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March 30, 2018

BY ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Filing Room
Harrisburg, PA 17120

In re: Focused Management and Operations Audit of Pike County Light & Power Company and Leatherstocking Gas Company LLC; Docket Nos. D-2017-2584891 & D-2017-2584892; Tax Cuts and Jobs Act of 2017; **PIKE COUNTY LIGHT & POWER COMPANY'S PETITION FOR CLARIFICATION, OR IN THE ALTERNATIVE, RECONSIDERATION OF THE COMMISSION'S MARCH 15, 2018 OPINION AND ORDER**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is Pike County Light & Power Company's Petition for Clarification, or in the Alternative, Reconsideration of the Commission's March 15, 2018 Opinion and Order. A copy of this filing has been served in accordance with the attached Certificate of Service.

If you have any questions regarding this filing, please do not hesitate to contact me.

Very truly yours,

Thomas J. Sniscak
Whitney E. Snyder

WES/das
Enclosure

cc: Russel S. Miller

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Focused Management and Operations :	
Audit of Pike County Light & Power :	Docket Nos. D-2017-2584891
Company and Leatherstocking Gas :	D-2017-2584892
Company LLC :	

**PIKE COUNTY LIGHT & POWER COMPANY'S PETITION FOR CLARIFICATION,
OR IN THE ALTERNATIVE, RECONSIDERATION OF THE COMMISSION'S
MARCH 15, 2018 OPINION AND ORDER**

Pursuant to 52 Pa. Code § 5.572, Pike County Light & Power Company (Pike) respectfully requests that the Pennsylvania Public Utility Commission (Commission) clarify, or in the alternative, grant reconsideration of its March 15, 2018 Opinion and Order (Audit Order) related to the Commission's audit of Pike and Leatherstocking Gas Company, LLC. As detailed below, Pike requests that the Commission clarify that the Order was not meant to mandate (1) that Pike institute Electronic Data Interchange (EDI) capabilities prior to engaging in a cost-benefit analysis of whether EDI is prudent or whether other substitute options may be more appropriate and cost-efficient; or (2) that Pike must continue holding quarterly meetings pursuant to the Commission Order approving the acquisition of Pike (Acquisition Order)¹ beyond the required end-point stated in the Acquisition Order. In the alternative, if the Commission does not grant such clarifications, Pike requests reconsideration of EDI and “end-point” issues.

¹ See 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 No. A-2015-2517036 (Order entered August 11, 2016)

I. Background

A. Acquisition Order

1. Pike provides service to approximately 4,700 electric customers in Pike County, Pennsylvania. On August 11, 2016, the Commission entered the Acquisition Order, which approved a settlement between Pike, the Office of Consumer Advocate (OCA), and the Office of Small Business Advocate (OSBA), setting forth various ongoing meeting and reporting requirements among the parties. That Order was not appealed and became final. The Acquisition Order also required Pike to invite to the meetings and submit the required reports to the Commission's Bureau of Technical Utility Services (TUS).
2. In particular, the quarterly meetings and accompanying reports were to take place each quarter of the term of the Transitional Services Agreement (TSA) between Pike and Orange and Rockland Utilities (O&R) wherein Pike received certain services from O&R during the transition period until Pike was able to acquire its own employees or contractors to fulfill those services. Thus, the "end-point" of the condition of the Acquisition Order and its granted Certificate of Public Convenience was the end of the TSA which was March 31, 2018.
3. Pike extended the TSA through April 2018 and has the option to extend it through May 2018. Pike held its last quarterly meeting with the OCA, OSBA, and TUS in February 2018, and the parties acknowledged that it would be the last quarterly meeting pursuant to the settlement.
4. Pike has held every quarterly meeting and filed the reports that the Acquisition Order required as they became due at Docket No. A-2015-2517036.

5. In its last quarterly report, submitted on February 28, 2018, Pike explained that it has now hired the following full-time employees: a general manager, a customer service manager, a billing clerk, two customer service representatives, an administrative assistant/customer service manager, a general technician and a construction planner. Pike has, since that report, hired another general technician. Pike has also received permission to use and has retained the following contractors: pole inspection and repair, underground facility locating, storm assistance and recovery services, gas and electric meter reading, construction and installation of mains and surveys, and an electric contractor. Pike also engaged additional contractors for which it was not required to obtain Commission approval. Much of the above information post-dates the Audit.
6. Concerning the TSA, in its February 28, 2018 report Pike stated that the only services it continued to obtain from O&R were electrical construction and emergency response for electric outages and gas odor calls and SCADA support. As of now, Pike only receives SCADA support from O&R. This too post-dates the Audit.
7. Pike submitted the Alternative Supply Study, Cast Iron and Bare Steel Study, and Interest Rate Study that the Acquisition Order required.

