluntarily propose to change their existing USECPs pursuant to the amendments to the CAP Policy Statement. Also, as stated above, PGW has not filed an Addendum to reflect proposed CAP changes to its existing USECP, as required by the Reconsideration Order.

In its Answer opposing expedited review and approval, the OCA submits that PGW's proposed changes to its USECP should not be approved until a full review can be completed. According to the OCA in its Answer, PGW's proposed changes raise significant questions as to the cost of the program, the increased costs related to the proposed amendments, the impact of the amendments on the overall USECP, and the continued cost-effectiveness of PGW's USECP among other issues. The OCA continues that the proposed changes will increase costs to ratepayers by approximately \$27.5 million, which is far beyond the constraints of what should be considered in a pilot program.

The procedural history is the entirety of the pre-approval process allowed for PGW's Pilot Program. We are confounded by the decision to proceed with a final order based on a superficial and cursory review, marked by procedural anomalies. The Commission's process for reviewing amendments to universal service plans may be designed to move as efficiently as possible, but it must include the opportunity for parties to be heard and a reasonable amount of time for both parties and the Commission to thoughtfully consider the full impact of the filings before us.

### **Due Process**

A petition to amend a universal service plan requires due process.<sup>7</sup> Due process is satisfied by providing notice and the opportunity to be heard. Upon review, we have not provided the OCA and the other interested parties with adequate notice and opportunity to be heard with respect to PGW's January 6, 2020 Cover Letter and its proposed USECP changes. First, the Cover Letter was converted to a petition to amend without formal notice to the parties. Second, we are essentially deciding the merits of the case based on the pleadings, even though the OCA has raised material fact sensitive issues. Such an outcome is inconsistent with due process, even under the more informal handling of universal service plans.

The timing of our review of PGW's Pilot Program has been informed by PGW's insistence that the Pilot Program must be approved by March 31, 2020 to accommodate the replacement of PGW's customer information system. In its Petition for Expedited Approval, PGW proposes that the Pilot Program be deemed withdrawn if the March 31, 2020 deadline is not met. While we appreciate the inclusion of this information in the filings made by PGW, PGW's IT schedule is not legally relevant to a determination that the Commission has provided notice and the opportunity to be heard before approving a petition to amend a universal service plan.

As with other pilots proposed by utilities, we would have appreciated stakeholder comments on measuring the success of the Pilot Program and reporting requirements. Due to the significant costs associated with the proposed changes, we would also have appreciated stakeholder comments on appropriate and meaningful limitations to the Pilot Program. The pilot could have been limited to a certain number of customers; it could have been limited by cost or by a more clearly defined expiration date. It is unclear what circumstances will prompt PGW to propose any adjustment to the Pilot Program, or what factors will prompt PGW to propose a cost containment method; there are no metrics set to determine whether the Pilot Program is

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<sup>7</sup> 66 Pa.C.S. § 703(g).

successful. It is disappointing that we are not taking advantage of the knowledge, creative problem-solving skills, and ability to compromise that the stakeholders to universal service plans have showcased in the past.

We have approved modifications to universal service plans that were unopposed, and/or modest in nature, without a Tentative Order/comment period, but a \$27 million dollar modification clearly lends itself to a more robust review, which may have included a Tentative Order/comment period. Now that we have a sense of the financial magnitude associated with PGW's adoption of just some of the new CAP guidelines,<sup>8</sup> it is important to hear from stakeholders and to make an informed decision rather than race to judgment.

### **Cost Impact**

PGW forecasts that its Pilot Program will result in increased CAP costs of approximately \$27 million in 2021 and approximately \$29 million in 2022. For non-CAP residential customers, these increases will result in projected monthly payments of \$10.83 in 2021 and \$11.03 in 2022 to fund PGW's CAP. These monthly dollar amounts are just a portion of the universal service charge these customers will be billed each month. These same customers also pay a universal service charge on their electric bills from PECO Energy Company. These increases will most negatively impact PGW's non-CAP low-income customers who may struggle to pay their utility bills each month. We are also concerned about the impact of increased costs on those households just above the CAP income-eligibility threshold. Moreover, under the Pilot Program, CAP costs for commercial customers, including small businesses, are forecasted to increase by almost 50%.

