

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Dwayne Ackie, Miguel J. Chavarria, Jr.,	:	
Maurice A. Goodwin and Wayne Rauceo	:	
	:	
v.	:	C-2019-3013933
	:	
Philadelphia Gas Works	:	

**PRE-HEARING CONFERENCE MEMORANDUM OF  
COMPLAINANTS ACKIE, CHAVARRIA, GOODWIN AND RAUCEO**

**TO THE ADMINISTRATIVE LAW JUDGE DARLENE HEEP:**

Pursuant to 52 Pa. Code §5.222(d) and Administrative Law Judge Darlene Heep’s Prehearing Conferenced Order dated January 24, 2020, Dwayne Ackie, Miguel J. Chavarria, Jr., Maurice A. Goodwin and Wayne Rauceo (collectively “Complainants” and “Employees”), by and through their undersigned counsel, hereby submit this Prehearing Conference Memorandum.

**I. Procedural History**

On October 31, 2019, Employees filed a formal complaint against their employer Philadelphia Gas Works (“PGW” or “Employer”) for safety violations and other concerns at the Passyunk Gas Processing Plant (“Passyunk Plant”). All Complainants are employed at the Passyunk plant. Thereafter, Employer filed Preliminary Objections and an Answer to the formal complaint on November 20, 2019. Complainants did not file an Answer to Employer’s Preliminary Objections pursuant to 52 Pa. Code §5.101(f)(1).

ALJ Heep entered an order on January 3, 2020 sustaining PGW’s preliminary objections regarding claims raised in paragraphs 14 and 16 as barred by the statute of limitations and all

claims for employment discrimination. For all remaining claims, the Commission overruled all PGW's preliminary objections.

On January 9, 2020, the Commission issued an In-Person Initial Prehearing Conference Notice for January 29, 2020 at 1:00 p.m. Subsequently, counsel for PGW, Karen O. Moury, Esquire requested an unopposed continuance of the listing. Ultimately, the Commission issued a new Notice on January 24, 2020 listing the Conference for February 6, 2020 at 1:30 p.m.

## **II. Service of Documents/Communications**

Complainants request service on and communications to them in this proceeding should be addressed to:

Karin M. Gunter, Esquire  
Law Office of Karin M. Gunter  
85 Old Cedarbrook Road  
Wyncote, PA 19095  
Phone: (215) 548-9992  
Fax: (215) 548-7277  
Email: Kgunterlaw2@gmail.com

## **III. Issues to be Presented**

Pursuant to 66 Pa.C.S. § 1501, *et seq.*, Complainants present the following issues for the Commission to determine - whether PGW maintains “adequate, efficient, safe and reasonable . . . facilities” at its Passyunk Gas Processing Plant, when:

A. it manipulated the readings of a temperature indicator (TE1019) during the LNG vaporization process to artificially raising the temperature thereby negating the early warning capabilities of the TE1019 and silencing the alarm system;

B. it decided to weld structural cracks in the LNG tanks and boilers instead of providing structurally sound repairs involving engineering and other professional attention;

C. in September 2019, an Operations Supervisor left the plant during his shift without authorization and without notice to plant personnel, took a company radio, left the radio at a local drugstore allowing an drugstore employee to use the PGW radio and left the plant without an Operations Supervisor, who is required to be at the plant at all times;

D. in September 2018, the same Operations Supervisor left the plant without authorization and without notice to plant personnel in a company vehicle and got into a car accident leaving the plant without essential personnel;

E. in February 2018, Passyunk plant General Manager snuck onto the property close to midnight without his employee ID and without informing on duty personnel that he was on the premises, and turned off the lights on a company vehicle, drove to and entered into the Central Control room during LNG truck unloading process – all of whose actions were a security breach resulting in a dangerous and hazardous safety risk;

F. in 2017, Passyunk plant General Supervisor demanded the Operations Supervisor and Senior Process Operator who were on shift at the time follow the General Supervisor to Philadelphia International Airport and return his empty car to the PGW employee parking lot while the former was on vacation – this move caused the plant to be without two essential operations personnel;

G. on December 25, 2017, during a shift change, an Operations Supervisor (the same person identified in subparagraphs C and D, *supra*) clocked in a Working Foreman at 6:00 p.m. (beginning of the shift) even though the Working Foreman was not present at 6:00 p.m. and in fact did not report to work until sometime later, and the Working Foreman who was present, clocked out of 6:00 p.m., leaving the plant without his relieve being present – both actions represent work related offenses thief of company time and job abandonment, *inter alia*; and

H. it promotes personnel to management level positions, who do not meet the posted job requirements including, work experience and education, *inter alia*.

