

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility
Commission

v.

Philadelphia Gas Works

DOCKETED
MAR 08 2001
DOCUMENT
FOLDER

Docket Number

R-00006042

R-00006042C0001 et al

PREHEARING ORDER #2

On January 5, 2001, Philadelphia Gas Works ("PGW" or "Respondent") filed Supplement No. 7 to Tariff Gas – Pa. P.U.C. No. 1 to become effective March 6, 2001. In said tariff, PGW proposed changes in rules, regulations and rates calculated to produce \$65,000,000 in additional annual revenues.

In addition, PGW filed a petition for waiver of potentially applicable notification and filing requirements and establishment of expedited hearing schedule for base rate proceeding. Pursuant to 52 Pa. Code §§5.41 and 5.43, 66 Pa. C.S. §§2212(c), (d) and (e), Chapter 13 and Section 2212(c) of the Public Utility Code ("Code"), PGW requested that the Commission:

- (1) acknowledge that certain notification provisions in the Commission's regulations are not presently applicable to the extent that they are deemed to apply to PGW to waive them;
- (2) acknowledge that certain filing requirements in the Commission's regulations applicable to the filing of a base rate are not presently applicable to PGW, or to the extent deemed applicable, to waive them; and

- (c) to establish an expedited hearing schedule culminating in a Commission decision no later than on or around June 1, 2001 for the base rate case.

Comments to PGW's Petition were filed by the Office of Consumer Advocate ("OCA"), Office of Trial Staff ("OTS"), Philadelphia Industrial and Commercial Users Group ("PICGUG") and 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").

By Order entered February 8, 2001, the Pennsylvania Public Utility Commission ("Commission") instituted an investigation into the lawfulness, justness and reasonableness of the proposed rate increase. Pursuant to section 1308(d) of the Public Utility Code, 66 Pa. C.S. §1308(d), Supplement No. 7 to Tariff Gas – Pa. P.U.C. No. 1 was suspended by operation of law until October 6, 2001 unless otherwise directed by Order of the Commission. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness and reasonableness of PGW's existing rates. The matter was assigned to the Office of Administrative Law Judge for resolution by hearings and for issuance of a Recommended Decision. The petition for waiver of potentially applicable notification and filing requirements and establishment of expedited hearing schedule for base rate proceedings was granted in part and denied in part. PGW's request for waiver of 52 Pa. Code §53.45(a) which requires that a utility file with the Commission written notice 30 days prior to the filing was granted. PGW's request to provide notice to customers under the alternative method set forth in 52 Pa. Code §53.45(b)(4) was granted. PGW's request for waiver from providing the information required at 52 Pa. Code §§53.52 and 53.53 was denied.

In accordance with the Commission's order, 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"). To date, 123 complaints have been filed.

Pursuant to 52 Pa. Code §5.61(d), no answer is required to complaints docketed with Commission-instituted rate proceedings unless directed by the Commission or the presiding officer.

A prehearing conference in this matter was held on Friday, February 23, 2001 at 10:00 a.m. The following parties appeared in Philadelphia: Daniel Clearfield, Esquire, and Walter W. Cohen, Esquire represented PGW; Stephen J. Keene, Esquire, and Christy M. Appleby, Esquire, represented OCA; Philip A. Bertocci, Esquire, represented CEPA et al; Vince Mullins; Lil Henderson; Jessica M. Woods and Harriette Taylor. The following were in Harrisburg: Chief Administrative Law Judge Robert A Christianson; Mark S. Stewart, Esquire (PGW), Johnnie E. Simms, Esquire, represented OTS; James A. Mullins, Esquire (OCA); Stephen C. Gray, Esquire, represented OSBA; and Charis M. Burak, Esquire, represented PICGUG.

The Commission's regulation concerning prehearing conferences in rate proceedings is located at 52 Pa. Code §5.224. We discussed the following: outstanding discovery; the possibility of settlement; issues; the amount of hearing time needed; witnesses; the schedule for submission of testimony, hearings and briefs; public input hearings; the Commission's February 8, 2001 order; the notice sent to customers; and the settlement of the appellate litigation.

Prehearing memoranda were submitted by PGW, OTS, OCA, OSBA, PICGUG and CEPA et al.

