

ORIGINAL

COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

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 :  
 Pa. PUC v. Philadelphia Gas Works : Docket Nos.  
 Filed Supplement No. 16 to Gas Service :  
 Tariff PA. PUC No. 2 to become effective : R-00061931,  
 February 20, 2007, which proposes a : R-00061931C0001  
 general rate increase of \$100,000,000. : R-00061931C0052  
 :  
 Further prehearing conference :  
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Pages 57 through 80

**DOCKETED**  
MAR 08 2007

Hearing Room No. 2  
13th Floor, State Office Building  
Broad and Spring Garden Streets  
Philadelphia, Pennsylvania

Friday, March 2, 2007

Met, pursuant to notice, at 9:35 a.m.

BEFORE:

CYNTHIA WILLIAMS FORDHAM, Administrative Law Judge  
ANGELA T. JONES, Administrative Law Judge

APPEARANCES:

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C O N T E N T S

WITNESSES

DIRECT      CROSS      REDIRECT      RECROSS

(None.)

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E X H I B I T S

NUMBER FOR IDENTIFICATION IN EVIDENCE

(None.)

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## P R O C E E D I N G S

ADMINISTRATIVE LAW JUDGE

CYNTHIA WILLIAMS FORDHAM: Good morning.

I am Administrative Law Judge Cynthia Williams Fordham. I also have with me Administrative Law Judge Angela Jones.

This is the time and place for a second prehearing conference in the matter of the Pennsylvania Public Utility Commission versus Philadelphia Gas Works at Docket Number R-00061931, R-000619C001 through C0052.

There are some parties in the Philadelphia State Office Building and other parties are available by telephone in the Harrisburg office.

I would ask the Philadelphia parties to identify themselves first, beginning with Mr. Bertocci.

MR. BERTOCCI: Good morning, Your Honor. Phillip Bertocci for Action Alliance of Senior Citizens and the Tenant Union Representative Network.

JUDGE FORDHAM: Thank you.

Can you hear them in Harrisburg?

MR. GRAY: Barely, Your Honor.

JUDGE FORDHAM: Okay.

Would you come forward?

MR. BERTOCCI: Phillip Bertocci for Action Alliance of Senior Citizens and the Tenant Union Representative Network. Good morning, everyone.

1 MR. SHORE: Good morning, Your Honor.  
2 Miles Shore, Assistant General Counsel for the School  
3 District of Philadelphia, Intervenor.

4 JUDGE FORDHAM: Thank you.

5 MS. RICHARDSON: Good morning, Your  
6 Honors. Helen Richardson from Mondre Energy, observing.

7 JUDGE FORDHAM: Thank you.

8 MR. HINERMAN: Philip Hinerman  
9 representing PHA.

10 JUDGE FORDHAM: Thank you.

11 And in Harrisburg, beginning with Mr.  
12 Clearfield.

13 MR. CLEARFIELD: Dan Clearfield with the  
14 firm of Wolfe Block representing PGW, Your Honor.

15 JUDGE FORDHAM: Thank you.

16 And could you just continue on to the next  
17 person?

18 MR. KANASKIE: This is Rick Kanaskie with  
19 the Office of Trial Staff.

20 JUDGE FORDHAM: Thank you.

21 MR. GRAY: Steve Gray for the Office of  
22 Small Business Advocate.

23 MS. MINCAVAGE: Charis Mincavage on behalf  
24 of the Philadelphia Industrial and Commercial Gas Users  
25 Group.

1 JUDGE FORDHAM: Thank you.

2 MR. LAWRENCE: Good morning, Your Honor.  
3 Darryl Lawrence and Christy Appleby representing the  
4 Office of Consumer Advocate.

5 JUDGE FORDHAM: Thank you.

6 Anyone else there in Harrisburg?

7 (No audible response.)

8 JUDGE FORDHAM: Okay. Thank you.

9 Let me give a brief history of the  
10 proceeding thus far.

11 On December 22, 2006, the Philadelphia Gas  
12 Works filed Supplement No. 16 to Tariff Gas Pa. PUC No. 2  
13 to become effective February 20 of 2007. In said tariff  
14 PGW proposed changes in rules, regulations and rates  
15 calculated to produce \$107 million or 11 percent in  
16 additional annual revenues.

17 By order entered February 8, 2007, the  
18 Pennsylvania Public Utility Commission instituted an  
19 investigation into the lawfulness, justness and  
20 reasonableness of the proposed rate increase.

