

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility
Commission

v.

Philadelphia Gas Works

Docket Number

R-00017034F0002

**DOCUMENT
FOLDER**

PREHEARING ORDER

DOCKETED

MAR 15 2002

On February 25, 2002, Philadelphia Gas Works ("PGW" or "Respondent") filed Supplement No. 17 to Tariff Gas – Pa. P.U.C. No. 1 to become effective April 26, 2002. Concurrently,¹ PGW filed a Petition for Extraordinary Rate Relief, pursuant to Section 1308(e) and 2212 of the Public Utility Code, 66 Pa. C. S. §§ 1308 (e) and 2212. In the Petition, PGW requested that \$44 million of its \$60 million base rate request be approved as extraordinary rate relief. PGW asked the Commission to address the Petition pursuant to a 45 day schedule instead of the 30 day schedule set forth in the statute and rule on the petition at the April 11, 2002 Commission meeting. The rate increase would be effective on April 12, 2002. Furthermore, PGW requested that the Petition be considered under a standard which comports with PGW status as a municipally owned and operated utility.

PGW averred that Standard & Poor's (S&P), a key credit rating agency, will downgrade its bond rating if PGW does not receive the \$44 million rate increase (Petition ¶¶ 18, 19). S&P issued a notice on February 12, 2002 warning that PGW's ratings would be lowered without immediate cash flow improvement (Petition ¶4). PGW

¹ PGW filed a corrected petition on February 27, 2002.

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believes that S&P will reevaluate PGW's position in the next six weeks and downgrade PGW's credit rating from investment grade to junk bond status without the extraordinary rate relief (Petition ¶5, 9). In addition, PGW contends that without the relief, the following will occur: the main replacement program will end; the safety of its gas distribution system will be compromised; and there will be immediate and dramatic reductions in customer service and its current work force.

The matter was assigned to the Office of Administrative Law Judge for resolution by hearings. The record will be certified to the Commission for resolution.

The matter was assigned to Administrative Law Judge Cynthia Williams Fordham. Johnnie E. Simms, Esquire, and Charles F. Hoffman, Esquire, entered a notice of appearance on behalf of the Commission's Office of Trial Staff ("OTS").

The Consumers Education and Protective Association, the Association of Community Organizations for Reform Now, Action Alliance of Senior Citizens of Greater Philadelphia and Tenants' Action Group (collectively "CEPA et al"), through its attorney, filed a complaint against the base rate case. In paragraph 13 and 14 of the complaint, CEPA et al objected to PGW's request for extraordinary rate relief.

On March 6, 2002, OSBA, through its counsel, filed an answer to the Petition. OSBA requests that the Petition be denied.

On March 6, 2002, the Philadelphia Industrial and Commercial Gas Users Group (PICGUG), through its counsel, filed a Petition to Intervene in the Petition proceeding docketed at R-00017034F0002 and a Petition to Intervene in the Base Rate proceeding docketed at R-00017034.

A prehearing conference in this matter was held on Thursday, March 7, 2002 at 10:00 a.m. The presiding officer and Philip A. Bertocci, Esquire, representing (CEPA et al), and Greg Stundler, Esquire, representing PGW, were in the Philadelphia State Office Building. The following parties were in Harrisburg: Daniel Clearfield, Esquire, and Mark S. Stewart, Esquire, represented the Philadelphia Gas Works (PGW); Tanya J. McCloskey, Esquire, and Stephen J. Keene, Esquire, represented the Office of Consumer Advocate (OCA); Johnnie E. Simms, Esquire, represented the Office of Trial Staff (OTS); Steven C. Gray, Esquire, represented the Office of Small Business Advocate (OSBA); and Charis M. Burak, Esquire, represented the Philadelphia Industrial & Commercial Gas Users Group (PICGUG).

Petitions to Intervene

During the prehearing conference, none of the parties objected to PICGUG's Petition to Intervene in the proceeding docketed at R-00017034F0002. Consequently, the petition was granted (Tr. 8).

Since no party objected to PICGUG's Petition to Intervene in the Base rate proceeding docketed at R-00017034, the petition was granted (Tr. 20, 21).

