



July 27, 2020

Via Efiling

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

**Re: Pennsylvania Public Utility Commission v. Philadelphia Gas Works, Docket
No. R-2020-3017206**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Brief in support of the Petition of the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia for Interlocutory Review and Answer to Material Question in the above referenced proceeding.

Due to the ongoing COVID-19 pandemic, a copy of this Petition is being served upon the ALJs and all parties via email, as indicated on the attached Certificate of Service.

Sincerely,

Joline R. Price, Esquire
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Enclosures

Cc: Hon. Marta Guhl
Hon. Darlene Heep
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2020- 3017206
	:	
	:	
Office of Consumer Advocate	:	C-2020-3019161
Office of Small Business Advocate	:	C-2020-3019100
Philadelphia Industrial and Commercial	:	
Gas User Group	:	C-2020-3019430
	:	
v.	:	
	:	
Philadelphia Gas Works	:	

Certificate of Service

I hereby certify that I have this day served copies of the Brief in Support of the Petition of the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia for Interlocutory Review and Answer to Material Question upon the parties of record in the above captioned proceeding in accordance with the requirements of 52 Pa. Code §1.54 in the manner and upon the persons listed below.

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July 27, 2020

**BEFORE THE
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Philadelphia Industrial and Commercial Gas User Group	:	C-2020-3019430
v.	:	
Philadelphia Gas Works	:	

**BRIEF OF THE TENANT UNION REPRESENTATIVE NETWORK AND
ACTION ALLIANCE OF SENIOR CITIZENS OF GREATER PHILADELPHIA
IN SUPPORT OF THEIR PETITION FOR INTERLOCUTORY REVIEW AND
ANSWER TO MATERIAL QUESTION**

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TABLE OF CONTENTS

I. INTRODUCTION AND BACKGROUND 1

II. TURN *ET AL.*'S PETITION SATISFIES THE LEGAL STANDARD FOR INTERLOCUTORY REVIEW 4

IV. THE ALJS ERRED IN CONCLUDING THAT MR. GELLER'S TESTIMONY IS INAPPROPRIATE IN THIS BASE RATE PROCEEDING 6

III. THE ALJS ERRED IN CONCLUDING THAT MR. GELLER'S LANGUAGE ACCESS TESTIMONY ADDRESSES A SUBJECT OUTSIDE OF THE COMMISSION'S JURISDICTION. 7

IV. THE ALJS ERRED IN CONCLUDING THAT TURN *ET AL.* SEEK TO ADDRESS PGW'S COMPLIANCE WITH TITLE VI AND THE PHILADELPHIA HOME RULE CHARTER..... 8

VI. CONCLUSION..... 10

I. INTRODUCTION AND BACKGROUND

The Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN *et al.*) submits this brief in support of its July 15, 2020 Petition for Interlocutory Review and Answer to Material Question (Petition), seeking the Commission’s ruling that Administrative Law Judges (ALJs) Marta Guhl and Darlene Heep erred in striking a portion of the Direct Testimony of Harry Geller on behalf of TURN *et al.* As set forth in the petition, the material question submitted for the Commission’s review is as follows:

Does the Order on PGW’s Motions *In Limine* Regarding Testimony on Behalf of OCA and TURN, dated July 8, 2020, err in excluding the Direct Testimony of Harry Geller regarding the quality of PGW’s customer service to its customers of Limited English Proficiency in the context of a general base rate proceeding?

TURN *et al.* asserts that this question must be answered in the affirmative.

By way of background, on February 28, 2020, Philadelphia Gas Works (PGW) filed a supplement to its tariff to increase its distribution rates by approximately \$70 million per year, effective April 28, 2020. At its April 16, 2020 public meeting, the Public Utility Commission suspended the effectiveness of PGW’s tariff supplement until November 28, 2020, to permit investigation and analysis of PGW’s proposed tariff filing and supplemental data to determine whether the rates, rules and regulations set forth in PGW’s proposed tariff are lawful, just and reasonable.¹ Furthermore, the Commission ordered that “this investigation shall include consideration of the lawfulness, justness, and reasonableness of the Philadelphia Gas Works’ existing rates, rules and regulations.”²

The Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN *et al.*) filed a petition to intervene in PGW’s rate proceeding on

¹ Suspension Order at ¶2.

² Suspension Order at ¶4.

April 10, 2020. Following a prehearing conference, the ALJs entered an order granting *TURN et al.*'s petition to intervene and establishing a schedule for the proceeding.

TURN et al. commenced discovery immediately following the prehearing conference, and timely submitted the Direct Testimony of Harry Geller to the ALJs and the parties on June 15, 2020.³ Mr. Geller's Direct Testimony assessed the quality of service provided by PGW in the context of its request for a rate increase. Mr. Geller reviewed PGW's annual termination and reconnection statistics for all residential customers and for low-income customers, as well as PGW's cold weather survey results, concluding that PGW's rate increase, without improvements in PGW's customer service and policies, would exacerbate the challenges customers face in maintaining gas service. *TURN et al.* St. 1 at 12-15. Mr. Geller's testimony focused on PGW policies in two separate contexts: (1) policies directly relevant to the operation of PUC-regulated universal service programs; and (2) policies pertaining to meeting the needs of low-income and vulnerable customers that are not directly related to the operation of PUC-regulated universal service programs.

Mr. Geller submitted that, because most low-income PGW customers are not enrolled in PGW's customer assistance program, the Customer Responsibility Program (CRP), PGW's rate increase would actually harm the majority of low-income customers. *TURN et al.* St. 1 at 17-19. Mr. Geller further submitted that access to PGW's CRP program is impeded by existing, burdensome PGW procedures, and recommended specific steps to improve access to CRP. *TURN et al.* St. 1 at 22-29. Mr. Geller additionally reviewed PGW's low-income usage reduction program (LIURP), and recommended changes to improve that program. *TURN et al.* St. 1 at 36-39.

³ *TURN et al.* Statement 1, the Direct Testimony of Harry Geller, is attached hereto as Attachment A. The stricken testimony appears on pages 54 through 61.

Separately, Mr. Geller's testimony focused on five subjects impacting vulnerable customers: PGW's LIHEAP acceptance and reconnection policies; PGW's policies particular to consumer protections specific to tenants' utility service; PGW's policies for meeting the needs of Limited English Proficient (LEP) customers; PGW's policies for customers who are victims of domestic violence; and PGW's service reconnection policies. Mr. Geller's testimony reviewed PGW policies on each of these subjects and provided recommendations for improvements. Mr. Geller submitted that: "These issues are relevant to this proceeding because inadequate attention to the needs of vulnerable customers demonstrates deficiencies with the quality of service that PGW provides to its customers." TURN et al St. 1 at 40.

On June 25, 2020, PGW filed a Motion in Limine regarding Certain Portions of Testimony Submitted by TURN *et al.* Regarding Universal Service Programs (PGW Motion). PGW's Motion sought to strike all of Mr. Geller's recommendations regarding changes to PGW policies and practices concerning PUC-regulated universal service programs; Mr. Geller's recommendations regarding LIHEAP acceptance and reconnection policies; and policies for meeting the needs of LEP customers.⁴

In its Answer to PGW's Motion on June 30, 2020, TURN *et al.* argued for a full denial of PGW's Motion. All of the issues raised in Mr. Geller's testimony are directly relevant to the quality of service provided by PGW and, therefore, properly within the scope of PGW's rate proceeding.⁵ Furthermore, TURN *et al.* submitted that PGW's Motion was technically deficient

⁴ PGW Motion at 1-2. PGW did not seek to strike Mr. Geller's testimony regarding tenant consumer protections, service reconnection policies, and policies regarding victims of domestic violence. *Id.*

⁵ Answer at 8 (citing to the Commission's Suspension Order and explaining that Mr. Geller's testimony is within the scope of a base rate proceeding).

because it contained averments of fact that were not contained in the record, but failed to include a verification as required by Commission Regulations.⁶

On July 8, 2020, the ALJs entered an Order denying PGW's Motion in many respects, but granting PGW's Motion to strike the portion of Mr. Geller's testimony concerning PGW policies for LEP customers. The ALJs did not address PGW's failure to verify its Motion. The ALJs held as follows:

[A] base rate matter is not the appropriate proceeding to consider language access considerations. The Commission must act within, and cannot exceed, its jurisdiction. This forum and, particularly, this base rate matter, is not the place to address the Civil Rights Act of 1964 or the Philadelphia Home Rule Charter compliance issues with respect to CRP language access program design. As such, this direct testimony from OCA and TURN, *et al.* regarding language access issues will be stricken from the testimony and will not be considered in this proceeding.⁷

For the reasons set forth herein, TURN *et al.* submit that the ALJs erred. Mr. Geller's testimony regarding the quality of service provided to PGW's LEP customers and the adequacy of PGW's language access policies should be allowed into the record of this proceeding.

II. TURN *ET AL.*'S PETITION SATISFIES THE LEGAL STANDARD FOR INTERLOCUTORY REVIEW

TURN *et al.* filed its Petition pursuant to Section 5.302 of the Commission's Regulations, 52 Pa. Code § 5.302. Section 5.302 permits a party to seek interlocutory review and answer to a material question which has arisen or is likely to arise during a proceeding, such as PGW's rate

⁶ Answer at 20-21. The ALJs did not address this argument in their order. Absent verification, TURN *et al.* were unable to determine who at PGW purports to stand behind and attest to the truthfulness of the factual statements in PGW's Motion. In failing to address this issue, the ALJs permitted PGW to submit unverified statements in support of its Motion, including factual statements that 1) Mr. Geller's testimony argued that PGW must comply with Title VI and 2) Mr. Geller's testimony suggested that PGW be required to make a filing with the Philadelphia Office of Immigrant Affairs. Both of these statements are incorrect, as discussed further in this brief. As a result, a significant section of TURN *et al.*'s testimony has been stricken without reliable factual basis.

⁷ Order at 6 (citations omitted). As set forth in the Petition, the ALJs incorrectly frame the issue as involving "CRP language access program design." Petition at 2, n. 2. Mr. Geller's testimony broadly addresses language access issues for all customers, as PGW's ability to communicate effectively with customers is not an issue confined to CRP, but instead affects all residential and commercial customers.

case. The standards for interlocutory review are well established. *See* 52 Pa. Code § 5.302(a). Section 5.302(a) of the Commission’s Regulations requires that the petitioning party “state . . . the compelling reasons why interlocutory review will prevent substantial prejudice or expedite the conduct of the proceeding.” The pertinent consideration is whether interlocutory review is necessary in order to prevent substantial prejudice – that is, the error and any prejudice flowing therefrom could not be satisfactorily cured during the normal Commission review process.⁸

Pursuant to 52 Pa. Code § 5.303, the Commission may take one of the following courses of action on requests for interlocutory review and answer to a material question:

- (1) Continue, revoke or grant a stay of proceedings if necessary to protect the substantial rights of the parties.
- (2) Determine that the petition was improper and return the matter to the presiding officer.
- (3) Decline to answer the question.
- (4) Answer the question.

As a general matter, petitions for interlocutory review are not favored; the preferred approach is to permit proceedings to move forward in the normal course in order that parties can develop the record.⁹ However, as explained in the Petition:

Interlocutory review is necessary to prevent substantial prejudice to TURN *et al.* and ensure that a full record is developed. Absent interlocutory review, there will be no opportunity for development of this [language access] issue on the record, which is directly relevant to the reasonableness of PGW’s current and proposed rates, rules and regulations.¹⁰

⁸ *See* Joint Application of Bell Atlantic Corp. and GTE Corp., Docket No. A-310200F0002, *et al.* (Order entered June 10, 1999); Pa. PUC v. Frontier Communications of Pa. Inc., Docket No. R-00984411 (Order entered February 11, 1999); In re: Knights Limousine Service, Inc., 59 Pa. P.U.C. 538 (1985).

⁹ *Id.*

¹⁰ Petition at 3 (citations omitted).

The ALJs' Order erroneously prohibits TURN *et al.* from introducing a significant customer service issue in PGW's service territory for consideration in the context of this base rate case. By striking this portion of Mr. Geller's testimony in full, the ALJs have impeded the development of a full record regarding how PGW serves its customers.

As discussed below, the Commission has previously held that the Public Utility Code imposes a responsibility on utilities to be able to communicate with all customers, thus placing customer language access issues squarely within the Commission's jurisdiction. Failure to answer the question in the affirmative would impermissibly allow the ALJs legal error to stand uncorrected, thereby contravening the broad scope of this investigation, which explicitly permits consideration of the lawfulness, justness, and reasonableness of PGW's existing rates, rules and regulations.

IV. THE ALJS ERRED IN CONCLUDING THAT MR. GELLER'S TESTIMONY IS INAPPROPRIATE IN THIS BASE RATE PROCEEDING

Mr. Geller submitted more than six pages of detailed testimony concerning the language access needs of Philadelphians and how those needs are not being adequately addressed by existing PGW policies. Customer service issues are relevant to a request to increase rates – indeed, the law cannot impose an obligation on customers to pay for the cost of service without a reciprocal obligation of the utility to satisfy standards of reasonable service.¹¹ As TURN *et al.* submitted in response to PGW's Motion, PGW's own testimony in support of its request for increased rates and charges specifically includes statements intended to demonstrate that PGW has made improvements in certain areas of customer service.¹² There is no basis to permit PGW to introduce statements regarding the quality of certain areas of customer service while

¹¹ See *Nat'l Utilities, Inc. v. Pa. PUC*, 709 A.2d 972, 979 (Pa. Commw. Ct. 1998), following *D.C. Transit Sys., Inc. v. Washington Metro. Area Transit Com'n*, 466 F.2d 394, 411 (D.C. Cir. 1972), *cert denied*.

¹² Answer at 19. See also PGW St. 7 at 13-18.

prohibiting Mr. Geller from testifying about deficiencies in other areas of PGW's customer service.

Mr. Geller's testimony must also be placed in context. PGW provides service exclusively in the City of Philadelphia, where nearly a quarter of the population speaks a language other than English at home, and more than half of those households speak a language other than Spanish.¹³ PGW's ability to meet the needs of its customers, residential and non-residential alike, depends in significant part on PGW's ability to communicate with them. How PGW serves its customers with limited English proficiency is one aspect of PGW's customer service function that should not be excluded from consideration while the parties are permitted to develop a record regarding other customer service issues.

PGW's ability to communicate with its customers is fundamental to quality customer service. As such, examining PGW's language access policies is instrumental to assessing the "justness and reasonableness" of PGW's current operations, as explicitly authorized by the Commission's Suspension Order. The Commission should find that the ALJs erred in striking Mr. Geller's language access testimony.

III. THE ALJS ERRED IN CONCLUDING THAT MR. GELLER'S LANGUAGE ACCESS TESTIMONY ADDRESSES A SUBJECT OUTSIDE OF THE COMMISSION'S JURISDICTION.

The ALJs appear to adopt the argument by PGW¹⁴ that the Commission's jurisdiction precludes it from addressing the language access issues raised by Mr. Geller. The ALJs provide no explanation, simply stating that the "Commission must act within, and not exceed, its

¹³ TURN *et al.* St. 1 at 55-56.

¹⁴ PGW Motion at 11, ¶22.

jurisdiction.”¹⁵ The ALJs err in reaching the conclusion that PGW’s ability to meet the language access needs of its customers is beyond the scope of the Commission’s jurisdiction.

The Commission recognizes the importance of language access and provides specific guidance to utilities regarding certain communications that must be available in languages other than English.¹⁶ The PUC also explicitly prohibits discrimination on the basis of status, including national origin.¹⁷ Indeed, the Commission has explicitly held that “Section 1501 of the Public Utility Code imposes a responsibility on all utilities to be able to communicate *with all its customers*,” including those who may not be proficient in English.¹⁸ As a result, PGW’s policies and practices for dealing with LEP customers are squarely within the Commission’s jurisdiction.

Because the Commission recognizes the importance of quality customer service to LEP customers, and PGW has a legal obligation to communicate effectively with its customers, whether PGW is fulfilling that obligation is a clear question of the lawfulness of PGW’s current rates, rules and regulations. That subject matter is explicitly authorized for review in this base rate proceeding by the Commission’s Suspension Order. Accordingly, the Commission should find that the ALJs erred in striking Mr. Geller’s language access testimony.

IV. THE ALJS ERRED IN CONCLUDING THAT TURN *ET AL.* SEEK TO ADDRESS PGW’S COMPLIANCE WITH TITLE VI AND THE PHILADELPHIA HOME RULE CHARTER

The ALJs incorrectly contend that TURN *et al.* are seeking to involve the Commission in assessing PGW’s compliance with Title VI of the Civil Rights Act of 1964 (Title VI)¹⁹ and the

¹⁵ Order at 6.

¹⁶ See, e.g., 52 Pa. Code § 56.91(b)(17), 52 Pa. Code § 56.201 (requiring utilities to provide information in other languages in certain circumstances).

¹⁷ See e.g., 52 Pa. Code § 56.31 (prohibiting credit and deposit policies that discriminate on the basis of status, including national origin).

¹⁸ See Re Angel Hernandez, 84 Pa. P.U.C. 396, Docket No. P-890371 (Tentative Order entered, May 1, 1995), Statement of Commissioner John Hanger (“Good customer service cannot be provided if a public utility cannot even communicate with a portion of its customers.”).

¹⁹ 42 U.S.C. §2000d.

Philadelphia Home Rule Charter.²⁰ Mr. Geller’s testimony provides clear proposals for improvement of PGW’s language access policies as a customer service function in the context of PGW’s rate case. Contrary to the ALJs’ Order, Mr. Geller’s testimony does not focus on language access issues “as they pertain to” Title VI or the Philadelphia Home Rule Charter.²¹ Rather, Mr. Geller’s testimony analyzes PGW’s current rules and practices regarding language access, finds them to be deficient, and provides proposals to improve PGW’s language access policies. This is an appropriate subject for testimony in the context of the instant base rate proceeding.

Mr. Geller’s testimony includes the following statement regarding Title VI and the Philadelphia Home Rule Charter: “I am advised by counsel at Community Legal Services that PGW may have language access obligations under Title VI of the Civil Rights Act of 1964.” TURN *et al.* St. 1 at 58. In a footnote to that sentence, Mr. Geller explains that departments of the City of Philadelphia are required to provide language access services pursuant to a provision of the City’s Home Rule Charter. Mr. Geller submits that “[a]s an entity owned by the city of Philadelphia, PGW should strive to meet the standards applicable to city agencies.” TURN *et al.* St. 1 at 58, n. 113.

Other than the single sentence and footnote described above, Mr. Geller’s testimony contains no mention of Title VI or the Philadelphia Home Rule Charter. Moreover, Mr. Geller does not provide any assessment or opinion regarding PGW’s compliance or lack of compliance with the standards of Title VI or the Philadelphia Home Rule Charter. Rather, Mr. Geller’s testimony is clear in expressing his belief that the standards that the City imposes on its

²⁰ See Philadelphia Home Rule Charter § 8-600, *available at* https://codelibrary.amlegal.com/codes/philadelphia/latest/philadelphia_pa/0-0-0-180800.