B. Audit

8. The Commission's Bureau of Audits (Audits) conducted its audit "shortly after Pike's acquisition" and did not take into account the above information or some of the information contained in Pike's Implementation Plan that indicated some of the audit recommendations had already been completed. Collection of information from Pike considered in the Audit Report was from March 27, 2017 through July 12, 2017. Audit Report at 2.

9. Audits followed the Commission's Audit procedure process, asking Pike for additional information and allowing Pike to review, comment, and discuss the draft audit before it was issued. Audits also encouraged and allowed Pike to file an implementation plan before submitting the audit for Commission review, wherein Pike agreed to implement each recommendation or indicated that it had already implemented some recommendations. Pike appreciated Audits professionalism, thoughtful process, communication, discussion and focus on resolving issues which led to Pike's implementation plan.
10. On February 8, 2018, the Commission considered at public meeting the Pike Audit. Vice Chairman Place made a motion placing additional reporting requirements on Pike, including new requirements that in effect amended the Acquisition Order and conditions to the Certificate of Public Convenience, and added that Pike would need to give monthly updates on its implementation of EDI—a new subject not addressed in the Audit but rather is the subject of a different proceeding. The Commission adopted the motion at the meeting and issued the Audit Order on March 15. Several of the additional requirements appear to have been imposed by the motion based on information which pre-dates conditions at the time of the Audit's conclusion in mid-2017 and thus may not be necessary when post-audit information or Commission approvals are considered.

II. Request for Clarification and/or Reconsideration

A. Acquisition Order

11. In the Audit Order, in incorporating Vice Chairman Place's motion, the Commission has modified the Acquisition Order contrary to the express requirements of the Public Utility

Code.² Without hearing or opportunity to comment, it amends Acquisition conditions beyond their termination date including Pike to hold quarterly meetings and provide quarterly reports past the time that the Acquisition Order requires. Moreover, it does not reflect subsequent events bearing on and resolving these perceived issues which were not contained in the Audit as these permissions or events post-date the Audit period including various approvals or permissions from the Commission. For instance, as the Commission noted in its Audit Order, the Acquisition Order requires quarterly reports and quarterly meetings during the term of the TSA. Audit Order at 4. The TSA expired at the end of February 2018, although Pike has extended two provisions through April 2018, with the option to extend through May 2018. Pike held its last quarterly meeting and submitted its last quarterly report at the end of February 2018, and is and has been compliant with the Acquisition Order in all respects.

12. The Audit Order states: “Pike is to continue to provide quarterly updates pursuant to the Settlement Agreement that we approved by our August 2016 Order related to the sale of Pike to CNGHC to various parties including the Commission.” Audit Order at 4. The Audit Order does not give an end date for provision of quarterly updates, nor did it provide any opportunity for hearing or to be heard on the issue of amending the August 2016 order as required expressly by the Public Utility Code before such amendment can occur.

² See, e.g., *Popowsky v. Pennsylvania Pub. Util. Comm’n*, 805 A.2d 637, 641–43 (Pa. Cmwlth. 2002) (“Because the provisions of Section 703 clearly envisioned a full hearing, including the development of a record and a decision by the Commission based on that hearing with full findings, in other words, a new adjudication, the allowance by the Commission to submit comments without the opportunity to present evidence or cross-examine witnesses did not constitute a meaningful opportunity to be heard as provided in Chapter 7 of the Public Utility Code or due process. Therefore, the Commission did not meet the requirements of Section 703(g) and erred in rescinding or amending its prior order based on the Joint Petition alone.”). While the Commission has the power to conduct audits of utilities, the audit provisions of the statute do not allow the Commission to circumvent other provisions of the statute. See 66 Pa. C.S. § 516(d).

