



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

August 16, 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 Company, Inc.
Docket Nos. C-2014-2400485 and C-2017-2582760
I&E Prehearing Memorandum

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Prehearing Memorandum of the Bureau of Investigation and Enforcement in the above referenced proceeding. 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 "Stephanie 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 Nos. C-2014-2400485 and
	:	C-2017-2582760
	:	
Pine Roe Natural Gas Company, Inc.,	:	
Respondent	:	

**PREHEARING CONFERENCE MEMORANDUM OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

TO ADMINISTRATIVE LAW JUDGE JOEL H. CHESKIS:

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully submits the following Prehearing Conference Memorandum in the above-captioned proceeding pursuant to the Order Granting Motion To Consolidate And Request To Convert Initial Hearing To A Prehearing Conference of the presiding Administrative Law Judge (“ALJ”) dated July 19, 2017 (hereinafter referred to as “July 19, 2017 Interim Order”).

I. BACKGROUND

This matter concerns two Formal Complaint (“Complaint”) proceedings initiated by I&E against Pine Roe Natural Gas Company, Inc. (“Pine Roe,” “Company” or “Respondent”), which were formally consolidated by the presiding ALJ’s July 19, 2017 Interim Order.

2014 Complaint Proceeding

On January 10, 2014, I&E filed a Complaint against Pine Roe docketed at C-2014-2400485 alleging 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.

On March 4, 2016, I&E filed an Amended Complaint 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. 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. 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.

Pine Roe did not file any response to I&E's Amended Complaint and on May 3, 2016, I&E filed a Motion for Default Judgment requesting that the Commission sustain the Amended Complaint.

By Order entered March 21, 2017, the Commission denied I&E's Motion for Default Judgment and referred the Complaint proceeding docketed at C-2014-2400485 to the Office of Administrative Law Judge ("OALJ") for mediation. Discussions held by the parties did not result in a comprehensive agreement to resolve the matter during the mediation period.

2017 Complaint Proceeding

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. In the Complaint, I&E seeks relief including the imposition of a civil penalty of \$90,000, that Pine Roe not be permitted to recover any portion of the civil penalty through rates regulated by the Commission, that Pine Roe be directed to cease and desist from committing any further violations of the Commission's regulations and Code of Federal Regulations related to pipeline safety and that the Commission order such other remedy as may be deemed appropriate, including revocation of Pine Roe's Certificate of Public Convenience.

On February 10, 2017, I&E filed a Motion for Default Judgment asserting that Respondent failed to properly file an Answer to I&E's Complaint. However, due to the procedural similarities in the Complaint proceeding docketed at C-2014-2400485 and the Commission's Order denying a similar Motion for Default Judgment in that matter, I&E withdrew its Motion for Default Judgment in C-2017-2582760.

Pursuant to Hearing Notice dated July 7, 2017, both Complaint proceedings were assigned to presiding ALJ Cheskis with an Initial Hearing set for September 14, 2017. By the presiding ALJ's July 19, 2017 Interim Order, the Complaint proceedings were formally consolidated and the Initial Hearing was converted into a prehearing conference scheduled for August 23, 2017.

I&E submits this Memorandum pursuant to the presiding ALJ's July 19, 2017 Interim Order.

II. I&E PREHEARING CONFERENCE MEMORANDUM

A. Service List and Distribution List

The following prosecutor should be entered on the service list for I&E:

Stephanie M. Wimer
Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 772-8839
(717) 783-3458 (fax)
stwimer@pa.gov

I&E respectfully requests that the following person be added to any e-mail distribution lists in this matter: Michael L. Swindler, Deputy Chief Prosecutor, mwindler@pa.gov.

B. I&E Witnesses

I&E expects to call the following expert witnesses:

1. David Kline
Fixed Utility Valuation Engineer
Pennsylvania Public Utility Commission
Bureau of Investigation & Enforcement
Pipeline Safety Division
P.O. Box 3265
Harrisburg, PA 17105-3265
Phone: (717) 315-1097

Mr. Kline is the primary pipeline safety inspector assigned to monitor Pine Roe's compliance with pipeline safety laws and regulations. Mr. Kline is expected to testify about the alleged pipeline safety violations discovered during the 2012 inspection of Pine Roe's pipeline facilities and records. Mr. Kline is also expected to testify about the alleged pipeline safety violations discovered during the Company's repair of a gas leak that occurred in June 2015. It is anticipated that Mr. Kline's testimony will also discuss the length of time it took Pine Roe to

address and correct the alleged deficiencies, with respect to those that were remedied, as well as to respond to the I&E Pipeline Safety Division's efforts to communicate with the Company.

2. Paul J. Metro
Manager
Pennsylvania Public Utility Commission
Bureau of Investigation & Enforcement
Pipeline Safety Division
P.O. Box 3265
Harrisburg, PA 17105-3265
Phone: (717) 787-1063

Mr. Metro is expected to summarize and describe a 2013 inspection of Pine Roe's facilities and records, which was performed under his supervision.

3. Matthew Matse
Fixed Utility Valuation Engineer
Pennsylvania Public Utility Commission
Bureau of Investigation & Enforcement
Pipeline Safety Division
P.O. Box 3265
Harrisburg, PA 17105-3265
Phone: (717) 787-3416

Mr. Matse is expected to testify about alleged pipeline safety violations discovered during the 2016 repair of one of Pine Roe's facilities that had been damaged by a third-party line hit.

