BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission : R-2017-2586783

Office of Consumer Advocate : C-2017-2592092

Office of Small Business Advocate : C-2017-2593497

Philadelphia Industrial & Commercial :

Gas Users Group : C-2017-2595147

William Dingfelder : C-2017-2593903

:

v. :

:

Philadelphia Gas Works :

# **BRIEFING ORDER**

On February 28, 2017, Philadelphia Gas Works (PGW) filed Supplement No. 100 to PGW’s Gas Service Tariff – PA. P.U.C. No. 2 (Supplement No. 100) to become effective April 28, 2017, seeking a general rate increase calculated to produce $70 million (11.6%) in additional annualrevenues. PGW also filed a Petition for Waiver seeking waiver of the application of the statutory definition of the fully projected future test year (FPFTY) so as to permit PGW to use a FPFTY beginning on September 1, 2017 in this proceeding.

On March 6, 2017, Carrie B. Wright, Esq., entered a Notice of Appearance on behalf of the Commission’s Bureau of Investigation and Enforcement (BI&E).

On March 6, 2017, the Office of Consumer Advocate (OCA) filed a Public Statement, a Notice of Appearance on behalf of Kristine E. Marsilio, Esq., Harrison W. Breitman, Esq., Darryl A. Lawrence, Esq., and Christy M. Appleby and a formal Complaint. The Complaint was docketed at C-2017-2592092.

On March 13, 2017, the Office of Small Business Advocate (OSBA) filed a Verification, Public Statement, a Notice of Appearance on behalf of Sharon E. Webb, Esq., and a formal Complaint. The Complaint was docketed at C-2017-2593497.

On March 16, 2017, William Dingfelder (“Mr. Dingfelder” or “Complainant”) filed a formal Complaint. The Complaint was docketed at C-2017-2593903.

By Order entered March 16, 2017, 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.A. § 1308(d), Supplement No. 100 to Philadelphia Gas Works’ Gas Service Tariff – PA. P.U.C. No. 2 was suspended by operation of law until November 28, 2017, unless permitted by Commission Order to become effective at an earlier date. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness and reasonableness of the respondent’s existing rates, rules, and regulations. The matter was assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

On March 17, 2017, the Retail Energy Supply Association (RESA) filed a Petition to Intervene in this proceeding.

In accordance with the Commission’s March 16, 2017 Order, the matter was assigned to Deputy Chief Administrative Law Judge Christopher P. Pell and Administrative Law Judge Marta Guhl.

On March 22, 2017, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), through its counsel, filed a Petition to Intervene in this proceeding.

On March 23, 2017, the Philadelphia Industrial and Commercial Gas Users Group filed a formal Complaint. The Complaint was docketed at C-2017-2595147.

On March 24, 2017, the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia (TURN *et al*.) filed a Petition to Intervene in this proceeding.

In compliance with the Commission’s March 16, 2017 Order, on March 27, 2017, PGW filed Supplement No. 103 to Gas Service Tariff – Pa P.U.C. No. 2, suspending the effectiveness of rates proposed in Supplement No. 100 to Tariff Pa.P.U.C. No. 2 until November 28, 2017.

In accordance with a Prehearing Conference Order dated March 17, 2017, PGW, I&E, OCA, OSBA, RESA, CAUSE-PA, PICGUG and TURN *et al*. submitted prehearing memoranda to the presiding officers.

A call-in telephonic prehearing conference was held on March 29, 2017. The presiding officers were in the Philadelphia Office for the prehearing conference. Counsel for PGW, I&E, OCA, OSBA, RESA, CAUSE-PA, PICGUG and TURN *et al*. participated.

In our Prehearing Order #1 dated March 30, 2017, we granted RESA’s Petition to Intervene and established the procedural schedule and the procedures applicable to this proceeding.

On March 31, 2017, PGW filed a Motion for Protective Order (Motion) pursuant to 52 Pa.Code § 5.423(a). There was no formal opposition to the request and we granted the Protective Order via Prehearing Order #3 dated April 19, 2017.

Also On March 31, 2017, PGW filed its Answers opposing the Petitions to Intervene of both CAUSE-PA and TURN *et al*.

On April 5, 2017, CAUSE-PA and TURN *et al*. each filed a response to PGW’s Answer opposing their respective Petitions to Intervene. Additionally, OCA and I&E each, separately, filed responses to PGW’s Answers. We granted the Petitions to Intervene of CAUSE-PA and TURN et al. via Prehearing Order #2 dated April 7, 2017.

Public Input hearings were held in this matter on May 9 and May 10, 2017.

On May 10, 2017, Ms. Pickens from TURN *et al*. contacted us via electronic mail indicating that there was a discovery dispute and requesting a modification of the procedural schedule. We responded via electronic mail to the parties indicating that they had until noon on Friday, May 12, 2017 to provide a solution to the discovery dispute.

On May 11, 2017, a Hearing Notice was issued setting the evidentiary hearings for this matter for Wednesday, June 28, 2017, Thursday, June 29, 2017 and Friday, June 30, 2017 starting at 10:00 a.m. each day.

