**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

GRAYS FERRY COGENERATION :

PARTNERSHIP AND VICINITY :

ENERGY PHILADELPHIA INC :

: C-2021-3029259

vs. :

:

PHILADELPHIA GAS WORKS :

:

**PREHEARING CONFERENCE ORDER**

A telephonic prehearing conference has been scheduled in the above-captioned case for Thursday, January 13, 2022, at 10:00 a.m. The call-in information is as follows:

Toll-free Conference Number: 866.675.3641

Passcode Participant Number: 37082098

Parties shall review the regulation pertaining to prehearing conferences,

52 Pa. Code §§ 5.222 and 5.224. Be prepared to discuss the schedule, possibilities for settlement, discovery issues, issues relating to the hearings that will be held, service among parties and all other procedural issues relevant to this proceeding. In addition, note subsection (d), which provides, in part:

(d) Parties and counsel will be expected to attend the conference fully prepared for a useful discussion of all problems involved in the proceeding, both procedural and substantive, and fully authorized to make commitments with respect thereto. 52 Pa. Code § 5.222.

1. All of the following matters shall be addressed at the prehearing conference:
   1. Establishment of the official service list, and an e-mail distribution list.
   2. A proposed plan and schedule of discovery as well as modification of the Commission’s rules pertaining to discovery (52 Pa. Code, Subchapter D) and subpoenas (52 Pa. Code § 5.421), if appropriate.
   3. Other matters that may aid in the orderly conduct and disposition of the proceeding and the furtherance of justice, including but not limited to the following:
      1. Simplification of the issues;
      2. Obtaining admissions as to, or stipulations of, facts not in dispute or the authenticity of documents which might properly shorten the hearing;
      3. Limitations as to the number of witnesses;
      4. Limitations of time and scope for direct and cross-examinations; and
      5. The need for a protective order.

1. **On or before noon on Monday, January 10, 2022**, each party shall email to the undersigned, file and serve a prehearing memorandum which shall include the information required by 52 Pa. Code § 5.222(d)(1), which includes but is not limited to:
   * 1. A proposed plan and schedule of discovery;
     2. A list of the issues and sub-issues in this proceeding which the party intends to address and a statement of the party’s position on each of the issues and sub-issues listed;
     3. The names, business addresses, and telephone numbers of witnesses the party expects to call and the subject matter of each witness’ testimony;
     4. Amount of hearing time needed;
     5. Possibility of settlement; and
     6. Any other appropriate matter.
2. Parties must directly serve the presiding officer (electronically at [mguhl@pa.gov](mailto:mguhl@pa.gov)), as well as my legal assistant, Athena Delvillar ([sdelvillar@pa.gov](mailto:sdelvillar@pa.gov)), with any document you file in this proceeding. If you send any document or correspondence, you must send a copy to all other parties in the case. The current service list is attached to this Order. The contact information for the presiding officers is:

Administrative Law Judges

Marta Guhl

Pennsylvania Public Utility Commission

Office of Administrative Law Judge

801 Market Street, Suite 4063

Philadelphia, PA 19107

Telephone: 215-560-2105

Fax: 215-560-3133

[mguhl@pa.gov](mailto:mguhl@pa.gov)

