**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2020- 3017206

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Office of Consumer Advocate : C-2020-3019161

Office of Small Business Advocate : C-2020-3019100

Philadelphia Industrial and Commercial :

Gas User Group : C-2020-3019430

v. :

:

Philadelphia Gas Works :

# **ORDER GRANTING PROPOSED REVISED LITIGATION SCHEDULE**

On February 28, 2020, PGW filed Supplement No. 128 to PGW’s Gas Service Tariff – PA. P.U.C. No. 2 (Supplement No. 128) and Supplement No. 85 to PGW’s Supplier Tariff – Pa. P.U.C. No. 1 (Supplement No. 85) to become effective April 28, 2020, seeking a general rate increase calculated to produce $70 million (10.5%) in additional annual revenues. At that time, PGW also filed a Petition for Waiver seeking waiver of the application of the statutory definition of the fully projected future test year (FPFTY) so as to permit PGW to use a FPFTY beginning on September 1, 2020, (its fiscal year) in this proceeding.

By Order entered April 16, 2020 (“Suspension Order”), the Pennsylvania Public Utility Commission (Commission or PUC) instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase. Supplement No. 128 and Supplement No. 85 were suspended by operation of law until November 28, 2020, unless permitted by Commission Order to become effective at an earlier date. The Suspension Order did not consider the Petition for Waiver.

On June 25, 2020. PGW filed a Motion *in Limine* Regarding Testimony Submitted by the Office of Consumer Advocate Regarding Universal Service Programs (OCA Motion) and a Motion *in Limine* Regarding Testimony Submitted by TURN, et al. Regarding Universal Service Programs (TURN Motion). Both motions concerned testimony regarding language access issues and the Philadelphia Home Rule Charter (PHRC) and Title VI of the Civil Rights Act of 1964 (Title VI).

On June 30, 2020, OCA filed an Answer of the OCA Motion; CAUSE-PA filed an Answer of CAUSE-PA in Opposition to PGW’s TURN Motion; TURN filed an Answer of the TURN Motion.

On July 8, 2020, an order was issued granting PGW’s Motions *in Limine* regarding the OCA and TURN testimony regarding language access issues and the Philadelphia Home Rule Charter (PHRC) and Title VI of the Civil Rights Act of 1964 (Title VI).

On July 15, 2020, and July 21, 2020, TURN *et al*., and the OCA, respectively, filed their Petitions for Interlocutory Review and Answer to Material Questions for consideration by the Commission. The material question presented by TURN and OCA was as follows:

Whether the ALJs’ evidentiary ruling, dated July 8, 2020, erred as a matter of law, by granting PGW’s Motions *In Limine* to exclude portions of the Direct Testimony of TURN *et al*. witness Harry Geller and OCA Witness Roger Colton, on the basis that language access considerations are not within the scope of the Commission’s jurisdiction and therefore not relevant to PGW’s quality of service in the context of PGW’s general base rate proceeding?

Petitioners and CAUSE-PA filed Briefs in Support of the Petitions of the OCA and TURN, *et al.*, on July 27, 2020. On that same date, PGW filed a Brief in Opposition to the Petitions.

On August 6, 2020, the Commission granted the Petitions for Interlocutory Review and Answer to Material Question filed TURN and OCA, stating in its Opinion and Order as follows:

Accordingly, we find the direct testimony at issue, offered by the witnesses of the OCA and TURN *et al*, to be relevant evidence, and its exclusion to be reversable legal error. We note that our determination is limited to the finding that the evidence is relevant and must be admitted. We make no determination as to the weight the ALJs are to ascribe to the evidence.

Further, we expressly agree with the ALJs and PGW to the extent that we concur that the Commission has *no jurisdiction* to decide whether the service provided by PGW would be in violation of the PHRC or Title VI, and the ALJs are not to decide that question on the remand.

On August 10, 2020, in accordance with a Commission Opinion and Order in this matter, the undersigned issued an Order directing TURN and OCA to file amended testimony by August 17, 2020.

Several parties have requested a change in the litigation schedule and the opportunity to respond to the amended testimony. They were directed to provide a joint proposed scheduled by noon on August 12, 2020 via email. As directed, the parties submitted the revised proposed schedule. The proposed revised schedule is as follows:

PGW Supplemental Rebuttal – Thursday, August 13, 2020

Other Parties’ Supplemental Surrebuttal – Monday, August 17, 2020

PGW Supplemental Rejoinder – Tuesday, August 18, 2020

Main Brief – Thursday, August 20, 2020

Reply Brief – Monday, August 31, 2020.

THEREFORE,

IT IS ORDERED:

1. That the proposed revised litigation schedule is granted and adopted by this Order;
2. That the supplemental testimony submitted will be limited to the issues indicated in the Commission’s Opinion and Order dated August 6, 2020;
3. That the parties will adhere to the proposed schedule indicated above in this Order, and;
4. That parties are to submit the documents no later 4:30 p.m. on the dates scheduled to meet the deadlines.

