

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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February 24, 2010

James J. McNulty  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

RE: Pennsylvania Public Utility Commission  
v.  
Philadelphia Gas Works  
Docket No. R-2009-2139884

Philadelphia Gas Works' Revised Petition  
for Approval of Energy Conservation and  
Demand Side Management Plan  
Docket No. P-2009-2097639

Dear Secretary McNulty:

Enclosed for filing is Prehearing Memorandum on behalf of the Office of Consumer Advocate, in the above-referenced proceeding.

Copies have been served as indicated on the Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Kennedy S. Johnson".

Kennedy S. Johnson  
Assistant Consumer Advocate  
PA Attorney I.D. # 203098

Enclosures

cc: Honorable Charles E. Rainey, Jr.

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:		
	:		
v.	:	Docket No.	R-2009-2139884
	:		
Philadelphia Gas Works	:		
	:		
Philadelphia Gas Works' Revised Petition	:		
For Approval of Energy Conservation and	:		P-2009-2097639
Demand Side Management	:		

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. Section 333, and in response to the Prehearing Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

**I. Introduction**

On December 18, 2009, Philadelphia Gas Works (PGW) filed Supplement No. 36 to its Tariff Gas- Pa. P.U.C. No. 2 at Docket No. R-2009-2139884. The Company requests that the Commission uphold its \$60 million revenue increase from the December 2008 Extraordinary Rate Order. Also, the Company proposes to increase rates to produce additional annual operating revenues of \$42.5 million. The Company's request would increase overall rates by 4.8%. According to the Company's filing, a typical residential heating customer with an annual usage of 92 Mcfs, will see an increase of \$8.54 per month, or a 6.5% increase. Also according to PGW's filing, the rate increase will gradually step-down over the next five years. In addition, PGW

proposes an expansion of its Demand Side Management Program (DSM). The proposed expanded plan is composed of seven separate programs. PGW plans to spend approximately \$54 million on this series of programs over five years. On December 18, 2009, PGW filed a Motion to Consolidate the DSM proceeding at docket number P-2009-2097639 with its base rate proceeding that was granted by the Commission on February 11, 2010.

PGW is a municipal public utility company, owned by the City of Philadelphia and managed and operated by the Philadelphia Facilities Management Corporation, a non-profit Pennsylvania corporation. The natural gas service being furnished or rendered by PGW became subject to the regulation and control of the Pennsylvania Public Utility Commission on July 1, 2000, pursuant to the Natural Gas Choice and Competition Act, 66 Pa. C.S. Section 2212 and pursuant to Section IV of the Company's existing Tariff. PGW furnishes natural gas service to approximately 494,500 residential, commercial and industrial customers in the City of Philadelphia, Pennsylvania.

## **II. History of the Proceeding**

On February 11, 2010, the Commission suspended the proposed effective date of Supplement 36 until September 16, 2010, and assigned the proceeding to the Office of Administrative Law Judge and, further, to Administrative Law Judge Charles E. Rainey, Jr. The Commission has scheduled an initial prehearing conference for March 2, 2010. The Office of Trial Staff filed a Notice of Appearance on January 7, 2010. The Office of Consumer Advocate filed a Formal Complaint on January 19, 2010 (Docketed at C-2010-2153064). The Office of Small Business Advocate filed a Formal Complaint on January 7, 2010. The Philadelphia Housing Authority filed a Formal Complaint on February 2, 2010. On January 15, 2010, Action Alliance of Senior Citizens of Greater Philadelphia, *et. al* (TURN) filed a Formal Complaint. On February 12, 2010, Philadelphia Industrial and Customers Gas Users Group (PICGUG) filed a Formal

Complaint. Thirty-two (32) consumers have filed Rate Protests with the Commission as of February 22, 2009. On February 12, 2010, ALJ Rainey issued a Prehearing Order. This prehearing memorandum is being submitted in accordance with that Order.

### **III. Issues/Sub-issues**

The OCA has compiled an initial list of issues that it anticipates will be included in its investigation of this rate request based upon a preliminary analysis of the PGW base rate increase filing.

Thus far, the OCA has issued seven sets of interrogatories to the Company. The OCA anticipates informal discovery meetings will take place. At those meetings, and after the OCA receives responses to all of its Interrogatories, the OCA will be able to narrow the scope of additional information requests. The OCA will file direct testimony that will set forth the specific issues to be addressed in this proceeding. At that time, the OCA will also be able to make and quantify its specific recommendations. The following list sets forth the issues that the OCA anticipates it may raise:

A. Revenues and Expenses: The OCA will examine the Company's claimed revenues and any adjustments to the level of revenues. The OCA will seek to ascertain whether or not the Company's claimed expenses are supported, reasonable, and appropriate. Among others, the following issues will be addressed:

- Claimed payroll expenses
- Claimed number of employees
- Proposed increases to legal expense
- Proposed rate case expense normalization
- Proposed treatment and recovery of OPEB

B. Claimed Cash Requirements: The OCA will examine the Company's claimed cash requirements to determine whether the Company's claims are reasonable and properly supported.

