BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission :

 :

 v. : R-2022-3034229

 : P-2022-3034264

Philadelphia Gas Works :

# **PREHEARING CONFERENCE ORDER**

History

 On August 2, 2022, Philadelphia Gas Works (PGW), Utility Code 125042, filed Supplement No. 152 to Gas Service Tariff - Pa. P.U.C. No. 2 to become effective

October 1, 2022, and a Petition for Approval on Less than Statutory Notice of Tariff Supplement Revising Weather Normalization Adjustment. The tariff supplement proposed changes would add a control cap to PGW’s Weather Normalization Adjustment (WNA) Clause so that its customers would not be billed a WNA charge or credit greater than 25% of total delivery charge excluding the WNA.

 On August 22, 2022, the Office of Consumer Advocate (OCA) filed an Answer to the filings. The OCA stated that PGW did not provide evidence as to how it determined that a 25% cap was the appropriate level of protection for customers. The OCA also stated that the only reasonable approach is to suspend the WNA mechanism until a revised formula, free from its current defects, can be developed.

Pursuant to the Public Utility Code, 66 Pa. C.S. § 1308(b), by Order dated September 15, 2022, the Commission suspended the proceedings until April 1, 2023 and sent the matter to the Office of Administrative Law Judge for evidentiary hearings and a Recommended Decision. The matter was assigned to Administrative Law Judge Marta Guhl.

 The telephonic prehearing conference in this matter was held on Wednesday, September 28, 2022. Counsel for PGW, I&E, OCA, OSBA, CAUSE-PA and TURN were present. The parties needed additional time to draw up a procedural schedule and submitted it to me on October 5, 2022 which I approved.

 On November 8, 2022, PGW filed a Petition for Leave to Withdraw its filings and also a Motion to Hold the Procedural Schedule in Abeyance. OCA and CAUSE-PA objected to the Petition for Leave to Withdraw. I granted the request to hold the matter in abeyance.

 On December 6, 2022, Counsel for PGW notified me that the parties had agreed to a new procedural schedule in this matter that would render their Petition to Withdraw moot. I notified that parties that there were no dates for Public Input hearings and counsel for PGW provided me with dates for the Public Input hearings on December 14, 2022.

 On December 15, 2022, Philadelphia Industrial and Commercial Gas Users Group filed a Late-Filed Petition to Intervene in this matter.

 This Order memorializes the schedule that I approved.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petition to Intervene of PICGUG is granted.

2. That the parties of record as of this date are PGW, I&E, OCA, OSBA, PICGUG, CAUSE-PA and TURN.

3. That parties to be officially served are listed on the attached service list. Please direct any changes, corrections or additions to Athena DelVillar, Legal Assistant, at sdelvillar@pa.gov.

4. That the Petition for Leave to Withdraw is now moot as well as the Motion for Abeyance and the abeyance is lifted.

5. That parties may arrange service among themselves as they agree. Pursuant to 52 Pa.Code § 5.154(c), the parties are permitted without further order to limit the service of documents to parties who indicate that they do not wish to be served with such documents. Parties should review the Pre-hearing Memoranda and comply with the Service of Documents requests therein.

6. That parties may serve documents electronically by 4:30 p.m. to meet any required due date, with hard copy to follow by regular first-class mail.

7. That the following schedule is adopted[[1]](#footnote-1):

|  |  |
| --- | --- |
| **Action** | **Proposed Date** |
| PGW Direct Testimony | February 14, 2023 |
| Public Input Hearings | March 9, 2023 at 10:00 a.m. and 6:00 p.m. |
| Other Parties’ Direct Testimony | April 6, 2023 |
| Rebuttal Testimony | May 2, 2023 |
| Surrebuttal Testimony | May 12, 2023 |
| Rejoinder Testimony | May 19, 2023 |
| Hearings | May 23-25, 2023 |
| Main Briefs | June 7, 2023 |
| Reply Briefs | June 16, 2023 |
| Public Meeting | September 21, 2023 |
| End of Suspension | October 5, 2023 |

8. That the parties comply with the Commission’s requirements for the preparation and service of written testimony. 52 Pa.Code § 5.412. These include, but are not limited to, the requirement that written testimony must be accompanied by all exhibits to which it relates. Written testimony shall be marked with numerical, sequential statement numbers. Oral direct, rebuttal or surrebuttal testimony or witnesses not identified in a party’s prehearing memorandum shall not be permitted, except by permission for good cause.

