



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 Consolidate

Dear Secretary Chiavetta:

Enclosed for electronic filing is the unopposed Motion to Consolidate of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission in the above referenced proceedings. 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.M. 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.	:	Docket No. C-2014-2400485
	:	
Pine Roe Natural Gas Co., Inc.,	:	
Respondent	:	
	:	
	:	
Pennsylvania Public Utility	:	
Commission, Bureau of Investigation	:	
and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2017-2582760
	:	
	:	
Pine Roe Natural Gas Co., Inc.,	:	
Respondent	:	

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 to Consolidate of the Bureau of Investigation and Enforcement (“I&E”) 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

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. Among the specific gas safety regulations that I&E alleges Pine Roe violated in the Amended Complaint are 49 CFR § 192.513, by failing to test the pressure

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).

of a yellow polyethylene pipe prior to its installation, and 49 CFR § 192.321, by failing to install tracer wire in underground plastic pipeline.

5. 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 outstanding assessment for the July 1, 2014 to June 30, 2015 fiscal year in the amount of \$365, among other requested relief.

6. 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.

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

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

9. 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.

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

11. 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.

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

B. 2017 Complaint Proceeding

13. On January 4, 2017, I&E filed a Complaint against Pine Roe docketed at C-2017-2582760 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.

14. The crux of I&E's 2017 Complaint against Pine Roe alleges that Pine Roe failed to test the pressure of a three-inch plastic main prior to its installation, pursuant to 49 CFR § 192.513, and failed to install tracer wire in underground plastic pipelines, pursuant to 49 CFR § 192.321. Additionally, I&E noted in the 2017 Complaint that these alleged violations also occurred during Pine Roe's repair of a June 2015 gas leak, which is a topic of the enforcement action docketed at C-2014-2400485.

15. In the Complaint, I&E seeks relief, including the imposition of a civil penalty of \$90,000.

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

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

18. 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.

19. 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.

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

II. MOTION TO CONSOLIDATE

21. The instant Motion to Consolidate is ripe for consideration as the mediation period has expired in the matter docketed at C-2014-2400485 and the case has been reassigned to OALJ for appropriate proceedings. An Initial Hearing is scheduled for September 14, 2017 with regard to both matters docketed at C-2014-2400485 and C-2017-2582760.

22. Section 5.81(a) of the Commission's regulations, 52 Pa. Code § 5.81(a), permits consolidation of proceedings and provides as follows:

The Commission or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Commission or presiding officer may make orders concerning the conduct of the proceeding as may avoid unnecessary costs or delay.

52 Pa. Code § 5.81(a).

23. The parties to both Complaint proceedings are I&E and Pine Roe.

24. The same questions of fact are involved in both of the I&E Complaints, namely, Pine Roe's alleged failure to pressure test new pipe prior to installation and the alleged failure to install tracer wire or some other suitable means for Pine Roe to locate its facilities.

25. Both Complaints allege violations of the same provisions of Part 192 of the Code of Federal Regulations.

26. Both Complaints seek substantially similar relief, including the imposition of civil penalties, a direction for Pine Roe to cease and desist from committing further violations of the Code of Federal Regulations and the Commission's regulations and that the Commission order other remedies as the Commission may deem to be appropriate, including the revocation of Pine Roe's Certificate of Public Convenience.

27. Consolidating the two Complaints docketed at C-2014-2400485 and C-2017-2582760 would expedite the administrative process, preserve judicial resources, prevent inconsistent outcomes and would avoid unnecessary costs, delay and administrative burden for the parties.

28. Consolidation will not prejudice Pine Roe as it will continue to have an opportunity to participate and be heard in a consolidated proceeding.

29. The individual matters docketed at C-2014-2400485 and C-2017-2582760 are scheduled to be heard together on September 14, 2017, by Hearing Notice dated July 7, 2017 and issued at those dockets.

30. On July 10, 2017 and prior to the filing of this Motion, I&E contacted Pine Roe and Pine Roe has no objection to the consolidation of the two matters.

III. CONCLUSION

For the reasons set forth above, I&E respectfully requests that the pending Complaint proceedings docketed at C-2014-2400485 and C-2017-2582760 be consolidated.

Respectfully submitted,



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