Date: August 12, 2020 \_\_\_\_\_\_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Marta Guhl

Administrative Law Judge

\_\_\_\_\_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Darlene Heep

Administrative Law Judge

**R-2020-3017206 - PA PUBLIC UTILITY COMMISSION, et. al. v. PHILADELPHIA GAS WORKS**

SERVICE LIST

DANIEL CLEARFIELD ESQUIRE

SARAH C STONER ESQUIRE  
KRISTINE MARSILIO ESQUIRE

ECKERT SEAMANS

213 MARKET STREET

HARRISBURG PA 17101

**717.237.7173**

*Representing Philadelphia Gas Works*

***ACCEPTS E-SERVICE***

GREGORY J STUNDER ESQUIRE

**\***CRAIG BERRY ESQUIRE

PHILADELPHIA GAS WORKS

800 WEST MONTGOMERY AVENUE

PHILADELPHIA PA 19122  
**215.684.6878**

***ACCEPTS E-SERVICE****\*Via e-mail only due to Emergency Order at M-2020-3019262  
craig.berry@pgworks.com*

LAUREN M BURGE ESQUIRE  
600 GRANT STREET  
44TH FLOOR  
PITTSBURGH PA 15219  
**412.566.2146**

*Representing Philadelphia Gas Works*  
***ACCEPTS E-SERVICE***

SHARON E WEBB ESQUIRE

DANIEL ASMUS ESQUIRE

OFFICE OF SMALL BUSINESS ADVOCATE

FORUM PLACE

555 WALNUT STREET 1ST FLOOR

HARRISBURG PA 17101

**717.783.2525***Via e-mail only due to Emergency Order at M-2020-3019262*[swebb@pa.gov](mailto:swebb@pa.gov)  
[dasmus@pa.gov](mailto:dasmus@pa.gov)

DARRYL A LAWRENCE ESQUIRE

SANTO G SPARTARO ESQUIRE

LAURA J ANTINUCCI ESQUIRE

OFFICE OF CONSUMER ADVOCATE

5TH FLOOR FORUM PLACE

555 WALNUT STREET

HARRISBURG PA 17101-1923

**717.783.5048**

***ACCEPTS E-SERVICE***

JOHN SWEET ESQUIRE

ELIZABETH R MARX ESQUIRE

RIA PEREIRA ESQUIRE

PA UTILITY LAW PROJECT

118 LOCUST STREET

HARRISBURG PA 17101

**717.701.3837**

*Representing CAUSE-PA*

***ACCEPTS E-SERVICE***

CARRIE B WRIGHT ESQUIRE

PUBLIC UTILITY COMMISSION

BUREAU OF INVESTIGATION AND ENFORCEMENT

SECOND FLOOR WEST

400 NORTH STREET

HARRISBURG PA 17120

**717.783.6156**

***ACCEPTS E-SERVICE***

TODD S STEWART ESQUIRE

HAWKE MCKEON AND SNISCAK LLP

100 NORTH TENTH STREET

HARRISBURG PA 17101

**717.236.1300**

*Representing Direct Energy Services*

***ACCEPTS E-SERVICE***

CHARIS MINCAVAGE ESQUIRE

ADEOLU A BAKARE ESQUIRE

JO-ANNE THOMPSON ESQUIRE

MCNEES WALLACE & NURICK

100 PINE STREET

PO BOX 1166

HARRISBURG PA 17108

**717.237.5437**

*Representing PICGUG*

***ACCEPTS E-SERVICE***

JOSIE B H PICKENS ESQUIRE

ROBERT W BALLENGER ESQUIRE

JOLINE PRICE ESQUIRE  
**\***KINTESHIA SCOTT ESQUIRE

COMMUNITY LEGAL SERVICES

1410 WEST ERIE AVENUE

PHILADELPHIA PA 19140

**215.227.4378**

**215.981.3788**

**717.236.9486**

*Representing TURN, et. al.*

***ACCEPTS E-SERVICE  
\*****Via e-mail only due to Emergency Order at M-2020-3019262*[kscott@clsphila.org](mailto:kscott@clsphila.org)

JOSEPH OTIS MINOTT ESQUIRE  
LOGAN WELDE ESQUIRE  
CLEAN AIR COUNCIL  
135 S 19TH STREET  
SUITE 300  
PHILADELPHIA PA 19103  
**215.567.4004***Representing Environmental Stakeholders* ***Accepts e-Service***

CASSANDRA R MCCRAE ESQUIRE  
EARTHJUSTICE  
1617 JFK BLVD  
SUITE 1130  
PHILADELPHIA PA 19103  
**407.462.1342***Representing Clean Air & Sierra Club****Accepts e-Service***

DEVIN MCDOUGALL ESQUIRE  
EARTHJUSTICE  
476 CLINTON AVENUE  
APARTMENT 6F  
BROOKLYN NY 11238  
**646.397.8370***Representing Clean Air & Sierra Club****Accepts e-Service***