Prehearing Conference

During the prehearing conference, pursuant to the Commission's regulation concerning prehearing conferences in rate proceedings at 52 Pa. Code §5.224, we discussed the following: a proposed plan and schedule of discovery; the possibility of settlement; the issues; the amount of hearing time needed; witnesses; the schedule for submission of testimony, hearings and memoranda; and other appropriate matters.

Prehearing memoranda were submitted by OCA and OSBA.

Discovery

Interrogatories have been propounded on PGW. PGW agreed to provide the responses within 7 days of service. Informal discovery conferences will be held on March 13 and 14, 2002.

Schedule

The parties agreed on the following schedule for hearings and memoranda:

PGW files petition	February 25, 2002
Discovery PGW to respond in seven (7) days	February 26, 2002
Informal Discovery	March 13, 2002
Informal Discovery continues	March 14, 2002
Responsive Testimony due	March 21, 2002
Hearings in Philadelphia: cross examination of PGW witnesses; PGW rebuttal (if necessary); cross examination of parties' witnesses	March 26, 27, 2002
Memos submitted to the Commission by noon	April 3, 2002
Commission ruling at public meeting	April 11, 2002 (Tr. 9).

Witnesses

PGW filed the testimony of the following witnesses when it filed its
Petition:

Statement E.R.P. No. 1 - Thomas E. Knudsen
Statement E.R.P. No. 2 - Joseph R. Bogdonavage
Statement E.R.P. No. 3 - Gary Krellenstein
Statement E.R.P. No. 4 - Barbara C. Bisgaier
Statement E.R.P. No. 5 - Janice Davis

In its prehearing memorandum, OCA listed Richard LeLash as its witness (Tr. 11).

In its prehearing memorandum, OSBA listed Robert D. Knecht and Brian Kalcic as its witnesses. Mr. Gray indicated that he was considering adding a third witness (Tr. 11).

OTS will present the testimony of Paul Metro, Kevan Deardorff and Charles Weakley (Tr. 12).

PICGUG was not sure that it would present direct testimony (Tr. 12).

CEPA et al will not present direct testimony (Tr. 13).

Mr. Clearfield stated that PGW is considering filing the supplemental testimony of Craig White to address the issue of how the rate relief would be allocated among the classes (Tr. 13, 18, 19).

Any documents filed with the Secretary in this proceeding should be served on me at the Philadelphia office and the parties. 52 Pa. Code §154(a) and (d).

Hearing

Each party should make sure that the presiding officer and each party has a copy and the court reporter has two copies of each statement and exhibit that will be offered into evidence. 52 Pa. Code §5.409. **After the statements and exhibits have been entered into evidence**, the sponsoring party will submit a copy of the admitted statements and exhibits to each Commissioners' office, the Office of Special Assistants and the Law Bureau electronically and in paper format. Please send the OSA documents to Kirk House, Esquire, and the Law Bureau documents to Karen Moury, Esquire. *The addresses and e-mail addresses are on the service list.*

There will be a one-day turn around on the transcript (Tr. 19, 20).

Memoranda

The form of the memoranda shall comply with the Commission's regulation at 52 Pa. Code section 1.32. The memoranda shall also comply with the 52 Pa. Code section 5.501 (a)-(d).

The parties shall address each of the four prongs in section 1308(e), the legal standard for granting extraordinary rate relief, as a separate issue. The parties will submit the memoranda to each Commissioners' office, the Office of Special Assistants and the Law Bureau electronically and in paper format.

ORDER

THEREFORE,
IT IS ORDERED:

1. That the Petition to Intervene filed by the Philadelphia Industrial and Commercial Gas Users Group (PICGUG) in the proceeding docketed at R-00017034F0002 is granted.
2. That the Petition to Intervene filed by the Philadelphia Industrial and Commercial Gas Users Group (PICGUG) in the Base rate proceeding docketed at R-00017034 is granted.
3. That the parties shall comply with the procedural rules and regulations discussed herein.

Date:

March 8, 2002

Cynthia Williams Fordham
CYNTHIA WILLIAMS FORDHAM
Administrative Law Judge

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