21 Pursuant to section 1308(d) of the Public  
22 Utility Code, Supplement No. 16 to Tariff Gas Pa. PUC  
23 No. 2 was suspended by operation of law on February 8,  
24 2007, until September 20, 2007, unless otherwise directed  
25 by order of the Commission. In addition, the Commission

1 ordered that the investigation include consideration of  
2 the lawfulness, justness and reasonableness of PGW's  
3 existing rates.

4 The matter was assigned to the Office of  
5 Administrative Law Judge for resolution by hearings and  
6 for issuance of a recommended decision. In addition, it  
7 was assigned to Judge Jones and myself.

8 On December 28, 2006, OTS filed a notice  
9 of an appearance. We have Richard Kanaskie and  
10 Allison C. Kaster.

11 OCA filed a complaint. The complaint was  
12 docketed at C001.

13 The Office of Small Business Advocate  
14 filed a complaint which was docketed at C008.

15 Action Alliance of Senior Citizens of  
16 Greater Philadelphia and Tenant Union Representative  
17 Network filed a complaint which is docketed at C0010. The  
18 Philadelphia Industrial and Commercial Gas Users Group  
19 filed a complaint which was docketed at C-0033.

20 To date 52 complaints have been filed.  
21 There were five petitions to intervene filed: PECO Energy,  
22 Interstate Gas Supply, Incorporated, Philadelphia Housing  
23 Authority, the School District of Philadelphia and Hess  
24 Corporation.

25 The presiding officers issued a prehearing

1 order on February 15, 2007, in anticipation of the first  
2 prehearing conference.

3 Prehearing memoranda were filed by PGW,  
4 OTS, OCA, OSBA, the large users group, Action Alliance of  
5 Senior Citizens, Interstate Gas Supply, PECO Energy and  
6 Hess Corporation.

7 A prehearing conference was convened on  
8 Friday, February 23rd, in this matter. The following  
9 parties appeared:

10 For Philadelphia Gas Works,  
11 Mr. Dan Clearfield and Mr. Greg Stunder; the Philadelphia  
12 Housing Authority was represented by Mr. Philip Hinerman;  
13 the School District of Philadelphia was represented by  
14 Mr. Miles Shore; Action Alliance of Senior Citizens of  
15 Greater Philadelphia and the Tenant Union Representative  
16 Network was represented by Mr. Phillip Bertocci and  
17 Ms. Thu Tran; the Hess Corporation was represented by  
18 Mr. John Povilaitis; the Office of Small Business Advocate  
19 was represented by Mr. Steven Gray; the Office of Trial  
20 Staff was represented by Mr. Richard Kanaskie and Ms.  
21 Allison Kaster; the Philadelphia Industrial and Commercial  
22 Gas Users Group by Ms. Charis Mincavage; the Office of  
23 Consumer Advocate by Ms. Christy Appleby and Mr. Darryl  
24 Lawrence; interstate Gas Supply, Incorporated by Mr. Todd  
25 Stewart; PECO Energy by Ms. Shari Gribbin.

1 Ms. Helen Richardson, Esquire appeared for  
2 observation purposes and two pro se Complainants appeared,  
3 Ms. Cornelia Hester Williams, whose complaint is docketed  
4 at C-007, and Mr. Russell Rossi, whose complaint is  
5 docketed at C-005.

6 The petitions to intervene filed by Hess,  
7 PECO, PHA, PSD and IDS were approved without objection.

8 The two pro se formal complainants did not  
9 object to being treated as inactive parties as such status  
10 was outlined in the previous prehearing order at this  
11 docket.

12 OSBAs request to have hearings in  
13 Harrisburg was contested by PGW and Action Alliance.  
14 Therefore, the hearings will be held in Philadelphia.

15 There were other discussions, one  
16 regarding the modification of the procedural rules. OCA  
17 and OTS had various proposals which were adopted. There  
18 is one outstanding that we will have to address today  
19 relating to the time period for written interrogatories,  
20 but we will do that have we set the schedule.

21 In addition, we discussed witnesses, the  
22 schedule for submission of testimony, hearings and briefs.  
23 That was the most time consuming issue of the conference  
24 and PGW submitted a preferred procedural schedule that the  
25 parties did not object to. PGW acknowledged that that

1 schedule required approval from the Commission because it  
2 curtailed the consideration of the decision as well as  
3 lengthening the time to schedule the public input  
4 hearings. PGW also offered an alternative schedule in the  
5 event that the preferred schedule was not accepted.

