

City of Philadelphia



(Bill No. 060378)

AN ORDINANCE

Approving the Fiscal Year 2007 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 2008 through 2012.

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 December 23, 2005 a proposed Fiscal Year ("FY") 2007 Capital Budget of seventy one million four hundred forty seven thousand dollars (\$71,447,000) and a Five Year Forecast of Capital Budgets (FY 2008 - FY 2012); and

WHEREAS, on March 22, 2006 PGW filed Amendments to the FY 2007 Capital Budget proposal in the amount of three million two hundred forty thousand dollars (\$3,240,000) thereby increasing said Budget proposal to seventy four million six hundred eighty seven thousand dollars (\$74,687,000); and

WHEREAS, the Gas Commission's review of said Budget proposal in its FY 2007 Budgets/Oversight Proceeding culminated in deliberations taken at a public meeting held on May 2, 2006 whereby the Gas Commission endorsed a proposed FY 2007 Capital Budget in an amount not to exceed seventy two million seven hundred

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eighty six thousand dollars (\$72,786,000) and related constraints and conditions for said Budget; and

WHEREAS, on May 4, 2006 PGW filed with the Gas Commission a Compliance FY 2007 Capital Budget Proposal of seventy two million seven hundred eighty six thousand dollars (\$72,786,000).

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") 2007 Capital Budget for the Philadelphia Gas Works ("PGW") in an amount not exceeding seventy two million seven hundred eighty six thousand dollars (\$72,786,000) as reflected in the Compliance FY 2007 Capital Budget Proposal which is attached as Exhibit #1 to this Ordinance, subject to the provisions of Sections 3 through 8 of this Ordinance; and
- B. does hereby acknowledge receipt of PGW's Forecast of Capital Budgets for FY 2008 through FY 2012.

SECTION 2. Spending Authorization.

The amounts shown in the approved FY 2007 Capital Budget are hereby authorized for the purposes shown and shall be available for expenditure upon the effective date of this Ordinance during FY 2007, defined as September 1, 2006 through August 31, 2007, in an amount not exceeding seventy two million seven hundred eighty six thousand dollars (\$72,786,000) as reflected in the Compliance FY 2007 Capital Budget Proposal which is attached as Exhibit #1 to this Ordinance, subject to the provisions of Sections 3 through 8 of this Ordinance.

SECTION 3. Constraints And Conditions - Conditional Spending Authorizations

- A. No spending authority will attach to the line item styled "Conditional Funding for Unforeseen Capital Needs Related to Safety (#13-01-2-01) (\$250,000)" until the Gas Commission approves in writing such spending authority as the Gas Commission may make available after appropriate review.

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- (i). The "unforeseen" situation must be something that PGW could not address by proposing a line item in the FY 2008 Capital Budget or by amending the FY 2007 Capital Budget.
 - (ii). PGW's response to the "unforeseen" situation must require spending authority for a safety-related (i.e., Priority 1) capital project only.
 - (iii). Said line item is not a reserve for reconciling cost overruns in other line items.
- B. No spending authority will attach to the line item styled "Conditional Funding for Unforeseen Capital Needs Related to Reliability of Service (#13-01-2-02) (\$250,000)" until the Gas Commission approves in writing such spending authority as the Gas Commission may make available after appropriate review.
 - (i). The "unforeseen" situation must be something that PGW could not address by proposing a line item in the FY 2008 Capital Budget or by amending the FY 2007 Capital Budget.
 - (ii). PGW's response to the "unforeseen" situation must require spending authority for a reliability-related (i.e., Priority 2) capital project only.
 - (iii). Said line item is not a reserve for reconciling cost overruns in other line items.
- C. No spending authority will attach to the line item styled "Conditional Funding for Cost-Justified Load Growth (#13-01-2-03) (\$500,000)" until the Gas Commission approves in writing such spending authority as the Gas Commission may make available after appropriate review.
 - (i). The "unforeseen" situation must be something that PGW could not address by proposing a line item in the FY 2008 Capital Budget or by amending the FY 2007 Capital Budget.
 - (ii). PGW's response to the "unforeseen" situation must require spending authority for a revenue-generating load growth (i.e., Priority 4) capital project only.
 - (iii). Said line item is not a reserve for reconciling cost overruns in other line items.

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- D. No spending authority will attach to the line item styled "Conditional Funding Related to the Cast Iron Main Replacement Program (#52-21-2-04) (\$792,000)" until the Gas Commission approves in writing such spending authority as the Gas Commission may make available after appropriate review of Cast Iron Main Replacement ("CIMR") Program activity and a determination of reasonable necessity in light of an annual cast iron elimination goal of eighteen (18) miles to be accomplished through main replacements and abandonments. Said line item is not a reserve for reconciling cost overruns in other line items.
- E. No spending authority will attach to the line item styled "Conditional Funding – BCCS Upgrade – SPL CisPlus Upgrade OR SPL Enterprise Integration Architecture Encapsulation (#29-01-2-01) (\$2,000,000)" until the Gas Commission approves in writing such spending authority as the Gas Commission may make available after appropriate review of a finalized project proposal for modernizing the Billing, Credit and Collection System ("BCCS") and a determination of reasonable necessity. Said line item is not a reserve for reconciling cost overruns in other line items.

SECTION 4. Constraints And Conditions - Line Item Lifespans.

- A. The following line items will expire and such spending authority as the Gas Commission may approve with respect to said line items shall end by the close of business on November 30, 2007:
 - (i). the line item styled "Conditional Funding for Unforeseen Capital Needs Related to Safety (#13-01-2-01) (\$250,000)";
 - (ii). the line item styled "Conditional Funding for Unforeseen 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) (\$500,000)".

The Gas Commission shall have the authority to extend the lifespan of said line items as necessary after appropriate review for such period(s) as shall end by no later than the close of business on August 31, 2008.