C. Existing Rates: The OCA will seek to determine whether PGW's existing rates, which include the \$60 million revenue increase that was granted in the emergency rate proceeding, remain just and reasonable.

D. Rate Structure/Rate Design: The OCA will examine the Company's cost of service study, its proposed allocation of any rate increase to the customer classes, and its proposed design of the rates. The OCA will also examine other tariff issues raised by the filing.

E. Universal Services: The OCA will examine the Company's proposed universal service program costs and cost recovery mechanisms.

F. CRP Customers: The OCA will review the Company's cost recovery for its CRP customers to ensure that the Company is not double-recovering its bad debt expense associated with CRP customers.

G. Demand Side Management (DSM): The OCA will examine whether the proposed DSM programs are reasonable, whether the related expenses are reasonable, and whether the resulting benefits of any programs implemented are captured and properly matched to costs.

H. Other Issues: The OCA will examine the reasonableness and appropriateness of the Company's proposed tariff changes and will investigate to ensure that the Company is complying with all prior orders.

At this time, the OCA is unable to further narrow the issues that it may pursue in this proceeding. It is anticipated that other issues may arise and may be pursued once the discovery

period is completed. The OCA specifically reserves the right to raise further issues and to respond to issues raised by other parties.

**IV. Witnesses**

The OCA intends to present the direct, rebuttal and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding. The witnesses will present testimony in written form and will also attach various exhibits, documents, and explanatory information that will assist in the presentation of the OCA’s case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony and answers to interrogatories be mailed and e-mailed directly to the expert witnesses, as well as e-mailing and mailing a copy to counsel for the OCA. The OCA has established a group email address for use in this proceeding; emails sent to [OCAPGW2010@paoca.org](mailto:OCAPGW2010@paoca.org) will reach all of the OCA’s witnesses as well as counsel.

The OCA’s witnesses are:

Revenue Requirements/General Policy:      Richard LeLash  
18 Seventy Acre Road  
Redding, CT 06896  
Telephone:      (203) 438-4659  
Fax:      (203) 431-9625  
E-mail:      [lplash@snet.net](mailto:lplash@snet.net)

Accounting:      Michael A. Bleiweis  
243 Banks Road  
Easton, CT 06612  
Telephone:      (203) 445-9669  
Fax:      (203) 445-0373  
E-mail:      [mikeblei@optonline.net](mailto:mikeblei@optonline.net)

Rate Structure/Rate Design:      Glenn Watkins  
Technical Associates, Inc.  
James Center III, Suite 601  
1051 East Carey Street  
Richmond, VA 23219  
Telephone:      (804) 644-4000  
Fax:      (804) 644-2977  
Email:      [watkinsg@tai-econ.com](mailto:watkinsg@tai-econ.com)

OPEB Issues: Tom Catlin  
Exeter Associates, Inc.  
Suite 310  
5565 Sterrett Place  
Columbia, MD 21044  
Telephone: (410) 992-7500  
Fax: (410) 992-3445  
E-mail: [TopCat@ExeterAssociates.com](mailto:TopCat@ExeterAssociates.com)

Universal Services: Roger D. Colton  
Fisher, Sheehan and Colton  
34 Warwick Road  
Belmont, MA 02478  
Telephone: (617) 484-0597  
Fax: (617) 484-0594  
E-mail: [roger@fsconline.com](mailto:roger@fsconline.com)

DSM:	David Nichols Synapse Energy Economics, Inc. 787 Willett Avenue Providence, RI 02915 Telephone: 401-433-1230 E-mail: <a href="mailto:davidnichols@verizon.net">davidnichols@verizon.net</a>	Kenji Takahashi Synapse Energy Economics, Inc. 22 Pearl Street Cambridge, MA 02139 617-661-3248 <a href="mailto:ktakahashi@synapse-energy.com">ktakahashi@synapse-energy.com</a>
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The OCA specifically reserves the right to call additional witnesses, as necessary.

As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, Your Honors and all parties of record will be notified.

**V. Service on OCA**

The OCA will be represented in this case by Assistant Consumer Advocates Darryl A. Lawrence, Jennedy S. Johnson, and Christy M. Appleby and Senior Assistant Consumer Advocate Tanya J. McCloskey. Two copies of all documents should be served on the OCA as follows:

Darryl A. Lawrence  
Assistant Consumer Advocate  
Office of Consumer Advocate  
5<sup>th</sup> Floor, Forum Place  
555 Walnut Street  
Harrisburg, PA 17101-1923

The OCA requests that the parties utilize the OCA group email address established for use in this proceeding; emails sent to [OCAPGW2010@paoca.org](mailto:OCAPGW2010@paoca.org) will reach all of the OCA's witnesses as well as counsel.

