

City of Philadelphia



(Bill No. 090325)

AN ORDINANCE

Approving the Fiscal Year 2010 Capital Budget providing for expenditures for the capital purposes of the Philadelphia Gas Works (including the supplying of funds in connection therewith) subject to certain constraints and conditions, and acknowledging receipt of the Forecast of Capital Budgets for Fiscal Years 2011 through 2015.

WHEREAS, Section IV.2.b. of the Agreement Between The City Of Philadelphia And The Philadelphia Facilities Management Corporation For The Management And Operation Of The Philadelphia Gas Works (“Management Agreement”) requires the Philadelphia Facilities Management Corporation (“PFMC”) to prepare annually for the Philadelphia Gas Works (“PGW”) a proposed capital budget for the ensuing year and a forecast for the six (6) years comprising the ensuing budget year and the five (5) years next following; and

WHEREAS, Section IV.2.b. of the Management Agreement also requires that the proposed capital budget and forecast be submitted to the Director of Finance and the Gas Commission for their review and for submission of said budget and forecast, together with their recommendations thereon, to City Council for its approval; and

WHEREAS, Section IV.2.c. of the Management Agreement requires that all PGW expenditures be made pursuant to approved budgets; and

WHEREAS, PGW filed with the Gas Commission on January 2, 2009 a proposed Fiscal Year (“FY”) 2010 Capital Budget of seventy four million four hundred seven thousand dollars (\$74,407,000) and a Five Year Forecast of Capital Budgets (FY 2011 - FY 2015); and

WHEREAS, the Gas Commission’s review of said Budget proposal in its FY 2010 Budgets/ Oversight Proceeding culminated in deliberations taken at a public meeting held on April 13, 2009 whereby the Gas Commission endorsed a proposed FY 2010 Capital Budget in an amount not to exceed seventy two million two hundred fifteen thousand dollars (\$72,215,000) with related constraints and conditions for said Budget; and

WHEREAS, on April 15, 2009 PGW filed with the Gas Commission a Compliance FY 2010 Capital Budget Proposal of seventy two million two hundred fifteen thousand dollars (\$72,215,000) together with its Forecast of Capital Budgets for FY 2011 through FY 2015.

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THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Approval and Acknowledgment.

Pursuant to the provisions of Section IV.2.b. and IV.2.c. of the Management Agreement, the Council:

- A. does hereby approve the Fiscal Year (“FY”) 2010 Capital Budget for the Philadelphia Gas Works (“PGW”) in an amount not exceeding seventy two million two hundred fifteen thousand dollars (\$72,215,000) as reflected in the Compliance FY 2010 Capital Budget Proposal which is attached as Exhibit #1 to this Ordinance, subject to the provisions of Sections 3 through 9 of this Ordinance; and
- B. does hereby acknowledge receipt of PGW’s Forecast of Capital Budgets for FY 2011 through FY 2015.

SECTION 2. Spending Authorization.

The amounts shown in the approved FY 2010 Capital Budget are hereby authorized for the purposes shown and shall be available for expenditure as of FY 2010 defined as September 1, 2009 through August 31, 2010 in an amount not exceeding seventy two million two hundred fifteen thousand dollars (\$72,215,000) as reflected in the Compliance FY 2010 Capital Budget Proposal which is attached as Exhibit #1 to this Ordinance, subject to the provisions of Sections 3 through 9 of this Ordinance.

SECTION 3. Constraints And Conditions - Conditional Spending Authorizations.

No spending authority will attach to the following line items until the Gas Commission approves in writing such spending authority as the Gas Commission may make available after appropriate review and good cause shown:

- A. the line item styled "Conditional Funding for Capital Needs Related to Safety (#13-01-2-01) (\$250,000)" to support safety-related (i.e., Priority 1) capital projects which cannot be addressed by proposing a line item in the FY 2011 Capital Budget;
- B. the line item styled "Conditional Funding for Capital Needs Related to Reliability of Service (#13-01-2-02) (\$250,000)" to support reliability-related (i.e., Priority 2) capital projects which cannot be addressed by proposing a line item in the FY 2011 Capital Budget;
- C. the line item styled "Conditional Funding for Cost-Justified Load Growth (#13-01-2-03) (\$250,000)" to support load growth-related (i.e., Priority 4) capital