²¹ Order at 3.

departments are suitable standards for PGW to strive to meet.²² For that reason, Mr. Geller makes a recommendation that PGW work with the City’s Office of Immigrant Affairs to develop the language access policy he recommends in testimony.²³ In other words, in improving its customer service to LEP customers, Mr. Geller believes that there is a known and readily available standard currently being used in the City of Philadelphia. Mr. Geller’s testimony does not suggest that the Commission should take responsibility for PGW’s compliance with Title VI or the Philadelphia Home Rule Charter.²⁴

TURN *et al.* submit that the ALJs erred in concluding that Mr. Geller’s testimony seeks to assess compliance with Title VI or the Philadelphia Home Rule Charter. Furthermore, even if the ALJs found the single sentence and footnote referencing Title VI and the Philadelphia Home Rule Charter in Mr. Geller’s testimony to be inappropriate, that would not justify striking all of Mr. Geller’s testimony regarding PGW’s language access policies. Accordingly, the Commission should find that the ALJs erred in striking Mr. Geller’s language access testimony.

VI. CONCLUSION

For the reasons set forth above, the Commission should grant interlocutory review, answer the material question in the affirmative, and reinstate the stricken portion of Mr. Geller’s Direct Testimony.

²² Indeed, PGW recognizes that Mr. Geller does not make a factual assertion that PGW is subject to these standards. *See* PGW Motion at 11, ¶22.

²³ TURN *et al.* St. 1 at 61.

²⁴ Notably, PGW’s Motion admits that “TURN *et al.*’s testimony seems to recognize” that PGW may not be subject to the requirements of the Philadelphia Home Rule Charter. PGW Motion at 11, ¶22.

Respectfully submitted,



DATE: July 27, 2020

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Attachment A: TURN *et al.* Statement 1, Direct Testimony of Harry Geller

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2020-3017206
	:	
v.	:	
	:	
Philadelphia Gas Works	:	

DIRECT TESTIMONY OF

HARRY S. GELLER

ON BEHALF OF

TENANT UNION REPRESENTATIVE NETWORK AND
ACTION ALLIANCE OF SENIOR CITIZENS OF GREATER PHILADELPHIA

June 15, 2020

TABLE OF CONTENTS

I.	WITNESS BACKGROUND	1
II.	THE REASONABLENESS OF PGW’S RATE INCREASE	8
II.	PGW’s PROPOSAL TO INCREASE ITS FIXED CUSTOMER CHARGE.....	9
III.	QUALITY OF SERVICE PROVIDED TO LOW-INCOME CUSTOMERS.....	10
IV.	REVIEW OF PGW POLICIES	39
V.	PROPOSED POLICY CHANGES	66
VI.	THE REASONABLENESS OF PGW’S RATE INCREASE	72
VII.	CONCLUSION.....	73

Geller Appendices

Appendix A: Geller Resume

Appendix B: NASUCA Resolution 2015-1

Appendix C: Center for Workforce Information & Analysis, Pennsylvania Regular UC Benefits, Initial Claims by Workforce Development Area (May 15, 2020)

Appendix D: LIHEAP Policy Clarification: Accepting client statement as verification of income termination and household composition due to coronavirus (COVID-19)

1 **I. WITNESS BACKGROUND**

2 **Q. Please state your name, occupation, and business address.**

3 A. My name is Harry Geller. I am an attorney. I am the former Director of the
4 Pennsylvania Utility Law Project. I am currently retired, but serve as Senior Counsel to
5 the Pennsylvania Utility Law Project (PULP) and as a consultant to legal aid programs
6 and their clients. I maintain an office at 118 Locust St., Harrisburg, PA, 17101, however
7 since the issuance of the Governor’s Covid-19 emergency disaster declaration, I am
8 working from 4213 Orchard Hill Rd, Harrisburg, PA, 17110.

9 **Q. Briefly outline your education and professional background.**

10 A. I received my B.A. Degree from Harpur College, State University of New York at
11 Binghamton in 1966, and a J.D. degree from Washington College of Law, American
12 University in 1969. Upon graduation from law school, I entered the Volunteers in Service
13 to America (VISTA) program, where I was assigned to the New York University Law
14 School. I took courses in the Law School’s Urban Affairs and Poverty Law program and
15 worked with the Community In Action Program on the West Side of Manhattan in New
16 York City from 1969-1971. In 1971, I started as a Staff Attorney for the New York City
17 Legal Aid Society, Criminal Court and Supreme Court Branches in New York County. In
18 1974, I moved to Pennsylvania and began working for Legal Services, Incorporated
19 (LSI). LSI was a civil legal aid program serving Adams, Cumberland, Franklin and
20 Fulton Counties. I worked at LSI from 1974-1987 first as a Staff Attorney, then as
21 Managing Attorney, and ultimately became Executive Director. Through a restructuring
22 with other legal services programs, LSI became part of what is now known as MidPenn
23 Legal Services and Franklin County Legal Services.

1 In 1988, I was hired to be the Executive Director of PULP, a statewide project
2 dedicated to the rights of low-income utility customers. At PULP, I represented low-
3 income individuals with utility and energy concerns, and supported organizations
4 advocating for low-income households in utility and energy matters. As the Executive
5 Director of PULP, I consulted and co-counseled on a wide variety of individual utility
6 consumer cases, and I participated in task forces, work groups and advisory panels,
7 including the Low Income Home Energy Assistance Program (LIHEAP) Advisory
8 Committee. I frequently trained community organizations, legal aid staff and advocacy
9 groups across Pennsylvania about the various utility and energy matters affecting
10 Pennsylvania's low-income population. I retired from PULP on June 30, 2015. Although
11 no longer employed by PULP, I now serve as a Senior Counsel to PULP and as a
12 consultant to legal aid programs and their clients. In sum, I have over 50 years'
13 experience with households in poverty, including over 30 years focusing specifically on
14 utility and energy issues affecting low-income consumers. My resume is attached as
15 Appendix A.

16 **Q. For whom are you testifying in this proceeding?**

17 A. I am testifying on behalf of Tenant Union Representative Network and Action
18 Alliance of Senior Citizens of Greater Philadelphia (collectively "TURN *et al.*")

19 **Q. Please describe the focus of your work over the past fifty years.**

20 A. I have represented low-income individuals and organizations serving low-income
21 populations in a wide variety of legal matters, including family law, public benefits,
22 unemployment compensation, utility shut-offs, debtor/creditor, and housing related
23 disputes. Over the past 32 years, both at PULP and in retirement, my focus has been

1 ensuring that low-income households can connect to, afford, and maintain utility and
2 energy services.

3 In all of these legal matters, I worked almost exclusively on behalf of low-income
4 individuals and households. Through this work, I have become intimately familiar with
5 the daily lives of countless of our poorest citizens. I have spent hundreds, if not
6 thousands, of hours assisting clients in combing through their budgets to attempt to assist
7 them to make ends meet. Over the years, I have consistently had to address the issues
8 which have arisen for the significant number of low-income families who have an
9 inability to pay for the most basic monthly necessities on the incomes they have. Almost
10 every month, my clients faced the stark necessity of choosing which bills they could
11 forego with the least drastic consequences.

12 In addition to my deep understanding of the daily monetary struggles facing poor
13 families, I have an extensive knowledge of the array of programs designed to allow low-
14 income individuals to afford utility service. While at PULP, I was involved in numerous
15 proceedings evaluating the effectiveness of required Universal Service Programs to assist
16 low-income families. I have spent thousands of hours identifying issues in Universal
17 Services and making recommendations for changes to Universal Service programming to
18 better serve low-income consumers. This advocacy has strongly informed my awareness
19 of the necessity of these programs as well as the recognition that successfully integrated
20 programs for low-income consumers were essential to their effectiveness. As director of
21 PULP, I played an instrumental role in the development, oversight, and monitoring of the
22 initial pilots and then the statutorily required low-income Universal Service Programs,
23 each of which is structured to provide a different and complementary form of assistance

1 to low-income customers, such that those customers have the ability to afford and
2 maintain basic utility service. For example, the Customer Assistance Program (“CAP”)
3 provides alternatives to traditional collection methods for low-income, payment troubled
4 utility customers. The Low-income Usage Reduction Program (“LIURP”) is a targeted
5 weatherization program designed to assist low-income households with the highest
6 energy consumption, payment problems, and arrearages. The Customer Assistance and
7 Referral Evaluation Service Program (“CARES”) provides assistance and referrals to
8 resources for special needs, low-income customers. These programs work in tandem and
9 are designed to assist low-income households in maintaining affordable utility services
10 and safe living environments while reducing utility collection costs, thereby benefitting
11 other ratepayers.

12 Further, over the years I have advocated with utility providers and regulators to
13 improve policies and practices that create barriers for low-income customers’ ability to
14 access and afford utility service. This includes advocacy to improve how utilities
15 administer their Universal Service programs and LIHEAP processes, but also advocacy to
16 improve the ways that utilities interface with and respond to the needs of all of their low-
17 income customers, including those who are not enrolled in a utility Universal Service
18 Program.

19 **Q. Have you testified in any proceeding before the Pennsylvania PUC?**

20 A. Yes. Most recently, in the past five years, I provided testimony in

- 21 • Pennsylvania Public Utility Commission, *et al.* v. Peoples Natural Gas Company
22 LLC, Docket No. R-2018-3006818;

- 1 • Joint Application of Aqua America, Inc., Aqua Pennsylvania, Inc., Aqua
2 Pennsylvania Wastewater, Inc., Peoples Natural Gas Company LLC and Peoples
3 Gas Company LLC for all of the Authority and Necessary Certificates of Public
4 Convenience to Approve a Change in Control of Peoples Natural Gas Company
5 LLC, and Peoples Gas Company LLC by way of the Purchase of all of LDC
6 Funding LLC’s Membership Interests by Aqua America, Inc., Docket Nos. A-
7 2018-3006061, A-2018-3006062, A-2018-3006063;
- 8 • Pennsylvania Public Utility Commission v AQUA Pennsylvania, Inc., Docket
9 Nos. R-2018-3003558 (Water) and R-2018-3003561 (Wastewater);
- 10 • Pennsylvania Public Utility Commission v. Duquesne Light Company; Docket No
11 R-2018-3000124; R-2018-3000829;
- 12 • Pennsylvania Public Utility Commission v. PECO Energy Company – Electric
13 Division, Docket No. R-2018-3000164;
- 14 • Joint Petition of Metropolitan Edison Company, Pennsylvania Electric
15 Company, Pennsylvania Power Company and West Penn Power Company for
16 Approval of their Default Service Program, Docket Nos P-2017-2637855,
17 P-2017-2637857, P-2017-2637858, P-2017-2637866;
- 18 • PECO Energy Company’s Pilot Plan for an Advance Payments Program
19 Submitted Pursuant to 52 Pa. Code §56.17 and PECO Energy Company’s Petition
20 for Temporary Waiver of Portions of the Commission’s Regulations with Respect
21 to that Plan, Docket No. P-2016-2573023;

- 1 • Petition of PECO Energy Company for Approval of a Default Service Program
2 for the Period of June 1, 2017 through May 31, 2019, Docket No. P-2016-
3 2534980;
- 4 • Petition of PPL Electric Utilities Corporation for Approval of a Default Service
5 Program and Procurement Plan for the Period of June 1, 2017 through May 31,
6 2021, Docket No. P-2016-2526627;
- 7 • Petition of Duquesne Light Company for Approval of a Default Service Program
8 for the Period of June 1, 2017 through May 31, 2021, Docket No. P-2016-
9 2543140;
- 10 • Pennsylvania Public Utility Commission *et al.* v. Columbia Gas of Pennsylvania,
11 Inc., Docket No. R-2016-2529660;
- 12 • Joint Petition of Metropolitan Edison Company, Pennsylvania Electric Company,
13 Pennsylvania Power Company, and West Penn Power Company for Approval of
14 their Default Service Programs for the period commencing June 1, 2017 through
15 May 31, 2019; Docket Nos. P-2015-2511333, P-2015-25113351, P-2015-
16 2511355; P-2015-2511356; and
- 17 • Petition of PPL Electric Utilities Corporation for Approval of its Energy
18 Efficiency and Conservation Plan, Docket No. M-2015-2515642.

19 **Q. Have you testified in any other PGW base rate proceeding before the**
20 **Commission?**

1 A. Yes. I served as a witness for TURN *et al.* in PGW’s most recent base rate
2 proceeding, Pennsylvania Public Utility Commission v. Philadelphia Gas Works, R-
3 2017-2586783.

4 **Q. What information did you rely on in preparing your testimony for this**
5 **proceeding?**

6 A. In addition to publicly available information, compiled by the PUC and other
7 sources, I relied on information contained in PGW’s rate case filing, other PUC
8 proceedings involving PGW, and discovery responses provided by PGW in response to
9 discovery requests by TURN *et al.* and the other parties in this proceeding.

10 **Q. What is the purpose of your testimony in this proceeding?**

11 A. In its suspension order, the PUC noted that this proceeding was an opportunity to
12 consider whether PGW’s proposed and current rates, rules and regulations are just,
13 reasonable, and lawful. I will explore those issues. The main purpose of my testimony is
14 to address the effect of PGW’s proposed rate increase on its low-income customers,
15 including customers enrolled in PGW’s customer assistance program, the Customer
16 Responsibility Program (“CRP”), and low-income customers who are not enrolled in
17 CRP. I conclude that the proposed increase will have a negative effect. In the first
18 section of my testimony, I explain why I oppose PGW’s proposal to increase its fixed
19 residential customer charge by 40% from \$13.75 to \$19.25. Next, I examine the quality
20 of customer service provided to PGW’s low-income customers. I do not believe that
21 PGW’s current customer assistance programs sufficiently protect PGW’s low-income
22 customers – CRP and non-CRP participants – from the harm that is likely to result from
23 increased rates. I explain why the quality of customer service provided to PGW’s low-

1 income customers is of particular concern in the context of the Covid-19 pandemic and
2 the disproportionate economic impact on the most disadvantaged. In additional sections
3 of my testimony, I address how various PGW policies result in low-income customers,
4 including vulnerable tenants, being unable to access or maintain affordable natural gas
5 service. I also provide specific recommendations on how PGW can modify its policies to
6 better allow its low-income customers to maintain service on affordable terms. In a final
7 section of my testimony, I discuss whether PGW's requested rate increase is just and
8 reasonable in light of the policies discussed in my testimony and their adverse effect in
9 low-income customers. I conclude that it is not.

10 **II. THE REASONABLENESS OF PGW'S RATE INCREASE**

11 **Q. Do you support PGW's proposed rate request?**

12 A. No. As I will describe further in my testimony, low-income customers will be
13 disproportionately affected negatively by the proposed rate increase. This is exacerbated
14 by the serious limitations that PGW has imposed on the effective operation of its low-
15 income CRP program. In addition, PGW's policies continue to contribute to significant
16 numbers of low-income customers being unable to access, maintain, and restore service.
17 As such, I believe that unless PGW makes a meaningful commitment to improving
18 programs and policies for the Company's low-income customers, the Commission should
19 not approve PGW's proposal to raise its rates. In addition to the recommendations
20 contained in my testimony to provide additional assistance to customers, I recommend
21 that PGW maintain better and more robust information regarding its low-income
22 customers. Further, PGW must commit to reviewing and analyzing how its policies are
23 exacerbating the likelihood that customers will experience a service termination and

1 spend long periods of time without service. In particular, I recommend that PGW revise
2 and improve policies pertaining to CRP enrollment and charges; LIHEAP Crisis
3 acceptance; compliance with the Discontinuance of Service to Leased Premises
4 provisions of the Public Utility Code at 66 Pa. C.S. §§ 1521-1533; customers who are
5 victims of domestic violence; Language Access for Limited English Proficient customers;
6 and policies related to customers' ability to reconnect to PGW service after they are
7 disconnected.

8 **II. PGW'S PROPOSAL TO INCREASE ITS FIXED CUSTOMER**
9 **CHARGE**

10 **Q. Can you briefly describe PGW's proposal to increase its residential customer**
11 **charge?**

12 A. Yes. In this proceeding, PGW has proposed to increase its fixed residential
13 customer charge from \$13.75 per month to \$19.25 per month. PGW Statement 6, Direct
14 Testimony of Kenneth S. Dybalski, at 7. **This is a forty percent increase.** If approved,
15 PGW's residential customers, including its non CRP low-income customers, will pay the
16 highest customer charge of any gas customers in the state of Pennsylvania. PGW
17 Statement 1, Direct Testimony of Gregory Stunder, at 7 (table).¹

18 **Q. What is your opinion on PGW's proposal?**

19 A. It is my opinion that PGW's proposal to increase its residential customer charge
20 will result in significant harm to PGW's low-income customers. Most of PGW's low-
21 income customers are not enrolled in PGW's CRP program and many of PGW's CRP

¹ According to PGW, UGI has proposed a fixed customer charge of \$19.95 in its currently pending rate case at R-2019-3015162. PGW St. 1 at 7. If UGI's increase and PGW's increase are both approved, PGW's charge would be the second highest gas fixed charge.

1 customers are paying bills based on usage through the CRP Average Bill. These
2 customers are responsible for paying PGW's fixed customer charge and will be unable to
3 avoid a higher fixed customer charge if it is approved by the Commission. Many of
4 PGW's low-income customers have minimal or no resources to pay higher fixed charges
5 and are now struggling to pay current charges and maintain their service. Because the
6 customer charge is fixed and unavoidable, PGW customers will not be able to lower the
7 charge by moderating natural gas consumption. In 2015, the National Association of
8 State Utility Consumer Advocates (NASUCA) passed a resolution opposing gas and
9 electric utility efforts to increase delivery service customer charges. A copy of the
10 resolution is attached as Appendix B. In the resolution, NASUCA contends that increased
11 customer charges have a disproportionate impact on low-volume consumers. The
12 resolution cited to data showing that natural gas consumption increases as income
13 increases and higher incomes lead to occupation of larger sizes of housing units and
14 increased likelihood of higher gas utility usage. I agree with NASUCA's findings and I
15 am concerned that PGW's proposal to increase its customer charge will
16 disproportionately harm low and limited income, low-use customers.

17 **III. QUALITY OF SERVICE PROVIDED TO LOW-INCOME**
18 **CUSTOMERS**

19 **Q. Does PGW's rate increase testimony address the quality of service that it**
20 **provides to its low-income customers?**

21 A. Yes. PGW has presented testimony regarding the quality of service that it
22 provides to its low-income customers. PGW Statement 7, Direct Testimony of Douglas
23 A. Moser, at 13-18. In his testimony, Mr. Moser asserts that PGW has undertaken

1 numerous efforts during the past several years to improve its customer service. PGW St.
2 7 at 1:21-23. Mr. Moser identifies specific actions PGW has taken with regards to its
3 low-income customers, claiming that PGW has introduced a more convenient and more
4 accessible payment option for PGW’s “cash only/unbanked customers” with the launch
5 of Retail Cash, a payment option that allows PGW customers to pay with cash at local
6 retail providers without incurring a transaction fee. PGW St. 7 at 14:4-10. In addition,
7 Mr. Moser claims that PGW has improved customer service for its low-income customers
8 by voluntarily implementing a tool that allows customers to apply for CRP online. PGW
9 St. 7 at 15:1-8. Mr. Moser includes a sampling of other PGW efforts intended to show
10 that PGW has improved its customer service since its last rate case. PG St. 7 at 13-16.