Later on May 11, 2017, counsel for PGW informed us that PGW and TURN *et al*. had reached a resolution that involved a proposed modification to the procedural schedule. PGW proposed that TURN *et al*. be allowed to submit its Direct Testimony on Friday, May 19, 2017 and that PGW be allowed to submit Rejoinder Testimony to TURN *et al*.’s testimony on Tuesday, June 13, 2017.

On May 16, 2017, the non Company parties, excluding TURN *et al*., submitted their witnesses’ direct testimony.

By Prehearing Order #4 dated May 17, 2017, we granted the proposed modifications to the procedural schedule.

On May 19, 2017, TURN *et al*. submitted its direct testimony.

On May 22, 2017, PGW filed its Motion In Limine to Limit the Scope of the Evidentiary Hearing and this Proceeding and to Exclude Certain Portions of Testimony Submitted by the Office of Consumer Advocate.

On May 25, 2017, OCA filed its Response to PGW’s Motion.

By Prehearing Order #5 dated May 26, 2017, we denied PGW’s Motion In Limine.

On June 9, 2017, all parties, with the exception of CAUSE-PA and RESA, submitted their respective witnesses’ rebuttal testimony.

On June 22, 2017, all parties, with the exception of CAUSE-PA, their respective witnesses’ surrebuttal testimony.

On June 22, 2017, we e-mailed the parties the cross-examination matrix for the hearings in this proceeding. We directed the parties to complete the cross-examination matrix and return it to us by 3:00 p.m. on June 23, 2017. The parties submitted the completed cross-examination matrix on June 23, 2017.

On June 23, 2017, PGW filed its Motion to Strike Certain Portions of Testimony Submitted by TURN *et al*.

On June 26, 2017, I&E filed a letter to indicate its support for PGW’s Motion and its agreement that portions of the surrebuttal testimony of Harry S. Geller should stricken.

Also on June 26, 2017, TURN *et al*. filed its Answer of the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia to the Motion to Strike of Philadelphia Gas Works.

On the same date, CAUSE-PA filed a letter indicating its opposition to PGW’s Motion.

By Prehearing Order #6, dated June 27, 2017, we denied PGW’s Motion to Strike Certain Portions of Testimony Submitted by TURN.

On June 27, 2017, the parties informed us that they had agreed to waive cross-examination of all witnesses and were prepared to stipulate to the admission of testimony of exhibits into the record.

The evidentiary hearing was held as scheduled on June 28, 2017. During that hearing, counsel for each party stated on the record that they agreed to waive cross-examination of all other party witnesses and moved to have their pre-served testimony and/or exhibits admitted into the record. Accordingly, all parties’ testimony and/or exhibits were admitted into the record during the hearing.

Counsel for PGW informed us that the parties had settled all but a few issues.With the exception of one or two of theseissues, counsel indicated that that the parties were still working towards settling the remaining issues.The parties asked how to proceed with filing a joint petition for partial settlement on the settled issues and briefs regarding the unresolved issues. This Briefing Order memorializes the instructions we provided to the parties during the hearing.

THEREFORE,

IT IS ORDERED:

1. That the parties joint petition for partial settlement and statements in support of the partial settlementare due on or before Friday, July 21, 2017;
2. That any party not joining in the joint petition for partial settlement, in whole or in part, must submit a letter on or before Friday, July 21, 2017 indicating their position on the settlement;
3. That main briefs of the parties on the remaining unresolved issues are due on or before Friday, July 21, 2017;
4. That the reply briefs are due on or before Friday, August 4, 2017;
5. That the briefs must substantially comply with the Commission's regulations at 52 Pa.Code §§ 5.501, 5.502;
6. That the briefs must contain: (a) a concise statement or counter-statement of the case; (b) an argument, with sufficient citations to record evidence, preceded by a summary; (c) a conclusion with requested relief; (d) proposed Findings of Fact, together with page references to statements of testimony and exhibits; (e) proposed Conclusions of Law, together with legal citations and (f) proposed Ordering Paragraphs;
7. That the parties shall file the original copies of the Main Brief and Reply Brief with the Commission no later than 4:00 p.m. on the date due;
8. That any brief not filed and served on or before the date set forth above will not be accepted except by special permission;
9. That the parties are required, within thirty (30) days after the final hearing, to either eFile with or provide to the Secretary’s Bureau a Compact Disc (CD) containing all testimony and exhibits identified and admitted into the record during the proceeding, consistent with the Commission’s Implementation Order, dated January 10, 2013, at Docket No. M-2012-2331973;
10. That the parties are advised not to include any extra-record evidence in their briefs;
11. That if a brief contains a citation to an unreported decision which is not available on LEXIS or the Commission’s website, a copy of that unreported decision must be appended to the brief; and
12. That the parties are reminded that they are to e-mail us a copy of their as-filed briefs in a WORD-formatted document in addition to ADOBE or other compatible PDF format.

Date: June 30, 2017 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Christopher P. Pell

Deputy Chief Administrative Law Judge

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Marta Guhl

Administrative Law Judge

Pennsylvania Public Utility Commission v. Philadelphia Gas Works

Docket Number R-2017-2586783

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