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- projects which are justified by appropriate documentation and which cannot be addressed by proposing a line item in the FY 2011 Capital Budget;
- D. the line item styled "Conditional Funding - Title Agency Settlement Program Enhancements (#10-01-1-01) (\$500,000)" to support standardization and automation of the title agency settlement process in order to increase the accuracy of settlement quotes, increase efficiency in workload processes, and streamline communication between PGW and third parties;
 - E. the line item styled "Conditional Funding - CRP System Modifications (#10-01-1-02) (\$500,000)" to support such modifications to the Customer Responsibility Program as PGW may ultimately demonstrate necessary in order to comply with applicable regulatory mandates and/or maximize financial benefits;
 - F. the line item styled "Conditional Funding - Meter Investigation/Theft of Service Program Enhancements (#10-01-1-03) (\$600,000)" to support the design and implementation of an automated process to detect the theft of service for active accounts and for accounts whose meters register no usage;
 - G. the line item styled "Conditional Funding - Pending Payment Arrangement Enhancements (#10-01-1-04) (\$300,000)" to support enhancements to the Billing, Collections and Customer Service ("BCCS") system that would allow PGW to create pending payment agreements prior to restoration for customers who apply to have terminated gas service restored;
 - H. the line item styled "Conditional Funding - Renovation of West Philadelphia District Office (#72-01-2-05) (\$551,000)" to support structural and cosmetic upgrades to the PGW District Office located at 5230 Chestnut Street as part of a larger initiative to renovate all district offices during the period FY 2010 - FY 2015; and
 - I. the line item styled "Conditional Funding - BT Software Enhancements (#67-01-1-01) (\$1,000,000)" to support such initiatives as PGW might ultimately justify as part of the Business Transformation initiative as originally envisioned ("BT Delta") and/or as a new initiative to assist the BT effort ("Complementary Initiatives").

SECTION 4. Constraints And Conditions – General Line Item Limitation.

The approved FY 2010 Capital Budget shall be subject to the limitation that the permission to spend granted by an approved spending authorization shall end when any of the following occurs:

- A. a line item lapses;

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- B. the lifespan of a line item expires;
- C. line item transfers have depleted a spending authorization;
- D. the spending limit in an authorization has been depleted;
- E. the capital work, whose nature and scope justified a line item approval, is completed.

SECTION 5. Constraints And Conditions - Line Item Lapse.

Line items shall automatically lapse on August 31, 2010 if no work order has been opened for any such line item by the close of business that day.

SECTION 6. Constraints And Conditions - Line Item Lifespans.

- A. The following line items will expire and any associated spending authority shall end by the close of business on November 30, 2010:
 - (i). the line item styled "Conditional Funding for Capital Needs Related to Safety (#13-01-2-01) (\$250,000)";
 - (ii). the line item styled "Conditional Funding for Capital Needs Related to Reliability of Service (#13-01-2-02) (\$250,000)"; and
 - (iii). the line item styled "Conditional Funding for Cost-Justified Load Growth (#13-01-2-03) (\$250,000)".

The Gas Commission shall have the authority to extend the lifespan of said line items as necessary after appropriate review and good cause shown for such period(s) as shall end by no later than the close of business on August 31, 2011.

- B. All other line items will expire and any associated spending authority shall end by the close of business on August 31, 2011. The Gas Commission shall have the authority to extend the lifespan of such line items as necessary after appropriate review and good cause shown for such period(s) as shall end by no later than the close of business on August 31, 2012.

SECTION 7. Constraints And Conditions - Line Item Transfers.

- A. PGW shall have discretion on a trial basis to implement intradepartmental transfer transactions in the approved FY 2010 Capital Budget subject to Sections 6.B. and 6.C.

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- B. PGW discretion to implement intradepartmental transfers pursuant to Section 6.A. shall be subject to the following constraints, conditions and reporting requirements.
- (i). PGW discretion shall end at the close of business on October 31, 2010.
 - (ii). Each department included in the approved FY 2010 Capital Budget must retain its identity for purposes of line item transfers, notwithstanding whether it is or was part of a larger business unit in PGW's organizational structure.
 - (iii). Transfer of spending authority from one capital budget to another capital budget is forbidden.
 - (iv). PGW discretion shall apply to the line items referenced in Sections 3.A. through 3.I. only if PGW has filed with the Gas Commission a Transfer Advisory and a Request for Release of Conditional Funding.
 - 1. The Transfer Advisory shall communicate PGW's intent to exercise transfer discretion if the Gas Commission approves the Request for Release of Conditional Funding.
 - 2. The Request for Release of Conditional Funding shall be premised on and be limited solely to the purpose(s) stated and the transfer transaction(s) described in the Transfer Advisory.
 - 3. The release of conditional funding shall be null and void if PGW abandons or modifies the transactions identified in the Transfer Advisory or attempts to apply the released funding to other purposes.
 - (v). PGW shall report all transfers in the monthly Capital Budget Authorization/Spending Review reports and the Capital Spending Forecasts filed with the Gas Commission. PGW shall reflect the dollar impact of such transfers on all affected line items and disclose the justification for each transfer.
 - (vi). PGW discretion shall not apply to a new project not identified in line items or supporting documentation unless said project properly falls within the scope of the recipient line item in a transfer transaction.
- C. The Gas Commission shall have authority to review and approve for good cause shown interdepartmental transfer transactions and hybrid transfer transactions that