11 **Q. Do you believe that these efforts show that PGW provides a high quality of**
12 **service to its low-income customers?**

13 A. No. I do not believe that PGW has done enough since its last rate case to improve
14 the quality of service that it provides to its low-income customers. Nor do I believe that
15 PGW has taken sufficient steps to modify its policies to prevent low-income customers
16 from being unduly burdened by the proposed rate increase. While I acknowledge the
17 intent of the efforts mentioned in Mr. Moser’s testimony, I do not believe that they will
18 mitigate the financial harm to PGW’s low-income customers that is likely to result if
19 PGW’s rate request is approved.

20 **Q. Are you satisfied with PGW’s assessment of the quality of service that it**
21 **provides to its low-income customers?**

22 A. No. Unfortunately, PGW has not made an assessment as to whether its policies
23 impede low-income customers’ ability to access, maintain, and restore service. I will

1 discuss my concerns in more detail within this testimony. I believe that if PGW's rate
2 request is approved, and PGW is not required to modify a number of its policies, more
3 PGW customers will struggle to afford their bills and will find themselves unable to
4 maintain service.

5 **Q. Do PGW's low-income customers currently struggle to afford their bills?**

6 A. Yes. We can look at publicly available Commission data to understand some of
7 the issues that PGW low income customers are experiencing. A review of the
8 Commission's Universal Service Reports shows that *PGW's confirmed low income*
9 *customers are terminated for nonpayment at more than double the rate of PGW's non*
10 *low-income customers*. In 2017, the termination rate for PGW's residential customers
11 was 5.8%, but for PGW's confirmed low-income customers it was 13.6%.² In 2018, the
12 termination rate for PGW's residential customers was 5.4%, but for PGW's confirmed
13 low-income customers it was 11.8%.³ Since this data only reflects the subgroup of
14 customers who PGW has confirmed meets its definition of low-income, many low-
15 income customers are not included. The actual number of low-income customers is
16 estimated to be significantly higher. As such, the number of households in poverty who
17 are terminated and without gas service each year in Philadelphia is likely to be higher.

² See Pa. PUC, Bureau of Consumer Services, Report on 2017 Universal Service Programs & Collections Performance, at 12-13,

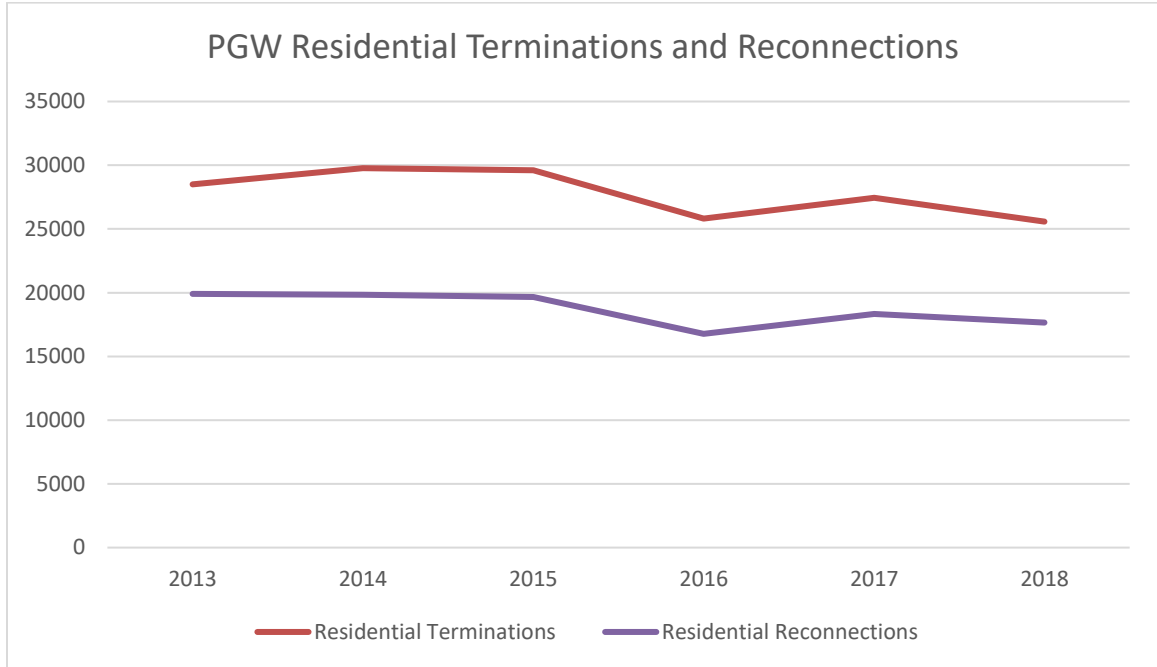
http://www.puc.state.pa.us/General/publications_reports/pdf/EDC_NGDC_UniServ_Rpt2017.pdf.

³ See Pa. PUC, Bureau of Consumer Services, Report on 2018 Universal Service Programs & Collections Performance, at 13-14,

http://www.puc.state.pa.us/General/publications_reports/pdf/EDC_NGDC_UniServ_Rpt2018.pdf.

1

PGW Annual Terminations and Reconnections⁴

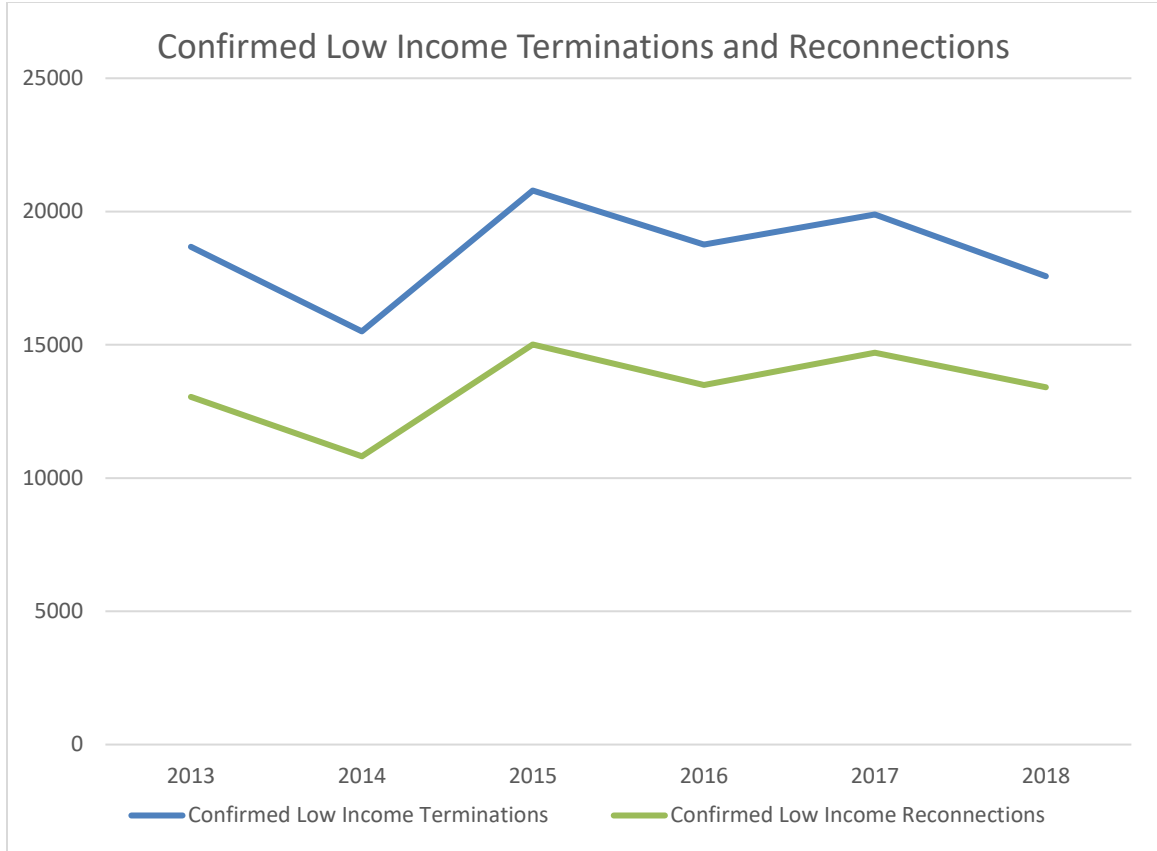


2

3 It is worth noting that even as PGW's termination numbers rise and fall, the gap between
4 the number of terminations and reconnections - the number of customers who are unable
5 to reconnect to service - remains relatively stable. This same pattern holds true for
6 confirmed low-income terminations and reconnections.

7

⁴ These numbers are taken from the PUC's Universal Service Reports, available at http://www.puc.state.pa.us/filing_resources/universal_service_reports.aspx.



1

2 Another way to assess the quality of service provided to low-income customers is
3 to look at cold weather survey results. Cold weather survey results reveal that every year
4 significant numbers of PGW customers enter the cold weather season without access to a
5 safe heating source following a shut off for nonpayment during the calendar year. More
6 PGW customers enter winter without a safe central heating source than in any other
7 service territory in the state. In 2017, PGW reported 8,761 households entering winter
8 without a safe central heating source due to termination of utility service.⁵ In 2018, that
9 number was 7,777.⁶ In 2019, PGW reported that 7,318 customers entered winter with a

⁵ 4-Year Average, 2016 & 2017 Cold Weather Survey Results – Gas,
http://www.puc.state.pa.us/General/publications_reports/pdf/Cold_Weather_Results_2017.pdf

⁶ 4-Year Average, 2017 & 2018 Cold Weather Survey Results – Gas,
http://www.puc.state.pa.us/General/publications_reports/pdf/Cold_Weather_Results_2018.pdf

1 safe central heating source.⁷ In each Cold Weather Survey, PGW only counts households
2 terminated in the same calendar year, and does not include households whose gas was
3 shut-off the previous calendar year or who have been without service for more than a
4 year. Cold weather resurvey results also show that many PGW customers remain off well
5 into the winter months following a shut off for nonpayment. 2018 Cold Weather resurvey
6 results show that there were 7,777 households without a safe central heating source when
7 PGW surveyed properties on December 17, 2018.⁸ When PGW completed a resurvey on
8 February 1, 2019, some 5,375 households remained without a safe central heating
9 source.⁹

10 Taken together, this data shows that low-income PGW customers are particularly
11 challenged when it comes to maintaining and restoring PGW service. My experience,
12 which I believe is consistent with common sense, is that facing winter without a safe
13 heating source is an unacceptable hardship which falls on only the most economically
14 challenged households who have been unable to reconnect service after being
15 involuntarily shut-off. As a result, I believe the current challenges of low-income
16 households in PGW's service territory to maintain and reconnect to essential natural gas
17 service are only likely to be exacerbated if PGW's proposed rate increase becomes
18 effective and typical residential heating costs increase by 11.2% per month.¹⁰

19 **Q: Do you have concerns about the quality of service to PGW's low-income**
20 **customers?**

⁷ 4-Year Average, 2018 & 2019 Cold Weather Survey Results – Gas,
http://www.puc.state.pa.us/General/publications_reports/pdf/Cold_Weather_Results_2019.pdf

⁸ Cold Weather Resurvey,
http://www.puc.pa.gov/General/publications_reports/pdf/Cold_Weather_Results_2018-2.pdf

⁹ *Id.*

¹⁰ *See* PGW Statement 1, Direct Testimony of Gregory Stunder, at 8:3-5.

1 A: Yes. Many of PGW’s low-income customers are paying bills that they cannot
2 afford. Philadelphia’s lowest income households have incredibly high energy burdens.
3 Data on the home energy affordability gap shows that average energy burdens can be up
4 to 26% of income for the households in Philadelphia facing the deepest poverty.¹¹

	Home Energy Burden	Individual Household Shortfall	Estimated Number of Households
Less than 50% FPL	26.2%	\$1,573	69,580
50 to 99% FPL	14%	\$1,165	78,620
100% to 124% FPL	9.3%	\$728	33,098
125% to 149% FPL	7.6%	\$437	30,598
150% to 184% FPL	6.3%	\$87	43,347

5
6 Recent data shows that even households in Philadelphia with income above the poverty
7 level struggle to make ends meet. Forty three percent of households in Philadelphia fall
8 below what is called the self-sufficiency standard, which measures how much income is
9 needed to meet families’ basic needs at a minimally adequate level.¹² Since 2010, the cost
10 of basic needs increased 31% on average across Pennsylvania, while wages only
11 increased 17%.¹³ In Philadelphia, a household of one adult and two kids (one preschooler,
12 one school age) needs an income of \$66,723.35 to make ends meet.¹⁴

¹¹ This data is taken from the Pennsylvania data on the website Home Energy Affordability Gap, run by the Public Finance firm of Fisher, Sheehan and Colton, available at http://www.homeenergyaffordabilitygap.com/03a_affordabilityData.html.

¹² See Diana M. Pearce, Overlooked & Undercounted 2019 Brief: Struggling to Make Ends Meet in Pennsylvania (October 2019); http://www.selfsufficiencystandard.org/sites/default/files/selfsuff/images/PA2019_Demographic.pdf

¹³ *Id.* at 7.

¹⁴ This number comes from the Self Sufficiency Standard Tables for 2020 found at <http://www.selfsufficiencystandard.org/Pennsylvania>. By contrast, a household of 3 is eligible for CRP if their income is below \$32,580 a year. See, e.g., CRP Eligibility, https://www.pgworks.com/uploads/pdfs/CRP_Eligibility_2020.pdf.

1 Only customers enrolled in PGW’s Customer Responsibility Program (CRP) on a
2 percentage of income rate will be insulated from the impact of the rate increase – at least
3 for as long as they remain enrolled in CRP.¹⁵ But most of PGW’s low-income customers
4 are not enrolled in CRP. As of 2018, there were 206,533 estimated low-income customers
5 and 149,217 confirmed low-income customers in PGW’s service territory.¹⁶ Yet, only
6 54,890 PGW customers were enrolled in CRP as of April 2020.¹⁷ This means that less
7 than 37% of PGW’s confirmed low-income customers were enrolled in CRP as of April
8 2020 and less than 27% of its estimated low-income customers were enrolled. It is worth
9 noting as well that of the 54,890 PGW customers enrolled in CRP in April 2020, 15,455
10 – 28% of CRP enrollees – were enrolled in CRP Average Bill. These customers,
11 although enrolled in CRP, are not receiving a bill based on a percentage of their income
12 and thus will be affected by any rate increase.

13 **Q. How will PGW’s proposed rate increase impact PGW’s low-income**
14 **customers?**

15 A. For the majority of PGW’s low-income customers who are not enrolled in CRP,
16 the proposed rate increase will have a direct impact on their bills. Absent the adoption of
17 measures to mitigate the impact of the rate increase, this direct financial impact to
18 struggling households will lead to threat of shutoff and termination. In Philadelphia,

¹⁵ I note that even PGW customers on a percentage of income rate may still be receiving bills that are unaffordable to their unique household budgets. However, this is true regardless of whether a rate increase is approved, and therefore not my focus in this proceeding. Indeed, PGW has recently moved in a separate proceeding to lower the percentage of income used to calculate CRP Percentage of Income Bills, consistent with new Commission policy on that issue. My testimony focus is on evaluating the impact of the rate increase request on low-income customers who are not on CRP Percentage of Income Payments.

¹⁶ Pa PUC, Bureau of Consumer Services, 2018 Universal Service Report, Available at:
http://www.puc.state.pa.us/General/publications_reports/pdf/EDC_NGDC_UniServ_Rpt2018.pdf

¹⁷ PGW Response to TURN *et al.* I-4.

1 households are already struggling. According to a recent PEW report, close to 26% of
2 Philadelphians live in poverty, and 14% of Philadelphians live in deep poverty.¹⁸ And these
3 numbers do not reflect the economic impact of the COVID-19 pandemic, which has led to
4 record levels of unemployment and will almost certainly increase the number of households
5 living in poverty.¹⁹ Eighty two percent of low-income households in Philadelphia live in
6 private-market housing with no rent subsidies – and of those households, 80% spent 50% or
7 more of their income on housing expenses alone.²⁰ As noted by a PEW report:

8 Not having enough income to meet basic needs is an omnipresent stress,
9 particularly for those responsible for caring for children and other loved
10 ones. Beyond their economic situations, residents living in poverty more
11 frequently cope with poor health outcomes, live in communities with high
12 crime rates and failing schools, and struggle to find safe and affordable
13 housing.²¹

14 An inability to meet basic household energy needs is known as energy insecurity –
15 research has found that children in energy insecure households are more prone to food
16 insecurity, hospitalizations, poorer health ratings and developmental concerns.²² Rising
17 energy costs force a “heat or eat” dilemma, where low-income households are forced to
18 decide between food and energy.²³ Research is already showing that for households

¹⁸ The PEW Charitable Trusts, *The State of Philadelphians Living in Poverty*, 2019 (April 2019) at 1, https://www.pewtrusts.org/-/media/assets/2019/05/state_of_poverty.pdf.

¹⁹ Philadelphia County saw 91,040 unemployment claims in the month of April 2020, a 1321.3% increase over the previous April. Center for Workforce Information & Analysis, *Pennsylvania Regular UC Benefits, Initial Claims by Workforce Development Area* (May 15, 2020), *available at* <https://www.workstats.dli.pa.gov/Products/Pages/Products%20By%20Geography.aspx>, attached hereto as Appendix C.

²⁰ The PEW Charitable Trusts, *Philadelphia’s Poor: Experiences From Below the Poverty Line* (Sept. 2018) at 13, <https://www.pewtrusts.org/-/media/assets/2018/09/phillypovertyreport2018.pdf>

²¹ *Id.* at 24.

²² Diana Hernandez, *Understanding ‘Energy Insecurity’ and Why it Matters to Health*, 167 *Soc. Sci. Med.* at 2 (October 2016), *available at* <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5114037/>

²³ *Id.*

1 impacted economically by the COVID-19 pandemic, being able to pay utility bills is a
2 serious concern.²⁴

3 CRP is critical to ensuring that low income PGW customers stay connected to
4 essential natural gas service that enables them to heat their homes, cook meals, and use
5 hot water to stay healthy. CRP provides customers with a bill that is intended to assist
6 with energy costs. CRP also includes an arrearage forgiveness component that allows
7 eligible customers to earn forgiveness of previous debts by making payments while on
8 CRP.

9 The benefits of CRP are only available to low-income households if those
10 households are able to enroll in and maintain enrollment in the program. As noted above,
11 the majority of PGW's low-income customers are not enrolled in CRP and those who
12 gain entry often lose the benefit of the CRP subsidy when income fluctuates or when
13 PGW policies prohibit them from re-entry. In addition, CRP Average Bill customers
14 receive a bill that is based on their usage at the time of enrollment or recertification.²⁵ As
15 such, the financial impact of the proposed increase will be directly felt by all those non-
16 CRP Percentage of Income Payment customers.