#### **IV. Witnesses and Proposed Testimony**

Employees propose the following witnesses in support of the relevant subject matters:

##### **Issue II(A):**

Brian McGuire, Passyunk Plant General Manager  
David Martinez, Passyunk Plant General Supervisor - Operations  
Lou Matos, Passyunk Plant General Supervisor – Maintenance  
John Walker, Passyunk Plant Operations Supervisor  
Wallace Benson, Passyunk Plant Operations Supervisor  
Steven Edwards, Passyunk Plant Working Foreman  
c/o Philadelphia Gas Works  
800 W. Montgomery Avenue  
Philadelphia, PA 19122

Wayne Rauceo, Passyunk Plant Operations Supervisor and Complainant  
6123 Greene Street  
Philadelphia, PA 19144

##### **Issue II(B):**

Brian McGuire, Passyunk Plant General Manager  
David Martinez, Passyunk Plant General Supervisor - Operations  
Steve Edwards, Passyunk Plant Working Foreman  
c/o Philadelphia Gas Works  
(same)

Miguel J. Chavarria, Jr., Passyunk Plant Working Foreman and Complainant  
131 E. Durham Street  
Philadelphia, PA 19119

##### **Issue II(C):**

Ryan O'Donnell, Passyunk Plant Operations Supervisor  
c/o Philadelphia Gas Works  
(same)

Miguel J. Chavarria, Jr., Passyunk Plant Working Foreman and Complainant  
(same)

##### **Issue II(D):**

David Martinez, Passyunk Plant General Supervisor - Operations  
John Walker, Passyunk Plant Operations Supervisor  
Gary Nelson, Passyunk Plant Working Foreman

c/o Philadelphia Gas Works  
(same)

Dwayne Ackie, Passyunk Plant Senior Process Operator and Complainant  
5000 Woodbine Avenue, Apt 301  
Philadelphia, PA 19131

**Issue II(E):**

Brian McGuire, Passyunk Plant General Manager  
Wallace Benson, Passyunk Plant Operations Supervisor  
Pat McGlone, Richmond Plant Process Operator  
c/o Philadelphia Gas Works  
(same)

Wayne Rauceo, Passyunk Plant Operations Supervisor  
(same)

Dwayne Ackie, Passyunk Plant Senior Process Operator and Complainant  
(same)

Freddy Fernandez, Passyunk Plant Security Guard  
c/o Sovereign Security  
123 S. Broad Street, Suite 1650  
Philadelphia, PA 19109

**Issue II(F):**

David Martinez, Passyunk Plant General Supervisor (Operations)  
John Walker, Passyunk Plant Operations Supervisor  
c/o Philadelphia Gas Works  
(same)

Dwayne Ackie, Passyunk Plant Senior Process Operator and Complainant  
(same)

**Issue II(G):**

Ryan O'Donnell, Passyunk Plant Operations Supervisor  
Jose Ortiz, Richmond Plant Working Foreman  
Michael Tomczak, Passyunk Plant Working Foreman  
c/o Philadelphia Gas Works  
(same)

Dwayne Ackie, Passyunk Plant Senior Process Operator and Complainant  
(same)

Maurice A. Goodman, Passyunk Plant Senior Process Operator and Complainant  
2111 Bridge Street

Philadelphia, PA 19124

**Issue II(H):**

David Martinez, Passyunk Plant General Supervisor (Operations)  
Ryan O'Donnell, Passyunk Plant Operations Supervisor  
c/o Philadelphia Gas Works  
(same)

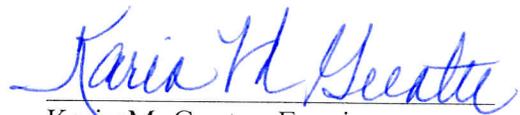
Wayne Rauceo, Passyunk Plant Operations Supervisor  
(same)

Complainants reserve the right to call and present additional witnesses to address any issues that may arise during the course of the proceedings.

**V. Discovery**

At this writing, the Parties have not participated in any discovery. Complainants may seek to obtain admissions and/or stipulations to facts that do not remain in dispute as well as prior authenticity of documents – all of which may shorten/expedite the hearing.

Complainants will seek to obtain document production including electronic documents, interrogatories and depositions as well as mutually acceptable informal discovery. They are willing to agree to electronic service of formal and informal discovery as permitted by the Commission.



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Date; February 4, 2020

**CERTIFICATE OF SERVICE**

I do hereby certify that service of a true and correct copy of herein Prehearing Conference Memorandum of Complainants Dwayne Ackie, Miguel J. Chavarria, Jr., Maurice A. Goodwin and Wayne Rauceo was made on the below named Presiding Officer, Administrative Law Judge Darlene Heep via facsimile and counsel for Philadelphia Gas Works via E-Service:

Administrative Law Judge Darlene Heep  
801 Market Street, Suite 4063  
Philadelphia, PA 19107  
Facsimile: (215) 560-3133

Laureto Farinas, Esquire  
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Date; February 4, 2020