

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Pennsylvania Public Utility Commission <i>et al.</i></b>	:	
	:	
<b>Complainants</b>	:	<b>Docket Nos. P-2009-2097639</b>
	:	<b>R-2009-2139884</b>
<b>v.</b>	:	
	:	<b>FILED ELECTRONICALLY</b>
<b>Philadelphia Gas Works</b>	:	
<b>Respondent</b>	:	

**PRE-HEARING MEMORANDUM OF INTERVENOR CLEAN AIR COUNCIL**

Intervenor, the Clean Air Council (“Intervenor” or “the Council”), through counsel, hereby submits this Pre-Hearing Memorandum in the above-captioned matter.

**I. Procedural History.**

On April 20, 2009, Philadelphia Gas Works (“PGW”) filed a Revised Petition for Approval of Energy Conservation and Demand-Side Management Plan (“Revised Petition”). PGW’s proposed voluntary Demand-Side Management Plan (hereinafter “DSM Plan”) outlines seven portfolio programs that PGW hopes to implement over the course of the next five years. The DSM Plan proceedings before the Commission were originally docketed at Docket No. P-2009-2097639 (the “DSM Plan Proceeding”).

The Council, a non-profit, member-supported organization with a mission to protect everyone’s right to breathe clean air, petitioned to intervene in the DSM Plan Proceeding on October 23, 2009, on behalf of the public interest of the residents of the City of Philadelphia, including PGW’s residential customers, as well as the residents of the Commonwealth. The Council generally supports the goals and concepts of the proposed DSM Plan, but intervened to highlight aspects of the DSM Plan that require greater specificity and to ensure that the implementation of the DSM Plan, as and if

approved, will actually achieve its projected goals and maximize its contemplated benefits to the public.

On or about December 18, 2009, PGW submitted its 2009 base rate filing (Supplement No. 36 to Tariff Gas – Pa. P.U.C. No. 2) to the Commission, at Docket No. R-2009-2139884 (the “Base Rate Proceeding”). Simultaneously, PGW filed a Motion to Consolidate the DSM Plan Proceeding with the Base Rate Proceeding (the “Motion to Consolidate”).

By Order entered February 11, 2010, the Commission granted the Motion to Consolidate and suspended PGW’s proposed rate increase, pending an investigation into the lawfulness, justness, and reasonableness of the proposed rates, rules, and regulations contained in Tariff Gas – Pa. P.U.C. No. 2 and the DSM Plan.

On February 12, 2010, the Commission issued a Hearing Notice scheduling a pre-hearing conference for March 2, 2010, before Administrative Law Judge Charles E. Rainey, Jr. Also on February 12, 2010, Judge Rainey issued a Prehearing Conference Order establishing an agenda for the pre-hearing conference and setting forth a reply brief deadline of June 11, 2010 for any proposed procedural schedule.

## **II. Anticipated Issues.**

The Council’s preliminary review of PGW’s filing indicates the need for Commission investigation into many issues, including but not limited to:

- PGW’s proposed DSM Plan programs, including the cost-effectiveness of these programs and the justness and reasonableness of PGW’s proposal for cost recovery and its proposed cost recovery methodology.

The Council reserves the right to address additional issues, as well as respond to issues raised by other parties in this proceeding.

### **III. Witnesses.**

The Council anticipates calling Joseph O. Minott, Executive Director, Clean Air Council, who will address the DSM Plan and the projected impact of the proposed DSM Plan's programs on efficient energy use, cleaner air and an expanded clean energy workforce. Mr. Minott's address is as follows:

Joseph O. Minott  
Executive Director  
Clean Air Council  
135 South 19th Street  
Suite 300  
Philadelphia, PA 19103  
Telephone: (215) 567-4004, ext. 116  
Fax: (215) 567-5791  
[joe\\_minott@cleanair.org](mailto:joe_minott@cleanair.org)

The Council intends to participate in this proceeding through the propounding of discovery, submission of testimony, cross-examination of other parties' witnesses, and the submission of briefs, exceptions and reply exceptions, if necessary. The Council reserves the right to amend its witness list with notice to the other parties and further reserves the right to submit additional witnesses after the submission of the direct testimony of the other parties.

### **IV. Admissions and Stipulations.**

The Council is not aware of any admissions or stipulations.

### **V. Discovery Rules and Procedural Schedule.**

The Council is cooperating with the other parties to arrive at a mutually agreeable schedule that permits adequate time for discovery and litigation. The Council does not believe, at the present time, that a second prehearing conference will be necessary.

## **VI. Public Input Hearings.**

The Council supports full public participation in these proceedings and therefore recommends that no fewer than three public input hearings be scheduled in various locations throughout Philadelphia that, in the aggregate, will be accessible to the largest possible cross-section of PGW's customer base, and that the time and place of such hearings be widely publicized at least two weeks in advance of the meetings to enable any interested members of the public to attend.

## **VII. Settlement.**

The Council anticipates participation in settlement discussions concerning this matter.

Respectfully submitted,

/s/ Adam H. Cutler  
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Dated: February 24, 2010

**CERTIFICATE OF SERVICE**

I hereby certify that on this day, I served a true and correct copy of the foregoing document upon the participants listed below by first class mail, electronic mail, and/or fax:

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/s/ Adam H. Cutler  
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DATE: February 24, 2010