17 I believe that PGW can provide some mitigation of the effect of its proposed rate
18 increase to its low-income customers by modifying CRP policies. In later sections of my

²⁴ Karpman *et al.*, The COVID-19 Pandemic Is Straining Families' Abilities to Afford Basic Needs (April 2020) at 14, https://www.urban.org/sites/default/files/publication/102124/the-covid-19-pandemic-is-straining-families-abilities-to-afford-basic-needs_4.pdf. ("Among adults in families that lost work or income, over half (50.6 percent) were worried about being able to pay debts, and many also worried about being able to pay housing costs (45.6 percent), utility bills (43.8 percent), and medical costs (39.5 percent) and having enough food to eat (35.3 percent) in the next month. These data suggest that in addition to those who have already had problems paying their bills, a large share of adults in families losing work or income were newly at risk of falling behind on the rent, mortgage, or utility bills and going without food and medical care in the months ahead.").

²⁵ PGW Response to TURN *et al.* II-7, Attachment A at 3 ("With the addition of the CRP agreement type, average bill. CRP is based on the customer's income and household size or a customer's usage, whichever is lower.").

1 testimony, I will also discuss the ways that PGW operates its CRP in violation of its
2 Tariff and approved Universal Service and Energy Conservation Plan. However, while
3 changes to CRP policies are necessary, implementation of those changes will not, in
4 themselves, safeguard the majority of PGW’s low-income customers from the financial
5 impact of PGW’s rate increase. Any assessment of the reasonableness or justness of
6 PGW’s rate proposal must consider the financial harm to the large number of low-income
7 who are not enrolled in CRP (151,643 or 73% of the estimated low-income customers in
8 PGW service territory).

9 Assessing the potential harm to low-income customers is critical in a base rate
10 proceeding. Poverty is a permanent reality in Philadelphia – now exacerbated by a global
11 pandemic which has led to economic devastation across the country and unprecedented
12 financial stress for many Philadelphia households.²⁶ I believe that any rate increase
13 approval must be conditioned upon a Commission requirement that PGW concurrently
14 take action to mitigate the financial harm to its low-income customers.

15 **Q. Please describe PGW’s Customer Responsibility Program.**

16 A. PGW’s CRP is a percentage of income plan program that also includes a budget
17 billing option. The CRP discounted bill includes a monthly “asked-to-pay” amount that is
18 based either on a percentage of income calculation or the customer’s budget bill amount,
19 whichever is lower.²⁷ CRP is available to all low-income residential customers with a
20 gross household income at or below 150% of the Federal Poverty Level (FPL). Currently,

²⁶ Philadelphia County saw 91,040 unemployment claims in the month of April 2020, a 1321.3% increase over the previous April. Center for Workforce Information & Analysis, Pennsylvania Regular UC Benefits, Initial Claims by Workforce Development Area (May 15, 2020), attached hereto as Appendix C.

²⁷ See Philadelphia Gas Works Second Amended Universal Service and Energy Conservation Plan 2017-2020 at 6-7, <http://www.puc.state.pa.us/pdocs/1535412.pdf> (hereinafter “USECP”). PGW calls its CRP budget billing program “CRP Average Bill”.

1 percent of income customers between 0-50% FPL receive a bill that is 8% of their
2 household income; customers between 51-100% FPL receive a bill that is 9% of their
3 household income; and customers between 101-150% FPL receive a bill that is 10% of
4 their income.²⁸ CRP budget bill customers, which PGW refers to as CRP Average Bill
5 customers, receive a bill based on the budget bill amount at the premise calculated at the
6 time of enrollment or recertification in CRP.²⁹ Customers entering CRP have collection
7 activity on their pre-entry (“pre-program”) arrears frozen. CRP participants are required
8 to pay a monthly \$5 co-pay toward reducing the frozen pre-program arrears on their
9 accounts and, by paying their monthly CRP bills, are eligible to receive arrearage
10 forgiveness over a 36 month period.

11 **Q: Will you be commenting on whether CRP Percentage of Income bills are, in fact,**
12 **affordable to customers?**

13 A. No. It is not my intention to address CRP Percentage of Income levels in this
14 proceeding. The Commission has recently updated its policy statement on Customer
15 Assistance Programs like CRP, adjusting the percentages of income it considers
16 affordable to low-income households.³⁰ This update followed a comprehensive review of
17 the concept of affordability. The Commission has also approved a specific pilot plan by
18 PGW to reduce the percentage of income used to calculate CRP Percentage of Income
19 bills.³¹ As a result of the Commission’s recent action, whether or not a household can
20 afford a specific CRP designated percentage of its income is not an issue I will address in

²⁸ As noted above, the PUC has approved a PGW request to lower these percentages of income, consistent with changes in Commission policy. See Order, Petition to Amend Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2017-2022, Docket No. P-2020-3018867 (Mar. 26, 2020), at 22.

²⁹ PGW Response to TURN *et al.* II-1.

³⁰ See 52 Pa. Code § 69.265 (2)(i)(B).

³¹ See Order, Petition to Amend Philadelphia Gas Works Universal Service and Energy Conservation Plan for 2017-2022, Docket No. P-2020-3018867 (Mar. 26, 2020), at 22.

1 this testimony. The CRP Percentage of Income amount is not tied to whether PGW's rate
2 increase request is approved. To the extent low-income PGW customers are able to
3 access and maintain enrollment in the CRP Percentage of Income program, they will be
4 insulated from the rate increase.

5 **Q: What concerns about CRP do you think are necessary to address in the**
6 **context of PGW's proposed rate increase?**

7 A: First, since only those customers who are able to gain entry into CRP Percentage
8 of Income Payment component will be shielded from the effects of the proposed rate
9 increase, while all other low-income customers will bear the burden, I believe it is
10 necessary to address PGW policies that impede access to CRP, including income
11 documentation requirements. Indeed, PGW specifically addressed the issue of access to
12 CRP in its supporting testimony, citing to its initiative to make CRP application available
13 online. Second, I will discuss why I believe PGW's implementation of its CRP Average
14 Bill payment is performed in a manner that is contrary to the Commission's intent and
15 violates the terms of its USECP and its Tariff.

16 Access to CRP

17 **Q: What concerns do you have about low-income customers' ability to access**
18 **CRP?**

19 A: PGW's income verification procedures appear to be unnecessarily burdensome,
20 and may be limiting whether customers are able to enroll or stay enrolled in CRP. In
21 addition, the majority of PGW CRP applicants apply in-person. Data provided by PGW
22 shows that from August 2018 through the beginning of June 2020, PGW received 49,058
23 applications (56% of total applications) in a District Office, compared to 14,135

1 applications online and 23,907 applications by mail.³² While mail and online applications
2 remain an option, to my knowledge, PGW’s customer service centers have been closed
3 since March 16, 2020 due to the COVID-19 crisis.³³ I am concerned that at a time of
4 great need, a significant number of PGW CRP applicants and customers are unable to
5 access the program. I will also discuss below my concerns about the ability of Limited
6 English Proficient customers to access CRP.

7 **Q: Do you have concerns about the enrollment numbers in CRP?**

8 A: Yes. While PGW’s enrollment numbers have remained stable since 2018, this
9 appears to be entirely driven by CRP Average Bill enrollees – customers who had
10 previously been ineligible for CRP. In January 2018, the total CRP enrollment was
11 49,859 households.³⁴ CRP Average Bill was introduced in June of 2018. By April of
12 2020, CRP enrollment had increased to 54,890 –15,455 of those customers were CRP
13 Average Bill customers. This means that the number of customers enrolled in a PIPP or
14 Minimum Bill actually decreased to 39,435 – 10,424 fewer households. The reduction in
15 the number of PIPP customers is troubling, and I believe PGW should provide an
16 analysis as to why this is the case. This lack of growth, coupled with the reduction in
17 PIPP participants is troubling. PGW must do more to ensure that low-income households
18 enroll – and remain enrolled – in CRP.

19 **Q: How does PGW accept CRP applications?**

³² PGW Response to TURN II-65.

³³ As of the date of testimony submission, PGW’s website states “Effective Monday, March 16, PGW will close all five PGW Customer Service Centers until further notice.” Our Locations, Philadelphia Gas Works, available at <https://www.pgworks.com/residential/contact-us/our-locations> (last accessed June 15, 2020).

³⁴ PGW Response to TURN I-4 Attachment A.

1 A: At this time, PGW accepts applications in person in its district offices, online, and
2 through the mail. Based on the data provided by PGW, more than half of CRP
3 applications are submitted in person. The table below shows applications received and
4 approved through the various pathways, from August 2018 through early June 2020:

	Applications Received ³⁵	Applications Received (%)	Applications Approved ³⁶	Submitted Applications Approved (%)
District Office	49,058	56.3%	41,940	85.49%
Online	14,135	16.2%	8,034	56.84%
Mail	23,907	27.5%	16,863	70.54%
Total	87,100		66,837	

5 Its notable that not only are the majority of applications submitted in person, but
6 applications submitted in person are also significantly more likely to be approved than
7 online or mail applications.

8 **Q: What efforts has PGW undertaken to do outreach and increase enrollment in**
9 **CRP?**

10 A: In response to discovery, PGW stated that

11 Since the last rate case, PGW has fully implemented an online
12 enrollment tool for CRP. PGW engages in significant CRP outreach
13 via bills, media, letters, advertising, in-person events, engagement
14 with non-profits and other stakeholders. PGW also proposed and
15 received PUC approval to implement a pilot program which will
16 provide reduced CRP percentage of income bills and could
17 reasonably be expected to improve CRP enrollment.³⁷
18

³⁵ PGW Response to TURN *et al.* II-64.

³⁶ See PGW Response to TURN *et al.* II-65. I am advised by counsel that based on their conversations with PGW representatives, the original data provided by PGW had the numbers for online and mail applications approved inverted for 2019 and 2020. The numbers in the table reflect the correct numbers.

³⁷ PGW Response to TURN *et al.* II-51.

1 **Q: Do you believe these outreach and enrollment efforts are sufficient?**

2 A: No. I commend PGW on proactively implementing the lower energy burdens in
3 the PUC's CAP policy statement, and share the hope that this may potentially increase
4 enrollment. However, I continue to be concerned that these changes will not be enough if
5 PGW doesn't make changes to its enrollment policies. Based on PGW's declining PIPP
6 enrollment numbers, and the fact that less than half of PGW's confirmed low-income
7 customers are enrolled in CRP, I would conclude that more needs to be done. Striving
8 for a more affordable energy burden is essential and PGW's change in that direction is
9 excellent. However, if an inadequate number of low-income are benefitting from it and
10 the PIPP enrollment numbers are declining, then the overall program continues to fall
11 short of achieving just and reasonable rates for its low-income population and therefore a
12 rate increase should not be approved.

13 **Q: What recommendations do you have to strengthen outreach and enrollment**
14 **in CRP?**

15 A: First, I recommend PGW establish additional pathways for enrollment. I
16 commend PGW on establishing an online application – however, as seen in the
17 enrollment numbers, low-income customers are more likely to apply for CRP in person
18 than online or by mail, and far more likely to have their application accepted when they
19 complete it in-person. The commission has long had a policy to encourage use of
20 Community Based Organizations.³⁸ I encourage PGW to consider allowing Community
21 Based Organizations to aid PGW in processing or accepting CRP applications in person. I

³⁸ See 52 Pa. Code § 69.265 (8)(ii).

1 also believe additional pathways for enrollment and recertification are necessary given
2 the current COVID-19 pandemic.

3 **Q: What concerns do you have about enrollment given the COVID-19**
4 **pandemic?**

5 A: As noted, the majority of households enroll in CRP at PGW’s district office
6 locations. Those offices have been closed since mid-March. Even if they reopen as the
7 Philadelphia area starts to reopen, many vulnerable households may not be able to safely
8 go to these offices.³⁹ The City of Philadelphia’s Public Health guidance specifically states
9 that:

10 While the Governor’s Yellow Phase calls for the suspension of stay-at-
11 home orders, the Department of Public Health will continue to advise city
12 residents that they are “safer at home,” and should only leave to engage in
13 essential activities. This is true for all city residents, and even more so for
14 Philadelphia residents who:

- 15 • are 65 years old or older;
- 16 • have certain health conditions (such as asthma, chronic lung disease,
17 heart conditions, diabetes, severe obesity, chronic kidney disease,
18 liver disease, or a compromised immune system);
- 19 • live with or care for someone who is 65 years old or older, or has
20 health conditions.⁴⁰

21
22 **Q: Do you have any recommendations that can address these concerns?**

23 A: Yes. I believe PGW should implement a process for phone enrollment, for those
24 customers who are unable to access the online application and unable to go in person to a
25 PGW office. PGW could run this process through its Customer Service Call Center, or
26 could work with Community Based Organizations to implement this phone enrollment

³⁹ See City of Philadelphia, Department of Public Health, Guidance on Social Distancing, available at <https://www.phila.gov/guides/safer-at-home/social-distancing/>.

⁴⁰ *Id.*

1 process. I also recommend that PGW accept self-verification of income and changes in
2 income for new enrollment and recertification.

3 This would be in line with measures that DHS has taken during the pandemic for
4 administration of LIHEAP benefits.⁴¹ I believe this is necessary during the pandemic and,
5 if and when the pandemic subsides, should continue as a pilot. After two years, PGW
6 should evaluate the effectiveness of this policy and consider implementing self-
7 verification moving forward. Short of self-verification, I believe additional measures can
8 also be taken to improve PGW's income verification procedures to allow greater access
9 to CRP.

10 **Q: Can you describe PGW's income verification procedures?**

11 A: PGW's Universal Service and Energy Conservation Plan ("USECP") states the
12 following with regard to CRP intake: "When a customer applies for CRP, he/she must
13 provide proof of income for the prior 30 days for all household members. For customers
14 that are self-employed, PGW will accept annual federal or state tax returns filed within
15 the last 12 months as proof of self-employment income."⁴² The USECP also explains
16 how a customer with zero income can complete an assessment to describe how they meet
17 basic expenses.⁴³

18 PGW's USECP does not go into detail as to the specific forms of documentation
19 that PGW accepts. However, in response to discovery, PGW provided an extensive list of

⁴¹ See LIHEAP Policy Clarification: Accepting client statement as verification of income termination and household composition due to coronavirus (COVID-19) (March 30, 2020), attached hereto as Appendix D ("However, due to the COVID-19 health crisis, it is now permissible to accept a client's statement as verification of income or household composition if they are unable to acquire the requested documentation...").

⁴² USECP at 15.

⁴³ *Id.* at 16.

1 acceptable and unacceptable forms of income when applying for CRP.⁴⁴ The list of
2 unacceptable forms of income documentation includes:

- 3 • Profit/Loss statement for a self-employed household member
- 4 • Letter from an employer
- 5 • W-2 forms

6 **Q: Do you have concerns about these procedures?**

7 A: Yes. PGW’s list is restrictive and does not allow customers flexibility in showing
8 their income. Many Philadelphians patch together multiple different part-time jobs to
9 attempt to make ends meet. This can make proving income difficult, even when there is
10 not a pandemic. A recent data brief from the Economy League explains part-time work as
11 follows:

12 This moment in economic history is defined, in part, by what we
13 might call “hustling,” or the cobbling together of various income
14 streams by many workers. Our data systems still largely capture
15 payroll employment, making it challenging to capture how today’s
16 workers spend their employment hours – whether they’re working
17 multiple part-time jobs, working a part-time job while attending
18 school or caring for family, working as a consultant under a formal
19 or informal contract, or moonlighting in the evenings or weekends
20 with a part-time job after a full-time job ends for the day.⁴⁵

21
22 Many part-time jobs are gig economy jobs – driving for Uber, or Lyft, or shopping for
23 Instacart. The people working these jobs are not considered employees – they are
24 classified by their employers as independent contractors.⁴⁶ PGW lists the only acceptable

⁴⁴ PGW Response to TURN *et al.* II-55, Attachment A.

⁴⁵ Shields and Hornstein, A Snapshot of Philadelphia’s Part-Time Workforce (February 2020), available at <http://economyleague.org/providing-insight/leadingindicators/2020/02/19/parttimephl>.

⁴⁶ See Alexia Fernandez Campbell, The recession hasn’t ended for gig economy workers, Vox.com (May 28, 2019), available at <https://www.vox.com/policy-and-politics/2019/5/28/18638480/gig-economy-workers-wellbeing-survey>

1 proof of income for self-employed individuals as a prior year’s Federal tax return. For
2 many of these workers, while technically self-employed, they may not have enough
3 history to have a previous year’s tax return. This is just one example of why flexibility in
4 income documentation is necessary.

5 **Q: What do you recommend to improve PGW’s income verification**
6 **procedures?**

7 A: PGW should allow for more flexibility in the type of documentation allowed to
8 prove income. As noted above, I recommend for the immediate Covid-19 crisis, and as a
9 pilot, PGW accept self- verification of income. But even short of self-verification, and
10 whether or not the Covid-19 crisis continues, PGW should act to remove the barriers to
11 CRP enrollment created by inflexibly adhering to a prescribed list and by adopting a
12 more customer friendly method of verification. Specifically, I recommend that any
13 documentation that shows earnings should be acceptable. For example, PGW should
14 accept letters from employers, profit/loss statements from self-employed individuals,
15 representative paystubs from within the last few months, or a previous year’s W-2s, along
16 with a certification from the customer that that the documentation provided is
17 representative.

18 CRP Average Bill

19 **Q: Can you describe PGW’s general budget billing policies for customers not on**
20 **CRP Average Bill?**

21 A: PGW’s current tariff describes budget billing as a “plan . . . averaging the cost of
22 Gas Service over a 12-month period.”⁴⁷ PGW’s training documents describe Budget

⁴⁷ See Philadelphia Gas Works Gas Service Tariff at 26.

1 Billing as a way for “residential customers to even out seasonal variations in their
2 monthly gas bills.”⁴⁸ According to those training documents, initial budget amounts are
3 based on the customer’s past 12 months of usage. If a customer has not lived in a
4 premises for a full 12 months, the budget is based on a “typical PGW customer bill.”⁴⁹ In
5 response to discovery, PGW stated that the initial budget bill is set based on the prior 12
6 months of usage at the premise.⁵⁰ According to PGW, if there is no premise usage, “PGW
7 determines a premise within close proximity in the same rate class.” PGW first looks to
8 the left of the premise, then to the right of a premise, then across the street. If none of
9 those are available, a “defaulted budget amount” is used.⁵¹

10 Customers, not in CRP, on traditional budget billing have their bill adjusted every
11 three months to keep the payment in line with their actual usage and gas rates.⁵² At the
12 end of the 12 month period, PGW “trues up” the budget bill – charging or crediting the
13 customer for the amounts charged above or below the actual usage bill. If a customer
14 owes more than \$100 but less than \$300, that amount is billed over a 6-month period, and
15 if a customer owes more than \$300, that amount is billed over 24 months.⁵³

16 I note that the method of calculating the initial budget bill is described slightly
17 differently in the training document provided in response to discovery requests than in
18 the discovery response to TURN *et al.* II-1. While this is concerning because it indicates
19 either a lack of consistency or potentially inadequate training on PGW’s part, budget bill
20 adjustments over the course of the year can correct for an initial calculation that was

⁴⁸ PGW Response to TURN *et al.* II-4 Attachment A.

⁴⁹ Id. at 1.

⁵⁰ PGW Response to TURN *et al.* II-1.

⁵¹ Id.

⁵² Id.

⁵³ Id.

1 either too high or too low. As I will discuss, these differences become more troubling
2 when this initial calculation is used for the CRP Average Bill and no subsequent
3 adjustments are made.

