



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

July 11, 2017

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission, Bureau of Investigation and
Enforcement v. Pine Roe Natural Gas Co., Inc.
Docket No. C-2014-2400485
and
Pennsylvania Public Utility Commission, Bureau of Investigation and
Enforcement v. Pine Roe Natural Gas Co., Inc.
Docket No. C-2017-2582760
**I&E Motion to Convert Initial Hearing Into A Prehearing
Conference**

Dear Secretary Chiavetta:

On behalf of the Bureau of Investigation and Enforcement, enclosed please find a Motion to Convert the Initial Hearing currently scheduled for Thursday, September 14, 2017 in the above-referenced proceedings into a prehearing conference. Pine Roe Natural Gas Co., Inc. does not oppose the Motion.

Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Wimer".

Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

Enclosures

cc: Honorable Joel H. Cheskis
As per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement,
Complainant

v.

Pine Roe Natural Gas Co., Inc.,
Respondent

Docket No. C-2014-2400485

Pennsylvania Public Utility
Commission, Bureau of Investigation
and Enforcement,
Complainant

v.

Pine Roe Natural Gas Co., Inc.,
Respondent

Docket No. C-2017-2582760

NOTICE TO PLEAD

To: *Pine Roe Natural Gas Company, Inc.*

Pursuant to 52 Pa. Code § 5.103(b), you are hereby notified to file a written response to the enclosed Motion of the Bureau of Investigation and Enforcement (“I&E”) to Convert the Initial Hearing into a Prehearing Conference within twenty (20) days from the date of service of this notice. If you do not file a written response opposing the enclosed Motion within twenty (20) days of service, the Office of Administrative Law Judge of the Pennsylvania Public Utility Commission (“Commission”) may rule on this Motion without further input.

All pleadings, such as answers to motions, must be filed with the Secretary of the Commission:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

You must also serve a copy of your response on the undersigned prosecutor.



Stephanie M. Wimer, Prosecutor
PA Attorney ID No. 207522

Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
717.772.8839
stwimer@pa.gov

Dated: July 11, 2017

**BEFORE THE
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Docket No. C-2017-2582760

**MOTION OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT
TO CONVERT THE INITIAL HEARING INTO A PREHEARING
CONFERENCE**

TO THE HONORABLE JOEL H. CHESKIS:

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorneys, pursuant to Section 5.103 of the Commission’s regulations, 52 Pa. Code § 5.103, files this motion respectfully requesting that the Initial Hearing currently scheduled for Thursday, September 14, 2017 be converted into an in-person prehearing conference. In support thereof, I&E avers as follows:

I. BACKGROUND

A. 2014 Complaint Proceeding

1. I&E commenced the action docketed at C-2014-2400485 on January 10, 2014 by filing a Formal Complaint against Pine Roe Natural Gas Co., Inc. (“Pine Roe” or “Company” or “Respondent”). The Complaint alleges, *inter alia*, violations of various gas safety regulations in Parts 191 and 192 of Title 49 of the Code of Federal Regulations and provisions of the Commission’s regulations, as well as violations pertaining to the filing of annual assessment reports with the Commission. In the Complaint, I&E sought relief, including the imposition of a civil penalty of \$40,500.

2. On March 4, 2014, after receiving an extension of time, Pine Roe filed an Answer *pro se* to I&E’s Complaint.

3. On March 4, 2016, I&E filed an Amended Complaint¹ against Pine Roe alleging that Respondent violated additional gas safety regulations in connection with a June 2015 gas leak; failed to file assessment reports and pay assessments; contracted to purchase natural gas from an affiliate without an approved affiliated interest agreement; failed to adhere to its tariff regarding the purchase of natural gas and the filing of quarterly reports relating to the Gas Cost Rate; and failed to file reports relating to unaccounted-for-gas.

4. Due to the increase in alleged violations in the Amended Complaint, I&E increased the proposed civil penalty to \$318,055 and sought payment of Pine Roe’s

¹ I&E initially filed the Amended Complaint on February 3, 2016 and filed it again on March 4, 2016 upon realizing that the Amended Complaint had not been served by certified mail pursuant to 66 Pa.C.S. § 702 and 52 Pa. Code § 1.53(c).

outstanding assessment for the July 1, 2014 to June 30, 2015 fiscal year in the amount of \$365. I&E also requested that Pine Roe not be permitted to recover any portion of the civil penalty through rates regulated by the Commission, that Pine Roe be ordered to cease and desist from committing any further violations of the Public Utility Code, Code of Federal Regulations and Commission regulations, and that the Commission order such other remedy as may be deemed to be appropriate, including revocation of Pine Roe's Certificate of Public Convenience.

5. Pine Roe did not file any response to I&E's Amended Complaint, but provided an unfiled letter to I&E that purported to respond to some of the allegations in the Amended Complaint.

6. On May 3, 2016, I&E filed a Motion for Default Judgment requesting that the Commission sustain I&E's Amended Complaint.

7. Pine Roe did not file any response to I&E's Motion for Default Judgment.

8. By Order entered on March 21, 2017, the Commission denied I&E's Motion for Default Judgment and referred the proceeding to the Office of Administrative Law Judge ("OALJ") for mediation. The Commission's March 21, 2017 Order provided for a sixty (60) day mediation period with the option to request an additional thirty (30) days to mediate, which I&E exercised.

