



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

March 7, 2023

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-2023-3038069
I&E Prehearing Memorandum

Dear Secretary Chiavetta,

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's (I&E) **Prehearing Memorandum** in the above-captioned proceeding.

Copies are being served on parties of record per the attached Certificate of Service. Should you have any questions, please contact the undersigned.

Sincerely,

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

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

GLM/ac
Enclosures

cc: Administrative Law Judge Arlene Ashton (*via email*)
Per Certificate of Service

II. BACKGROUND

1. On February 1, 2023, Philadelphia Gas Works (“PGW”) submitted its pre-filing information in support of its annual reconciliation of purchased gas costs rates.

2. On February 13, 2023, I&E filed a Notice of Appearance in this proceeding.

3. On February 14, 2023, the Philadelphia Industrial and Commercial Gas Users Group (“PICGUG”) filed a Petition to Intervene in this case.

4. Additionally, on February 14, 2023, the Office of Small Business Advocate (“OSBA”) filed a Public Statement, a Notice of Appearance and a Formal Complaint in this case. The OSBA’s Complaint was docketed at C-2023-3038286.

5. On February 21, 2023, the Office of Consumer Advocate (“OCA”) filed a Public Statement, a Notice of Appearance and a Formal Complaint in this case. The OCA’s Complaint was docketed at C-2023-3038375.

6. On March 1, 2023, PGW 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.

7. On March 2, 2023, I&E received a Prehearing Conference Order which was issued to advise parties that Administrative Law Judge Arlene Ashton (“ALJ Ashton”) would be presiding in this case and to memorialize the date, time, and requirements for the Prehearing Conference.

8. On March 3, 2023, Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia, Inc. (collectively “Vicinity”) filed a Joint Complaint in this proceeding.

9. Pursuant to the Prehearing Order, a telephonic Prehearing Conference has been scheduled for March 9, 2023, with ALJ Ashton presiding. The Prehearing Conference

will convene at 1:30 p.m. with the parties participating telephonically. I&E submits this Memorandum in compliance with the Prehearing Conference Order dated March 2, 2023.

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. Unaccounted for Gas;
2. Off System Sales/Capacity Release;
3. Heating Degree Days;
4. Capacity Requirements;
5. Natural Gas Contracts;
6. LNG;
7. C-Factor;
8. E-Factor;
9. Supplier Refunds;
10. Pipeline Refunds;
11. Interest Rate on Over/Under Collections;
12. Purchase of Receivables;
13. Other Post Employment Benefit Surcharge; and
14. 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 six above.

Christopher Keller Fixed Utility Financial Analyst

Mr. Keller is reviewing the issues preliminarily identified as numbers seven through 14 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.¹ 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

¹ 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.

Commission, other relevant Commission filings, any other relevant 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 pp. 3-4 of the Prehearing Order. I&E does not object to those dates proposed for hearings and briefing. Additionally, I&E will work with the parties to develop mutually agreeable testimony deadlines to be proposed for the ALJ's consideration as we work to finalize the litigation schedule for this case.

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:

1. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service.
2. Objections to interrogatories shall be communicated orally within three (3) business days of service.
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 the provisions of the Commission's September 15, 2021 Order for Waiver of Regulations Regarding Service Requirements,² I&E proposes to both only serve and accept electronic delivery of documents.

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,



Gina L. Miller
Prosecutor
PA Attorney ID No. 313863

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17120

Dated: March 7, 2023

² Docket No. M-2021-3028321, *Re: Waiver of Regulations Regarding Service Requirements*, p. 6.

Jerome D. Mierzwa
Exeter Associates, Inc.
10480 Little Patuxent Parkway
Columbia, MD 21044
jmierzwa@exeterassociates.com
Consultant for OCA

Robert Knecht
Industrial Economics, Inc.
2067 Massachusetts Avenue
Cambridge, MA 02140
rdk@indecon.com



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