4 **Q: Can you describe the CRP Average Bill?**

5 A: As noted above, CRP enrollees are placed at a budget amount if it is lower than
6 the percentage of income (PIPP) amount. PGW implemented CRP Average Bill as a part
7 of its most recent comprehensive USECP proceeding. According to the current USECP,
8 the CRP discounted bill includes a monthly “asked-to-pay” amount that is based either on
9 a percentage of income calculation or “the customer’s budget bill amount” whichever is
10 lower.⁵⁴ As part of its Order requiring a budget bill option, the Commission noted that
11 “many CRP customers are currently paying more than the actual cost of their gas usage
12 over the course of the program year. Low-income customers enroll in CRP to receive the
13 most affordable gas payment and achieve debt forgiveness. PGW should periodically
14 review CRP accounts to ensure customers are paying the most affordable rate.”⁵⁵

15 **Q: If this was approved most recently in a USECP, why is it relevant in the**
16 **context of a rate case?**

17 A: As a general matter, as noted elsewhere in my testimony, I believe that how PGW
18 implements its Universal Service programming is relevant – because it reflects the quality
19 of PGW’s customer service and reasonableness of policies, and because access to
20 Universal Service programming is critical to low-income customers being insulated from
21 financially harmful rate increases. However, I also specifically raise issues related to the

⁵⁴ USECP at 6-7.

⁵⁵ Order, 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 (August 3, 2017) at 19.

1 CRP Average Bill because PGW is implementing its administration of the CRP Average
2 Bill in a manner that is potentially charging certain CRP customers more than what they
3 would pay in actual usage charges. This goes directly to whether PGWs current and
4 proposed rates, rules and regulations are lawful, just and reasonable.⁵⁶

5 **Q: How has PGW implemented its CRP average bill?**

6 A. To set the budget, or Average Bill, amount, PGW uses the calculation it would
7 use if it were to enroll the customer in traditional budget billing.⁵⁷ However, unlike
8 traditional budget billing, the CRP Average Bill monthly amount is not compared with
9 actual usage during the 12 month term.⁵⁸ As described in PGW training manuals, “[t]he
10 average bill amount is equal to the ASB⁵⁹ at the customer’s premise. However, unlike the
11 ASB the average bill amount is not adjusted quarterly. The average bill amount, as
12 determined when the customer enters CRP, is used until the customer recertifies, or until
13 the account is reviewed on the customer’s anniversary.”⁶⁰ It is not readjusted, as the
14 traditional budget bill is at 3 month intervals. As a result, if the initial average bill amount
15 is calculated based on data that is not reflective of what the customer’s actual usage will
16 be, it is possible for CRP Average Bill customers to be charged, over a 12 month period,
17 amounts that exceed their actual usage charges for those same 12 months. While I
18 supported the adoption of a budget bill option for CRP customers in my prior PGW rate

⁵⁶ See Suspension Order at 2-3.

⁵⁷ See PGW Response to TURN II-6 Attachment A at 2. In responses to discovery, PGW consistently responded that no CRP budget billing option exists, rather a CRP Average Bill option exists. I think that by making this distinction, PGW is inserting a difference which was not intended; and creates negative results. As noted, PGW’s USECP refers to a budget bill option, as does the Commission order requiring PGW to implement this option.

⁵⁸ PGW Response to TURN *et al.* II-16.

⁵⁹ Although, I have seen no definition of ASB, I am assuming it refers to ‘Actual Suggested Budget’.

⁶⁰ PGW Response to TURN *et al.* II-6 Attachment A at 2.

1 case testimony, I believe that PGW is operating its CRP Average Bill option in an
2 inappropriate manner not intended by the Commission.

3 **Q. Please elaborate on your concerns regarding PGW’s CRP Average Bill**
4 **option.**

5 A. As noted above, by not periodically readjusting the average bill amount for CRP
6 customers to account for actual usage, as it does in traditional budget billing, PGW is
7 overcharging some CRP customers. To my knowledge, PGW actually tracks usage and
8 amount charged on customer’s bills each month. Each CRP bill has a line item entitled
9 either “CRP Discount” or “CRP Reverse Discount.”⁶¹ As described by PGW:

10 In most months, but not all, the CRP amount is less than the billing amount
11 based on usage. In such cases the bill segment will display a line item
12 entitled CRP Discount. During months in which the CRP amount is higher
13 than the billing amount based on usage, the difference is expressed as CRP
14 Reverse Discount. Please note that no matter the value of the CRP discount
15 or CRP reverse discount, the customer’s monthly bill will be equal to their
16 Agreement Amount...⁶²
17

18 In my experience, it can be reasonably expected - given seasonality of gas usage -
19 that customers with a fixed monthly bill on CRP might have a few months during
20 which their CRP amount (whether PIPP or Average bill) is more than their actual
21 usage. Customer Assistance Programs are intended to provide a bill discount to
22 low-income customers as a recognition that low-income customers are less able to
23 afford utility bills. It is therefore problematic if a CRP customer is charged more
24 than their actual usage over the course of a full year, and, I believe, contrary to the
25 Commission’s intent in ordering that CRP budget billing be established by PGW.

⁶¹ PGW Response to TURN II-15 Attachment A.

⁶² Id.

1 I restate the Commission’s goal, previously cited in my testimony and I italicize
2 the issue which the Commission ordered to be addressed.

3 *“many CRP customers are currently paying more than the*
4 *actual cost of their gas usage over the course of the program*
5 *year. Low-income customers enroll in CRP to receive the*
6 *most affordable gas payment and achieve debt forgiveness.*
7 *PGW should periodically review CRP accounts to ensure*
8 *customers are paying the most affordable rate.”*⁶³

9 By not truing up the CRP Average Bill periodically during the course of a full year as it
10 does for its traditional budget billing customers, I believe PGW’s method of
11 implementation is harmful to its CRP Average Billing customers and does not meet the
12 Commission’s intent.

13 **Q: Do you know how many CRP customers have been overcharged as Average**
14 **Bill customers?**

15 A: No. As of April 2020, there are 15,455 CRP customers who are enrolled in CRP
16 Average Bill.⁶⁴ The number of customers enrolled in CRP Average Bill has consistently
17 increased since its launch in June 2018.⁶⁵ One way to approximate whether customers
18 were overcharged is to compare the CRP Reverse Discounts (amount charged above
19 actual usage) received to CRP Discounts received (amount charged below actual usage)
20 over 12 months. PGW provided discovery which shows that a significant number of

⁶³ Order, 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 (August 3, 2017) at 19. (Emphasis added).

⁶⁴ PGW Response to TURN I-2, Attachment A.

⁶⁵ Id.

1 accounts may have received CRP Reverse Discounts that were in excess of their CRP
2 Discounts.⁶⁶

3 **Q: Do you have any recommendations as to how PGW can change its internal**
4 **operations of the CRP Average Bill?**

5 A: Yes. There are several ways that PGW could address this problem. First, PGW
6 could treat CRP Average Bills like traditional budget bills, and use the same mechanism
7 to adjust bills quarterly over the course of the year. I would also recommend that PGW
8 train its Customer Service Representatives and anyone enrolling customers into CRP to
9 explain how and when the CRP Average Bill gets adjusted, as well as how a customer
10 can request a review of their CRP amount. Finally, I recommend that PGW conduct a
11 comprehensive review of CRP Average Bill accounts to determine how many customers
12 were overcharged. For each customer, PGW should adjust their billing to reflect actual
13 usage, and provide bill credits to those customers.

14 **Q. Will your proposals benefit PGW's customers?**

15 A. Yes. If PGW improves its administrative processes to increase access to and
16 removes barriers to CRP enrollment, low-income customers will benefit by being charged
17 more affordable rates. These customers will be less likely to fall behind on their bills and
18 less likely to experience service terminations that result from nonpayment. All PGW
19 customers will benefit from reduced expenses attributable to CRP nonpayment. The data
20 shows that participation in the CRP program is of great benefit to some customers
21 because it significantly reduces the risk of service termination. In 2018, approximately
22 4.9% of PGW's CRP customers were terminated for nonpayment compared to 11.8% of

⁶⁶ PGW Response to TURN *et al.* II-18.

1 confirmed low income customers.⁶⁷ Confirmed non-CRP low-income customers face a
2 greater risk of loss of service due to nonpayment than CRP customers.

3 I therefore recommend that the Commission deny the proposed PGW rate
4 increase until PGW has taken steps in line with my recommendations to improve access
5 and enrollment to CRP as well as adjust its CRP Average Bill process to ensure that all
6 PGW's low-income customers - CRP & non-CRP - customers receive just and
7 reasonable rates.

8 Low Income Usage Reduction Program (LIURP)

9 **Q: What is LIURP?**

10 A: The Low Income Usage Reduction Program or LIURP is one of the universal
11 service programs that regulated Pennsylvania utilities are required to provide to their low
12 income customers. The purpose of LIURP is to assist low income customers to conserve
13 energy and reduce energy bills. The programs are also intended to reduce the risk of
14 customer payment delinquencies and the costs associated with uncollectible accounts
15 expense, collection costs and arrearage carrying cost. Therefore, an appropriately
16 available and administered LIURP will be a necessary component to ameliorating the
17 effect of PGW's proposed rate increase on its many low-income customers who will bear
18 the burden of any rate increase.

19 **Q. What benefits does LIURP provide to PGW's low income customers?**

⁶⁷ These numbers have been taken from the following sources: PGW Response to TURN *et al.* I-4; PGW Response to TURN *et al.* I-9; Pa PUC, Bureau of Consumer Services, 2018 Report on Universal Service Programs & Collections Performance, http://www.puc.pa.gov/General/publications_reports/pdf/EDC_NGDC_UniServ_Rpt2018.pdf.

1 A. PGW data shows that receipt of LIURP measures results in substantial bill
 2 reduction and energy savings for LIURP participants.⁶⁸ In 2016, statewide LIURP
 3 activities resulted in gas heating energy savings of 13.1% and an average annual gas
 4 heating bill reduction of \$211.⁶⁹ In response to discovery requests, PGW provided a
 5 qualified estimate that in 2018, LIURP participants saved an average of \$76 per year after
 6 receipt of LIURP measures.⁷⁰ LIURP participants also experienced significant energy
 7 savings post treatment. In response to discovery requests, PGW provided the following
 8 table showing the average energy savings for LIURP participants.⁷¹ LIURP participants
 9 who received comprehensive usage reduction treatment from PGW saw substantial
 10 energy savings, 16.6% in 2017 and 15.3% in 2018.

Gross Savings	2016	2017	2018
Comprehensively Treated	11.1%	16.6%	15.3%
Core Treatment Only	2.1%	7.1%	4.0%

11 While the benefits of LIURP are clear, some low-income customers are unable to access
 12 the program. I am concerned about the PGW tenant customers who are unable to access
 13 LIURP services due to lack of landlord cooperation. PGW provided data showing the
 14 number of tenants who were considered for LIURP but who ultimately had services
 15 rejected due to landlord refusal or landlord failure to respond to a solicitation of
 16 approval.⁷² I have summarized this information in the table below.⁷³

Year	LIURP Services Rejected due to Landlord Refusal	LIURP Services Rejected due to Landlord Failure to Respond

⁶⁸ PGW Response to TURN *et al.* I-27 and I-28

⁶⁹ Pa PUC, Bureau of Consumer Services, 2018 Report on Universal Service Programs & Collections Performance,
http://www.puc.pa.gov/General/publications_reports/pdf/EDC_NGDC_UniServ_Rpt2018.pdf.

⁷⁰ PGW Response to TURN *et al.* I-27

⁷¹ PGW Response to TURN *et al.* I-28

⁷² PGW Response to TURN *et al.* I-29

⁷³ Id.

2017	83	1,009
2018	131	1,255
2019	105	1,131

1 In each of the past three years there have been more than 1,000 PGW customers who
2 were unable to access LIURP services, and achieve the associated bill reduction and
3 energy savings, simply due to a landlord’s failure to respond to PGW’s solicitation of
4 approval.

5 **Q. What can PGW do to improve tenant customer access to LIURP?**

6
7 A. I believe that PGW can improve its process for obtaining landlord approval to
8 perform LIURP services. When asked to describe the process that PGW uses to reach out
9 to landlords to obtain approval to perform LIURP service for a tenant, PGW responded
10 that, under its current solicitation process, PGW sends a letter and an authorization form
11 to the landlord concurrent with the program notification letter that is sent to the eligible
12 tenant customer.⁷⁴ PGW did not provide any additional information about its process for
13 obtaining landlord approval. I believe that PGW should do more. I recommend that in
14 addition to a single letter, PGW make multiple attempts to obtain landlord approval to
15 perform LIURP services for a tenant, including direct contact with the owner or
16 representative to inform them of the benefits of LIURP energy efficiency efforts. In
17 addition, I recommend that PGW work with its tenant customers to identify barriers to
18 obtaining landlord approval, and assign CARES representatives to follow up with these
19 customers and landlords as well as to make referrals to social service agencies and
20 community organizations that may be able to provide additional assistance with obtaining
21 landlord authorization.

⁷⁴ PGW Response to TURN *et al.* I-30

1 **Q. Do you have other recommendations regarding PGW's LIURP?**

2 A. Yes. I note that in the past two calendar years, PGW has not exhausted its LIURP
3 budget. In 2018, PGW had \$140,216 in unspent LIURP dollars.⁷⁵ In 2019, PGW had
4 \$20,350.⁷⁶ I recommend that PGW add these remaining funds to its LIURP budget for
5 2020. If LIURP funds remain unspent at the end of 2020, they should carry over and be
6 added to PGW's 2021 LIURP budget. PGW could use a portion of these funds to
7 implement my recommendations regarding PGW's efforts to obtain landlord consent to
8 perform LIURP services.

9

10 **IV. REVIEW OF PGW POLICIES**

11 **Q. Please explain the purpose of this section of your testimony.**

12 A. In this section of my testimony, I examine various PGW policies that contribute to
13 customers being unable to maintain and restore their PGW service. Whereas the earlier
14 section of my testimony focused on how low-income customers can access CRP and
15 LIURP, this section focuses more broadly on policies that apply to all low-income
16 customers and other vulnerable customers, including tenants, victims of domestic
17 violence, and Limited English Proficient customers.

18 Philadelphia tenants are vulnerable because they struggle to afford their housing
19 costs and experience high rates of eviction.⁷⁷ Prior to the Covid-19 pandemic,

⁷⁵ PGW Response to TURN *et al.* I-31

⁷⁶ Id.

⁷⁷ See generally Mayor's Taskforce on Eviction Prevention and Response, Report and Recommendation (June 2018), <https://www.phila.gov/hhs/PDF/Mayors%20Task%20Force%20on%20Eviction%20Prevention%20and%20Response-Report.pdf>

1 Philadelphia was experiencing an eviction crisis.⁷⁸ In 2017, over 24,000 eviction filings
2 were recorded in Philadelphia.⁷⁹ Local leaders fear that Philadelphia could experience an
3 avalanche of evictions after the Covid-19 related eviction moratorium is lifted.⁸⁰ It is
4 critical that PGW's rate increase does not exacerbate the eviction crisis in Philadelphia by
5 making tenants' PGW bills unaffordable and contributing to tenants' inability to keep up
6 with their housing costs. As I discuss in greater detail in my testimony below, victims of
7 domestic violence are often uniquely vulnerable to physical and financial harm –
8 especially during the period of separation from a violent intimate partner. In addition,
9 almost a quarter of Philadelphia's population speaks a language other than English.
10 PGW should take efforts to ensure that all of its customers have access to all available
11 options to access and afford their PGW service. These issues are relevant to this
12 proceeding because inadequate attention to the needs of vulnerable customers
13 demonstrates deficiencies with the quality of service that PGW provides to its customers.
14 In some cases, it raises concerns about whether PGW is taking advantage of opportunities
15 to increase revenue.

16 First, I review problems related to PGW's LIHEAP Crisis grant acceptance
17 policies. Next, I review PGW's compliance with the Discontinuance of Service to Leased
18 Premises provisions of the Public Utility Code at 66 Pa. C.S. §§ 1521-1533. I believe that
19 PGW could do more to ensure that tenants are able to maintain service on terms
20 consistent with the statute. I also review PGW's current Language Access policies for

⁷⁸ Id.

⁷⁹ Id. at 9.

⁸⁰ Editorial, Lawmakers should anticipate avalanche of evictions after coronavirus, Philadelphia Inquirer (April 24, 2020), available at <https://www.inquirer.com/opinion/editorials/coronavirus-covid-19-eviction-housing-crisis-20200424.html>.

1 Limited English Proficient customers, as well as PGW's policies for customers who are
2 victims of domestic violence. Finally, I review problems related to customers' ability to
3 reconnect to PGW service and recommend that PGW undertake concerted efforts to bring
4 disconnected customers back on to its systems.

5 **Q. Please describe your review of PGW's LIHEAP acceptance policy and any**
6 **conclusions you have reached.**

7 A. The Low-Income Home Energy Assistance Program or LIHEAP is a federally
8 funded program that provides low-income households with assistance to help pay home
9 energy costs. LIHEAP is administered by the states. In Pennsylvania, the Department of
10 Human Services (DHS) administers LIHEAP. Generally, LIHEAP is open November
11 through March. Pennsylvania LIHEAP is therefore specifically designed to be available
12 to Pennsylvania's most vulnerable households so that those households can maintain and
13 connect to heating related service during the cold weather months. In recent years,
14 Pennsylvania has set its income eligibility level at 150% of the Federal Poverty Level,
15 which exactly matches the income eligibility level for PGW's CRP; and it has primarily
16 provided LIHEAP assistance in three different forms. The LIHEAP Cash component is a
17 grant that is available to assist with paying home energy costs. The amount of the grant
18 is based on a formula which considers the income and size of the applicant's household
19 as well as the heating degree days in the region of the state where the applicant resides.
20 Applicants do not need to be payment troubled or in shut off status to be eligible for a
21 LIHEAP Cash grant. The LIHEAP Crisis component is a grant that is only available to
22 help applicants resolve an imminent or existing home heating crisis, typically the
23 imminent or actual loss of heat. For an applicant to be eligible for a Crisis Grant, to either

1 halt a shut-off or to reconnect service, a vendor must agree to accept the grant. The
2 amount of the minimum and maximum Cash and Crisis grants a household is eligible to
3 receive can vary from year to year. In recent years, for example, Crisis has provided
4 grants of up to \$600. Cash and Crisis grants are almost always paid directly to a heating
5 fuel vendor or utility company. A third component of LIHEAP, the Crisis Interface or
6 Weatherization component, provides repair or replacement of broken heating systems,
7 through weatherization contractors or subcontractors, for eligible Crisis applicants.

8 As a condition of settling its last rate case, PGW agreed to conduct a cost/benefit
9 analysis of the impact of modifying its LIHEAP Crisis acceptance policy to permit its
10 low-income customers to maintain or restore service when the Crisis grant amount is less
11 than the full account balance that is due. Since the last rate case PGW has modified its
12 LIHEAP Crisis acceptance policy to permit customers that have past due balances which
13 exceed the amount of the maximum Crisis grant to direct those grants to PGW. In these
14 situations, although the amount of the grant may not satisfy the amount that PGW would
15 be permitted to charge the customer to maintain or restore service, PGW accepts the
16 grant, reduces the customer's balance by the amount of the grant, and continues to
17 provide service to the customer. If the customer had previously been in shut off status,
18 the termination notice is cancelled.