1. Pursuant to 52 Pa. Code § 1.55, each party shall be limited to one entry on the service list. Parties shall provide the name, business address, business telephone number, business telefacsimile number (if any), and business e-mail address (if any) of the person they wish to include on the service list.
2. Parties shall be limited to those persons or entities who: (1) file a complaint or petition to intervene pursuant to 52 Pa. Code §§ 5.32, 5.71-76 (or a notice of intervention for those entities with a statutory right of participation) and (2) attend the initial prehearing conference. After the prehearing conference, intervention is limited to those persons or entities granted party status pursuant to 52 Pa. Code §§ 5.71-5.76, as set forth in *Re: Mercer Gas Company*, 71 Pa. PUC 19 (1989), and *Re: S.T.S. Motor Freight, Inc.*, 54 Pa. PUC 343, 344 (1980) or who file a complaint.
3. Petitions to intervene, if not untimely or otherwise defective on their face, shall be deemed granted if not objected to within three business days after filing. If objected to, such pleadings will be addressed by order.
4. Pursuant to 52 Pa. Code §§ 1.21-1.23, you may represent yourself, if you are an individual, or you may have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *pro hac vice*, represent you. However, if you are a partnership, corporation, trust, association, joint venture, other business organization, trust, trustee, legal representative, receiver, agency, governmental entity, municipality or other political subdivision, you must have an attorney licensed to practice law in the Commonwealth of Pennsylvania or admitted *pro hac vice* represent you in this proceeding. Unless you are an attorney, you may not represent someone else. Attorneys shall ensure that their appearance is entered in accordance with the provisions of 52 Pa. Code § 1.24(b).
5. The parties are directed to cooperate and exchange information, either on an informal or formal basis. In addition, the parties are urged to use alternative means of discovery such as discovery conferences or depositions. All discovery requests should be as narrowly tailored as possible, and parties should coordinate their discovery if possible; responses are due on a best-efforts basis. The parties are expected to resolve discovery issues among themselves; motions to compel should be filed only after such efforts have failed. If the objections are not resolved, counsel will alert the presiding officers by e-mail of the need for a ruling, and a conference call will be scheduled. The presiding officers will make a ruling over the telephone and not reduce it to writing unless requested to do so. There are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa. Code §§ 5.361, 5.371-5.372.
6. The parties shall stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expense in litigation on all parties and conserve precious administrative hearing resources. 52 Pa. Code §§ 5.232 and 5.234. All stipulations entered into by the parties shall be reduced to writing, signed by the parties to be bound thereby, and moved into the record during the hearings in this case. An exception to this requirement may occur when circumstances warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.
7. The parties are reminded it is the Commission’s policy to encourage settlements. 52 Pa. Code § 5.231(a). The parties are strongly urged to seriously explore this possibility. In the event of a settlement, a joint settlement petition executed by representatives of all parties to be bound thereby, together with statements in support of settlement by all signatory parties must be filed with the Secretary along with a CD in searchable PDF format, and both a paper copy and electronic copy in a WORD document or another compatible format served on me.
8. Absent a continuance for good cause, all parties must be prepared to participate in the scheduled prehearing conference. Failure of a party to participate in the conference, after being served with notice of the date, time and location thereof, without good cause shown, shall constitute a waiver of all objections to the agreements reached, and an order or ruling with respect thereto.
9. **You must serve the presiding Administrative Law Judge directly with a copy of any document that you file in this proceeding.[[1]](#footnote-1)** If you send the undersigned any correspondence or document, you must send a copy to all other parties. For your convenience, a copy of the Commission’s current service list of the parties to this proceeding is enclosed with this Order.

Date: December 22, 2021

/s/

Marta Guhl

Administrative Law Judge

**C-2021-3029259 - GRAYS FERRY COGENERATION PARTNERSHIP AND VICINITY ENERGY PHILADELPHIA IMC v. PHILADELPHIA GAS WORKS**

DENNIS WHITAKER ATTORNEYHAWKE MCKEON & SNISCAK LLP100 NORTH 10TH STREETHARRISBURG PA 17101**717.236.1300**DAWHITAKER@HMSLEGAL.COM

SHARON E WEBB ESQUIREOFFICE OF SMALL BUSINESS ADVOCATEFORUM PLACE555 WALNUT STREET 1ST FLOORHARRISBURG PA 17101**717.783.2525**SWEBB@PA.GOV

CRAIG BERRY ESQUIRE\*LAURETO FARINAS ESQUIRE  
PHILADELPHIA GAS WORKS800 WEST MONTGOMERY AVENUEPHILADELPHIA PA 19122**215.684.6982** \*Accepts EService  
CRAIG.BERRY@PGWORKS.COM

KEVIN J MCKEON ESQUIRETODD S STEWART ESQUIRE  
HAWKE MCKEON AND SNISCAK LLP100 NORTH TENTH STREETHARRISBURG PA 17101**717.236.1300**Accepts EService

DANIEL CLEARFIELD ESQUIRECARL SHULTZ ESQUIRE  
ECKERT SEAMANS CHERIN & MELLOTT LLC213 MARKET STREETHARRISBURG PA 17101**717.237.7173717.255.3742**  
Accepts EService

LAUREN M BURGE ESQUIREECKERT SEAMANS CHERIN & MELLOTT LLC600 GRANT STREET 44TH FLOORPITTSBURGH PA 15219**412.566.2146**Accepts EServiceHARRISON W BREITMAN ATTORNEYOFFICE OF CONSUMER ADVOCATE555 WALNUT STREET 5TH FLOORFORUM PLACEHARRISBURG PA 17101**717.783.5048**  
Accepts EService

1. Copies must be provided in both an as-filed PDF version as well as a WORD document. [↑](#footnote-ref-1)