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February 13, 2025

Via Electronic Filing

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v.
Philadelphia Gas Works – Docket No. C-2024-3052277

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Philadelphia Gas Works' ("PGW") Prehearing Memorandum in the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Bryce R. Beard

BRB/lww

cc: Hon. Christopher P. Pell w/enc. (cpell@pa.gov)
Colby B. Widdowson, Esq. (cwiddowson@pa.gov)
Michael L. Swindler, Esq. (mwindler@pa.gov)
Graciela Christlieb, Esq., PGW

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of PGW's Prehearing Memorandum upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

Via Email Only

Michael Swindler, Esq.
Colby B. Widdowson, Esq.
Bureau of Investigation & Enforcement
PA Public Utility Commission
400 North Street
Harrisburg, PA 17120
mwindler@pa.gov
cwiddowson@pa.gov

Dated: February 13, 2025

Bryce R. Beard

Bryce R. Beard, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2024-3052277
	:	
Philadelphia Gas Works,	:	
Respondent.	:	

**PREHEARING CONFERENCE MEMORANDUM OF
PHILADELPHIA GAS WORKS**

TO DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE CHRISTOPHER P. PELL:

Philadelphia Gas Works (“PGW”) hereby submits this Prehearing Memorandum pursuant to 52 Pa. Code § 5.222 and the Prehearing Conference Order issued on January 31, 2025.

I. PROCEDURAL HISTORY

This proceeding was initiated on November 25, 2024, when the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“PUC” or “Commission”) filed the above-captioned Formal Complaint against PGW. The Formal Complaint, among other things, seeks a finding that PGW violated 49 CFR Part 192, the Public Utility Code, the Commission’s regulations, and PGW’s internal procedures in regard to the natural gas explosion that occurred at 815 Jackson Street, Philadelphia, PA on November 30, 2021. PGW filed its answer responding to the Formal Complaint on January 29, 2025,¹ denying the allegations of the Formal Complaint. On January 30, 2025, the Commission issued an initial Telephonic Hearing Notice scheduling a prehearing conference for February 20, 2025, over

¹ Extensions of time for PGW to file an Answer to the Complaint were granted on December 12, 2024 (<https://www.puc.pa.gov/pcdocs/1859297.pdf>) and January 14, 2025 (<https://www.puc.pa.gov/pcdocs/1862243.pdf>).

which Deputy Chief Administrative Law Judge Christopher P. Pell (“ALJ”) will preside. On January 31, 2025, the ALJ issued a Prehearing Conference Order. This memorandum follows.

II. ISSUES

The issues in this proceeding regard the alleged violations contained in I&E’s Complaint.

In summary, these issues, for which I&E has the burden of proof, include:

- A. Whether PGW failed to follow its procedures set forth in Bulletin Nos. 54, 312, and 313 prior to the incident at 815 Jackson St. (as set forth in I&E’s Complaint, ¶¶ 97-99, 104) and thereby violated 52 Pa. Code § 59.33(b) and 49 CFR § 192.605(a);
- B. Whether PGW failed to maintain its pipeline or failed to repair, replace, or remove from service and continued to operate an unsafe segment of the pipeline at 815 Jackson St. (as set forth in I&E’s Complaint, ¶¶ 100, 101) and thereby violated 49 CFR §§ 192.701 – 192.756 and 49 CFR § 192.703(a)-(b);
- C. Whether PGW “had knowledge” that its 4-inch cast iron main at 815 Jackson Street was allegedly disturbed by sewer failures and/or excavation activity whereby PGW allegedly failed to take appropriate steps to provide permanent protection for its pipeline from damage from external loads (as set forth in I&E’s Complaint, ¶ 102) thereby violated 52 Pa. Code § 59.33(b) and 49 CFR § 192.755;
- D. Whether PGW failed to ensure its personnel had necessary knowledge and skills to perform covered tasks in a manner that ensured the safe operation of its pipeline facilities in that PGW could not demonstrate that its personnel received underground street trouble training, including training on relevant investigative process and procedures (as set forth in I&E’s Complaint, ¶ 103) thereby violated 52 Pa. Code § 59.33(b) and 49 CFR § 192.805(h); and
- E. Whether PGW failed to furnish and maintain adequate, efficient, safe, and reasonable service and facilities in that it failed to protect the 4-inch cast iron main from disturbance (as set forth in I&E’s Complaint, ¶ 105) thereby violating 66 Pa. C.S. § 1501.