19 For LIHEAP program year 2018-2019, PGW permitted customers to utilize a
20 Crisis grant to prevent a termination of service if the balance on the account was \$2500 or
21 less.⁸¹ For LIHEAP program year 2019-2020 this amount was increased to \$3000.⁸² PGW

⁸¹ PGW Response to TURN *et al.* II-28

⁸² Id.

1 does not currently provide brochures, bill messages, or website messages describing its
2 Crisis acceptance policy to customers.⁸³

3 PGW’s modified Crisis acceptance policy has resulted in thousands of PGW
4 customers being able to preserve PGW service during the cold weather season, while
5 bringing millions of dollars in additional Crisis funds to PGW.⁸⁴ PGW provided the
6 following table showing the number of customers who received a Crisis grant as a result
7 of PGW’s modified Crisis acceptance policy and the total dollar amount of Crisis grants
8 received in each fiscal year as a result of the modified policy.

YEAR	# of Customer	\$ Grants
FY18	949	\$455,171
FY19	1,879	\$1,200,577
FY20	1,047	\$707,218

9
10 While I commend PGW for modifying its Crisis grant acceptance policy, PGW
11 can and should do more. I am concerned that PGW has not adequately tracked the
12 limitations of its policy. In addition, I believe that additional modifications to PGW’s
13 Crisis acceptance policy would permit greater numbers of low-income customers to
14 access and maintain service. In response to TURN *et al.* discovery requests seeking
15 information about the number of PGW customers who were unable to access Crisis due
16 to PGW’s Crisis acceptance policy, and the total dollar value of grant assistance denied to
17 these customers, PGW responded that “this information in not readily available and

⁸³ PGW Response to TURN *et al.* II-27

⁸⁴ PGW Response to TURN *et al.* II-22

1 would require a costly and burdensome special study to produce.”⁸⁵ This response
2 reflects a failure by PGW to honor its Settlement commitment to conduct a cost/benefit
3 analysis of the impact of modifying its LIHEAP Crisis acceptance policy. Additionally,
4 this response reflects a lack of a serious commitment on PGW’s part to understanding the
5 economic benefit of its Crisis acceptance policies and the opportunities to modify it to
6 bring benefit to both PGW and its low-income customers.

7 **Q. What recommendations do you have regarding PGW’s LIHEAP acceptance**
8 **policy?**

9 A. As a first step, on an annual basis, PGW should begin to track and maintain data
10 pertaining to its LIHEAP Crisis acceptance policy. Once the data is developed, PGW
11 should maintain it in a readily available data bank. At a minimum, for both customers
12 seeking to preserve service and customers seeking to restore service through utilization of
13 a LIHEAP Crisis grant, PGW should track the number of customers who:

- 14 • receive a LIHEAP Crisis grant who had a balance due to PGW in an amount
15 greater than the maximum Crisis grant amount;
- 16 • the dollar value of LIHEAP Crisis grants received by PGW for customers with an
17 account balance greater than the maximum Crisis grant amount;
- 18 • the number of customers who attempted to use a LIHEAP crisis grant but were
19 unable to, due to their balance being greater than PGW’s Crisis acceptance
20 threshold;
- 21 • the number of customers who attempted to use a LIHEAP crisis grant to restore
22 service but were rejected; and

- 1 • the dollar value of those rejected Crisis grants.

2 Next, PGW should review its LIHEAP Crisis acceptance policy to determine
3 whether additional modifications to the policy would result in increasing the number of
4 customers who are able to maintain or restore service by obtaining assistance from
5 LIHEAP Crisis. I believe that in light of the large number of PGW customers who enter
6 the cold weather season without PGW service, PGW should expand its LIHEAP Crisis
7 policy to permit customers to restore PGW service even if the grant is not enough to pay
8 PGW's restoration demand in full.

9 I believe that PGW should perform a yearly cost/benefit analysis to determine
10 whether its Crisis threshold is set at an amount that will allow every eligible LIHEAP
11 Crisis applicant to maintain or restore PGW service. In addition, PGW should determine
12 if it has adequate policies in place for customers to manage and afford arrears that are not
13 paid off by the grant, and, if not, PGW should adopt policies that permit these customers
14 to manage their arrears so that they are not at risk of shut off soon after receipt of the
15 Crisis grant.

16 Finally, PGW should ensure that information about its Crisis acceptance policy is
17 widely available to customers through brochures, bill messages, PGW's website, and
18 other customer communication points, throughout the LIHEAP season.

19 Discontinuance of Service to Leased Premises (Subchapter B)

20 **Q. Please describe your review of PGW's compliance with the Discontinuance of**
21 **Service to Leased Premises provisions of the Public Utility Code at 66 Pa. C.S. §§**
22 **1521 and any conclusions you have reached.**

1 A. The Discontinuance of Service to Leased Premises provisions of the Public Utility
2 Code, or Subchapter B, govern the process that PGW and other regulated utilities are
3 required to follow in discontinuing service to premises that are likely to be tenant
4 occupied. Consistent with Subchapter B, prior to termination of service of a landlord
5 ratepayer for non-access to the premises or nonpayment of billing charges, the utility is
6 required to notify each dwelling unit reasonably likely to be occupied by an affected
7 tenant. Under Subchapter B, an affected tenant has a right to continue service or to
8 immediately restore terminated service by paying the utility an amount equal to the bill
9 for the affected account of the landlord ratepayer for the billing month preceding the
10 notice to the tenant. The utility retains an obligation to notify the tenant of the monthly
11 bill for succeeding billing months and the tenant has a right to continue service by paying
12 the successive bill.

13 **Q. Do you have concerns related to PGW's compliance with Subchapter B?**

14 A. Yes. I do not believe that PGW is making sufficient effort to determine whether
15 properties are reasonably likely to be tenant occupied and to provide notice to affected
16 tenants of their right to continue service pursuant to Subchapter B. I am also concerned
17 that PGW's process for establishing Subchapter B accounts for affected tenants is
18 inadequate and burdensome.

19 I believe that tenants in PGW's service territory are at risk of shut off and are
20 unable to access affordable options to continue or restore service. PGW maintains that it
21 uses various methods to determine whether a property is tenant-occupied.⁸⁶ I do not

⁸⁶ PGW Response to TURN *et al.* II-38. PGW maintains that its methods include a determination during the initial set-up of service, using public records, and reviewing PGW service records or by visiting the property in preparation of the notice process. Also, PGW relies upon information provided to the utility by

1 believe PGW’s methods have been sufficient to determine the number of tenant occupied
2 properties in its service territory or to provide notices to tenants as required by
3 Subchapter B. I base my opinion on the fact that PGW has coded only a small number of
4 its customer accounts as landlord accounts and has issued a low number of Subchapter B
5 notices to tenants, relative to the size of the tenant population in Philadelphia. According
6 to 2018 Census data, there are an estimated 287,543 renter occupied housing units in
7 Philadelphia.⁸⁷ Notwithstanding the size of Philadelphia’s tenant population, PGW has
8 coded just 7,514 as landlord accounts.⁸⁸ PGW data for 2018 and 2019 reveals that the
9 utility provided a surprisingly low number of Subchapter B notices to tenants prior to
10 termination for landlord nonpayment.⁸⁹ This information is summarized in the table
11 below.

Year	Number of Subchapter B Notices PGW Sent to Tenants Prior to Shutoff for Landlord Nonpayment
2018	532
2019	484

12
13 One consequence of PGW’s failure to provide required Subchapter B notices is that
14 tenants may never learn of their right to continue service without assuming responsibility
15 for the landlord’s delinquent bill. As a result, tenants may struggle to pay PGW balances
16 that they cannot afford, and for which they are not legally responsible, to preserve or

the owners of residential property pursuant to 66 Pa. C.S. §1529.1, which requires owners to notify a public utility when a dwelling unit is used for rental purposes, but only if the unit is not individually metered.

⁸⁷See Selected Housing Characteristics, American Community Survey 2018 (Table DP04), available at https://data.census.gov/cedsci/table?q=philadelphia%20city%20housing&g=1600000US4260000&tid=ACSDPIY2018.DP04&t=Housing&layer=VT_2018_160_00_PY_D1&cid=DP04_0001E&vintage=2018

⁸⁸ PGW Response to TURN *et al.* II-42

⁸⁹ PGW Response to TURN *et al.* II-41

1 restore service. Still others may lose housing due to their inability or unwillingness to pay
2 for charges for which their landlord is responsible. From a revenue perspective, PGW's
3 low number of notices relative to its tenant population denotes to me a failure to provide
4 a significant number of the required Subchapter B notices. This also indicates that the
5 utility is most likely collecting little of the potential ongoing revenue from tenants willing
6 to make payments to continue service pursuant to Subchapter B. PGW collected just
7 \$261,797 from tenants making payments pursuant to Subchapter B in 2018 and \$227,953
8 in 2019.⁹⁰

9 Further, PGW has implemented Subchapter B policies that may prevent tenants
10 from maintaining or restoring service. For example, PGW requires tenants seeking
11 protection under Subchapter B to go into a district office to establish an "Et-al account"
12 before they can begin making payments to maintain or restore service.⁹¹ I believe this
13 will be problem for tenants seeking Subchapter B protection if PGW is permitted to
14 resume terminations during the Covid-19 pandemic as a result of tenants not going into a
15 district office. PGW district offices have been closed since March 16, 2020. Even if the
16 district offices reopen during the pandemic, tenants should not have to risk their health to
17 access Subchapter B protections.

18 Once the tenant presents at the district office, PGW requires the tenant to produce
19 acceptable proof of address and proof of residency before they can establish the Et-al
20 account.⁹² In its Tenant Landlord Et-al training guide, PGW instructs its representatives
21 to verify that the address on the Subchapter B notice matches the address listed on a

⁹⁰ PGW Response to TURN *et al.* II-43 and II-44.

⁹¹ PGW Response to TURN *et al.* II-36.

⁹² Id. at Attachment A, Pg. 15

1 document issued by a state/federal agency which contains the tenant's name.⁹³ This
2 suggests that PGW requires tenants to produce proof of address in the form of a
3 document issued by a state/federal agency. I believe this is a burdensome requirement
4 and PGW should accept a broad range of proof of address. PGW also requires the tenant
5 seeking Subchapter B protection to provide proof of residency. In its training guide,
6 PGW instructs its representatives to verify that the name and address on the tenant's
7 government-issued photo ID matches the lease or document demonstrating tenant's
8 residency at the address.⁹⁴ This presumes that the tenant has a government-issued photo
9 ID. PGW should permit tenants to provide a broad range of identification documents. If
10 the tenant fails to provide acceptable proof of address and residency, PGW does not
11 permit the tenant to make a payment to continue service or to restore service pursuant to
12 Subchapter B.⁹⁵ I believe that these policies are unduly burdensome for innocent tenants
13 seeking protection under Subchapter B to continue their service, when their landlord has
14 defaulted and they desire to make monthly payments.

15 **Q. What do you recommend regarding PGW's compliance with the tenant**
16 **protection provisions of Subchapter B?**

17 A. PGW must adopt a proactive and aggressive approach to determining which
18 properties in its service territory are reasonably likely to be tenant occupied. I recommend
19 that on a routine basis PGW should seek this information from its customers, not only at
20 the time of the initial set-up of service. In addition, PGW should compile information on
21 whether a property is likely to be tenant occupied from a broad array of public records,

⁹³ Id.

⁹⁴ Id.

⁹⁵ Id.

1 including the Philadelphia Office of Property Assessment, the Philadelphia Department
2 of Licenses and Inspections, and publicly available court records. PGW should work with
3 tenant organizations and other stakeholders in Philadelphia to determine the best methods
4 for identifying tenant occupied properties. PGW should immediately correct its apparent
5 under noticing and begin providing Subchapter B notices to tenants prior to effectuating
6 shut offs to landlord ratepayers. Prior to shut off for nonpayment at any property, PGW
7 should make every effort to determine whether the property is reasonably likely to be
8 tenant occupied, and, if so, to provide the required Subchapter B notices to these tenants.
9 Finally, in keeping with the intent of the statute to protect innocent tenants, when their
10 landlord defaults, PGW should accept a broad range of proof of address and residency
11 documentation from tenants seeking to preserve or restore service pursuant to Subchapter
12 B.

13 **Q. Are there other Customer Service issues you think are necessary to address**
14 **in this proceeding?**

15 A. Yes. I'd like to address PGW's implementation of the protections for victims of
16 domestic violence pursuant to 66 Pa. C.S. §1417. I will also be addressing PGW's
17 policies and procedures regarding language access. Finally, I will discuss problems
18 related to customers' ability to reconnect to service.

19 Domestic Violence Protections

20 **Q. Can you explain what protections 66 Pa. C.S. §1417 provides?**

21 A. Section 1417 specifically exempts victims of domestic violence from the terms of
22 Chapter 14. Chapter 14 is a set of formulaic and strict billing and termination standards
23 for the Public Utility Commission and utilities like PGW. Section 1417 is a recognition

1 that victims of domestic violence are often uniquely vulnerable to physical and financial
2 harm – especially during the period of separation from a violent intimate partner, when
3 the risk of physical violence and financial instability is greatest.⁹⁶ This exemption is
4 intended to allow greater flexibility for victims of domestic violence in dealing with
5 utility debt – allowing victims to start fresh, and recognizing the multi-faceted nature of
6 domestic violence.⁹⁷

7 Currently, if a consumer is exempt from Chapter 14 pursuant to section 1417,
8 subchapters L through V of the Commission’s Chapter 56 regulations apply.⁹⁸ These
9 subchapters provide several critical protections for victims of domestic violence. For
10 example, pursuant to subchapter N, section 56.285, a victim cannot be held responsible
11 for utility debt accrued by a third party.⁹⁹ And, if utility debt is accrued in the victim’s
12 name, section 56.285 allows a victim to obtain additional and more flexible payment
13 arrangement terms based on their unique facts and circumstances. In addition, section

⁹⁶ See Nat’l Resource Ctr. on Domestic Violence, Intimate Partner Homicide Prevention, <https://vawnet.org/sc/intimate-partner-homicide-prevention> (explaining that separation is a “predominant risk factor” for intimate partner homicide).

⁹⁷ Utility debt is a particularly unforgiving barrier for victims of domestic violence attempting to start over after separating from an abuser. Chief among the consequences of utility debt is the inability to secure safe and affordable housing, as the existence of utility debt may disqualify a victim of domestic violence from public housing, and a utility termination may trigger eviction proceedings. See 24 CFR § 960.203. Indeed, it is not a coincidence that domestic violence – and the consequential inability to secure safe housing – is the “primary cause of homelessness” for women in this country. See Nat’l Law Ctr on Homelessness & Poverty, Facts on Homeless, Housing, and Violence Against Women, https://nlchp.org/wp-content/uploads/2018/10/DV_Fact_Sheet.pdf.

⁹⁸ 52 Pa. Code, Ch. 56, Subsections L-V.

⁹⁹ “A utility may not require, as a condition of the furnishing of residential service, payment for residential service previously furnished under an account in the name of a person other than the applicant unless a court, district justice or administrative agency has determined that the applicant is legally obligated to pay for the service previously furnished.” 52 Pa. Code § 56.285.

1 56.335 entitles victims of domestic violence to additional notice of termination 48 hours
2 prior to termination.

3 **Q: How does a victim of domestic violence access these protections?**

4 A: Chapter 14 defines covered persons as “victims under a protection from abuse
5 order as provided by 23 Pa. C.S. Ch. 61 (relating to protection from abuse) **or** a court
6 order issued by a court of competent jurisdiction in this Commonwealth, which provides
7 clear evidence of domestic violence against the applicant or customer”¹⁰⁰

8 **Q: Did PGW provide any written policies or training materials specific to these
9 protections?**

10 A: No. PGW stated only that “PGW follows requirements of Chapter 56”¹⁰¹ and that
11 the only method PGW uses to identify customers is if they self-identify or provide a
12 protection order.¹⁰² PGW has no training materials or manuals that discuss the protections
13 and rights of victims of domestic violence.¹⁰³

14 **Q: Do you have concerns about this approach?**

15 A: Yes. I am concerned that by referencing only a Protection from Abuse Order,
16 PGW is not providing adequate protection for those victims of abuse who are also
17 protected by the more recent extension of exemption provided by amendments to Chapter
18 14- namely, any court order issued by a court of competent jurisdiction in this
19 Commonwealth, which provides clear evidence of domestic violence. against the
20 applicant or customer. Further, PGW does not appear to have written policies or
21 procedures. PGW’s approach is wholly inadequate. PGW must ensure that customers are

¹⁰⁰ 66 Pa. C.S. §1417 (emphasis added).

¹⁰¹ PGW Response to TURN *et al.* III-7.

¹⁰² PGW Response to TURN *et al.* III-7.

¹⁰³ Id.

1 advised properly of their rights and that the procedures used to identify these customers
2 are consistent. Based on PGW's responses, it is not clear how PGW makes the
3 determination to follow the statute and exempt appropriate victims from Chapter 14, how
4 any customer would know they are entitled to specific additional protections, or even
5 what PGW staff know to do if presented with documentation not in the form of a PFA.

6 **Q: What do you recommend?**

7 A: PGW needs to have a written policy of how it handles cases for this vulnerable
8 population. At a minimum, when a customer discloses that they are a victim of domestic
9 violence, that call should be prioritized for resolution by a small and designated team
10 specifically trained on the unique statutory protections and the vulnerabilities and need
11 for privacy protections of victims.

12 Victims of domestic violence should be given at least 3 days to provide a copy of
13 their order before termination is allowed to proceed. I also recommend that PGW
14 expressly define the equitable payment arrangement parameters which it will employ for
15 victims of domestic violence, and that it explicitly train staff that the payment
16 arrangement restrictions contained in Chapter 14 do not apply and more equitable terms
17 are intended to be set..

18 I recommend that PGW develop training materials for its Customer Service
19 Representatives (CSRs) that explain: the rights associated with domestic violence
20 protections and the procedures used to process documentation, and identifies how to
21 transfer calls to the designated team at PGW. Finally, I recommend that PGW partner
22 with local domestic violence programs to provide reciprocal training, and ensure that
23 domestic violence advocates and PGW employees are fully trained on the availability of

1 these critical protections. In establishing these partnerships, PGW should also designate
2 specific PGW liaisons to work with advocates for victims of domestic violence.

3 **Q: Does PGW have any public facing materials regarding domestic violence**
4 **protections?**

5 A: Reviewing PGW’s website, I note that PGW does have a flyer linked on its
6 “Assistance Programs & Grants” page entitled “Protection from Abuse”.¹⁰⁴ It covers
7 several of the relevant protections, but states that they only apply if a victim of domestic
8 violence has a current Protection from Abuse Order (PFA). It does not provide any
9 information about how to access those protections.

10 **Q: Do you have any concerns or recommendations about these public-facing**
11 **materials?**

12 A: I am concerned that this flyer incorrectly states the law and the standard victims
13 of domestic violence must meet – victims can provide a Protection from Abuse Order **or**
14 other court order with clear evidence of domestic violence. I recommend that in addition
15 to adequately training its staff, PGW update and expand its public facing materials,
16 including website language, flyers and bill messaging, to identify the rights associated
17 with the domestic violence protections and the required documentation, and explain
18 specifically how a customer can self-identify and provide information to PGW.

