



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, HARRISBURG, PA 17120

IN REPLY PLEASE
REFER TO OUR FILE

March 25, 2019

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

Re: Pennsylvania Public Utility Commission v.
Philadelphia Gas Works 1307(f)
Docket No. R-2019-3007636

Dear Secretary Chiavetta:

Enclosed for filing please find the Bureau of Investigation and Enforcement's (I&E) **Prehearing Memorandum** for the above-captioned proceeding.

Copies are being served on all active parties of record. If you have any questions, please contact me at (717) 787-8754.

Sincerely,

Gina L. Miller
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. No. 313863

GLM/jfm
Enclosure

cc: Hon. Marta Guhl, (*OALJ, PUC Philadelphia*)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2019-3007636
	:	
Philadelphia Gas Works 1307(f)	:	

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

TO ADMINISTRATIVE LAW JUDGE MARTA GUHL:

I. INTRODUCTION

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully submits the following Prehearing Memorandum in the above-captioned proceeding.

I&E’s Prosecutor in this proceeding will be Gina L. Miller. Ms. Miller’s contact information is as follows:

By mail: Gina L. Miller
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

By e-mail: ginmiller@pa.gov

By telephone: (717) 787-8754

By fax: (717) 772-2677

I. BACKGROUND

1. On February 1, 2019, Philadelphia Gas Works (“PGW”) filed its prefiling information in support of its annual reconciliation of purchased gas costs rates.
2. On February 5, 2019, I&E filed a Notice of Appearance in this proceeding.
3. On February 8, 2019 and February 11, 2019, respectively, the Office of Small Business Advocate and the Office of the Consumer Advocate (“OCA”) filed a Public Statement, a Notice of Appearance and a formal Complaint in this case.
4. On February 19, 2019, the Philadelphia Industrial and Commercial Gas Users Group (“PICGUG”) filed a Petition to Intervene in this case.
5. On March 1, 2019, PGW made its Annual Purchase Gas Cost Rate (“GCR”) filing in accordance with Section 1307(f) of the Public Utility Code (“Code”), which establishes a procedure for recovery of purchased gas expenses by public utilities.
6. On March 5, 2019, a Prehearing Conference Order was issued to advise parties that Administrative Law Judge Marta Guhl (“ALJ Guhl”) would be presiding in this case and to memorialize the date, time, and requirement for the Prehearing Conference.
7. Pursuant to the Prehearing Order, a telephonic Prehearing Conference has been scheduled for March 27, 2019, with ALJ Guhl presiding. The Prehearing Conference will convene at 10:00 a.m. with the parties participating telephonically. I&E submits this Memorandum in compliance with the Prehearing Conference Order dated March 5, 2019.
8. On March 18, 2019, I&E’s Motion to Strike Certain Portions of PGW’s Gas Cost Rate Filing. ALJ Guhl advised parties that any responses to I&E’s Motion would due by the close of business on March 21, 2019. On March 21, 2019, both PGW and the OCA filed timely responses to I&E’s Motion, and a decision on the Motion is pending at this time.

II. ISSUES

The following list represents I&E's preliminary determination of the potential issues in this case. The listing is as complete as can be made at this time. I&E specifically reserves the right to address other issues, as it deems appropriate, if any such relevant issues arise.

The issues identified at this time are as follows:

1. Retainage Rate;
2. Unaccounted for Gas;
3. Capacity Release;
4. Capacity Requirements;
5. Peak Day Forecasts;
6. Sharing Mechanism;
7. Rate-LNG-N¹
8. E-Factor Adjustment;
9. Conservation Incentive Pilot Credits;
10. Pipeline Penalty Credits;
11. Compliance with the Public Utility Code, the Commission's regulations, and prior Commission Orders.

Most of the issues raised by I&E will be supported by the direct testimony of an I&E witness in his area of responsibility. However, there may be issues of Commission policy or legal interpretation that are not properly the subject of testimony; or there may be factual issues that are clear on the record and need not be supported by testimony. I&E reserves the right to dispense with testimony when, in its opinion, an issue can be adequately addressed in Brief.

¹ I&E notes that all of PGW's filing materials, including direct testimony, related Rate LNG-N are the subject of I&E's Motion to Strike Certain Portions of Philadelphia Gas Works' Gas Cost Rate Filing, which was filed on March 18, 2019. The Motion is pending consideration at this time; therefore, whether and to what extent I&E will address PGW's Rate LNG-N proposal will be contingent upon resolution of the Motion.

III. WITNESSES

It is currently expected that I&E may call any or all of the following witnesses without being limited thereto:

Ethan Cline Fixed Utility Valuation Engineer

Mr. Cline is reviewing the issues preliminarily identified as numbers one through seven and 11 above.

Christopher Henkel Fixed Utility Valuation Analyst

Mr. Henkel is reviewing the issues preliminarily identified as numbers seven through 11 above.

The I&E witnesses may be contacted through the contact information listed above for Ms. Miller. I&E reserves the right to call additional witnesses and/or delete witnesses listed above, as well as to supplement the list of issues or transfer the issues to be addressed between witnesses.² All active parties will be notified of any additions or deletions to the I&E witness list.

IV. EVIDENCE

I&E expects to present all written direct, rebuttal and surrebuttal testimony and accompanying exhibits at the evidentiary hearing. Moreover, I&E intends to rely on PGW's filing, answers to discovery requests, annual reports and other documents submitted to the Commission, other relevant Commission filings, any other relevant Commonwealth agency letters or reports, general financial market information sources and other public documents and reports.

² The above listing is provided without analysis of the positions of all parties to this proceeding, without the benefit of completed discovery, and without knowledge of the volume of topics that I&E witnesses will need to address.

V. SCHEDULE

I&E has reviewed the proposed schedule for hearings and brief set forth on page three of ALJ Guhl's Prehearing Order, and I&E is agreeable to all of the proposed dates with the caveat that I&E requests that witness Cline be permitted to testify on either May 9 or May 10, 2019, because he is not available for any other dates during the week of May 6. In I&E's estimation, no more than two days of hearing time will be needed in this matter.

VI. DISCOVERY

Due to the time limitations in 1307(f) proceedings, I&E requests that the Commission's Rules of Practice and Procedure for the conduct of discovery be modified as follows:

1. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service.
2. Objections to interrogatories shall be communicated orally within three (3) business days of service; unresolved objections be served to the ALJ in writing within five (5) business days of service of interrogatories.
3. Motion to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) business days of service of written objections.
4. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) business days of service of such motions.
5. Any discovery or discovery-related pleadings served after 12:00 noon on a Friday or after 12:00 pm on any business day preceding a state holiday will be deemed to be served on the next business day.

VII. SERVICE OF DOCUMENTS

For purposes of satisfying in-hand requirements for discovery responses, prepared testimony and briefs, I&E will accept electronic delivery of documents with a follow-up hard copy provided by regular first-class mail.

VIII. SETTLEMENT

I&E is willing to make good faith efforts to successfully resolve this matter through settlement. In the event settlement discussions fail to result in a full and complete resolution of the matter, I&E is prepared to fully or partially litigate these proceedings as warranted.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Gina L. Miller", written over a horizontal line.

Gina L. Miller
Prosecutor
PA Attorney I.D. #313863

Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17120

Dated: March 25, 2019

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission

v.

Philadelphia Gas Works 1307(f)

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Docket No. R-2019-3007636

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated March 25, 2019, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

Served via First Class and Electronic Mail

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