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Title: Authorizing City Council to retain outside counsel to intervene in the proceedings before the Pennsylvania Public Utility Commission relating to the Philadelphia Gas Works Restructuring Plan filed on July 1, 2002 and Docketed as M-0002 1612 to make certain that the PUC fully understands that City Council supports preservation of the existing senior citizen discount, approved by Council ordinance on December 14, 1973.

Sponsors: Councilmember Mariano, Councilmember Cohen, Councilmember Blackwell, Councilmember Ortiz, Council President Verna, Councilmember Rizzo, Councilmember Tasco, Councilmember Goode, Councilmember Miller, Councilmember Kenney, Councilmember Krajewski, Councilmember DiCicco, Councilmember O'Neill, Councilmember Reynolds Brown, Councilmember Nutter, Councilmember Clarke

Indexes:

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Attachments: 1. Resolution No. 03012700.pdf

| Date | Ver. | Action By | Action | Result | Tally |
|-----------|------|--------------|------------|--------|-------|
| 2/27/2003 | 0 | CITY COUNCIL | ADOPTED | | |
| 2/27/2003 | 0 | CITY COUNCIL | READ | | |
| 2/27/2003 | 0 | CITY COUNCIL | Introduced | Pass | |

Authorizing City Council to retain outside counsel to intervene in the proceedings before the Pennsylvania Public Utility Commission relating to the Philadelphia Gas Works Restructuring Plan filed on July 1, 2002 and Docketed as M-0002 1612 to make certain that the PUC fully understands that City Council supports preservation of the existing senior citizen discount, approved by Council ordinance on December 14, 1973.

WHEREAS, On December 14, 1973 this Council by Ordinance authorized the Philadelphia Gas Commission to establish a Senior Citizen Discount of 20% of all charges for any Philadelphia Gas Works [PGW] applicant 65 years or older who is a PGW heating and/or non-heating customer. Throughout those years, the Senior Citizen Discount program has provided critical protection to Philadelphia's seniors, the vast majority of whom live on fixed incomes which are not sufficient to meet the spiraling costs of healthcare, prescription drugs, energy costs and other living expenses; and

WHEREAS, PGW estimates that its Senior Citizen Discount program provides benefits of approximately \$18.1 million per year to 83,000 seniors by reducing the cost of natural gas service that since 2000 has increased by approximately 40%; and

WHEREAS, Council supports preservation of this vitally important benefit to the City's seniors; and

WHEREAS, PGW, in its restructuring plan filed on July 1, 2002 with the Pennsylvania Public Utility Commission [PUC] has proposed closing the Senior Citizen Discount to new applicants, effective September 1, 2003. That is, anyone who turns age 65 after August 31, 2003, would not be eligible for the Senior Citizen Discount. Similarly, someone who might be age 65 or older before September 1, but who fails to apply in

person at a customer service center, would not be eligible for the Senior Citizen Discount; and

WHEREAS, PGW has claimed before the PUC that the closing of the Senior Citizen Discount to new applicants is required under the Gas Choice Act; and

WHEREAS, PGW's interpretation of the Gas Choice Act is not correct. The Gas Choice Act in fact recognizes the importance of PGW's Senior Citizen Discount and prohibits the PUC from taking away the discount from any PGW customer who was receiving the discount on the effective date of PGW's restructuring tariffs (which will be September 1, 2003). In addition, the statute authorizes, but does not require, the PUC to approve the Senior Citizen Discount for all senior citizens if the PUC finds the discounted rate to be 'just and reasonable;" and

WHEREAS, There are strong legal precedents both here in Pennsylvania and across the country recognizing as just and reasonable discounts provided to all senior citizens utility customers, regardless of income; and

WHEREAS, Even though the Administrative Law Judge presiding over PGW's restructuring plan, found that PGW's current Senior Citizen Discount meets the legal standard of a just and reasonable rate, she nevertheless upheld PGW's proposed phase out of the Senior Citizen Discount with these troubling words, which could be construed as suggesting City Council support for closing the discount program to new applicants as of September 1, 2003: I recommend that the Commission allow PGW to implement its SCD proposal, not because I agree with it, or because I think it comports with Commission policy. PGW has pointed out that it is unlike all the other gas utilities regulated by the Commission, and one of the key differences is its creation as a municipal utility through Philadelphia's City Charter, and its relationship to Philadelphia's City Council. Because of these differences, I think this decision should be left to the discretion of PGW's management; and

WHEREAS, This ruling by the Administrative Law Judge demonstrates that the citizens of Philadelphia and the City Council of Philadelphia are not adequately represented in the current proceedings before the Public Utility Commission. The Administrative Law Judge's ruling reveals a fundamental misunderstanding of the relationship between this Council and PGW's Management; and

WHEREAS, While one intervenor, Service Employees International Union Local 686, which represents the collective bargaining unit of PGW employees, has vigorously challenged PGW's proposed elimination of the Senior Citizen Discount for all of Philadelphia's senior citizens, the absence of City Council as an intervenor has undermined efforts to preserve the Senior Citizen Discount in its present form, since this Council, as the body which created the Senior Citizen Discount, has a unique and compelling interest in both maintaining the Senior Citizen Discount and in defeating any effort to reduce the benefit by the management of PGW; and

WHEREAS, Only by intervening in this proceeding can the City Council of Philadelphia vigorously defend these interests and thereby help assure the affordability of natural gas service provided to Philadelphia senior citizens by PGW; and

WHEREAS, This intervention is in no way a concession to the validity of the State takeover of PGW's governance. This Council has never conceded the validity of those portions of the Gas Choice Act which nullified provisions of the Philadelphia Home Rule Charter and placed PGW under the jurisdiction of the PUC. On June 24, 1999 this Council adopted Resolution 990547 authorizing litigation to challenge the legality of the Gas Choice Act, which litigation is currently pending before the Pennsylvania Supreme Court; now therefore

RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That Council is hereby authorized to hire outside counsel to intervene in the proceedings before the Pennsylvania Public Utility Commission [PUC] relating to the Philadelphia Gas Works [PGW] Restructuring Plan filed on July 1, 2002 and Docketed as M-00021612 so that the interests of the citizens of Philadelphia and of the City Council of Philadelphia may be effectively represented in these proceedings.

FURTHER RESOLVED, That the Council Committee on Law and Government, which under Council's Rules has jurisdiction over all matters concerning the Home Rule Charter, be authorized to direct and supervise the aforesaid legal action.