9. That the parties shall comply with the provisions of 52 Pa.Code § 5.243(e)which prohibit the introduction of evidence during rebuttal which should have been included in the party’s case-in-chief or which substantially varies from the party’s case-in-chief, unless the party is introducing evidence in support of a proposed settlement.

10. That the evidentiary hearings will be held telephonically.

11. That the parties shall stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses 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 of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.

12. That the evidentiary hearings in this matter constitute formal legal proceedings and will be conducted in accordance with the Commission’s Rules of Administrative Practice and Procedure, as well as the rules of evidence as applied to administrative hearings.

13. That parties serving pre-served testimony in proceedings pending before the Commission pursuant to 52 Pa.Code § 5.412(f) shall be required, within thirty (30) days after the final hearing in an adjudicatory proceeding to either eFile with or provide to the Secretary’s Bureau a Compact Disc (CD) containing all testimony furnished to the court reporter during the proceeding, consistent with the Commission’s Implementation Order, dated January 10, 2013, at Docket No. M-2012-2331973.

14. Motions with respect to objections to written testimony must be presented in writing no later than three days prior to the date the witness sponsoring the testimony is scheduled to testify. Answers to such motions may be filed within three days or sooner if circumstances warrant. Oral motions other than for good cause will not be accepted.

15. That the parties must comply with 52 Pa.Code §§5.501, *et* *seq*., regarding the preparation and filing of briefs. Service can be made electronically by no later than 4:30 p.m. on the dates listed, with a hard copy received in hand on the next business day. Parties are directed to e-mail to the undersigned a copy of as-filed briefs in ADOBE or other compatible PDF format in addition to a WORD-formatted document. The format of the briefs served electronically on the parties may be as requested by the parties.

16. Rate tables submitted by the parties MUST be in a uniform format consistent with the Commission’s Bureau of Technical Utility Services (TUS) template tables, which will be provided in a separate email from the presiding officer.

17. That all main briefs, regardless of length, must contain:

(1) A table of contents;[[2]](#footnote-2)

(2) A history of the proceeding;

(3) A discussion;

(4) Proposed findings of facts (with record citations to transcript pages, written testimony pages or exhibits where supporting evidence appears);

(5) Proposed conclusions of law (with citations to supporting statutes, regulations or relevant case law); and

(6) Proposed ordering paragraphs specifically identifying the relief sought.

Note: 52 Pa.Code § 5.501(e) requires that “Briefs shall be as concise as possible.” Page limitations on briefs will be discussed on or before the last day of hearing.

18. That if a party does not file a reply brief, it will be assumed that the party does not dispute the assertions, contentions or arguments made by the other parties in their main briefs. While it is not necessary in a reply brief to repeat a particular argument or discussion contained in the main brief, the reply brief should note where the responsive argument is located in the main brief and how it responds to the other parties’ assertions, contentions, or arguments.

19. That any brief not filed and served on or before the date fixed therefore will not be accepted for filing, except by permission for good cause.

20. That the parties are to confer among themselves in an attempt to resolve all or some of the issues associated with these Complaints. 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. 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 for the Commission and served on the undersigned.

21. That any provision of this prehearing order may be modified upon motion and good cause shown by any party in interest in accordance with 52 Pa.Code § 5.223(a).

Date: February 22, 2023 /s/

Marta Guhl

 Administrative Law Judge

**R-2022-3034229 – Pennsylvania Public Utility Commission v. Philadelphia Gas Works**

**P-2022-3034264 – Petition of Philadelphia Gas Works for Approval on Less than Statutory Notice of Tariff Supplement Revising Weather Normalization Adjustment** =

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1. Testimony shall not be filed with the Commission at the time of service, but parties may file a certificate of service. [↑](#footnote-ref-1)
2. In addition, each reply brief must contain a table of contents. All briefs must contain references to the record to support their arguments. [↑](#footnote-ref-2)