19 Language Access

20 **Q: Why specifically do you raise language access as an issue in this proceeding?**

21 A: How PGW serves its Limited English proficient (LEP) customers is a core
22 customer service issue. PGW cites to its improvements in customer service as a reason to

¹⁰⁴ <https://www.pgworks.com/uploads/pdfs/Protection-from-Abuse.pdf>. Additional searches of PGW’s website for Protection from Abuse or Domestic Violence turned up no results.

1 support its proposed rate increase. PGW St. 1 at 4:5. In his testimony, Gregory Stunder
2 indicates improved customer satisfaction and improved operations at PGW’s customer
3 service centers. PGW St. 1 at 5. Similarly, Douglas Moser states in his testimony several
4 improvements to PGW’s call center, as well as modernization efforts to PGW’s website
5 and bill messaging. PGW St. 7 at 14-17. However, PGW has made no indication of
6 efforts to improve service to its LEP customers. As I will discuss below, almost a quarter
7 of Philadelphia’s population speaks a language other than English, and more than half of
8 LEP Philadelphians speak a language other than Spanish. Yet, PGW’s policies,
9 assessments and staff training in interacting with these populations appears to be quite
10 sparse. In evaluating PGW’s rate increase request, it is important to consider PGW’s
11 efforts to provide quality customer service to all of its customers – including those who
12 don’t speak English.

13 **Q. What information is available regarding the number of Limited English**
14 **Proficient individuals who reside within PGW’s Service Territory available?**

15 A. There is publicly available census data regarding the extent of the LEP
16 population in Philadelphia, and the various languages of origin spoken in Philadelphia.

17 That information is summarized in the table below:¹⁰⁵

	Total Households	% of Population
Spanish	166,348	11.24%
Chinese	31,410	2.12%

¹⁰⁵ U.S. Census Bureau, American Community Survey 2018, Language Spoken at Home by Ability to Speak English For the Population 5 Years and Over (Table B16001). Data available at data.census.gov.

Vietnamese	12,974	0.88%
Russian	12,694	0.86%
Arabic	11,295	0.76%
Haitian	10,155	0.69%
French	9,204	0.62%
All other languages	99,964	6.75%
All non-English languages	354,044	23.92%

1

2 As this data shows, almost a quarter of the population in the city of Philadelphia is
3 Limited English Proficient – and Spanish-speaking households make up less than half of
4 the LEP population in Philadelphia. According to census data, the top five non-English
5 languages spoken in Philadelphia are: Spanish, Chinese (all dialects), Vietnamese,
6 Russian, and Arabic.

7 **Q. What information has PGW provided regarding its language access policies?**

8 A. PGW does not appear to have a written policy regarding language access for
9 Limited English Proficient customers. Asked to provide a copy of any PGW policy
10 regarding language access, PGW responded:

11 PGW provides a language line translation option for callers
12 and visitors to the District Offices who ask for language
13 related assistance.¹⁰⁶

14

15 **Q. Has PGW reviewed or completed a needs assessment regarding its Limited**
16 **English Proficient customers?**

¹⁰⁶ PGW Response to TURN *et al.* III-2. That response also references responses to TURN *et al.* III-3, III-4, III-5, and III-6.

1 A. No. Asked to provide any needs assessment completed by or for PGW, or within
2 PGW’s possession, regarding the locations and numbers of Limited English Proficient
3 PGW customers, PGW responded that “[u]nder current PUC regulation, PGW does not
4 perform “needs assessments” relevant to language.”¹⁰⁷

5 **Q: Has PGW provided any manuals, training materials, and/or documents that**
6 **describe language access for LEP customers?**

7 A: No. In response to a TURN discovery request, PGW stated that its training staff
8
9 [P]rovides new CSRs with multiple quick reference guides
10 that contain important numbers and resources to assist them
11 with interacting with PGW customers. When trained, CSRs
12 are verbally instructed on what steps to take when
13 interpretation services are needed, and CSRs perform hands-
14 on training exercises to ensure that they are properly
15 prepared to address calls where the language line is
16 needed.¹⁰⁸

17 However, PGW provided no written materials, used by trainers or CSRs, so I am unable
18 to review how the CSRs are trained or what information they are given regarding
19 interpretation and working with limited English customers to ensure that information is
20 communicated effectively.

21 **Q. Does PGW have documents translated into any other languages?**

22 A. Yes. PGW has translated a few categories of documents into Spanish, Chinese
23 and French, including:¹⁰⁹

- 24 • Residential Termination Notices (Spanish)
- 25 • LIHEAP and Crisis Outreach Letters (Spanish)

¹⁰⁷ PGW Response to TURN *et al.* III-1.

¹⁰⁸ PGW Response to TURN *et al.* III-3.

¹⁰⁹ See PGW Response to TURN *et al.* III-4. A full list is included as Attachment A to that response.

- 1 • CRP Recertification Letters (Spanish)
- 2 • Collection Agency Referral Notices (Spanish)
- 3 • CRP Brochures, UESF Flyers, and LIHEAP/Crisis Flyers (Spanish,
- 4 Chinese, French)

5

6 **Q. Is any translation or interpretation mandated by law?**

7 A. Yes. The PUC’s regulations obligate PGW to include in its termination notice
8 “Information in Spanish directing Spanish-speaking customers to the numbers to call for
9 information and translation assistance.”¹¹⁰ That same regulation requires PGW to provide
10 similar materials “in other languages when census data indicates that 5% or more of the
11 residents of the utility’s service territory are using that language.” The PUC’s regulations
12 also require “[a] public utility which serves a substantial number of Spanish-speaking
13 customers” to “provide billing information in English and in Spanish.”¹¹¹ In addition,
14 because PGW receives federal grants,¹¹² I am advised by counsel at Community Legal
15 Services that PGW may have language access obligations under Title VI of the Civil
16 Rights Act of 1964.¹¹³

¹¹⁰ 52 Pa. Code § 56.91 (b) (17).

¹¹¹ 52 Pa. Code § 56.201

¹¹² The Low Income Home Energy Assistance Program, for example, is a federal grant program. PGW receives millions of dollars through LIHEAP each year. *See, e.g.*, PGW Response to OCA III-2.

¹¹³ *See* 42 U.S.C. § 2000d. In Philadelphia, all City agencies must provide language access services and develop language access plans. *See* Philadelphia Home Rule Charter § 8-600. *See also* City of Philadelphia, Language Access Philly, <https://www.phila.gov/programs/language-access-philly/>. The standards for Language Access have been articulated by the Managing Director’s Office. *See* City of Philadelphia Office of the Managing Director, Managing Director’s Directive No. 62: Language Access Policy and Plan for All Departments, <https://www.phila.gov/MDO/Orders%20and%20Directives/Directive%2062%20Language%20Access%20051616.pdf>. As an entity owned by the city of Philadelphia, PGW should strive to meet the standards applicable to city agencies.

1 **Q. Does this information give rise to any concerns?**

2 A. I am concerned that given the large LEP population in Philadelphia, PGW has not
3 done any needs assessment to determine the extent of language access needs in its service
4 territory, and does not have a clear written policy for language access, including how and
5 when documents are translated, and guidelines for interpretation for its CSRs. When
6 documents are not translated into a specific language,¹¹⁴ the quality of interpretation is
7 essential. This includes not only the availability of Language Line, but how customers
8 indicate they need interpretation assistance over the phone or in person, and how CSRs
9 respond to those requests. Because PGW has not shown that it has any clear and
10 coherent policies around language access, I have concerns about the ability of LEP
11 individuals to understand their rights and responsibilities regarding billing and
12 termination, as well as how to access PGW's low-income programs. I note that this is
13 also a safety concern – while PGW has translated some documents into Chinese (the 3rd
14 most spoken language in Philadelphia behind English and Spanish), PGW has not
15 translated information on its website or bills regarding what to do with leaks and odors
16 and other safety tips into any language other than Spanish.¹¹⁵ This lack of coherent
17 policy around language access reflects a poor level of customer service to this population.

¹¹⁴ As shown above, the number of languages spoken in Philadelphia is extensive, and translation may not be feasible for all languages. By way of comparison, the Philadelphia Water Department's Language Access Plan notes that some of its documents have been translated in up to 10 languages: Spanish, Chinese, Vietnamese, Cantonese, Portuguese, Russian, Korean, Cambodian, Polish and Albanian. See Philadelphia Water Department: Language Access Plan (2017) at 8, <https://www.phila.gov/media/20170602143450/Philadelphia-Water-Department-LAP-2017-FINAL.pdf>.

¹¹⁵ PGW Response to TURN *et al.* III-4 Attachment A.

1 **Q: Do you have specific concerns regarding the ability of LEP households to**
2 **access CRP and other Universal Service programs?**

3 Yes. There is often a high correlation between LEP and low-income populations.¹¹⁶ As
4 discussed elsewhere in this testimony, absent CRP PIPP enrollment, low income
5 households will feel the full brunt of any approved rate increase. To the extent that LEP
6 households cannot access or understand CRP, they will be even less likely to be insulated
7 from the impact of the rate increase. I note that while PGW has translated CRP brochures
8 and grant assistance flyers into two languages other than Spanish (Chinese and French),
9 the actual CRP Application has only been translated into Spanish.

10 **Q. What do you recommend?**

11 A. As a preliminary matter, I recommend PGW undertake a needs assessment of its
12 customer base and service territory that looks at the number of LEP households, by zip
13 code or census tract, the languages spoken, and the extent to which those households are
14 likely to be low-income and should be targeted for low-income programs. Based upon
15 that needs assessment, I propose PGW draft a written policy that focuses on how PGW
16 will ensure that all customers, regardless of language of origin, are able to understand
17 their rights and responsibilities, and able to access low income programs. Such a policy
18 should include steps to identify LEP individuals, how PGW will ensure access to
19 interpretation services, and the circumstances in which it identifies documents to be fully

¹¹⁶ “LEP individuals were more likely to live in poverty than English-proficient individuals. In 2013, about 25 percent of LEP individuals lived in households with an annual income below the official federal poverty line – nearly twice as high as the share of English-proficiency persons (14 percent).” Jie Zong and Jeanne Batalova, Migration Policy Institute, “The Limited English Proficient Population in the United States” (July 8, 2015), *available at* <https://www.migrationpolicy.org/article/limited-english-proficient-population-united-states>.

1 translated or to include a tagline. To the extent that PGW determines either a tagline or
2 full translation of documents is warranted, PGW's written policy should identify how it
3 will ensure quality control for translations.

4 Given the number of different languages spoken in Philadelphia, I further
5 recommend that PGW work with the City of Philadelphia Office of Immigrant Affairs to
6 develop this language access policy.¹¹⁷ .

7 Reconnection to Service

8 **Q. Can you please explain your concerns related to PGW's customers' ability to**
9 **reconnect to service?**

10 A. Yes. I believe that PGW has chosen to forego revenue opportunities by failing to
11 adopt additional, flexible reconnection policies for disconnected customers. The Covid-
12 19 pandemic has underscored the reality that PGW can and should do more to help its
13 customers to reconnect to service. In response to the pandemic, Philadelphia's electric
14 and water service providers adopted compassionate and sound policies to permit
15 terminated customers to affordably restore service.¹¹⁸ In March 2020, PECO and the
16 Philadelphia Water Department agreed to waive reconnection fees, down payments, and
17 other upfront payment demands that had prevented some customers from restoring
18 service to their homes.¹¹⁹ In the months since the start of the pandemic, the Philadelphia
19 Water Department has restored service to more than 15,000 customers who were

¹¹⁷ The Office of Immigrant Affairs oversees Language Access Philly, the City of Philadelphia's language access program. See City of Philadelphia, Language Access Philly, <https://www.phila.gov/programs/language-access-philly/> (accessed June 15, 2020)

¹¹⁸ See generally <https://www.peco.com/SafetyCommunity/Safety/Pages/coronavirus.aspx> and <http://water.phila.gov/covid-19/>.

¹¹⁹ Id.

1 previously disconnected for non-payment.¹²⁰ PGW declined to adopt such a policy,
2 notwithstanding the large number of disconnected customers in its service territory.¹²¹
3 Instead, PGW continued to require disconnected customers to satisfy PGW’s full
4 payment demand prior to restoring service. I acknowledge the need of PGW to protect its
5 workers during the pandemic; however, if PGW is able to reconnect service to some
6 households able to pay the full arrears, it should not arbitrarily exclude those unable to
7 make full payment. Without natural gas service, many of these customers are unable to
8 access hot water for basic sanitation. If the pandemic persists into the cold weather
9 season, as health experts predict, these customers will find that they are also unable to
10 access heat unless they can meet PGW’s full payment demand. I believe that, although
11 not required to do so, PGW, unlike Philadelphia electric and water suppliers, has
12 demonstrated a disregard for the public health of Philadelphia’s economically challenged

¹²⁰ See Lana Adams, Department of Revenue, City will not turn off water for non-payment until July 10, available at <https://www.phila.gov/2020-05-22-city-will-not-turn-off-water-for-non-payment-until-july-10/>.

¹²¹ See Christian Hetrick, PGW is under pressure to restore services to Philly residents who got disconnected before coronavirus hit, Philadelphia Inquirer (May 13, 2020), available at <https://www.inquirer.com/consumer/pgw-gas-utility-service-restoration-philadelphia-coronavirus-20200513.html>. While PGW has noted that turning on gas requires entry into customers’ homes and cited to its need to comply with “governmental imposed social distancing” as “one of the factors” in its decision not to restore customers who fail to satisfy the full payment demand, PGW continues to restore service to customers during the pandemic if the customer satisfies PGW’s payment terms. See PGW’s Response to the PUC’s COVID 19 Customer Service, Billing and Public Outreach Provisions Request for Utility Information, Docket No. M-2020-3020055, <http://www.puc.pa.gov/pcdocs/1665663.pdf> (“PGW is currently assessing its reconnection fee to restore service. This fee is due prior to reconnection. PGW is not allowing customers to pay “any arrearage” for reconnection – reconnection terms have not changed.”). PGW has rejected the PUC’s guidance set forth in its March 13 Covid-19 Emergency Order, in which the PUC encouraged utilities to restore service to customers whose service is terminated, to the extent that they can safely do so. See PUC Public Utility Service Termination Moratorium Proclamation of Disaster Emergency – Covid-19, Docket No. M-2020-3019244, http://www.puc.pa.gov/general/pdf/Emergency_Order_M-2020-3019244_031320.pdf. I believe that PGW’s Covid-19 restoration policy is out of line with the reasonable and compassionate policies adopted by Philadelphia’s other utility providers and is unfairly denying access to service to vulnerable PGW customers during a public health emergency.

1 residents by failing to adopt flexible, affordable standards for reconnection during the
2 pandemic.

3 It appears that PGW’s Covid-19 response is consistent with PGW’s overall lack
4 of a robust approach to helping its disconnected low-income customers to restore service.
5 PGW was asked to describe any policies that the utility has adopted since its 2017 Rate
6 Case to improve its outreach to households who are unable to reconnect to PGW service
7 because of high balances. PGW states that it performs outreach to customers whose
8 service was terminated as part of its cold weather survey process and informs customers
9 of traditional payment options when they call in to PGW seeking restoration of service.¹²²
10 I believe that PGW should do more to assist these customers beyond its required
11 obligation during a short period of the year.

12 **Q. What do you recommend that PGW do to increase the number of**
13 **disconnected customers who are able to affordably restore service in its territory?**

14 A. To start, PGW should begin to maintain detailed data on the status of
15 disconnected properties in Philadelphia. When TURN *et al.* asked PGW to provide
16 information on the number of customers who had service reconnected following a shut
17 off for nonpayment, PGW indicated that it does not track this information.¹²³ Similarly,
18 when TURN *et al.* asked PGW to provide information on the average number of days that
19 customers remain without service following a shut off for nonpayment, PGW responded
20 that it does not track this information.¹²⁴ PGW should begin to track and maintain this
21 information. Such information would provide a better understanding of how many of

¹²² PGW Response to TURN *et al.* II-50.

¹²³ PGW Responses to TURN *et al.* I-10, I-13, I-16

¹²⁴ PGW Responses to TURN *et al.* I-12, I-14, I-17

1 PGW's low-income customers remain without service for significant periods of time. I
2 suggest that PGW survey the properties that it determined to be off at the time of the
3 Cold Weather Re-survey that it performed for years 2016 through 2019.¹²⁵ PGW should
4 seek to determine how many customers terminated since 2016 remain disconnected. To
5 the extent that those properties remain occupied, and customers desire to restore service,
6 PGW should work with those households to reconnect service on affordable terms.

7 In addition, PGW should be required to analyze the financial impact of keeping
8 customers off of its system. I believe that some disconnected customers would be able to
9 pay off arrears owed to PGW over time and contribute revenue to PGW if they are able to
10 affordably restore service.

11 In other parts of my testimony I have opined that PGW should eliminate barriers
12 to CRP enrollment that prohibit low-income customers from accessing affordable bills. I
13 believe that these actions will increase the number of low-income PGW customers who
14 are able to affordably reconnect service. I also recommend that PGW expand its LIHEAP
15 Crisis acceptance policy to permit all LIHEAP eligible households to restore service upon
16 receipt of a Crisis grant, irrespective of the balance on the account. PGW's data shows
17 that its Crisis acceptance policy has succeeded at preventing terminations for significant
18 numbers of low-income customers and yielded substantial additional revenues for PGW.
19 It makes sense that PGW should expand its policy to include customers seeking to restore
20 service.

21 Further, PGW should take a second look at customers who have been prevented
22 from restoring service on affordable terms due to PGW's policies regarding unauthorized

¹²⁵ Because PUC regulation prohibits PGW from demanding payment of debt more than four years old as a condition to restoring service, I believe that a four year look back is appropriate.

1 use. Every year, PGW terminates scores of PGW customers due to suspected or
2 confirmed unauthorized use. In 2018, PGW discontinued service to 1787 customers due
3 to suspected or confirmed unauthorized use.¹²⁶ In 2019, PGW discontinued service to
4 1779 customers due to suspected or confirmed unauthorized use.¹²⁷ In these situations,
5 PGW requires the customer to make full payment of all charges associated with
6 unauthorized use as a precondition to restoration of service. PGW should begin to track
7 and maintain data on these customers, including whether they are able to reconnect to
8 service and the average number of days that they remain without service. I believe that
9 PGW will probably find that there are significant numbers of PGW customers who have
10 gone for long periods of time without gas service due to their inability to meet payment
11 demands associated with unauthorized use. Such information would be of value. With
12 this data in hand, PGW could evaluate whether its unauthorized use policies are overly
13 punitive and develop policies to permit these customers to restore on affordable terms. If
14 these customers are low-income and they have not previously been enrolled in CRP,
15 PGW should permit these customers to enroll in CRP without full payment of charges
16 associated with unauthorized use.

17 Finally, I believe that PGW should adopt flexible reconnection policies for the
18 duration of the Covid-19 pandemic and economic crisis, including waiver of reconnection
19 fees. I believe that in appropriate circumstances, there is a compelling public health
20 reason for reconnecting customers without requiring unaffordable upfront payments, but
21 also, these customers may be able to pay off their arrears and contribute additional
22 revenues to PGW once they are restored.

