

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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January 28, 2016

Honorable Susan D. Colwell
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

Re: Joint Application of Pike County Light and
Power Company, Buyer Corning Natural
Gas Holding Corporation and Seller Orange
and Rockland Utilities, Inc. for a Certificate
of Public Convenience Approving the
Transfer by Sale of 100% of the Stock of
Pike County Light And Power Company
from Seller Orange and Rockland Utilities,
Inc. to Buyer Corning Natural Gas Holding
Corporation
Docket Nos. A-2015-2517036
A-2015-2517111

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's
Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brandon J. Pierce'.

Brandon J. Pierce
Assistant Consumer Advocate
PA Attorney I.D. #307665
E-Mail: BPierce@paoca.org

Attachment

cc: Rosemary Chiavetta, Secretary
Certificate of Service

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CERTIFICATE OF SERVICE

Joint Application of Pike County Light and :
Power Company, Buyer Corning Natural :
Gas Holding Corporation and Seller Orange and :
Rockland Utilities, Inc. for a Certificate of : Docket Nos. A-2015-2517036
Public Convenience Approving the Transfer by : A-2015-2517111
Sale of 100% of the Stock of Pike County Light :
And Power Company from Seller Orange and :
Rockland Utilities, Inc. to Buyer Corning :
Natural Gas Holding Corporation :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 28th day of January 2016.

SERVICE BY E-MAIL AND INTER-OFFICE MAIL

Johnnie E. Simms, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

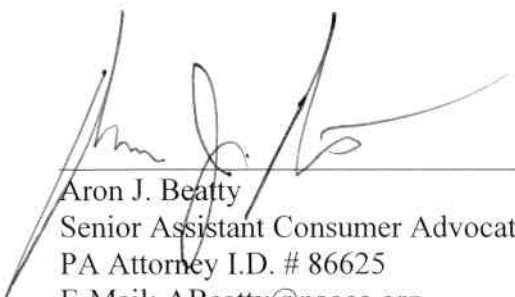
SERVICE BY E-MAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

Daniel G. Asmus, Esq.
Office of Small Business Advocate
Suite 202, Commerce Building
300 N. Second Street
Harrisburg, PA 17101

John J. Gallagher, Esq.
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Harrisburg, PA 17112

John L. Carley, Esq.
Consolidated Edison Company
of New York, Inc.
4 Irving Place, Room 1815-S
New York, NY 10003

Thomas J. Sniscak, Esquire
William E. Lehman, Esquire
Whitney E. Snyder, Esquire
Hawke McKeon & Sniscak, LLP
100 North Tenth Street
Harrisburg, PA 17101
*Counsel for Corning Natural
Gas Holding Corp.*



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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Application of Pike County Light and	:	
Power Company, Buyer Corning Natural	:	
Gas Holding Corporation and Seller Orange and	:	
Rockland Utilities, Inc. for a Certificate of	:	Docket Nos. A-2015-2517036
Public Convenience Approving the Transfer by	:	A-2015-2517111
Sale of 100% of the Stock of Pike County Light	:	
And Power Company from Seller Orange and	:	
Rockland Utilities, Inc. to Buyer Corning	:	
Natural Gas Holding Corporation	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On December 4, 2015, Pike County Light & Power Company (Pike or the Company) and Orange and Rockland Utilities, Inc. (Orange and Rockland or Seller) (collectively, the Joint Applicants) filed a Joint Application with the Pennsylvania Public Utility Commission (Commission) seeking to transfer control and ownership interests to Corning Natural Gas Holding Corporation (CNGHC). The Joint Applicants request all necessary authority, approvals and certificates of public convenience from the Pennsylvania Public Utility Commission (Commission), pursuant to Sections 1102(a)(3), 2102(b) and 1901(a) and (c) of the Public Utility Code, 66 Pa. C.S. §§ 1102(a)(3), 2102(b) and 1901(a) and (c), regarding: (1) the transfer of all of

Pike affiliate Orange and Rockland's ownership interests in Pike to CNGHC; (2) the affiliated interest agreement(s); and (3) the securities transactions involving Pike.