The cost forecasts presented by PGW are based on estimates of program participation that are now very likely significantly under-estimated. As PGW stated in its January 6, 2020 Cover Letter, "[i]n summary, the increased costs associated with the Pilot Program...could be significant and may create a financial burden for Philadelphians, particularly if there is an increase in the cost of gas, or an economic recession/depression. PGW expects that cost controls may need to be established in the future to help restrain future costs."<sup>9</sup> Under the present economic impact of the COVID-19 pandemic, we agree with PGW that the current \$87 million cost estimate may pale next to the actual cost if customers are unable to pay their utility bills and enrollment levels for universal service programs dramatically increase.

The state of the national economy as a whole, and in Pennsylvania, especially for Philadelphia, was vastly different when the Pilot Program was proposed than the uncertainty and volatility that we are facing now. While CAPs are even more important at times like this, we cannot ignore the significant cost burden of these programs and the financial burden they place on PGW's customers, especially PGW's non-CAP low-income customers. This is not the time to increase that burden especially without due process for the parties and the absence of cost controls.

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<sup>8</sup> PGW does not volunteer to comply with all of the policy changes set forth in the Revised CAP Policy Statement.

<sup>9</sup> Addendum and Cover Letter to its current Universal Service and Energy Conservation Plan (2017-2020 USECP), Docket No. M-2016-2542415 (filed on January 6, 2020).

A careful review of cost impact has always been important for PGW's CAP, even without economic uncertainty. Within its service territory, PGW has the highest percentage of low-income customers of any natural gas distribution company. We acknowledge the need for affordable energy bills within the City of Philadelphia and we fully appreciate the role of CAPs in helping to meet that need. However, PGW already has the third most expensive CAP program of all jurisdictional utilities.<sup>10</sup> PGW's non-CAP residential customers pay more to fund PGW's CAP and other universal service programs than do similar customers in other service territories. PGW has the unenviable task of balancing the needs of its CAP customers with the financial limitations of its non-CAP customers who are burdened with financing universal service programs.

PGW has also recently made changes to its CAP that may further increase program costs by millions of dollars over the next few years. For example, pursuant to Commission Order, PGW was directed to make a change to its enrollment criteria that is projected to increase annual CAP arrearage forgiveness costs by between \$1.75 million and \$5 million.<sup>11</sup> This change was implemented on June 24, 2018 and we are still examining the ongoing impact on PGW's CAP costs.

By proceeding in this rushed fashion, we have not allowed the parties to develop a PGW-specific rationale to support the Company's limited adoption of the new CAP guidelines at this time. In a contested USECP proceeding that directly affects rates, the utility has a burden of proof, and we must make specific findings why they have met it. We are concerned that simply relying on adherence to a policy statement and data gathering is an insufficient basis to approve a proposed USECP change. It appears that a thorough review will only take place after amendments have been approved and costs have been incurred.

We make two final observations on cost impact. PGW's Universal Service and Energy Conservation Surcharge is filed every year in March and goes into effect in December of the same year. While cost recovery for the Pilot Program is not addressed in the filings before us today, we highlight that it is unclear whether PGW intends to include these increased costs in its quarterly surcharge adjustments without first proposing the change in its annual filing. In the alternative, if PGW intends to wait until next March to propose the changes which, upon approval, would be recovered beginning December 2021, customers may be faced with a potentially significant under-collection to be recouped on top of a surcharge increase. In addition, this Pilot Program should be considered in the context of PGW's February 28, 2020 filing to increase its distribution rates by approximately \$70 million.<sup>12</sup>

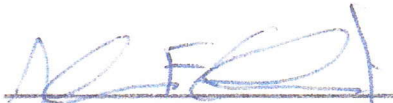
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<sup>10</sup> 2018 Report on Universal Service Programs and Collections Performance at 64-65.

<sup>11</sup> Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2017-2020 Submitted in Compliance with 52 Pa. Code § 62.4, Docket No. M-2016-2542415 (Order entered August 3, 2017).

<sup>12</sup> Docket No. R-2020-3017206.

For the above reasons, we would reject PGW's Petition for Expedited Approval in favor of conducting a more comprehensive review of the Pilot Program at the earliest opportunity presented by PGW.

  
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JOHN F. COLEMAN, JR.  
COMMISSIONER

  
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RALPH V. YANORA  
COMMISSIONER

Date: March 26, 2020