



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

April 27, 2023

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission v.
Philadelphia Gas Works
Docket No. R-2023-3037933
I&E Prehearing Memorandum

Dear Secretary Chiavetta:

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

Consistent with the Pennsylvania Public Utility Commission's order regarding waiver of regulations regarding service requirements, issued at docket M-2021-3028321 on September 15, 2021, I&E is providing only electronic service on parties of record per 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', written in a cursive style.

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

Allison C. Kaster
Deputy Chief Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 93176
(717) 783-7988
akaster@pa.gov

GLM/ACK/ac
Enclosures

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

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2023-3037933
	:	
Philadelphia Gas Works	:	

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

To Administrative Law Judges Eranda Vero and Arlene Ashton:

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) hereby submits this Prehearing Memorandum in the above-captioned docket. The I&E prosecutors assigned to this proceeding are Deputy Chief Prosecutor Allison C. Kaster and Prosecutor Gina L. Miller. Ms. Kaster and Ms. Miller may be contacted as follows:

By mail: Allison C. Kaster
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

By e-mail: akaster@pa.gov

By telephone: (717) 783-7998

By fax: (717) 772-2677

By mail: Gina L. Miller
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

By e-mail: ginmiller@pa.gov

Telephone: (717) 787-8754

Ms. Miller will be I&E’s designated speaker for purposes of the Prehearing Conference.

I. BACKGROUND

On February 27, 2023, Philadelphia Gas Works (“PGW”) filed with the Pennsylvania Public Utility Commission (“Commission”) Supplement No. 105 to PGW Gas Supplier Tariff Pa. P.U.C. No. 1 and proposed Supplement No. 159 to PGW Gas Service Tariff Pa. P.U.C. No. 2 proposing an increase of PGW’s total annual operating revenues for gas service by approximately \$85.8 million. PGW’s rate request would increase rate by approximately 10.3% and, as filed, it was slated to become effective on April 28, 2023.

I&E entered its appearance in this case on February 28, 2023. Others who made filings to participate in this rate proceeding include the following: on March 3, 2023, Grays Ferry Cogeneration Partnership (“GFCP”) and Vicinity Energy Philadelphia, Inc. (“VEPI”) (collectively “Vicinity”) filed a Complaint; on March 7, 2023, the Office of Consumer Advocate (“OCA”) filed its Notice of Appearance, Formal Complaint, and a Public Statement; on March 9, 2023, the Office of Small Business Advocate (“OSBA”)

filed its Notice of Appearance, Formal Complaint, and a Public Statement; on March 17, 2023, the Philadelphia Industrial and Commercial Gas Users Group filed a Complaint; and on April 12, 2023, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) filed a Petition to Intervene. On April 24, 2023 both POWER Interfaith and Tenant Union Representative Network’s (TURN) filed petitions to intervene in this case.

On April 3, 2023, PGW served supplemental testimony regarding the Weather Normalization Adjustment clause in its Gas Service Tariff.¹

On April 20, 2023, pursuant to 66 Pa. C.S. § 1308(d), the Commission ordered suspension of each of the proposed tariff changes until November 28, 2023, unless permitted by Commission Order to become effective at an earlier date. As part of its base rate case suspension order, the Commission directed that PGW’s rate filing be assigned to the Office of Administrative Law Judge for the scheduling of hearings as may be necessary for the Administrative Law Judge to render a Recommended Decision. Subsequently, I&E received notice that Administrative Law Judges Eranda Vero and Arlen Ashton (“ALJs Vero and Ashton”) would preside.

ALJs Vero and Ashton issued a Prehearing Conference Order on April 20, 2023 that established April 28, 2023 at 1:30 p.m. as the date and time for a telephonic prehearing conference in this case. The Prehearing Conference Order also established the

¹ While I&E notes the existence of a proceeding at Docket Nos. R-2022-3034229 and P-2022-3034264 related to PGW’s proposal to add a control feature to the Weather Normalization Adjustment clause, I&E supports full resolution of the clause in this case, where the Gas Service Tariff can be appropriately investigated and where a comprehensive record on this rate-related issue can be developed.

deadline of noon on April 27, 2023 for submission of a prehearing memorandum. I&E now submits this memorandum in compliance with ALJs' Prehearing Conference Order.

II. THE COMMISSION'S APRIL 20, 2023 ORDER REGARDING VICINITY

A significant development recently occurred in this case on April 20, 2023. On that date, the Commission issued an Opinion and Order at Docket No. C-2021-3029259 regarding the Complaint of Vicinity v. PGW.² Among other things, the Vicinity Rate Order contained a directive that PGW either file a direct supplement to this case consistent with Section 1308(a) and Section 1308(d) of the Public Utility Code in order to propose a cost-of-service based rate increase for provision of service to Vicinity **or** by way of refiling a general base rate proceeding to address the inclusion of Vicinity into its overall cost of service and overall justification for the proposed rate increase consistent with applicable filing requirements.