PGW has denied each of the above referenced violations in its January 29, 2025 Answer and the responses contained therein are incorporated herein as if set forth in full. PGW intends to demonstrate that I&E cannot carry its burden of proof to show that PGW violated applicable standards contained in 49 CFR Part 192, the Public Utility Code, the Commission’s regulations, any Commission order, or PGW’s internal operating procedures. While I&E has alleged the

above issues in its complaint, PGW reserves the right to raise and/or respond to further issues asserted by I&E in any testimony presented in this proceeding.

III. SERVICE OF DOCUMENTS

PGW requests that all documents in this proceeding be served on:

Daniel Clearfield, Esquire
Norman J. Kennard, Esquire
Bryce R. Beard, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
717.237.6041

PGW also agrees to receive service of documents electronically in this proceeding. To the extent that materials are available electronically, it is requested that copies be served upon:

Daniel Clearfield – dclearfield@eckertseamans.com
Norman J. Kennard – nkennard@eckertseamans.com
Bryce R. Beard – bbeard@eckertseamans.com

For purposes of the February 20, 2025 Prehearing Conference, Bryce R. Beard, Esq. will be representing and speaking on behalf of PGW.

IV. PROPOSED LITIGATION SCHEDULE

PGW and I&E have agreed to the below proposed litigation schedule:

<u>Litigation Schedule</u>	<u>Proposed Date</u>
Prehearing Conference	February 20, 2025
I&E Direct Testimony	June 2, 2025
PGW Rebuttal Testimony	August 15, 2025
I&E Surrebuttal Testimony	September 15, 2025
Witness Cross Examination Matrix Submission	September 30, 2025
Hearings, In-Person (1 or 2 days based on ALJ availability)	October 16-17, 2025
Main Briefs	Within 20 days of filing of transcript or discuss after the evidentiary hearing
Reply Briefs	Within 20 days of the filing of a main brief or discuss after the evidentiary hearing.

PGW and I&E have agreed for the location of the October 16-17, 2025 in-person hearings to be left to ALJ Pell’s discretion. However, subject to further discussions during the Prehearing Conference, PGW requests that the in-person hearing(s) be convened at the Commission’s offices and hearing rooms in Philadelphia if that location is convenient for ALJ Pell and the Commission.

V. DISCOVERY

The proposed litigation schedule provides time for discovery to be conducted in this proceeding in accordance with existing rules without need for modification. *See* 52 Pa. Code. § 5.321 *et seq.*

VI. WITNESSES

At this time, PGW cannot anticipate specific witnesses who will be submitting testimony until it has reviewed I&E’s direct case testimony and discovery responses. PGW will provide a witness list to I&E and the ALJ as soon as practicable after it has reviewed I&E’s direct case. PGW reserves the right to add additional witnesses or change the identity of its witnesses at any time upon appropriate notice to the ALJ and the parties.

VII. SETTLEMENT

In recognition of the Commission’s policy to encourage settlements, 52 Pa. Code § 5.231, PGW welcomes the opportunity to engage in settlement negotiations in an attempt to reach a resolution of the Formal Complaint.

VIII. ANY OTHER APPROPRIATE MATTER

With the January 8, 2025 Commission approval of I&E’s and PGW’s settlement at Docket No. C-2022-3033834, almost all of the relief pleaded by I&E in this proceeding is moot or even prohibited by the Commission’s Order under the settlement terms.² PGW recognizes that I&E has the right and burden to present its Direct case in support of the relief it has requested, moot or not, as a Formal Complainant. PGW will review I&E’s direct case once presented and reserves the right challenge relief sought as moot, or for any other appropriate reason.

Respectfully Submitted,



Daniel Clearfield, Esq. (Attorney I.D. No. 26183)
Norman J. Kennard, Esq. (Attorney I.D. No. 29921)
Bryce R. Beard, Esq. (Attorney I.D. No. 325837)
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Dated: February 13, 2025

Counsel for Philadelphia Gas Works

² <https://www.puc.pa.gov/pcdocs/1861678.pdf> See page 19, Settlement Term IV(4)(e) “The ARMD Pilot Program shall not be expanded in anyway until after the program is completed and evaluated by I&E and PGW pursuant to Section IV(3)(b).”