DISCUSSION

During the prehearing conference Mr. Clearfield stated that PGW and the Commission's Law Bureau filed a Joint Settlement Petition on February 8, 2001. This settlement relates to the Interim Rate case that PGW filed with the Commission on August 8, 2000 at Docket No. R-00005654. The Commission granted PGW's request for an expedited hearing and review schedule. After hearings were held, the Commission entered its Order on November 22, 2000, allowing PGW an \$11 million interim rate increase subject to several conditions. Since PGW questioned the Commission's Order, it did not increase the rates based on the November 22, 2000 Order. PGW filed a petition for review in Commonwealth Court challenging the Order. At its February 21, 2001 Public Meeting, the Commission approved the Joint Settlement Petition filed by PGW and the Commission's Law Bureau.

The following schedule was established during the prehearing conference:

Prehearing Conference	Friday, February 23, 2001
Opposing parties file Direct Written Testimony	Tuesday, April 10, 2001
Written Rebuttal Testimony	Tuesday, May 8, 2001-noon
Written Surrebuttal Testimony	May 16, 2001-noon
Hearings for cross-examination of all witnesses	Tuesday, May 22- Friday May 25, until noon, Wednesday, May 30, Thursday, May 31, 2001
Close of Record	May 31, 2001
Main Briefs Due	Thursday, June 21, 2001
Reply Briefs Due	Friday, June 29, 2001
End of Suspension Period	October 6, 2001

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

Active and inactive status was discussed at the prehearing conference. Active parties are expected to participate in the prehearing conference, engage in *discovery, attend hearings, present witnesses and cross-examine witnesses*. The active parties are PGW, OTS, OCA, OSBA, CEPA et al and PICGUG. Inactive parties can participate and testify in public input hearings, will receive all of my written orders, notices of hearings and copies of any decisions and Commission orders. The inactive parties will not participate in discovery or testify and cross-examine witnesses at the formal hearings. Therefore, inactive parties will not receive copies of the hearing exhibits or the briefs of the active parties. Active parties will receive all documents and must copy all other active parties (and any inactive party that requests it) on documents sent to the Commission or the presiding officer.

The parties stated that they would attempt to resolve discovery disputes prior to filing motions to compel. No expedited discovery schedule has been requested.

PGW and some of the other parties interpret the Commission's February 8, 2001 order differently. OTS' counsel has already submitted interrogatories that request the information required by the Commission's regulations. PGW promised to respond to those interrogatories as soon as possible. If additional information is required to comply with the filing requirements, OCA's counsel will submit the interrogatories and request that the answers be submitted in 10 days. PGW can request an extension within 3 days of receiving the interrogatories. If an extension is not requested, the answers will be due in 10 days.

CEPA et al's counsel questioned the notice that PGW gave to its customers. Mr. Cohen agreed to check with PGW to determine whether the notice complied with the

February 8, 2001 Commission Order. Mr. Cohen will provide a written status report to the presiding officer and the active parties on or before March 5, 2001.

The parties discussed public input hearings. The dates and locations of the public input hearings have not been finalized.

Since documents can be submitted to the presiding officer and the participants by fax and e-mail, fax and e-mail addresses will be included on the service list. Please check the list for omissions and errors and contact my office to make corrections. My fax number is (215) 560-3133 and my e-mail address is fordham@puc.state.pa.us.

ORDER

THEREFORE,
IT IS ORDERED:

1. That in accordance with the schedule set forth above, testimony is to be served and available to all parties no later than 4:30 p.m. on the date listed. The parties have indicated that facsimile or electronic mail transmission is acceptable. The hard copy should be received no later than noon on the day after the due date.

2. That in accordance with the schedule set forth above, briefs must be filed with the Secretary of the Commission and received in-hand by all parties no later than 4:30 p.m. on the date listed. In addition, each party is directed to file a copy of the brief on disk. The disks should be in Word 97 or a compatible format.

3. That the parties shall comply with the procedural rules and regulations discussed herein.

Date: March 1, 2001

Cynthia Williams Fordham
CYNTHIA WILLIAMS FORDHAM
Administrative Law Judge

Pennsylvania Public Utility Commission v. Philadelphia Gas Works
Docket Number R-00006042

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