9. A mediation session was held on May 10, 2017 and communication between the parties occurred throughout the duration of the mediation period.

10. At the conclusion of the ninety (90) day mediation period as set by the Commission in the March 21, 2017 Order, the parties did not reach an agreement.

11. By Report of Mediator dated July 5, 2017, the case was assigned to OALJ for appropriate proceedings.

B. 2017 Complaint Proceeding

12. During the pendency of the 2014 Complaint proceeding, I&E filed another Complaint against Pine Roe docketed at C-2017-2582760 on January 4, 2017 alleging violations of gas safety regulations in Part 192 of the Code of Federal Regulations and Section 59.33 of the Commission's regulations, 52 Pa. Code § 59.33, which I&E alleges occurred in connection with the repair of a 2016 line hit by a third party to one of Pine Roe's facilities.

13. In the Complaint, I&E seeks appropriate relief, including that the Commission impose a civil penalty of \$90,000, prohibit Pine Roe from recovering any portion of the civil penalty through rates regulated by the Commission, order Pine Roe to cease and desist from committing any further violations of the Code of Federal Regulations and Commission regulations, and order such other remedy as the Commission may deem to be appropriate, including the revocation of Pine Roe's Certificate of Public Convenience.

14. Pine Roe did not file a response to I&E's Amended Complaint, but provided an unfiled e-mail response to I&E.

15. On February 10, 2017, I&E filed a Motion for Default Judgment given Pine Roe's failure to properly answer I&E's Complaint.

16. Pine Roe did not file any response to I&E's Motion for Default Judgment, but mailed a responsive letter only to I&E that was received on March 6, 2017.

17. On March 24, 2017, I&E filed a Petition to Withdraw its Motion for Default Judgment, given the Commission's March 21, 2017 Order denying a similar Motion for Default Judgment in the enforcement action docketed at C-2014-2400485.

18. By Secretarial Letter dated May 22, 2017, I&E's Petition to Withdraw was granted.

19. By notice dated July 7, 2017, the matters docketed at C-2014-2400485 and C-2017-2582760 were immediately scheduled for an Initial Hearing on Thursday, September 14, 2017 at 10:00 AM in Harrisburg before Administrative Law Judge ("ALJ") Joel H. Cheskis.

20. On July 10, 2017, a Prehearing Order was issued to the parties in the proceedings docketed at C-2014-2400485 and C-2017-2582760.

21. No prehearing conference has been scheduled and no litigation schedule has been established in the instant matters.

22. On July 11, 2017, I&E filed separately but concurrently a Motion to Consolidate the complaint proceedings docketed at C-2014-2400485 and C-2017-2582760.

II. MOTION

23. Pursuant to Section 5.222 of the Commission's regulations, it is the Commission's policy to arrange for prehearing conferences in non-rate proceedings "to make possible a more effective use of hearing time in formal proceedings . . . to otherwise expedite the orderly conduct and disposition of the proceedings and to serve the ends of justice and the public interest" 52 Pa. Code § 5.222(a).

24. I&E respectfully asserts that a prehearing conference will aid in accomplishing the goals set forth in 52 Pa. Code § 5.222.

25. The instant matters involve alleged violations of the Code of Federal Regulations regarding pipeline safety that cover several incidents spanning over the course of several years. I&E posits that these proceedings require expert testimony from I&E's Pipeline Safety Inspectors that is technical in nature. Prehearing conferences were held in other gas safety complaint proceedings brought by I&E before the Commission and litigation schedules were established that included the submission of pre-served written testimony.²

26. Further justifying a pre-hearing conference, I&E requests substantial monetary relief in excess of Four Hundred Thousand Dollars (\$400,000) between the two matters.

27. Due to the complexity of and requested civil penalty amount in the instant matter, a prehearing conference is necessary to arrange for the submission of written testimony in advance of the hearing, determine the amount of hearing time necessary, arrange for the exchange and service of exhibits, identify the number and names of witnesses, develop a procedural schedule, simplify the issues, and discuss any other unique issue that may arise.

² See *Pa. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. PECO Energy Company*, Docket No. C-2015-2511928 (pre-hearing conference held March 28, 2017); *Pa. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. UGI Utilities, Inc.*, Docket No. C-2012-2308997 (pre-hearing conference held September 25, 2012).

28. On July 10, 2017, I&E conferred with Pine Roe who has authorized I&E to represent that Pine Roe does not object to converting the Initial Hearing scheduled for September 14, 2017 into a prehearing conference.

III. CONCLUSION

WHEREFORE, for the reasons set forth above, the Bureau of Investigation and Enforcement respectfully requests that Your Honor grant I&E's Motion and convert the Initial Hearing currently scheduled for September 14, 2017 into a prehearing conference.

Respectfully submitted,



Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

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Pennsylvania Public Utility Commission
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true 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).

Service by First Class Mail and Electronic Mail:

Pauline Griebel
Pine Roe Natural Gas Co., Inc.
P.O. Box 146
Clarion, PA 16214
Fleming1170@yahoo.com



Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

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