6 On February 26 of 2007 Prehearing Order  
7 No. 2 was issued. In that order the Judges indicated that  
8 the preferred schedule was rejected because the proceeding  
9 was of great importance to the ratepayers of Philadelphia  
10 as well as the Commission and that the Commission needed  
11 the requisite time to deliberate a decision of this  
12 importance. Therefore, there were two schedules that were  
13 proposed. One is the alternative number one of PGW's  
14 proposal and alternative number two. And that listed the  
15 public inputs, the time periods for Intervenor direct,  
16 rebuttal, surrebuttal. Those were to be decided by the  
17 parties and then the hearing dates were listed, the close  
18 of the record dates were listed and there were some  
19 alternatives for the dates for main briefs, reply briefs  
20 and then the end of the suspension. The other thing is  
21 that the end of the suspension would depend on the  
22 extension by PGW of the current suspension.

23 The next thing would be to address public  
24 input hearings. At this time we need to address the  
25 procedural schedule.

1 Mr. Clearfield.

2 MR. CLEARFIELD: Yes, Your Honor.

3 PGW convened a conference call among the  
4 parties yesterday and we had some informal discussions  
5 about the schedule. We informed the parties at that time  
6 that PGW was not inclined to extend the suspension period  
7 to October 12. As I think we stated at the prior hearing,  
8 our offer to do that was solely based on our willingness  
9 to try to come up with a schedule that would allow for  
10 maximum notice of the public input hearings and since that  
11 schedule has been declined we are not going to extend to  
12 October 12.

13 JUDGE FORDHAM: Okay.

14 MR. CLEARFIELD: Based on that there was,  
15 I think, a consensus that the alternative one schedule,  
16 which is listed as alternative one on your second  
17 prehearing order, was an acceptable schedule. There were  
18 some discussions about some of the dates which I will try  
19 to restate but I'm sure the other parties will want to  
20 clarify. But our understanding is that the alternative  
21 one schedule is acceptable to the parties with the  
22 following caveats, I guess.

23 First, that the public inputs listed for  
24 March 26 are okay assuming that the dates can be firmed up  
25 and that the locations can be determined just as quickly

1 as possible. I am sure Mr. Lawrence will go into exactly  
2 when he believes that needs to be done. And that there  
3 should be consideration for revising them if that can't be  
4 done in a very short order.

5 And then the parties wish to or prefer  
6 that the main briefs be on June 12 and the reply briefs on  
7 June 21.

8 Other than that, since we had already  
9 worked out this alternative schedule everyone, you know,  
10 was willing to accept the rest of the dates.

11 JUDGE FORDHAM: Now, with respect to the  
12 Intervenor direct, that is April 6. That is Good Friday.  
13 Is that still the date that you would like to have that  
14 on?

15 MR. CLEARFIELD: Well, I don't think it is  
16 the date they would like to have it on, Your Honor, but  
17 that is the date that everyone agreed based on many other  
18 consideration was the best date.

19 JUDGE FORDHAM: Okay.

20 Mr. Lawrence.

21 MR. LAWRENCE: Yes, Your Honor.

22 As Mr. Clearfield stated, we have an  
23 ongoing concern about public input hearings the week of  
24 March 26. Our initial thoughts in this matter, along with  
25 some of the other parties, is that we would like to have

1 the public input hearings before Intervenor direct  
2 testimony is due in order to possibly use any information  
3 from the public inputs in our direct testimony. To that  
4 end we came up with the week of March 26 and our concern  
5 is that the scheduling office is able to notify the  
6 parties of dates, times and places with certainty at least  
7 two weeks in advance of that date.

8 I am looking at my March calendar right  
9 now and preferably that would be by the end of next week,  
10 a week from today, March 9, at the very latest March 12,  
11 as the OCA has found that a minimum of two weeks notice is  
12 -- basically we have to have a minimum of two weeks notice  
13 in order to get a good turnout. And as the Commission and  
14 Your Honor stated, this proceeding is of great importance  
15 to the ratepayers of Philadelphia and we want to make sure  
16 that we have ample notice so that we have adequate  
17 turnout.

18 JUDGE FORDHAM: Mr. Lawrence, we are  
19 working on it. The problem with setting it up is that we  
20 did not know exact dates. But the scheduling office has  
21 already started working on this. So we will do that as  
22 fast as we can. And we realize that you do have to have  
23 it and the company also has to have it prior to at least  
24 -- we are trying to do it at least three weeks in advance.  
25 So we are trying to do it as fast as we can. So we

1 understand that concern.

