

Legislation Text

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Authorizing an amendment of the Philadelphia Facilities Management Corporation Agreement to extend the repayment period for temporary financing that the City may provide the Philadelphia Gas Works under certain terms and conditions, and authorizing the extension of the repayment date of a \$45 million temporary advance previously made by the City pursuant to such Agreement.

WHEREAS, The Philadelphia Gas Works ("PGW") is in the process of implementing a management reorganization and a financial recovery program in order to benefit ratepayers and residents of The City of Philadelphia; and

WHEREAS, PGW has submitted a plan of cost containment and rate increases to the Pennsylvania Public Utility Commission in furtherance of PGW's financial recovery; and

WHEREAS, On April 11, 2002, the Pennsylvania Public Utility Commission granted PGW extraordinary rate relief in the amount of \$36 million dollars, leaving a request for base rate relief of an additional \$24 million pending before the Pennsylvania Public Utility Commission; and

WHEREAS, PGW expects that the extraordinary rate relief, as the revenues are realized, will enable significant progress in restoring the utility to financial health, but remains in need of additional rate relief and fiscal assistance; and

WHEREAS, Pursuant to the Philadelphia Facilities Management Corporation Agreement and the terms of a Loan Agreement between PGW and The City of Philadelphia dated November 27, 2000, the City has advanced forty-five million dollars to PGW, which must be repaid in full within twenty-four months of the loan; and

WHEREAS, The present advance repayment schedule represents a difficult challenge to PGW in light of PGW's current cash flow and operational requirements; and

WHEREAS, The recent extraordinary rate litigation with the Pennsylvania Public Utility Commission pertaining to PGW's request for rate relief, highlighted the need for the advance repayment schedule to be extended for PGW to meet critical financial objectives in furtherance of its financial recovery; and

WHEREAS, Given the fiscal concerns of PGW, the City wishes to amend the Philadelphia Facilities Management Corporation Agreement to authorize extension of the repayment period for temporary financing that the City may provide PGW from twenty-four to up to seventy-two months; and

WHEREAS, The City wishes to extend the repayment period for the forty-five million dollar temporary advance to a date no later than August 29, 2006 to enable PGW to accumulate sufficient revenues to continue its operations as well as repay the advance;

NOW, THEREFORE

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. City Council hereby authorizes the amendment of that certain Agreement Between The City of Philadelphia and the Philadelphia Facilities Management Corporation for the Management and Operation of the Philadelphia Gas Works, originally dated December 29, 1972, authorized pursuant to an Ordinance of City Council, approved December 29, 1972 (Bill No. 455), and to resolutions of the Board of Directors of the Philadelphia Facilities Management Corporation adopted on December 13, 1972, as further amended as authorized by Ordinance on numerous other occasions, as follows:

To revise Paragraph 3 of Section IV (Accounting Methods) to read as follows, with new text double-underlined in bold:

3. *Temporary Financing*

Short-term loans not exceeding twenty million dollars in amount or twelve months in duration may be negotiated in anticipation of revenues, except that short-term loans exceeding twenty million dollars but not exceeding forty-five million dollars in amount may be negotiated in anticipation of revenues for Fiscal Year 1982 of the Philadelphia Gas Works and may be outstanding during the period July 1, 1981 through June 30, 1982. If such loans are required, plans therefor shall be submitted to the Gas Commission and the Director of Finance for approval of amount of loan. The amount of any such loan shall also be subject to the approval by resolution or by ordinance of City Council.

The Gas Works may also receive temporary advances from the City in anticipation of revenues which are anticipated to be received by the Gas Works provided that such advances do not exceed twenty million dollars in amount or twenty four months in duration; provided further, however, that during the period June 30, 1981 through June 30, 1983 and the period September 1, 2000 through August 31, 2002, such advances may exceed twenty million dollars in amount but shall not exceed forty-five million dollars in amount, **and may exceed twenty-four months but not exceed seventy-two months in duration**. The amount of each such advance shall be subject to the prior approval of the Director of Finance and the Gas Commission and to the approval by resolution or ordinance of City Council.

In addition to the foregoing authorized borrowings, loans not exceeding one hundred million dollars in aggregate principal amount at any time outstanding may be incurred for financing accounts receivable and the purchase of inventory for the Gas Works, as authorized by applicable law. If such loans are required, plans therefor shall be submitted to the Gas Commission and the Director of Finance for approval of the aggregate principal amount of such loans which may be outstanding at any single time. Such aggregate principal amounts shall also be subject to the approval by resolution or by ordinance of City Council.

SECTION 2. The City is hereby authorized to extend the principal repayment date of that certain temporary advance made to the Philadelphia Gas Works in the amount of forty-five million dollars, as memorialized in that certain Loan Agreement dated November 27, 2000, to a date no later than August 29, 2006, provided that during the extended term of such temporary advance, PGW shall continue to file with the City Council, the Gas Commission, and the Director of Finance no later than the fifth business day of each month:

- a. Monthly updates to its "Budget of Cash Receipts and Disbursements" reports for the preceding month and

- b. Monthly status reports regarding achievement of PGW management's stated goals for productivity/cost savings and collection of billed revenues.