¹²⁶ PGW Response to TURN *et al.* II-47

¹²⁷ Id.

1 **V. PROPOSED POLICY CHANGES**

2 **Q. Can you please summarize any policy changes that you recommend at this**
3 **time?**

4 A. I recommend the following PGW take the following actions:

5 CRP Enrollment

- 6 • Allow Community Based Organizations to accept or process CRP applications
7 in person
- 8 • Implement a phone enrollment process for CRP
- 9 • Accept Self-Verification of income for duration of COVID-19 pandemic and
10 as a continuing pilot
- 11 • Adopt a more customer friendly method of income verification that accepts
12 any documentation that shows earnings in combination with a customer
13 certification that the documentation provided is representative of their income

14 CRP Average Bill

- 15 • Adjust CRP Average Bills quarterly
- 16 • Train CSRs to explain how and when CRP Average Bill gets adjusted, as well
17 as how a customer can request a review of their CRP amount
- 18 • Conduct a comprehensive review of CRP Average Bill accounts to determine
19 how many customers were overcharged. For each customer, adjust their
20 billing to reflect actual usage, and provide bill credits to those customers.

21 Low Income Usage Reduction Program

- 1 • Make multiple attempts to obtain landlord approval to perform LIURP
2 services for a tenant, including direct contact with the owner or
3 representative to inform them of the benefits of LIURP energy efficiency
4 efforts.
- 5 • Work with tenant customers to identify barriers to obtaining landlord
6 approval, and assign CARES representatives to follow up with these
7 customers and landlords as well as to make referrals to social service
8 agencies and community organizations that may be able to provide
9 additional assistance with obtaining landlord authorization.
- 10 • Add unused funds from 2018 and 2019 to the 2020 LIURP budget, and
11 carry over any unused 2020 funds to PGW's 2021 LIURP budget.

12 LIHEAP Crisis Acceptance

- 13 • Track and maintain data pertaining to PGW's LIHEAP Crisis acceptance policy,
14 including:
 - 15 ○ the number of customers who: receive a LIHEAP Crisis grant who had a
16 balance due to PGW in an amount greater than the maximum Crisis grant
17 amount;
 - 18 ○ the dollar value of LIHEAP Crisis grants received by PGW for customers
19 with an account balance greater than the maximum Crisis grant amount;
 - 20 ○ the number of customers who attempted to use a LIHEAP crisis grant but
21 were unable to, due to their balance being greater than PGW's Crisis
22 acceptance threshold;

- 1 ○ the number of customers who attempted to use a LIHEAP crisis grant to
- 2 restore service but were rejected; and
- 3 ○ the dollar value of those rejected Crisis grants.
- 4 • Review its LIHEAP Crisis acceptance policy to determine whether additional
- 5 modifications to the policy would result in increasing the number of customers
- 6 who are able to maintain or restore service by obtaining assistance from LIHEAP
- 7 Crisis.
- 8 • Expand its LIHEAP Crisis policy to permit customers to restore PGW service
- 9 even if the grant is not enough to pay PGW’s restoration demand in full.
- 10 • Perform a yearly cost/benefit analysis to determine whether its Crisis threshold is
- 11 set at an amount that will allow every eligible LIHEAP Crisis applicant to
- 12 maintain or restore PGW service.
- 13 • Determine if PGW has adequate policies in place for customers to manage and
- 14 afford arrears that are not paid off by the grant, and, if not, PGW should adopt
- 15 policies that permit these customers to manage their arrears so that they are not at
- 16 risk of shut off soon after receipt of the Crisis grant.
- 17 • Ensure that information about its Crisis acceptance policy is widely available to
- 18 customers through brochures, bill messages, PGW’s website, and other customer
- 19 communication points, throughout the LIHEAP season.

20 Subchapter B

- 21 • Adopt a proactive and aggressive approach to determining which properties in its
- 22 service territory are reasonably likely to be tenant occupied.

- 1 ○ Routinely seek this information from its customers, not only at the time of
2 the initial set-up of service.
- 3 ○ Compile information on whether a property is likely to be tenant occupied
4 from a broad array of public records, including the Philadelphia Office of
5 Property Assessment, the Philadelphia Department of Licenses and
6 Inspections, and publicly available court records.
- 7 ○ Work with tenant organizations and other stakeholders in Philadelphia to
8 determine the best methods for identifying tenant occupied properties.
- 9 ○ Prior to shut off for nonpayment at any property, make every effort to
10 determine whether the property is reasonably likely to be tenant occupied,
11 and, if so, to provide the required Subchapter B notices to these tenants.
- 12 ○ Accept a broad range of proof of address and residency documentation
13 from tenants seeking to preserve or restore service pursuant to Subchapter
14 B.

15 Language Access

- 16 • Perform a needs assessment of PGW's customer base and service territory that
17 looks at the number of Limited English Proficient (LEP) households, by zip code
18 or census tract, the languages spoken, and the extent to which those households
19 are likely to be low-income and should be targeted for low-income programs.
- 20 • Draft a written policy that focuses on how PGW will ensure that all customers,
21 regardless of language of origin, are able to understand their rights and
22 responsibilities, and able to access low income programs. Such a policy should
23 include steps to identify LEP individuals, how PGW will ensure access to

1 interpretation services, and the circumstances in which it identifies documents to
2 be fully translated or to include a tagline.

3 Domestic Violence

- 4 • Draft a written policy of how PGW handles cases for victims of Domestic
5 Violence.
 - 6 ○ At a minimum, when a customer discloses that they are a victim of
7 domestic violence, that call should be prioritized for resolution by a small
8 and designated team specifically trained on the unique statutory
9 protections and the vulnerabilities and need for privacy protections of
10 victims.
- 11 • Provide victims of domestic violence at least 3 days to provide a copy of the
12 Protection from Abuse or other court order before termination is allowed to
13 proceed.
- 14 • Expressly define the equitable payment arrangement parameters which it will
15 employ for victims of domestic violence, and that explicitly train staff that the
16 payment arrangement restrictions contained in Chapter 14 do not apply and more
17 equitable terms are intended to be set.
- 18 • Develop training materials for its Customer Service Representatives (CSRs) that
19 explain: the rights associated with domestic violence protections and the
20 procedures used to process documentation, and identifies how to transfer calls to
21 the designated team at PGW.
- 22 • Partner with local domestic violence programs to provide reciprocal training, and
23 ensure that domestic violence advocates and PGW employees are fully trained on

1 the availability of these critical protections. In establishing these partnerships,
2 PGW should also designate specific PGW liaisons to work with advocates for
3 victims of domestic violence.

- 4 • Update and expand its public facing materials, including website language, flyers
5 and bill messaging, to identify the rights associated with the domestic violence
6 protections and the required documentation, and explain specifically how a
7 customer can self-identify and provide information to PGW.

8 Service Reconnection

- 9 • Track and maintain detailed data on the status of disconnected properties in
10 Philadelphia, including the number of customers who have service reconnection
11 following a shut off for nonpayment and the average number of days customers
12 remain without service following a shutoff for nonpayment.
- 13 • Resurvey the properties that PGW determined to be off at the time of the Cold
14 Weather Survey and Resurvey that it performed for years 2016 through 2019. To
15 the extent that those properties remain occupied, and customers desire to restore
16 service, PGW should work with those households to reconnect service on
17 affordable terms
- 18 • Perform an analysis of the financial impact of keeping customers off of its system
- 19 • Track and maintain data on customers terminated for unauthorized usage,
20 including whether they are able to reconnect to service and the average number of
21 days that they remain without service. PGW could evaluate whether its
22 unauthorized use policies are overly punitive and develop policies to permit these
23 customers to restore on affordable terms. If these customers are low-income and

1 they have not previously been enrolled in CRP, PGW should permit these
2 customers to enroll in CRP without full payment of charges associated with
3 unauthorized use.

- 4 • Adopt flexible reconnection policies for the duration of the Covid-19 pandemic
5 and economic crisis, including waiver of reconnection fees.

6 **VI. THE REASONABLENESS OF PGW'S RATE INCREASE**

7 **Q. Do you have an opinion about PGW's proposed rate request?**

8 A. Yes. I believe that PGW should not be permitted to raise its rates without
9 providing a contemporaneous commitment to improving programs and policies for the
10 Company's vulnerable customers. In light of my testimony about the serious limitations
11 that PGW has imposed on the effective operation of its low-income CRP program, that
12 PGW has not been honoring the spirit of its most recent settlement terms to conduct a
13 cost benefit analysis regarding its LIHEAP Crisis acceptance policies, and my testimony
14 about various policies that PGW has adopted or omitted, which have contributed to
15 significant numbers of low and limited income customers being unable to access,
16 maintain, and restore service, I believe that PGW has not demonstrated that its policies
17 and proposed rates are just and reasonable. PGW must commit to providing better
18 customer service and customer assistance to its low-income and vulnerable customers.
19 While my testimony proposes several actions that PGW can take to provide additional
20 assistance to its customers, I encourage PGW to begin to maintain better and more robust
21 information on its customers and whether PGW policies are exacerbating the likelihood
22 that these customers will experience a service termination and, when they do, will spend
23 long periods of time without service.

1 **VII. CONCLUSION**

2 **Q. Does this conclude your testimony?**

3 **A. Yes.**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket No. R-2020-3017206
	:	
v.	:	
	:	
Philadelphia Gas Works	:	

APPENDICES ACCOMPANYING THE
DIRECT TESTIMONY OF
HARRY S. GELLER
ON BEHALF OF
TENANT UNION REPRESENTATIVE NETWORK AND
ACTION ALLIANCE OF SENIOR CITIZENS OF GREATER PHILADELPHIA

June 15, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket No. R-2020-3017206
	:	
v.	:	
	:	
Philadelphia Gas Works	:	

APPENDIX A TO THE
DIRECT TESTIMONY OF
HARRY S. GELLER

ON BEHALF OF
TENANT UNION REPRESENTATIVE NETWORK AND
ACTION ALLIANCE OF SENIOR CITIZENS OF GREATER PHILADELPHIA

June 15, 2020

RESUME OF HARRY S. GELLER

EDUCATIONAL BACKGROUND:

Harpur College, State University of New York at Binghamton, B.A. 1966
Washington College of Law, American University, J.D. 1969
New York University Law School, courses in Urban Affairs and Poverty Law, as part of
Volunteers in Service to America (VISTA) Program 1969-1971

EMPLOYMENT:

1988 – 2015 Executive Director, Pennsylvania Utility Law Project (PULP), a project of the civil non-profit Pennsylvania Legal Aid Network. PULP is dedicated to providing technical support, information sharing, and representation to low-income individuals and organizations, assisting and advocating for the low income in utility and energy matters. Responsibilities include project oversight, case consultation, co-counseling, and participation on task forces, work groups and advisory panels, community education and training in utility and energy matters affecting the low-income.

1974-1987 Staff Attorney, Managing Attorney and ultimately, Executive Director of Legal Services, Incorporated (LSI), a civil legal services program serving Adams, Cumberland, Franklin and Fulton Counties. Through a restructuring with other legal services programs, LSI became part of what is now known as MidPenn Legal Services and Franklin County Legal Services.

1971-1972 Staff Attorney, New York City Legal Aid Society, Criminal Court and Supreme Court Branches, New York County.

1969-1971 Volunteer in Service to America (VISTA) assigned to the New York University Law School Project on Urban Affairs and Poverty Law.

BAR ADMISSIONS

New York State
Commonwealth of Pennsylvania
United States District Court, Middle District of Pennsylvania

PROFESSIONAL ACTIVITIES:

Past-Chairman, Low-Income Home Energy Assistance Program (LIHEAP) Advisory Committee to the Secretary, Pennsylvania Department of Human Services

Past-Member, Pennsylvania Public Utility Commission, Consumer Advisory Council

Past-Coordinator, Pennsylvania Legal Services Utility/Energy Work Groups

Past-member, Weatherization Policy Advisory Committee to the Department of Community and Economic Development

Past-Member, PECO Universal Service Advisory Committee and LIURP Subcommittee

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket No. R-2020-3017206
	:	
v.	:	
	:	
Philadelphia Gas Works	:	

APPENDIX B TO THE
DIRECT TESTIMONY OF
HARRY S. GELLER

ON BEHALF OF
TENANT UNION REPRESENTATIVE NETWORK AND
ACTION ALLIANCE OF SENIOR CITIZENS OF GREATER PHILADELPHIA

June 15, 2020

**THE NATIONAL ASSOCIATION OF
STATE UTILITY CONSUMER ADVOCATES
RESOLUTION 2015-1**

**OPPOSING GAS AND ELECTRIC UTILITY EFFORTS TO INCREASE
DELIVERY SERVICE CUSTOMER CHARGES**

Whereas, the National Association of State Utility Consumer Advocates (“NASUCA”) has a long-standing interest in issues and policies that ensure access to least-cost gas and electric utility services, which are basic necessities of life in modern society; and

Whereas, in recent years, gas and electric utilities have sought to substantially increase the percentage of revenues recovered through the portion of the bill known as the customer charge, which does not change in relation to a residential customer’s usage of utility service, through proposals to increase the customer charge or through the imposition of what have been called Straight Fixed Variable or SFV rates; and

Whereas, these gas and electric utilities have sought to justify such increases by arguing that all utility delivery costs are “fixed” and do not vary with the volume of energy supply delivered to customers, and that reductions in customer usage due to conservation and energy efficiency increase the risk of non-recovery of utility costs; and

Whereas, based on these arguments, these gas and electric utilities have proposed that a greater percentage of utility costs (distribution costs such as electric transformers and poles and natural gas mains, traditionally recovered through volumetric rates) should be collected from customers through flat, monthly customer charges; and

Whereas, gas and electric utilities’ own embedded cost of service studies,ⁱ in fact, show that a substantial portion of utility delivery service costs are usage-related, and therefore, subject to variation based on customer usage of utility service; and

Whereas, increasing the fixed, customer charge through the imposition of SFV rates or other high customer charge structures creates disproportionate impacts on low-volume consumers within a rate class, such that the lowest users of gas and electric service shoulder the highest percentage of rate increases, and the highest users of utility service experience lower-than-average rate increases, and even rate decreases,ⁱⁱ in some instances; and

Whereas, nationally recognized utility rate design principles call for the structuring of delivery service rates that are equitable, fair and cost-based; and

Whereas, SFV and other high customer charge rate design proposals, in which low-use customers would see greater than average increases, while high-use customers would experience lower-than-average increases and even decreases in their total distribution bill, are unjust and inconsistent with sound rate design principles; and

Whereas, data collected by the U.S. Energy Information Administration show that in a vast majority of regions called “reportable domains,”ⁱⁱⁱ low-income customers (with incomes at or below 150% of the federal poverty level) on average use less electricity than the statewide residential average and less than their higher-income counterparts;^{iv} and

Whereas, these data also show that in every reportable domain but one, elderly residential customers (65 years of age or older) use less electricity on average than the statewide residential average and less than their younger counterparts;^v and

Whereas, these data also show that in a vast majority of reportable domains, minority (African American, Asian and Hispanic) utility customers on average use less electricity than the statewide residential average and less than their Caucasian counterparts;^{vi} and

Whereas, data from the U.S. Department of Energy’s Residential Energy Consumption Survey for the Midwest Census region, show that natural gas consumption increases as income increases, and that higher incomes lead to occupation of larger sizes of housing units,^{vii} thereby increasing the likelihood of higher gas utility usage, and that natural gas usage increases as income increases in the vast majority of reportable domains throughout the U.S.;^{viii} and

Whereas, given these documented usage patterns, the imposition of high customer charge or SFV rates unjustly shifts costs and disproportionately harms low-income, elderly, and minority ratepayers, in addition to low-users of gas and electric utility service in general; and

Whereas, because the imposition of high customer charge or SFV rates results in a smaller percentage of a customer’s utility bill consisting of variable usage charges, customers’ incentive to engage in conservation as well as federal and state energy efficiency programs is significantly reduced; and

Whereas, NASUCA supports the adoption of cost-effective energy efficiency programs as a means to reduce customer utility bills, help mitigate the need for new utility infrastructure, and provide important environmental benefits; and

Whereas, given that the imposition of high customer charge or SFV rates means that a smaller percentage of a customer’s utility bill is derived from variable usage charges, the imposition of SFV-type rates reduces the ability of utility customers to manage and control the size of their utility bills;

Now, therefore, be it resolved, that NASUCA continues its long tradition of support for the universal provision of least-cost, essential residential gas and electric service for all customers;

Be it further resolved, that NASUCA *opposes* proposals by utility companies that seek to increase the percentage of revenues recovered through the flat, monthly customer charges on residential customer utility bills and the imposition of SFV rates;

Be it further resolved, that NASUCA urges state public service commissions to reject gas and electric utility rate design proposals that seek to substantially increase the percentage of revenues

recovered through the flat, monthly customer charges on residential customer utility bills – proposals that disproportionately and inequitably increase the rates of low usage customers, a group that often includes low-income, elderly and minority customers, throughout the United States;

Be it further resolved, that state public service commissions should promote and adopt gas and electric rate design policy that minimizes monthly customer charges of residential gas and electric utility customers in order to ensure that delivery service rates are equitable, cost-based, least-cost, and encourage customer adoption of conservation and federal and state energy efficiency programs.

Be it further resolved that NASUCA authorizes its Executive Committee to develop specific positions and to take appropriate actions consistent with the terms of this resolution.

Submitted by Consumer Protection Committee

Approved June 9, 2015
Philadelphia, Pennsylvania

No Vote: Wyoming
Abstention: Vermont

ⁱSee, e.g., Illinois Commerce Commission Docket No. 14-0244/0225, *Peoples Gas Light & Coke Co. – Proposed Increase in Delivery Service Rates*, PGL Ex. 14.2, p. 1, lines 8, 14, 38 and 42, col. D; Illinois Commerce Commission Docket No. 13-0384, *Commonwealth Edison Company*, AG Ex. 1.0 at 12-13, *citing* ComEd Ex. 3.01, Sch. 2A, p. 13, col. Tot. ICC, line 248.

ⁱⁱICC Docket No. 14-0224/0225, AG Ex. AG/ELPC Ex. 3.0 at 15, 25.

ⁱⁱⁱThe U.S. Energy Information Administration’s Residential Energy Consumption Survey provides detailed household energy usage and demographic data for 27 states or regions of the U.S. referred to as “reportable domains.”

^{iv}See Wis. Pub. Serv. Com’n Docket No. 3270-UR-120, *Application of Madison Gas and Electric Co. for Authority to Adjust Electric and Natural Gas Rates*, Public Comments of John Howat, National Consumer Law Center, October 3, 2014, *citing* 2009 U.S. EIA Residential Energy Consumption Survey data by “Reportable Domain” at 5-6.

^v*Id.* at 7-8.

^{vi}U.S. Energy Information Administration, 2009 Residential Energy Consumption Survey.

^{vii}See ICC Docket No. 14-0224/0225, *North Shore Gas, Peoples Gas Light & Coke Company – Proposed Increase in Gas Rates*, AG Ex. 4.0 at 11-12; AG Ex. 4.1, RDC-5, p.1-3.

^{viii}U.S. Energy Information Administration, 2009 Residential Energy Consumption Survey.