2 MR. LAWRENCE: Thank you, Your Honor.

3 And the only other thing that I wish to  
4 say on that topic is if for some unforeseeable reason at  
5 this time that the public input dates, times and places  
6 are not available for adequate notice at least two weeks  
7 before we would ask Your Honor if there was a mechanism  
8 where we could come back and possibly reschedule the  
9 inputs for the April 9 timeframes.

10 JUDGE JONES: Would that also mean that  
11 the intervenors would be requesting to push back their  
12 direct?

13 MR. LAWRENCE: No, we would not, Your  
14 Honor. The entirety of that alternative one schedule  
15 would say in place. The only change would be that we  
16 would ask for public input hearings the week of April 9.

17 JUDGE FORDHAM: We don't have a problem  
18 with that.

19 MR. LAWRENCE: Thank you, Your Honor.

20 JUDGE FORDHAM: Does anyone else in  
21 Harrisburg have anything on public input hearings?

22 MR. GRAY: Your Honor, this is Steve Gray  
23 from the Office of Small Business Advocate.

24 I will just mention if it is possible  
25 earlier in the week is definitely better than later in the

1 week for both of those proposed schedules. I realize that  
2 there are many other issues involved in scheduling that.  
3 I am just tossing that out in case we have the option.

4 JUDGE FORDHAM: Thank you.

5 MR. GRAY: Thank you, Your Honor.

6 JUDGE FORDHAM: Does anyone in  
7 Philadelphia have anything on public input hearings?

8 MR. BERTOCCI: Phillip Bertocci for Action  
9 Alliance.

10 I just want to strongly second OCA's  
11 position on the issue of public input hearings. We are  
12 very concerned that adequate notice get out well in  
13 advance, you know, in the newspapers so that we will have  
14 a good turnout for the public input hearings.

15 JUDGE FORDHAM: Thank you.

16 Does anyone in Harrisburg have anything  
17 else regarding the procedural schedule?

18 (No audible response.)

19 JUDGE FORDHAM: Hearing nothing,  
20 Mr. Shore.

21 MR. SHORE: Miles Shore for the School  
22 District, Your Honor. We are an Intervenor.

23 I would like to advise the Court that the  
24 intervenors were not invited to that conference call  
25 yesterday and did not participate in the conference call.

1 So when Mr. Clearfield referred to the parties, that did  
2 not include the Intervenors.

3 On behalf of the School District as an  
4 Intervenor I would like to request additional time from  
5 April 6. That is really only a month from this weekend,  
6 or this Monday, Your Honor, and that is a holiday weekend.  
7 That April 6 is Good Friday. Both Passover and Easter  
8 fall in that week. And it really does not allow us  
9 sufficient time to prepare the direct testimony and we  
10 would like to request at least an additional week or two  
11 for the Intervenor direct.

12 JUDGE JONES: Mr. Shore, thank you for  
13 your information. We were unaware that the Intervenors  
14 were not invited to the conference call conducted by PGW.

15 Let me respond to your request. I have  
16 not conferred with my colleague but my response is that  
17 this alternative one was proposed at the previous  
18 prehearing conference as part of the package that PGW  
19 provided. So this is not the first time that you have  
20 seen this proposed schedule.

21 The Judges are the ones that recognized  
22 that the April 6 date was a Good Friday date and we  
23 decided that the parties had not really inspected that  
24 alternative schedule. So we provided it in our second  
25 prehearing conference order and highlighted the concerns

1 that we had that we thought being in your shoes you might  
2 have. However, it was presented to us that everyone had  
3 looked at both proposed schedules. So we decided that  
4 because it was presented to us that you had notice of  
5 these schedules and you did not have any concerns  
6 presented at the first prehearing conference in front of  
7 us that we would provide our concerns but everything else  
8 we would be rather rigid with.

9 MR. CLEARFIELD: Your Honor,  
10 Dan Clearfield for PGW.

11 The statement that the Intervenors were  
12 not aware of the conference, the informal conference, is  
13 incorrect. If I left off the School District  
14 inadvertently on the e-mail I apologize. But I know that  
15 the other Intervenors like Hess, PECO, some of the others,  
16 were notified. My e-mail address list must have left off  
17 the School District.

18 JUDGE FORDHAM: Mr. Clearfield,  
19 Mr. Hinerman from the Philadelphia Housing Authority is  
20 also shaking his head that he was not involved.

