



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

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

March 9, 2020

*Via Electronic Filing*

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v.  
Philadelphia Gas Works – 1307(f)  
Docket No. R-2020-3017934  
**I&E Prehearing Conference Memorandum**

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement's (I&E) **Prehearing Conference Memorandum** in the above-referenced proceeding.

Copies are being 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,

Gina L. Miller  
Prosecutor  
Bureau of Investigation & Enforcement  
PA Attorney ID No. 313863  
(717) 787-8754  
[ginmiller@pa.gov](mailto:ginmiller@pa.gov)

GLM/ac  
Enclosure

cc: Honorable Darlene D. Heep (*ALJ, PUC Philadelphia*)  
Diane Harvell (*PUC Philadelphia*)  
Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2020-3017934
	:	
Philadelphia Gas Works 1307(f)	:	

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

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**TO ADMINISTRATIVE LAW JUDGE DARLENE D. HEEP:**

**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 is 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

## II. BACKGROUND

1. On January 30, 2020, Philadelphia Gas Works (“PGW”) submitted its pre-filing information in support of its annual reconciliation of purchased gas costs rates.

2. On February 6, 2020, I&E filed a Notice of Appearance in this proceeding.

3. On February 11, 2020 and February 21, 2020, respectively, the Office of the Consumer Advocate (“OCA”) and the Office of Small Business Advocate filed a Public Statement, a Notice of Appearance and a formal Complaint in this case.

4. On February 13, 2020, the Philadelphia Industrial and Commercial Gas Users Group (“PICGUG”) filed a Petition to Intervene in this case.

5. On March 2, 2020, 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 2, 2020, I&E received a Prehearing Conference Order dated February 28, 2020, which was issued to advise parties that Administrative Law Judge Darlene D. Heep (“ALJ Heep”) 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 9, 2020, with ALJ Heep presiding. The Prehearing Conference will convene at 2:00 p.m. with the parties participating telephonically. I&E submits this Memorandum in compliance with the Prehearing Conference Order dated February 28, 2020.

### III. 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, and given the recency of PGW's filing, I&E cannot yet assert its position on the issues with certainty. I&E specifically reserves the right to address other issues, as it deems appropriate, if any such relevant issues arise. The potential 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. E-Factor Adjustment;
8. Conservation Incentive Pilot Credits;
9. Pipeline Penalty Credits;
10. 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 or her 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.

#### **IV. WITNESSES**

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

Holly Gilliland                      Fixed Utility Valuation Engineer

Ms. Gilliland is reviewing the issues preliminarily identified as numbers one through seven and 10 above.

Christopher Henkel                  Fixed Utility Valuation Analyst

Mr. Henkel is reviewing the issues preliminarily identified as numbers seven through 10 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.<sup>1</sup> All active parties and the ALJ will be notified of any proposed additions or deletions to the I&E witness list.

#### **V. 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.

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<sup>1</sup> 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.

## **VI. SCHEDULE**

I&E has reviewed the proposed schedule for hearings and briefs set forth on page two of ALJ Heep's Prehearing Order, and I&E is agreeable to all of the proposed dates. Taking into account those proposed dates, I&E offers the following litigation schedule for parties' and the ALJ's consideration, noting that it is I&E's understanding that PGW, OCA, OSBA, and PICGUG support it:

Direct Testimony	April 17
Rebuttal Testimony	May 4
Surrebuttal Testimony	May 11
Hearings	May 12-13 (Philadelphia)
Main Briefs	May 26
Reply Brief	June 5

## **VII. 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.

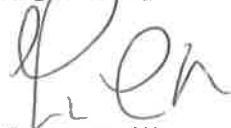
### **VIII. SERVICE OF DOCUMENTS**

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.

### **IX. 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,



Gina L. Miller

Prosecutor

PA Attorney ID No. 313863

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

Dated: March 9, 2020

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
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v.	:	Docket No. R-2020-3017934
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**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Prehearing Conference Memorandum** dated March 9, 2020, 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**

Honorable Darlene D. Heep  
Diane Harvell  
Pennsylvania Public Utility Commission  
Office of Administrative Law Judge  
801 Market Street  
Room 4063  
Philadelphia, PA 19107

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