4. Yvonne R. Hess
Chief of Finance and Assessments
Pennsylvania Public Utility Commission
Bureau of Administrative Services
P.O. Box 3265
Harrisburg, PA 17105-3265
Phone: (717) 783-6190

Ms. Hess is expected to testify about the Company's compliance with the Commission's assessment requirements, including Pine Roe's alleged failure to file assessment reports reporting intrastate revenues earned during the 2010, 2011 and 2012 calendar years and the

Company's alleged failure to timely pay the assessment for the July 1, 2014 to June 30, 2015
Fiscal Year.

5. Ron L. Moose
Public Utility Auditor
Pennsylvania Public Utility Commission
Bureau of Audits
3070 William Pitt Way
Pittsburgh, PA 15238
Phone: (412) 423-9307

Mr. Moose is expected to testify about alleged violations that were discovered during an audit of the Company, including Pine Roe's alleged failure to obtain an affiliated interest agreement approved by the Commission before purchasing gas from a family member of the Company; Pine Roe's alleged failure to adhere to its tariff by not using revenue collected pursuant to its Gas Cost Rate for the purchase of natural gas as evidenced by the arrearages the Company maintains with three natural gas suppliers; and Pine Roe's alleged failure to submit quarterly reports related to Gas Cost Rate revenues, expenses and over/under collections pursuant to its tariff.

6. Matthew P. Stewart
Fixed Utility Valuation Engineer
Pennsylvania Public Utility Commission
Bureau of Technical Utility Services
P.O. Box 3265
Harrisburg, PA 17105-3265
Phone: (717) 214-1936

Mr. Stewart is expected to testify about the Company's compliance with unaccounted for gas filing requirements.

I&E reserves the right to call additional witnesses or withdraw the names of witnesses listed above.

C. Issues

The following is a list of issues that I&E intends to address in this proceeding. I&E reserves the right to address other issues, as it deems appropriate, if any such relevant issues arise.

1. Pipeline Safety: Pine Roe's compliance with numerous pipeline safety laws and regulations set forth in Parts 191 and 192 of Title 49 of the Code of Federal Regulations and Chapter 59 of the Commission's regulations. It is I&E's position that Pine Roe has failed to consistently adhere to pipeline safety requirements, which has jeopardized its ability to meet its obligation to provide safe and reliable service to its customers.
2. Assessments: Pine Roe's compliance with the Commission's assessment requirements. It is I&E's position that Pine Roe has failed, on numerous occasions, to timely submit an annual assessment report demonstrating its intrastate operating revenues for the preceding calendar year. It is also I&E's position that Pine Roe has failed to timely pay its assessments.
3. Audit Findings: An audit revealed Pine Roe's non-compliance with certain provisions of the Public Utility Code and Commission regulations requiring that: (1) an approved affiliated interest agreement be obtained prior to entering into a contract with an affiliate; (2) Pine Roe adhere to its tariff by using revenue collected pursuant to its Gas Cost Rate for the purchase of natural gas; and (3) Pine Roe adhere to its Gas Cost Rate tariff by submitting quarterly reports related to Gas Cost Rate revenues, expenses and over/under collections within thirty (30) days following the conclusion of each computation year quarter.

4. Unaccounted for Gas: Pine Roe's compliance with unaccounted for gas filing requirements. It is I&E's position that Pine Roe failed to timely file reports showing metrics regarding distribution system losses for the 12 months ending August 31, 2014 and August 31, 2015.
5. Relief: I&E's requested relief in the form of a substantial civil penalty that shall not be recoverable through rates regulated by the Commission, which I&E submits is necessary to deter future violations. I&E's other requested relief, including that Pine Roe be ordered to cease and desist from committing further violations of the Public Utility Code, Commission regulations and pipeline safety laws and regulations, and that the Commission order such other remedy as may be deemed appropriate such as the revocation of Pine Roe's Certificate of Public Convenience.

D. Evidence

The following is a brief description of the evidence that I&E intends to present in this proceeding. I&E reserves the right to include additional evidence as it deems appropriate.

1. Pipeline Safety: I&E anticipates presenting inspection forms, non-compliance letters, photographs as well as any other applicable records maintained by the Pipeline Safety Division to demonstrate Pine Roe's failure to abide by gas safety regulations.
2. Assessments: I&E anticipates presenting assessment records for entry into evidence.

3. Audit Findings: I&E anticipates presenting documentation regarding the failure of Pine Roe to timely obtain an affiliated interest agreement and adhere to its tariff.
4. Unaccounted for Gas: I&E anticipates presenting records demonstrating the untimeliness of the Company's unaccounted for gas filings.
- E. Statement Regarding Possible Settlement Of Case

The parties participated in a mediation session on May 10, 2017 and have continued to frequently communicate regarding a potential resolution of the consolidated Complaint proceeding. I&E remains willing to make a good faith effort to resolve this matter. In the event that settlement discussions do not result in a full and complete resolution, I&E is prepare to fully litigate this proceeding.

F. Proposed Schedule For Litigation

I&E will work with Pine Roe to develop a litigation schedule in this matter.

Respectfully submitted,



Stephanie M. Wimer
Prosecutor
PA Attorney ID No. 207522

Michael L. Swindler
Deputy Chief Prosecutor
PA Attorney ID No. 43319

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Date: August 16, 2017

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

v.

Pine Roe Natural Gas Co. Inc.,
Respondent

Docket Nos. C-2014-2400485 and
C-2017-2582760

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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Dated: August 16, 2017