



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

February 13, 2026

Via Electronic Filing

Matthew L. Homsher, 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-2024-3052277
I&E Reply Brief

Dear Secretary Homsher:

Enclosed please find the Reply Brief of the Bureau of Investigation and Enforcement in the above-referenced proceeding.

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, appearing to read 'Colby B. Widdowson', is written over a light blue circular stamp.

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Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**REPLY BRIEF
OF
THE BUREAU OF INVESTIGATION AND ENFORCEMENT**

Colby B. Widdowson
Prosecutor
PA Attorney ID No. 326185

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
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Dated: February 13, 2026

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I. PROCEDURAL HISTORY

The Bureau of Investigation and Enforcement (“I&E”) incorporates the procedural history as set forth in its Main Brief filed on January 13, 2026. A Main Brief was also filed by Philadelphia Gas Works (“PGW”) on January 13, 2026. Pursuant to the procedural schedule established in the November 18, 2025 Briefing Order and in accordance with Commission regulations at Sections 5.501- 5.502, I&E now submits this Reply Brief to respond to the assertions and mischaracterizations raised by PGW.¹

I&E herein references and incorporates its Main Brief in full, including Appendices A – C. I&E’s Main Brief and accompanying appendices, include an extensive discussion of the facts that are supported by the record in a substantial and credible manner.

II. SUMMARY OF ARGUMENT

PGW, by its failure to act on the information in its possession to protect its cast iron facility and prevent a cast iron main failure and natural gas explosion, failed to follow its own natural gas safety and damage prevention procedures and has fallen short of the minimum safety standards for natural gas operators in the Commonwealth, as prescribed by the Code of Federal Regulations, the Public Utility Code, and the Commission’s regulations.

As is evident in the record of this case and as discussed throughout I&E’s Main Brief, I&E has demonstrated beyond a preponderance of credible evidence that PGW violated the Public Utility Code, Commission regulations, and the Code of Federal Regulations and is subject to enforcement action to deter future violations and protect public safety. In its defense to the Commission, PGW spent its time attempting to misdirect, overexaggerate, and

¹ 52 Pa. Code §§ 5.501-5.502; *see also* Briefing Order, dated November 18, 2025.

to thrust its responsibilities onto others. PGW failed to rebut the evidence presented by I&E or raise a single legitimate defense to I&E's allegations.

I&E does not seek, nor even expect, PGW to be its so-called "street sheriff"² and inspect each and every One Call notice received by it. I&E's expectations are simple: Take responsibility for the safety of your pipeline system and abide by the minimum safety standards established by PGW's own procedures, the Code, Commission regulations, and the Code of Federal Regulations.

III. ARGUMENT

The November 18, 2025 Briefing Order directed the Parties to use a common outline for both Main and Reply Briefs. Due to the disparities in the Parties' views of the instant enforcement action, a very specific common outline was difficult to implement, and the Parties agreed to a common outline for the major headings. In an effort to comply with the directive for a common outline in the Reply Brief, I&E will address, in order, sections A – E of PGW's Main Brief's Argument Section.

I&E herein references and incorporates the Argument section as set forth in its Main Brief. I&E maintains its position that it has demonstrated beyond a preponderance of credible evidence that PGW violated the Public Utility Code, Commission regulations, and the Code of Federal Regulations and is subject to disciplinary action. PGW has failed to present evidence or argument of sufficient weight to rebut the preponderance of evidence demonstrated by I&E.

² PGW Main Brief at 1.

A. PGW Did Not Provide Safe and Adequate Facilities and Did Not Uphold Its Duty to Protect Its Facilities at 815 Jackson Street.

I&E finds it noteworthy that PGW elected to lead its main argument of its brief with a red herring, misrepresentation, and a litany of items not related to the narrow question of whether PGW followed its internal procedures, the Code, and regulations, as it relates to the incident that occurred at 815 Jackson Street. PGW's discussion on its cast iron main replacements, efforts to educate third party excavators, and safety enhancements recently approved by the Commission are not relevant and only serve to distract from the question of whether PGW met the minimum requirements to protect a vulnerable cast iron main at 815 and 813 Jackson Street.

PGW makes a meritless attempt to misdirect the Commission by arguing that I&E failed to prove that PGW did not follow the "Trigger Points" term from *PUC v. PGW*, Docket No. C-2022-3033834 (Order entered January 8, 2025), ("8th Street Settlement").³ First, I&E made exactly zero allegations that PGW failed to adhere to the 8th Street Settlement for the simple reason that the 8th Street Settlement is not applicable to the conduct that occurred more than three years before the 8th Street Settlement was final. The 8th Street Settlement became final on January 8, 2025, well after the November 30, 2021 incident underlying this Complaint. Consequently, the 8th Street Settlement is not applicable to PGW's failures at 815 and 813 Jackson Street.

Second, the "Trigger Points" term from the 8th Street Settlement is in addition to, not in place of, PGW's responsibilities to follow the minimum safety standards already in place

³ PGW Main Brief at 20. The "Trigger Points" term in the 8th Street Settlement is an amendment to PGW's street trouble process, procedures, and training related to investigations of underground street troubles.

and established by its Bulletins, the Code, Commission regulations, and the Code of Federal Regulations. As part of the 8th Street Settlement, PGW agreed to implement this “Trigger Points” term *in addition to* other statutory and regulatory requirements.

