



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

March 8, 2021

Via Electronic Filing

Secretary Rosemary Chiavetta
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-2021-3023970
I&E Prehearing Memorandum

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the **Prehearing Memorandum of the Bureau of Investigation and Enforcement** for the above-captioned proceeding.

Consistent with Paragraph 8 of the Commission's March 20, 2020 Emergency Order at Docket No. M-2020-3019262 (Re: Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements), electronic copies only are being served on all active parties of record as evidenced in the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gina L. Miller', is written over a light gray background.

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

GLM/ac
Enclosures

cc: Honorable Darleen D. Heep – Office of Administrative Law Judge (*via email only*)
Shalea Delvillar, Legal Assistant – Office of Administrative Law Judge (*via email only*)
Per Certificate of Service

II. BACKGROUND

1. On February 1, 2021, Philadelphia Gas Works (“PGW”) submitted its pre-filing information in support of its annual reconciliation of purchased gas costs rates.
2. On February 3, 2021, I&E filed a Notice of Appearance in this proceeding.
3. On February 11, 2021 and February 26, 2021, 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 17, 2021, the Philadelphia Industrial and Commercial Gas Users Group (“PICGUG”) filed a Petition to Intervene in this case.
5. On March 1, 2021, PGW filed an Errata to update the schedules for Item 53.64(i)(1) of its February 1, 2021 pre-filing materials. On the same date, PGW also made its Annual Purchased 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 3, 2021, I&E received a Prehearing Conference Order 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 requirements for the Prehearing Conference.
7. Pursuant to the Prehearing Order, a telephonic Prehearing Conference has been scheduled for March 9, 2021, 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 March 3, 2021.

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. Compliance with prior Commission Orders;
7. Renewable Natural Gas Pilot Program Proposal;
8. C-Factor;
9. E-Factor;
10. Supplier Refunds;
11. Pipeline Refunds;
12. Interest Rate on Over/Under Collections;
13. Purchase of Receivables;
14. Other Post Employment Benefit Surcharge; and
15. Receivables Program/Merchant Function Charge

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.

IV. WITNESSES

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

Ethan H. Cline Fixed Utility Valuation Engineer

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

Christopher Keller Fixed Utility Valuation Analyst

Mr. Keller is reviewing the issues preliminarily identified as numbers eight through 15 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 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

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.

Commonwealth agency letters or reports, general financial market information sources, and other public documents and reports.

VI. SCHEDULE

I&E has reviewed the proposed schedule for hearings and briefs set forth on page three of ALJ Heep’s Prehearing Order, and I&E is agreeable to all of the proposed dates, but has adopted a slightly earlier Main Brief date. 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 and the OCA support it:

Direct Testimony ³	April 16
Rebuttal Testimony	May 4
Surrebuttal Testimony	May 11
Oral Rejoinder at Hearing	May 12
Hearings	May 12-13
Close of Record	May 14
Main Briefs	May 26
Reply Brief	June 4

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:⁴

1. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service.

³ Direct testimony for parties other than PGW, as its direct testimony was contained in the GCR materials filed on March 3, 2021.

⁴ I&E notes that PGW has indicated its support for I&E’s proposed discovery modifications, provided that “in-hand” requirements may be met via email. I&E agrees, consistent with its position on “Service of Documents” in Section VIII below.

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 during the closure of Commission offices, and consistent with Paragraph 8 of the Commission's March 20, 2020 Emergency Order,⁵ I&E will both only serve and accept electronic delivery of documents. Upon re-opening of Commission offices, and only on a forward-moving basis from that point onward, I&E requests parties provide a follow-up hard copy by regular first-class mail in addition to electronic delivery.

⁵ Docket No. M-2020-3019262, *Re: Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements*.

IX. SETTLEMENT

I&E will make a good faith attempt to 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 in a cursive style.

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 8, 2021

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No.: R-2021-3023970
	:	
Philadelphia Gas Works – 1307(f)	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated March 8, 2021, in the manner and upon the persons listed below:

Served via Electronic Mail Only

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