At the time that I&E prepared this memorandum, I&E had not been informed of PGW's plan to address the Vicinity Rate Order. To be sure, I&E's position is that the Vicinity Rate Order significantly impacts this rate case and I&E has significant concerns about parties' ability to develop a full and comprehensive record in this case at this time. I&E looks forward to working with PGW and other parties to ensure that the public interest is not compromised by an inability to develop a full and comprehensive record given the existing statutory constraints and the uncertainty of any rate consequences of any proposal that may be forthcoming.

² Grays Ferry Cogeneration Partnership and Vicinity Energy Philadelphia Inc. v. Philadelphia Gas Works, C-2021-3029259, *Opinion and Order* (Entered on April 20, 2023). This will hereinafter be referred to as the "Vicinity Rate Order."

III. ISSUES

The following list represents I&E's preliminary determination of the potential issues in this proceeding:

1. Credit Ratings (Long-term Bonds).
2. Days Cash on Hand.
3. Debt Service Coverage Ratio.
4. Benchmarking of Financial Metrics with Peer Groups.
5. Debt to Total Capital Ratio.
6. Internally Generated Funds.
7. New Debt Issuances Operating and Maintenance Expenses
8. COVID-19 Related Expenses
9. Uncollectible Accounts Expense
10. Payroll Expense
11. Advertising Expense
12. Field Operations Expense
13. Customer Service Expense
14. Payroll Taxes
15. Health Insurance Costs
16. Charitable Contributions
17. PGW Mobile Application
18. Customer Information System
19. Service Center Closures
20. Pensions and Other Post Employment Benefits
21. General Increase for Expenses
22. Rate Case Expense
23. Present Rate Revenue
24. Weather Normalization Adjustment
25. Cost of Service Study
26. Plant and annual expense in COSS
27. Fully Projected Future Test Year Reporting Requirements

28. Revenue Allocation
29. Rate Design
30. Capital Projects
31. Construction Costs
32. Scale Back of Rates
33. Customer Count (Actual v. Projected)

The list is as complete as can be made at this time. Additionally, I&E reserves the right to amend and supplement this issue list while discovery is ongoing. Finally, I&E reserves the right to further amend and supplement its issue list to address any issues arising in any supplemental testimony and/or information that may be filed by PGW and to address any currently unforeseen directives or developments in this case.

IV. WITNESSES

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

- D.C. Patel, Fixed Utility Financial Analyst: Mr. Patel anticipates addressing issues identified as one (1) through seven (7) in the above listing.
- Zachari Walker, Fixed Utility Financial Analyst: Mr. Walker anticipates addressing issues identified as eight (8) through twenty-two (22) in the above listing.
- Ethan Cline, Fixed Utility Valuation Engineer: Mr. Cline anticipates addressing issues identified as twenty-three (23) through thirty-two (32) in the above listing.
- Esysan Sakaya, Fixed Utility Valuation Engineer: Mr. Sakaya anticipates addressing the issues identified as thirty-three (33).

The I&E witnesses may be contacted through the contact information listed above for Ms. Miller. I&E reserves the right to substitute witnesses or call additional witnesses

if warranted.³ All active parties will be notified of any amendments to the I&E witness list.

V. EVIDENCE

I&E expects to present all written direct, rebuttal, surrebuttal, and, if necessary, supplemental, testimony and accompanying exhibits at the evidentiary hearing.

Moreover, I&E intends to rely on PGW's filing, answers to data requests and interrogatories, annual reports and other documents submitted to the Commission, other relevant Commission filings, any other relevant Commonwealth agency letters or reports, general financial market information sources and other public documents and reports.

However, there may be issues of Commission policy or legal representation that are not properly the subject of testimony or 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 through briefing.

VI. DISCOVERY

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 and requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service.

³ The above issues list is provided without analysis of the positions of all parties to this proceeding and without the benefit of completed discovery.

⁴ At the time that I&E prepared this document on April 26, 2023, the schedule for this case was not defined and I&E therefore reserves the right to modify these proposals depending upon the schedule adopted. Additionally, for purposes of clarity, I&E understands that these modifications were adopted in PGW's 2020 base rate case with one notable exception being that the 2020 case calculated timing by business days instead of calendar days.

2. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories; unresolved objections shall be served in writing to the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.
3. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of written objections.
4. Answers to motions to dismiss objections and/or answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.
5. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
6. Answers to on-the-record data requests shall be served in-hand within seven (7) calendar days of the requests.
7. Any discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of calculating the due dates for any responses.

VII. SCHEDULE

I&E remains committed to working with PGW and other interested parties in an attempt to develop a proposed schedule that will be mutually agreeable and also acceptable to Your Honors. At this time, and as indicated above in Section II, I&E recognizes that PGW must comply with the Commission's directives outlined in the

Vicinity Rate Order. The directives include a requirement that PGW either file a direct supplement to this case consistent with Section 1308(a) and Section 1308(d) of the Public Utility Code in order to propose a cost-of-service based rate increase for provision of service to Vicinity or by way of refileing a general base rate proceeding to address the inclusion of Vicinity into its overall cost of service and overall justification for the proposed rate increase consistent with applicable filing requirements. I&E will support a schedule and a process that does not deprive parties of the ability to develop a full record for the Commission, recognizing that the Commission “urge[d] the Parties to work cooperatively to allow sufficient time for consideration of these new issues.”⁵

VIII. SERVICE OF DOCUMENTS

For purposes of satisfying in-hand requirements for discovery responses, prepared testimony, and briefs, and consistent with the provisions of the Commission’s September 15, 2021 Order for Waiver of Regulations Regarding Service Requirements, I&E proposes to both only serve and accept electronic delivery of documents. If ALJs Vero and Ashton and/ or any party prefers to have additional service (or “hard copies”) of documents by mail, I&E will certainly provide such service.

IX. PUBLIC INPUT HEARINGS

I&E intends to fully participate in all public input hearings deemed warranted in this case. Additionally, I&E advocates for the use of telephonic hearings public input hearings where possible.

⁵ Vicinity Rate Order, p. 40.

X. SETTLEMENT

I&E is committed to participating in settlement discussions and is willing to work with the parties to reach a resolution of any or all issues. In the event settlement discussions fail to result in a complete resolution of the matter, I&E is prepared to fully or partially litigate this proceeding as warranted.

Respectfully submitted,



Allison C. Kaster
Deputy Chief Prosecutor
PA Attorney ID No. 93176

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, PA 17120

Date: April 27, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No.: R-2023-3037933
	:	
Philadelphia Gas Works	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated April 27, 2023, in the manner and upon the persons listed below:

Service via Electronic Mail Only

Daniel Clearfield, Esq.
Sarah Stoner, Esq.
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
dclearfield@eckertseamans.com
sstoner@eckertseamans.com
Counsel for PGW

John W. Sweet, Esq.
Elizabeth R. Marx, Esq.
Ria M. Pereira, Esq.
Lauren N. Berman, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org
Counsel for CAUSE-PA

Craig W. Berry Esq.
Philadelphia Gas Works
800 W. Montgomery Ave
Philadelphia, PA 19122
craig.berry@pgworks.com
Counsel for PGW

Devin McDougall, Esq.
Earthjustice
1617 John F. Kennedy Blvd., Suite 2020
Philadelphia, PA 19103
dmcdougall@earthjustice.org
Counsel for POWER Interfaith

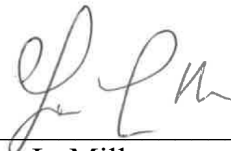
Dennis A. Whitaker, Esq.
Kevin J. McKeon, Esq.
Todd S. Stewart, Esq.
Hawke McKeon & Sniscak LLP
100 N 10th Street
Harrisburg, PA 17101
dawhitaker@hmslegal.com
kjmckeon@hmslegal.com
tsstewart@hmslegal.com
Counsel for Vicinity

Charis Mincavage, Esq.
Adeolu A. Bakare, Esq.
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com
Counsel for PICGUG

Robert W. Ballenger, Esq.
Joline R. Price, Esq.
Daniela E. Rakhlina-Powsner, Esq.
Community Legal Services, Inc.
1412 Chestnut Street
Philadelphia, PA 19102
rballenger@clsphila.org
jprice@clsphila.org
drakhlinapowsner@clsphila.org
Counsel for TURN

Lauren E. Guerra, Esq.
David T. Evrard, Esq.
Mackenzie C. Battle, Esq.
Darryl A. Lawrence, Esq.
Harrison W. Breitman, Esq.
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101
OCAPGW2023BRC@paoca.org

Sharon E. Webb, Esq.
Nakea S. Hurdle, Esq.
Office of Small Business Advocate
555 Walnut Street
Forum Place, 1st Floor
Harrisburg, PA 17101
swebb@pa.gov
nhurdle@pa.gov



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