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combine intradepartmental and interdepartmental shifts of spending authority in the approved FY 2010 Capital Budget subject to Sections 6.D. and 6.E.

- D. Gas Commission approval authority shall be subject to the following constraints, conditions and exclusions.
- (i). Gas Commission approval authority shall end at the close of business on December 31, 2010.
 - (ii). PGW shall file with the Gas Commission any requests for approval of line item transfers together with the supporting PFMC Board Resolution(s) authorizing such request(s) by no later than the close of business on September 3, 2010 for line items expiring on November 30, 2010 and by no later than the close of business on November 1, 2010 for line items expiring on August 31, 2011.
 - (iii). Transfer of spending authority from one capital budget to another capital budget is forbidden.
 - (iv). PGW shall report all transfers in the monthly Capital Budget Authorization/Spending Review reports and the Capital Spending Forecasts filed with the Gas Commission. PGW shall reflect the dollar impact of such transfers on all affected line items.
- E. The Gas Commission is hereby requested to monitor line item transfer activity in the FY 2010 Capital Budget and make appropriate recommendations to City Council with respect to transfers of line item spending authority in the FY 2011 Capital Budget proposal.

SECTION 8. Constraints And Conditions – Gas Commission Principles.

- A. During the lifespan of the line items in the approved FY 2010 Capital Budget, PGW shall adhere to the “Philadelphia Gas Works Capital Budgets - Principles” promulgated by the Gas Commission. A copy of said Principles as revised by the Gas Commission on September 20, 2004 is attached as Exhibit #2 to this Ordinance and is incorporated herein.
- B. For purposes of Capital Budget Principle 2.4., if PGW is in danger of exceeding a spending authorization, PGW shall notify the Gas Commission of this possibility as soon as possible with justification for the potential overrun and a proposal for an appropriate remedial solution.

SECTION 9. Exhibits.

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Exhibits #1 and #2 referenced in this Ordinance and incorporated herein shall be kept on file by the Chief Clerk of City Council and shall be available to the public for inspection, reading or copying at reasonable times.

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Exhibit #1

[Insert separate .pdf document containing the Compliance FY 2010 Capital Budget Proposal].

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Exhibit #2

Philadelphia Gas Works Capital Budgets - Principles

Principle #1

- 1.1. These principles of capital budgeting shall apply to the Philadelphia Gas Works. Adherence to these principles is required unless strict compliance would cause detriment to PGW ratepayers. Any non-compliance with these principles must be approved by the Philadelphia Gas Commission or its designee.
- 1.2. The Philadelphia Gas Works capital budget is a line item financial budget. The term “line item” includes any and all components related to identifying a program within the capital budget as well as the derivation of total projected capital cost for such program. The term “capital budget category” shall be synonymous with the term “line item”.

Principle #2

- 2.1. A line item will have a definite lifespan indicated by spending years referenced in spending authorizations approved by the City Council.
- 2.2. The numerical code used to identify line items in approved capital budgets (e.g., “#52-20-1-01, Distribution Department, High Pressure Load Addition”) shall remain unchanged throughout the life of the capital budget to which the line item belongs and shall be traceable to its assigned work order(s).
- 2.3. Line items of a “miscellaneous” or “contingency” denomination or nature shall be work ordered only for an identified project. Further, the specific project shall be work ordered in a manner that traces such project to the “miscellaneous” or “contingency” line item in an approved capital budget.
- 2.4. The total capital budget spending authorization approved by City Council for a specific line item shall not be exceeded. Further, the total capital budget spending authorization approved by the City Council for all line items in the aggregate shall not be exceeded, without further authorization by City Council. If PGW is in danger of exceeding a spending authorization for a line item, a departmental capital budget or for a PGW-wide capital budget, PGW must notify the Gas Commission of this possibility as soon as possible with justification for the potential overrun prior to the spending authorization’s being exceeded.
- 2.5. PGW shall propose an amendment to the Capital Budget for which any overspending on a capital budget spending authorization is anticipated; provided,

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however, that the proposed amended Capital Budget shall be transmitted to the Gas Commission and the Finance Director for their recommendations thereon, and the Gas Commission shall transmit such proposed amended Capital Budget together with both recommendations thereon to City Council for final action.