21 MR. HINERMAN: That's correct.

22 MR. CLEARFIELD: I will apologize that  
23 Mr. Hinerman was left off. This was an informal  
24 discussion of the parties to go over the schedule that as  
25 Judge Jones has already indicated was presented at the

1 last prehearing conference as the alternative. And I  
2 believe all of those parties that I just indicated were in  
3 attendance and had an opportunity to discuss it.

4 PGW can't give additional time for  
5 testimony for the School District or the other parties.  
6 It would be impossible for the rest of the schedule to  
7 proceed.

8 JUDGE FORDHAM: Mr. Hinerman, did you have  
9 any concerns?

10 MR. HINERMAN: No, Your Honor. Of course,  
11 that is spring break for my children, but I guess we will  
12 just have to work a little harder the week before.

13 JUDGE FORDHAM: Thank you.

14 Now, with respect to the first item under  
15 modification of procedural rules, the request from OTS and  
16 OCA was to have answers to written interrogatories served  
17 in hand within ten calendar days of the service and  
18 Mr. Clearfield asked for 15 days. But I believe that was  
19 if we had the extension.

20 Is that right, Mr. Clearfield?

21 MR. CLEARFIELD: Yes, Your Honor.

22 JUDGE FORDHAM: Okay.

23 I would also note that Mr. Greg Stunder  
24 has appeared in the room on behalf of PGW.

25 So, Mr. Clearfield, you are asking that

1 that be removed, the 15 days?

2 MR. CLEARFIELD: I'm sorry. I didn't  
3 catch exactly what you said there.

4 JUDGE FORDHAM: Originally it was ten days  
5 and I believe you asked for the 15 days if we were going  
6 to use the extended schedule.

7 MR. CLEARFIELD: I am still somewhat  
8 concerned about the ten days but in light of the schedule  
9 and the fact that the ten days is, I guess, typically  
10 imposed at this point we won't object to it with the  
11 understanding that we are going to use our best efforts in  
12 any event to try to get the answers to the parties.

13 JUDGE FORDHAM: Thank you.

14 We do have prehearing memoranda from all  
15 of the parties and Intervenors with the exception of the  
16 School District and PHA. So we would ask them to supply a  
17 prehearing memorandum to us and the other parties on or  
18 before March 8.

19 Those are the agenda items that the Judges  
20 have. Does any other party in Harrisburg have any agenda  
21 items? Beginning with Mr. Clearfield.

22 MR. CLEARFIELD: No, Your Honor.

23 JUDGE FORDHAM: Anyone else?

24 MR. GRAY: Yes, Your Honor. This is  
25 Steve Gray for the Office of Small Business Advocate.

1 JUDGE FORDHAM: Yes.

2 MR. GRAY: Your Honor, I have a question  
3 from my office's administrative officer. I am taking a  
4 look at Your Honors' February 26 Prehearing Conference  
5 Order No. 2 and on the back you have a service list and  
6 then separately listed a Complainants service list. And  
7 Mr. Sneed, the administrative officer, wanted some  
8 guidance. Do Your Honors want the parties to serve  
9 everything upon everyone in hard copy?

10 JUDGE FORDHAM: By everyone do you include  
11 the Complainants who are inactive parties?

12 MR. GRAY: Well --

13 JUDGE FORDHAM: Because what we have asked  
14 is that the active parties -- that is why we did a  
15 separate service list or the Counsel. So that is who we  
16 are asking you to serve. Because the two people who came  
17 to the prehearing conference who were formal Complainants  
18 but who are individuals indicated that they would be  
19 inactive parties. So they do not have to be served.

20 MR. GRAY: Okay, Your Honor. So looking  
21 at your document we will serve everyone on your service  
22 list and for the time being we are not going to send hard  
23 copy or anything to anybody on the Complainants service  
24 list. Am I correct?

25 JUDGE FORDHAM: That's correct.

1 MR. GRAY: Very good. Thank you very  
2 much.

3 JUDGE FORDHAM: You're welcome.

4 Anyone else in Harrisburg?

5 (No audible response.)

6 JUDGE FORDHAM: Anyone in Philadelphia?

7 (No audible response.)

8 JUDGE FORDHAM: If not, thank you very  
9 much for participating in today's prehearing. And thank  
10 you for going over the schedule and coming up with the  
11 schedule.

12 We will get information to you regarding  
13 the public input hearings as fast as possible. And we  
14 will also send out a prehearing order which memorializes  
15 what we discussed this today's hearing.

16 Thank you.

17 (Whereupon, at 10:00 a.m., the prehearing  
18 conference was concluded.)

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C E R T I F I C A T E

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me and were thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

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