This matter was assigned to the Office of Administrative Law Judge and was further assigned to Administrative Law Judge (ALJ) Susan Colwell. On December 23, 2015, the OCA filed a Protest and Public Statement. The Office of Small Business Advocate filed a Notice of Appearance on the same date. On January 12, 2016, a Prehearing Conference Notice was issued, scheduling a Prehearing Conference for Monday, February 1, 2016. The OCA submits this Prehearing Memorandum in anticipation of the prehearing conference.

II. ISSUES

Based upon a preliminary analysis of the Joint Application, the OCA has compiled a list of issues that it anticipates addressing in this proceeding. The OCA may pursue other issues that may arise as discovery proceeds.¹ The OCA has initially identified the following issues that may require further review:

a. Affirmative Ratepayer Benefits: The Application provides limited information or assurances as to how this acquisition will provide substantial, affirmative benefits for all ratepayers, stating that CNGHC's acquisition will benefit from best practices, which will create savings and efficiencies and that it may in the future allow for expansion of natural gas service. Application at 14-15. The OCA submits that the request for approval should not be granted unless and until the Applicants can demonstrate that affirmative, substantial ratepayer benefits from this acquisition, such as through rate reductions, rate stability, and enhanced quality of service will be provided.

b. Acquisition Savings/Synergies: The Application provides that, through CNGHC's acquisition of Pike, ratepayers will benefit from best practices which will create

¹ The OCA has issued two sets of discovery to date.

savings and efficiencies. Application at 14, 16. The Applicants do not propose to pass savings to ratepayers. The OCA submits that the Commission should examine the proposed transaction to determine if, in fact, the proposed acquisition is in the best interest of the ratepayers considering that the acquisition as proposed may lack any synergies or savings that bring substantial, affirmative benefits to ratepayers.

c. Costs to Achieve: The OCA submits that the costs to achieve this acquisition should be solely borne by the Applicants.

d. Quality of Service: The Joint Applicants state that there will be no adverse effect on service. Application at 15. The Application also states that “CNGHC expects to implement improvements in service over time and to begin to integrate PCL&P’s business and operations with CNG and Leatherstocking Gas at the earliest practicable date.” Application at 15. However, the Application provides no specific proposal to ensure that quality of electric service will be maintained or improved because of this acquisition. Therefore, the OCA submits that the Commission must, at a minimum, ensure that Pike’s quality of service, including reliability, customer service, and billing service, are maintained and enhanced as a result of the acquisition. This is applicable to both Pike’s electric and gas operations.

e. Impact on Rates: The Application provides that the transaction will have no present impact on rates. Application at 16. The Joint Applications have not proposed any type of rate benefit. The OCA submits that both Pike’s electric and gas base rates are currently subject to “stay out” provisions pursuant to the Commission’s 2014 Order approving the Settlement of Pike’s last electric and gas base rate proceedings. As the Commission stated in its Order approving the electric Settlement, “This means that, under normal conditions, the new rates will not become effective until on or before June 1, 2017.” *See, Pa. PUC v. Pike*, Docket

No. R-2013-2397237 (Order entered September 11, 2014 at 16). As such, the Applicants' assurances that there will be "no immediate impact" provide no benefit to ratepayers. In addition, the OCA submits that the Commission must examine the impact the proposed acquisition will have on the eventual capital structure of the utilities involved.

f. Market Power and Effects on Competitive Markets: Under Section 2811, the Commission must examine the effect of this acquisition on the competitive retail electric market. The Joint Applicants state that due to Pike's small size, there would be no unlawful exercise of market power. Application at 12. The possible impact on the market should be further explored to ensure that the acquisition does not negatively impact the retail electric market.

g. Corporate Structure: The Joint Application states that there will be no change in corporate structure as a result of the transaction. Application at 8. The corporate structure should be explored and any issues should be resolved prior to approval of the transaction. The proposed corporate structure also must be reviewed to assure that there are no adverse tax effects.

h. Continuation of PUC Jurisdiction: The Joint Application states that there will be no change in the Commission's authority over Pike. Application at 6. Post corporate-restructuring, the Commission must ensure that it retains sufficient jurisdiction, as well as access to appropriate books and records of all subsidiaries, to ensure the continued provision of safe, adequate and reliable service in Pennsylvania, and to ensure against inappropriate cross subsidies at the expense of Pennsylvania consumers.

