



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

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

October 6, 2022

**Via Electronic Filing**

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

Re: Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement v.  
Philadelphia Gas Works  
Docket No. C-2022-3033834  
**I&E Prehearing Conference Memorandum**

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Bureau of Investigation and Enforcement's ("I&E") **Prehearing Conference Memorandum** in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please contact the undersigned.

Sincerely,

A handwritten signature in blue ink that reads 'Kayla L. Rost'.

Kayla L. Rost  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 322768  
(717) 787-1888  
[karost@pa.gov](mailto:karost@pa.gov)

KLR/ac  
Enclosures

cc: Per Certificate of Service  
Michael L. Swindler, Deputy Chief Prosecutor (via email- [mwindler@pa.gov](mailto:mwindler@pa.gov))  
Stephanie M. Wimer, Senior Prosecutor (via email- [stwimer@pa.gov](mailto:stwimer@pa.gov))

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2022-3033834
	:	
Philadelphia Gas Works	:	

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

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**TO ADMINISTRATIVE LAW JUDGE DENNIS BUCKLEY:**

The Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”) files this Prehearing Conference Memorandum in accordance with Section 5.222(d)(1) of the Commission’s regulations, 52 Pa. Code § 5.222(d)(1), in advance of the prehearing conference scheduled for October 11, 2022.

**I. HISTORY OF THE PROCEEDING**

On July 15, 2022, I&E filed proprietary and non-proprietary versions of a Complaint, Docket No. C-2022-3033834, against Philadelphia Gas Works (“PGW”) in connection with the fatal gas explosion that occurred on December 19, 2019 at South 8<sup>th</sup> Street, Philadelphia, Pennsylvania. I&E alleges that PGW committed violations of the Public Utility Code, Commission regulations, and Federal pipeline safety regulations, and seeks the imposition of a civil penalty of One Million, Three Hundred Eleven Thousand, Eight Hundred Eighty-Two Dollars (\$1,311,882.00), and a directive that PGW perform thirteen (13) corrective measures.

By letter dated July 18, 2022, the Commission served the Complaint to PGW.

On July 27, 2022, PGW filed a request for a 15-day extension to respond to the Complaint. I&E did not oppose the request.

On August 23, 2022, PGW filed its Answer to the Complaint. In its Answer, PGW removed the proprietary designation assigned to certain information labeled as proprietary by I&E in the Complaint. Specifically, PGW stated that the information provided in Paragraphs 16, 21, 29-32, 43, 49-50, 54-55, 58-59, 63-66, 69, and 76(b) should be treated as public. PGW generally denied the allegations of violations outlined in the Complaint and requested that the Complaint be dismissed.

On August 25, 2022, a Call-in Telephone Hearing Notice was issued, scheduling a telephonic conference for October 11, 2022 before Administrative Law Judge Dennis Buckley. The parties exchanged email correspondence with ALJ Buckley to confirm that the October 11, 2022 will be a prehearing conference to discuss the litigation schedule moving forward.

## **II. I&E PREHEARING CONFERENCE MEMORANDUM**

### **A. Service**

All service on, and communication to, I&E in this proceeding should be addressed to:

Kayla L. Rost  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(717) 787-1888  
[karost@pa.gov](mailto:karost@pa.gov)

Stephanie M. Wimer  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(717) 772-8839  
[stwimer@pa.gov](mailto:stwimer@pa.gov)

B. Statement Regarding Settlement

I&E is open and willing to discuss settlement of this matter. Currently, I&E has not engaged in any settlement discussions at this time.

C. Plan and Schedule of Discovery

I&E proposes that discovery be conducted consistent with the Commission's regulation at 52 Pa. Code §§ 5.321, *et seq.* To date, both PGW and I&E have exercised their right to discovery by serving Interrogatories and Requests for Production of Documents.

D. Discovery Orders

I&E does not propose any modifications to the Commission's regulations pertaining to discovery at 52 Pa. Code §§ 5.321, *et seq.*

E. Proposed Litigation Schedule

I&E and PGW propose the following litigation schedule:

1. I&E written direct testimony due on January 13, 2023.
2. PGW written rebuttal testimony due on March 10, 2023.
3. I&E written surrebuttal testimony due on April 10, 2023.
4. Witness cross examination matrix submitted on April 20, 2023
5. Hearing to occur the week of April 24, 2023.
6. Briefing schedule to be established at the conclusion of the hearing.

F. Names and Addresses of Witness(es) to be Presented

Elena Bozhko  
Fixed Utility Valuation Engineer  
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Christopher Whiteash  
Fixed Utility Valuation Engineer  
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

I&E reserves the right to modify the identified witness and/or present additional witnesses as it deems necessary based on the issues identified by the parties.

1. Issues to be Addressed

- a. Whether PGW failed to follow its internal policies/procedures set forth in Bulletin Nos. 312 and 313 by failing to safeguard and support its facilities during construction activities in the immediate area of its facilities.
- b. Whether PGW failed to adequately monitor its pipeline facilities on the 1400 block of South 8<sup>th</sup> Street during the various water and sewer repairs work completed in the fall of 2019.
- c. Whether PGW failed to repair, replace, or remove the unsafe portion of the 6-inch cast iron main which ultimately caused the fatal explosion.

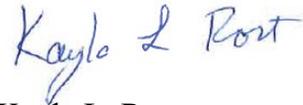
- d. Whether PGW failed to adequately protect its 6-inch cast iron main at South 8<sup>th</sup> Street when it had knowledge of the excavation activity near the pipeline but failed to take the appropriate steps to provide permanent protection from damage.
- e. Whether PGW failed to ensure that its personnel had the necessary knowledge and skills to ensure the safe operation of the pipeline facilities, including training on underground street trouble and the investigative process and procedures.
- f. Whether PGE failed to furnish and maintain adequate, efficient, safe, and reasonable service and facilities by failing to protect the 6-inch cast iron main which resulted in the support of the main being undermined, causing the break and subsequent explosion.

2. Statement of Evidence to be Presented

Ms. Bozhko and Mr. Whiteash will provide testimony relating to Pipeline Safety's response to and investigation of the fatal gas explosion that occurred on December 19, 2019 at South 8<sup>th</sup> Street, Philadelphia, Pennsylvania. The testimony will include Pipeline Safety's review of PGW's policies and procedures, the results of the metallurgical evaluation and root cause analysis of the failure, and the remedial measures sought in the Complaint.

Ms. Bozhko and Mr. Whiteash may testify to additional matters based upon the issues identified by the parties.

Respectfully submitted,

A handwritten signature in blue ink that reads "Kayla L. Rost". The signature is written in a cursive style.

Kayla L. Rost  
Prosecutor  
PA Attorney ID No. 322768

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
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Email: [karost@pa.gov](mailto:karost@pa.gov)

Dated: October 6, 2022

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2022-3033834
	:	
Philadelphia Gas Works	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing **Prehearing Conference Memorandum** dated October 6, 2022, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**Service by Electronic Mail Only**

Honorable Dennis Buckley  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120  
[debuckley@pa.gov](mailto:debuckley@pa.gov)

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