Principle #3

- 3.1. Capital budget line items are to be developed so that the projected timing of the expenditures realistically matches the budget year.
- 3.2. Multi-year capital projects will be divided into phases. Each phase shall be submitted as a line item for the capital budget applicable to the fiscal year when funds will be required.
- 3.3. Where spending is expected to occur across multiple fiscal years and the indivisible nature of the capital project defining a line item necessitates the approval of the total program authorization proposed, spending approval will be granted on an individual fiscal year to fiscal year basis.

Principle #4

- 4.1. Where capital work related to an approved line item has not adequately progressed, such line item must be reviewed as to whether or not it is still necessary and shall be closed if it is determined that the line item is not necessary. If a closed line item is determined to be necessary at a later date, a line item shall be resubmitted as part of a future capital budget proposal.

Principle #5

- 5.1. If the nature or cost of capital work for an approved line item has changed significantly, the line item shall be resubmitted to the Gas Commission as part of a future capital budget proposal or as a modification to a proposed or approved capital budget.
- 5.2. A “significant change” to an approved line item shall include instances where the scope and requirements of a project have changed materially.
- 5.3. Principles 5.1. and 5.2. shall not apply where the total projected cost of a line item is lower than approved.

Principle #6

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Principle #7

- 7.1. Capital budget line items when proposed to the Gas Commission shall be accompanied by explanatory project detail whereby such line items are fully and meaningfully described and explained. Project Detail shall substantiate line items by incorporating applicable documentation, calculations, and any other related derivational parameters so as to leave the reader reasonably informed as to the justification for the project.
- 7.2. Questions as to whether items of information should logically be included in Project Detail shall be resolved in favor of inclusion. PGW is encouraged to work with the Gas Commission's staff and the Public Advocate to minimize redundancy or arguable irrelevance in Project Detail disclosure.

Principle #8

- 8.1. Priority 1 Projects (Safety)
 - 8.1.1. Such projects will reflect capital investment critical to ensuring public safety, the integrity of PGW's facilities, and/or the safety of PGW's employees.
 - 8.1.2. No cost/benefit analysis is required to satisfy any safety consideration associated with such projects. However, a cost/benefit justification is required for that part of a project which exceeds minimum requirements to achieve an acceptable level of risk.
- 8.2. Priority 2 Projects (Reliability)
 - 8.2.1. Such projects will reflect capital investment essential to maintaining the reliability of PGW's facilities in proper working condition as defined by accepted engineering practices. Included in this priority category is the replacement of facilities approaching the end of their useful life (and which need to be upgraded or replaced for reliability considerations).
 - 8.2.2. Such projects require cost/benefit or risk assessment of potential impact.
- 8.3. Priority 3 Projects (Enforced Relocations)
 - 8.3.1. Such projects reflect capital investment that is based upon forecasted city, state, or federal mandated projects as well as those of other agencies or utilities that have a direct impact on PGW facilities. Such projects include the replacement of facilities resulting from enforced relocations.

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- 8.3.2.** Such projects require documentation (obtained through a due diligence effort) of the reason(s) for relocation.
- 8.4.** Priority 4 Projects (Load Growth)
 - 8.4.1.** Such projects reflect capital investment required to provide new or additional facilities to customers.
 - 8.4.2.** Such projects require a payback-oriented cost/benefit analysis.
- 8.5.** Priority 5 Projects (Improved Efficiency and Discretionary)
 - 8.5.1.** Such projects reflect capital investment that offers opportunity to improve efficiency of operations and subsequent reduction in future operating costs.
 - 8.5.2.** Such projects require cost/benefit analysis and the identification of consequences from delaying such project.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on May 21, 2009. The Bill was Signed by the Mayor on June 3, 2009.



Patricia Rafferty
Chief Clerk of the City Council