13. Rather than to appeal this legal issue, and wanting to cooperate rather than litigate, Pike by this Petition requests clarification or amendment that the Audit Order did not intend to require Pike to hold quarterly meetings or submit quarterly reports that the Acquisition Order requires past the expiration of the TSA. As it stands the Audit Order as incorporating the motion does not have an end-date for these meetings.
14. Pike notes that the Acquisition Order resulted in a collaborative and successful process between itself and the parties to that Order. Pike, as a general principle, is willing to collaborate further with these parties and the Commission. However, if the Commission through the Audit Order extended the requirement for Pike to submit quarterly reports and hold quarterly meetings that the Acquisition Order required, the Commission has essentially amended its Acquisition Order pursuant to 66 Pa. C.S. § 703(g) in contravention of the statute and due process because it did not hold a hearing prior to amending the Acquisition Order.³
15. If the Commission does not grant the above clarification, Pike requests reconsideration of this issue. Petitions for reconsideration should contain new and novel arguments or considerations which appear to have been overlooked or not addressed by the Commission in its prior Order. *Philip Duick v. Pennsylvania Gas & Water Company*, 56 Pa. PUC 553, 51 P.U.R.4th 284 (1982).
16. Here, without hearing or opportunity to comment or present argument, the Audit Order amends Acquisition Order conditions beyond their termination date including requiring Pike to hold quarterly meetings and provide quarterly reports past the time that the Acquisition Order requires. As explained above in Paragraph 14, the Commission has

³ *Id.*

modified the Acquisition Order contrary to the express requirements of the Public Utility Code.

B. EDI

17. In the Audit Order, the Commission stated with respect to EDI that “we shall direct Pike to file a written monthly status report with our Office of Competitive Market Oversight on their Electronic Data Interchange (EDI) capabilities and when they expect to have EDI fully available for electric generation suppliers.” Audit Order at 6. Pike will submit the requested updates.
18. Pike notes, however, that the audit did not contain any recommendation with respect to EDI and that Pike’s present EDI waiver occurred in a separate proceeding. Again, there appears to be legal issues with amending prior actions in separate dockets under an Audit docket that did not address EDI. Pike is currently exploring its options to implement either full EDI or various other options that Pike believes may be more prudent for its customers given the expenses associated with EDI. Pike, due its size and configuration of facilities, is unique so a summary determination that EDI is to occur should not happen and a determination made only after a cost-benefit analysis occurs. Pike is willing and asks for an opportunity to do that before a decision is made.
19. Implementing full EDI capabilities could have significant impacts on Pike’s 4,700 electric customers. Pike currently estimates that it will cost approximately \$400,000 to implement full EDI capabilities. For rough illustration, averaging that cost per Pike’s small customer base results in approximately \$7.09/month if costs were recovered in one year. On top of that, Pike also estimates ongoing annual costs associated with EDI of approximately \$40,000. These impacts may not be fully justified where Pike currently has a manual

process in place that provides for customer switching in approximately three days. Pike would also like to assess in its cost-benefit analysis if modifications to the manual process could result in a shorter period for switching. Pike has approximately 20 customers per month switching, and 2,600 shopping customers. Pike also notes its default rate has been less than the lowest offered electric generation supplier 16 months over the past 24 months from January 2016 through January 2018. That may be due to Pike's unique system configuration where both Pike and Suppliers would face essentially the same delivery charges to transport electricity over the O&R system to the Pike system.

20. However, it is unclear whether the Audit Order is a mandate that Pike must implement full EDI capabilities or whether it has the option to request a waiver to fulfill these capabilities by implementing other options. The Commission has previously taken issue with implementation of EDI when a utility chose to implement EDI without expressly being ordered to do so by the Commission on a date certain, and denied the request for an expense deferral for EDI costs.⁴ Pike wants to ensure that the Commission has fully considered the prudence of implementing full EDI capabilities at Pike before proceeding with incurring these costs which will ultimately be borne by customers. Accordingly, Pike requests the Commission clarify that at this time it is not requiring Pike to implement full EDI capabilities without further reviewing whether such implementation is the most prudent option for Pike's customers. Pike proposes to provide a cost-benefit study by September 1, 2018.