## **VI. Public Inputs**

The OCA requests that public input hearings be held in PGW's service territory in Philadelphia. The OCA has received a request from Senator Christine M. Tartaglione for public input hearings to be held in the Second District and is aware of 32 Rate Protests filed in this case. The OCA has also received numerous calls to its Call Center from consumers regarding this matter, many of whom requested a public input hearing in their area. In the 2006 base rate proceedings, large numbers of consumers testified at the three scheduled public input locations.

The OCA requests that at least four public input hearings be scheduled during the three dates included in the proposed procedural schedule. For ease of reference, the OCA provides below the locations of the public input hearing from the 2006 base rate proceeding:

Dorothy Emanuel Recreation Center – Gym  
8501 Provident Avenue  
Philadelphia, PA 19150

George Washington High School- Auditorium  
10175 Bustleton Avenue  
Philadelphia, PA 19116-3718

Community College of Philadelphia  
Center for Business and Industry  
Conference Room C2-28  
18<sup>th</sup> and Callowhill Streets  
Philadelphia, PA 19130

As noted, the OCA also received a request from Senator Tartaglione that a Public Input Hearing be held in the Senator's District (the Second District). The Senator's Staff suggested the following venues located within her District as potential locations:

Community Academy of Philadelphia  
1100 East Erie Avenue  
Philadelphia, PA

Friends Hospital  
4641 Roosevelt Blvd  
Philadelphia, PA

The OCA will work with the ALJ and the other parties to identify locations for all of the public input hearings.

## **VII. Procedural Rules**

In order to effectively investigate and adequately develop a record in this matter, the OCA requests a modification of the Commission's procedural rules on a going-forward basis, as set forth below:

1. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service.
2. Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served to the ALJ in writing within five (5) days of service of interrogatories;
3. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.

4. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
5. Ruling over such motions shall be issued, if possible, within seven calendar days of the filing of the motion.
6. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) calendar days.
7. Requests for admission will be deemed admitted unless answered within ten (10) calendar days or object to within five (5) calendar days of service.
8. The OCA proposes that any discovery served after 12 noon on a Friday will be deemed to have been served on the following Monday for purposes of tracking due dates.
9. The OCA proposes that the all due dates be “in-hand” and that electronic or fax service on the due date will satisfy the “in-hand” requirement, where such service is immediately followed by a hard copy sent by first-class mail.

**VIII. Schedule**

The OCA and other parties have worked to develop a mutually agreeable litigation schedule. The Schedule is attached as Appendix A.

Respectfully Submitted,



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Dated: February 24, 2010  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:		
	:		
v.	:	Docket No.	R-2009-2139884
	:		
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Demand Side Management	:		

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PROPOSED PROCEDURAL SCHEDULE  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Prehearing Conference	March 2, 2010
Public Input Hearings <sup>1</sup>	March 23, 24 and April 7, 2010
Due Date for the filing and in-hand service Of the Direct Testimony <sup>2</sup> of other Parties	April 2, 2010
Due Date for the filing and in-hand service Of Rebuttal Testimony	May 4, 2010
Due Date for the filing and in-hand service Of Surrebuttal Testimony	May 18, 2010 (by noon)
Evidentiary Hearings in Philadelphia	May 25-28, 2010
Close of Record	May 28, 2010
Due Date for the filing and in-hand service of Main Briefs	June 18, 2010
Due Date for the filing of Reply Briefs	June 28, 2010
End of Suspension Period (Extended)	September 17, 2010

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<sup>1</sup> The OCA would note that one of the scheduled public input hearing dates falls after the submission of the Direct Testimony. The OCA reserves the right to submit Supplemental Direct Testimony, as may be necessary, to address any issues that may arise from the Public Input Hearings.

<sup>2</sup> The OCA proposes that the schedule dates be "in-hand" and that electronic service or fax service on the due date will satisfy the "in-hand" requirement, where a hard copy is sent by first-class mail.

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :  
 :  
 v. : Docket Nos. R-2009-2139884  
 :  
 Philadelphia Gas Works :  
 :  
 Philadelphia Gas Works' Revised Petition :  
 For Approval of Energy Conservation and : P-2009-2097639  
 Demand Side Management :

I hereby certify that I have this day served a true copy of the foregoing document, the Prehearing Memorandum of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 24<sup>th</sup> day of February 2010.

SERVICE BY E-MAIL and INTEROFFICE MAIL

Richard A. Kanaskie, Esquire  
Office of Trial Staff  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

SERVICE BY E-MAIL and FIRST CLASS MAIL

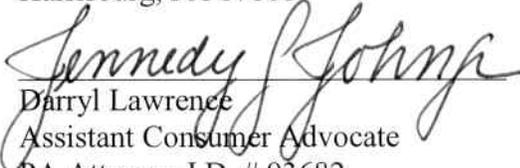
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Commercial Gas Users Group*  
Complaint No.: *C-2010-2160512*

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Thu Tran, Esquire  
Community Legal Services  
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Complaint No.: *C-2010-2155856*

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Hawke McKeon & Sniscak, LLP  
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Complaint No.: *C-2010-2151419*

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