i. Technical, Legal, and Financial Fitness: CNGHC states that is "financially and legally fit and has now or will have after the Closing the required technical and

managerial fitness to operate PCL&P.” Application at 7. CNGHC is the parent company of Leatherstocking Gas Co., LLC, a certificated Pennsylvania public utility. However, at a minimum, the Application does not provide sufficient information to determine the extent of CNGHC’s fitness to operate an electric utility and to meet Pike’s default service obligation. The Application states that Pike and Orange and Rockland will, at the Closing of the transaction, enter into “certain Transitional Agreements,” an Electric Supply Agreement, a Gas Service & Transportation Agreement, and an Affiliated Interest Agreement. Application at 9-11. These agreements must be thoroughly reviewed to ensure that CNGHC is technically fit to operate electric and gas utility operations. Most notably, additional information is needed as to CNGHC’s technical fitness to operate an electric utility, including its ability to do so after the expiration of the Transition Agreements.

The OCA reserves the right to raise additional issues as the case proceeds and further information is obtained.

III. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of Mr. Matthew Kahal. Mr. Kahal will present testimony in written form and will also attach various exhibits, documents, and explanatory information to assist in the presentation of the OCA’s case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be mailed directly to the OCA’s witness at the address below and a copy mailed to counsel for the OCA.

Mr. Matthew Kahal
1108 Pheasant Xing
Charlottesville, Virginia 22901
Email: mkahal@exeterassociates.com

The OCA also requests that a copy of all documents be sent to:

Mr. Jerome Mierzwa
Exeter Associates, Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
E-mail: jmierzwa@exeterassociates.com

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, the OCA will notify ALJ Colwell and all parties of record.

IV. DISCOVERY

Pike and O&R request, in the Joint Application, an expedited review and decision of this matter. Therefore, because the time period for discovery and preparation of testimony is limited, the OCA supports a shortened discovery response time in this proceeding. The OCA, therefore, requests the following modifications to the discovery regulations:

- A. Answers to written interrogatories served prior to the due date for rebuttal testimony and in-hand within ten (10) calendar days of service of the interrogatories.
- B. Objections to interrogatories be communicated orally within three (3) days of service; unresolved objections be served to the ALJ in writing within five (5) days of service of interrogatories.
- C. Motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories be filed within three (3) days of service of such motions.
- E. Responses to requests for document production, entry for inspection, or other purposes be served in-hand within ten (10) calendar days.
- F. Requests for admission be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service.

G. Answers to on-the-record data requests be served in-hand within seven (7) calendar days of the request.

V. PROPOSED SCHEDULE

The OCA will work with the parties to develop a mutually acceptable schedule.

VI. SERVICE ON OCA

The OCA will be represented in this case by Senior Assistant Consumer Advocate Aron J. Beatty and Assistant Consumer Advocate Brandon J. Pierce. Two copies of all documents should be served on the OCA as follows:

Aron J. Beatty
Senior Assistant Consumer Advocate
Brandon J. Pierce
Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Telephone: (717) 783-5048
Fax: (717) 783-7152
E-mail: ABeatty@paoca.org
BPierce@paoca.org

As a courtesy, the OCA requests that all electronic correspondence be copied to the OCA's Legal Assistant, Ms. Valerie Hironimus (VHironimus@paoca.org).

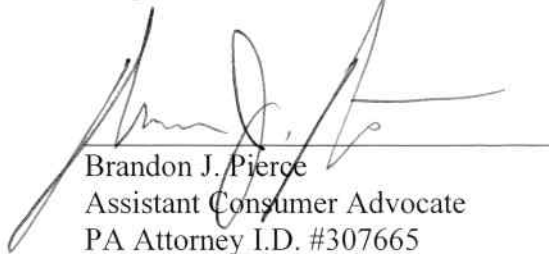
VII. SETTLEMENT

The OCA is willing to participate in settlement discussions.

VIII. PUBLIC INPUT HEARINGS

At present, the OCA has not received a request for a public input hearing. The OCA will make prompt notification and request a public input hearing should circumstances warrant.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Brandon J. Pierce', is written over a horizontal line. The signature is fluid and cursive.

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Dated: January 28, 2016

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