⁴ See *Petition of Citizens Elec. Co. of Lewisburg, Pa & Wellsboro Elec. Co. for Authorization to Defer, for Accounting Purposes, Expenses Attributable to Elec. Data Interchange Implementation*, P-2015-2505123, 2015 WL 9451055, at *6 (Dec. 17, 2015) ("Rather than consult with the Commission on the timing, Petitioners simply undertook the project and incurred the costs on their own schedule. While the Petitioners did provide justifications for incurring the costs, we do not find the stated reasons for doing so to be compelling evidence to warrant approval of an expense deferral.").

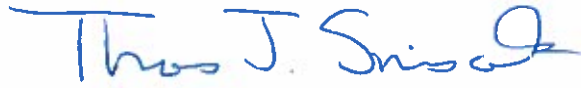
21. Also, Pike requests the Commission clarify that it approves Pike to incur costs for EDI capability implementation and that such costs will be fully recoverable in a future rate proceeding. Pike notes that other utilities have used various cost recovery mechanisms, but Pike is not seeking approval of any particular recovery mechanism at this time, just that it will be able to recover these costs through rates in a future proceeding.
22. If the Commission does not grant the requested clarification as to EDI capabilities and cost recovery, Pike requests reconsideration. If the requested clarifications are granted, Pike withdraws its request for reconsideration.
23. Petitions for reconsideration should contain new and novel arguments or considerations which appear to have been overlooked or not addressed by the Commission in its prior Order. *Philip Duick v. Pennsylvania Gas & Water Company*, 56 Pa. PUC 553, 51 P.U.R.4th 284 (1982).
24. Here, the audit report nor the audit implementation plan contained any information regarding Pike's EDI capabilities. It is unclear what information the Commission considered in making its decision regarding EDI, and Pike has not had the chance to present any arguments regarding EDI in this proceeding. The Commission thus went outside its audit procedures, which allowed Pike to work collaboratively with the auditors on recommendations and submit an implementation plan. Because Pike had no notice that EDI issues would be encompassed within the Audit Order, it has had no opportunity prior to this point in this proceeding to address EDI issues, in violation of its due process rights and statutory rights under the Public Utility Code.
25. Pike is small electric distribution company and the costs of implementing EDI, estimated at \$400,000, will thus have a potentially more significant impact on customers than these

costs may have on larger utilities. As discussed in Paragraph 16 *supra*, these significant costs may not be justified. Pike fully supports shopping in its territory, and wants to ensure customers have the full capability to choose a supplier. However, Pike believes it may be more prudent to implement other options to provide electric generation suppliers with the necessary information for customer switching short of implementing full EDI that will be less expensive for Pike's customers. In short, convenience to Suppliers of EDI needs to be assessed in terms of cost-benefit against cost to customers of EDI capital and annual costs.

26. Pike thus requests that the Commission allow Pike to conduct and present a cost-benefit analysis of implementing full EDI capabilities versus implementing other work-around options. Pike would continue to submit monthly status updates to the Commission on EDI and its findings regarding costs and benefits of various options.
27. Likewise, if the Commission does not provide the requested clarification as to recovery of costs in rates discussed *supra* Paragraph 18, Pike requests reconsideration. Pike has had no opportunity to present evidence and argument as to EDI cost recovery in this proceeding. As these costs, if incurred, will be incurred for the benefit of customers, Pike requests the Commission expressly provide that these costs, if deemed prudent and appropriately documented, will be fully recoverable in a future rate proceeding.
28. If Pike receives the clarifications and relief requested herein it will obviate any appeals of the portions of the Audit Order at issue and will conserve the time and resources of all, as well as to move these issues forward to a conclusion.

WHEREFORE, Pike respectfully requests the Commission grant clarification and/or reconsideration of the issues discussed herein.

Respectfully submitted,



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Counsel for Pike County Light & Power Company

Dated: March 30, 2018

VERIFICATION

I, Russel Miller, certify that I am Vice President-Energy Supply & Business Development for Pike County Light and Power, and that in this capacity I am authorized to, and do make this Verification on their behalf, that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information and belief, and Pike County Light and Power, expects to be able to prove the same at any hearing that may be held in this matter. I understand that false statements made therein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities.



Russel Miller
Vice-President Energy Supply & Business
Development, Pike County Light and
Power Company

DATED: 03/30/2018

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

BY FIRST CLASS MAIL

Bureau of Audits
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
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Bureau of Technical Utility Services
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*Attorneys for
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DATED: March 30, 2018