- B. All other line items will expire and any available spending authority with respect to such line items shall end by the close of business on August 31, 2008. The Gas Commission shall have the authority to extend the lifespan of

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such line items as necessary after appropriate review for such period(s) as shall end by no later than the close of business on August 31, 2009.

SECTION 5. Constraints And Conditions - Line Item Lapse.

Line items shall automatically lapse on August 31, 2007 if no work order has been opened for any such line item by the close of business that day with the exception of the following:

- A. the line item styled "Conditional Funding for Unforeseen Capital Needs Related to Safety (#13-01-2-01) (\$250,000)";
- B. the line item styled "Conditional Funding for Unforeseen Capital Needs Related to Reliability of Service (#13-01-2-02) (\$250,000)";
- C. the line item styled "Conditional Funding for Cost-Justified Load Growth (#13-01-2-03) (\$500,000)";
- D. the line item styled "Conditional Funding Related to the Cast Iron Main Replacement Program (#52-21-2-04) (\$792,000)"; and
- E. the line item styled "Conditional Funding – BCCS Upgrade – SPL CisPlus Upgrade OR SPL Enterprise Integration Architecture Encapsulation (#29-01-2-01) (\$2,000,000)".

SECTION 6. Constraints And Conditions - Line Item Transfers.

- A. PGW shall have the authority to implement intradepartmental transfers of line item spending authority in the approved FY 2007 Capital Budget at its discretion subject to the constraints and conditions in Sections 6.B. and the exclusions in Section 6.C.
- B. PGW authority to implement intradepartmental transfers pursuant to Section 6.A. shall be subject to the following constraints and conditions.
 - (i). PGW may not transfer from a line item in total more than twenty percent (20%) of the line item authorization approved by City Council.
 - (ii). PGW may not make more than one (1) transfer from a line item.

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- (iv). PGW shall report all transfers to the Gas Commission and City Council in writing at the time of such transfers and include the dollar amount, justification and cumulative impact of said transfers on the line items affected.
 - (v). PGW discretion to implement transfers ends on December 31, 2007.
 - (vi). PGW discretion will not apply in situations where the approved FY 2007 Capital Budget is to be amended by the proposed insertion of a new line item or by the proposed increase or decrease in the spending authorization applicable to an existing line item.
 - (vii). In no event will the total bottom-line amount of seventy two million seven hundred eighty six thousand dollars (\$72,786,000) for the FY 2007 Capital Budget herein approved be exceeded.
 - (viii). Transfer of spending authority from one capital budget to another capital budget is forbidden.
- C. PGW authority to implement intradepartmental transfers of line item spending authority pursuant to Section 6.A. shall not apply to the following line items:
- (i). the line item styled "Conditional Funding for Unforeseen Capital Needs Related to Safety (#13-01-2-01) (\$250,000)";
 - (ii). the line item styled "Conditional Funding for Unforeseen Capital Needs Related to Reliability of Service (#13-01-2-02) (\$250,000)";
 - (iii). the line item styled "Conditional Funding for Cost-Justified Load Growth (#13-01-2-03) (\$500,000)";
 - (iv). the line item styled "Conditional Funding Related to the Cast Iron Main Replacement Program (#52-21-2-04) (\$792,000)";
 - (v). the line item styled "Conditional Funding – BCCS Upgrade – SPL CisPlus Upgrade OR SPL Enterprise Integration Architecture Encapsulation (#29-01-2-01) (\$2,000,000)";
 - (vi). the line item styled "Main Additions for Civic Center Boulevard Project (#52-20-1-02) (\$2,424,000)";

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- (vii). the line item styled "Customer Regulators for Civic Center Boulevard Project (#52-23-1-02) (\$135,000)"; and
 - (viii). the line item styled "Services for Civic Center Boulevard Project (#52-24-1-03) (\$205,000)".
- D. The Gas Commission shall have the authority to review and approve for good cause shown line item transfers in the approved FY 2007 Capital Budget that would otherwise exceed PGW discretion under this Section 6 subject to the following constraints and conditions.
- (i). PGW shall file any requests for approval of line item transfers with the Gas Commission by no later than the close of business on September 7, 2007 for line items expiring on November 30, 2007 and by no later than the close of business on November 2, 2007 for line items expiring on August 31, 2008.
 - (ii). The authority of the Gas Commission to approve line item transfers ends by the close of business on December 31, 2007.
 - (iii). In no event will the total bottom-line amount of seventy two million seven hundred eighty six thousand dollars (\$72,786,000) for the FY 2007 Capital Budget herein approved be exceeded.
 - (iv). Transfer of spending authority from one capital budget to another capital budget is forbidden.
- E. The Gas Commission is hereby requested to review PGW's implementation of line item transfers with respect to the FY 2007 Capital Budget and make appropriate recommendations to City Council with respect to transfers of line item spending authority in the FY 2008 Capital Budget proposal.

SECTION 7 - Constraints And Conditions – Gas Commission Principles

- A. During the lifespan of the line items in the approved FY 2007 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

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of this possibility as soon as possible with justification for the potential overrun and a proposal for an appropriate remedial solution.

SECTION 8. Exhibits

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 Excel file containing the Compliance FY 2007 Capital Budget Proposal].

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Exhibit #2

Philadelphia Gas Works Capital Budgets - Principles

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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, however, that the proposed amended Capital Budget shall be transmitted to the Gas Commission and the Finance Director for their

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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)

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- 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.
 - 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 June 15, 2006. The Bill was Signed by the Mayor on September 14, 2006.

A handwritten signature in black ink, reading "Patricia Rafferty". The signature is written in a cursive style with a large, stylized "P" and "R".

Patricia Rafferty
Chief Clerk of the City Council