Third, and finally, PGW misrepresents that I&E’s witness “testified, even if the 8th Street Settlement ‘Trigger Points’ for UST⁴ were retroactively applied in this matter, there is no evidence that PGW would have found any subsurface condition that would have been detrimental to PGW facilities” and that I&E’s witness “agreed that those standards, even if applied back to 2021, would not have required PGW to take additional actions in response to the Jackson Street excavations.”⁵ However, when asked specifically “do you have an opinion as to whether or not any of those terms would have obligated PGW to be present during the two excavations on Jackson Street in September of 2021?” I&E’s witness answered “I do not have an opinion.”⁶

Despite what PGW may hope for, the 8th Street Settlement does not absolve PGW of its duties and responsibilities to public safety. Ultimately, the 8th Street Settlement has no bearing on the violations alleged by I&E.

B. I&E Has Demonstrated that PGW Violated its Procedures and Bulletins

Federal law and regulations have determined that pipeline operators, like PGW, bear the sole responsibility for overseeing the safety of their facilities, even if third-parties conduct unrelated work proximate to their facilities. The cast iron main failure and explosion at 815 Jackson Street was entirely preventable had PGW taken seriously the information in its possession and followed its procedures. PGW’s procedures created legal

⁴ UST is used as the abbreviation for underground street trouble.

⁵ PGW Main Brief at 20 citing to N.T. at 69.

⁶ N.T. at 69.

regulatory obligations under the federal regulations and PGW fell short of those obligations. I&E does not argue that PGW must be present for each and every third-party excavation, but merely argues that PGW is required to follow the minimum safety standards established by its procedures, the federal regulations, the Public Utility Code, and Commission regulations. PGW is responsible for identifying and ranking risks to its facilities and protecting against threats.⁷ As PGW knew, the sewer system failures and excavation activities at 815 and 813 Jackson Street posed a risk and threat to PGW's cast iron main, yet PGW took no action to protect its vulnerable facility.

1. I&E's Witness Relied Upon Competent Evidence, Including PGW's Own Root Cause Analysis Reports

PGW, despite failing to object to the admissibility of her testimony, now tries to discredit the testimony of I&E's witness, Terri Cooper Smith, arguing that Ms. Cooper Smith's testimony lacked support and was speculative regarding whether the cast iron main lacked soil support. PGW relies upon Pennsylvania Rule of Evidence Rule ("Pa.R.E.") 702,⁸ asserting that Ms. Cooper Smith's testimony lacks the requisite degree of certainty to be accepted as competent evidence.⁹ However, PGW's argument is not applicable here because Ms. Cooper Smith's testimony was admitted into evidence without objection¹⁰ and she relied on competent evidence.

⁷ 49 C.F.R. § 192.1007; N.T. at 99.

⁸ Pa. R.E. 702. provides that "A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if: (a) the expert's scientific, technical, or other specialized knowledge is beyond that possessed by the average layperson; (b) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; and (c) the expert's methodology is generally accepted in the relevant field."

⁹ PGW Main Brief at 13-14, 22 citing *Vertis Group, Inc. v. Duquesne Light Co.*, 2003 WL 1605744, Docket No. C-00003643 (Order entered Feb. 24, 2003), *aff'd*, 840 A.2d 390 (Pa. Commw. Ct. 2003), *app. denied*, 859 A.2d 770 (Pa. 2004); and *Menarde v. Phila. Transp. Co.*, 103 A.2d 681, 684 (Pa. 1954).

¹⁰ N.T. at 89.

In a recent opinion, the Pennsylvania Supreme Court recognizes that Pa.R.E. 702 does not speak to how certain an expert must be in his or her opinion, but explains that the rule's comment identifies that an expert's opinion must be expressed with reasonable certainty.¹¹ The Court further explains that the "comment correctly acknowledges that the reasonable degree of certainty standard is an *evidentiary prerequisite to the admission* of expert opinion testimony."¹² Further, failure to object to the competency of an expert witness's testimony at a hearing operates as a waiver of that objection.¹³ In this case, Ms. Cooper Smith's testimony has already been admitted into evidence, without objection, and PGW's argued "evidentiary prerequisite" is not applicable.

If the requisite degree of certainty standard were applied here, the entirety of the expert's testimony must be examined to determine whether the expert's opinion is rendered to the requisite degree of certainty.¹⁴ The use of less definite language does not render an expert's entire opinion speculative if at some time during her testimony she expressed her opinion with reasonable certainty.¹⁵ Ms. Cooper Smith stated the following conclusions and opinions with certainty:

¹¹ *Commonwealth v. Fitzpatrick*, 2026 WL 157732, at *17 (Pa. Jan. 21, 2026) citing Pa.R.E. 702 Cmt. (citing *McMahon v. Young*, 442 Pa. 484, 276 A.2d 534 (1971)).

¹² *Id.* (emphasis added).

¹³ *John F. Davis Co. v. Workmen's Comp. Appeal Bd.*, 47 Pa. Cmwlth. 291, 407 A.2d 931 (1979) (The Workman's Compensation Appeal Board held as a matter of law that Employer's vocational expert was incompetent to express an opinion whether Claimant could perform a specific job because the expert was not aware of Claimant's educational and mental abilities and industrial background. The Commonwealth Court ruled that the Board's ruling was erroneous because failure to object to an expert's competency at the hearing constitutes a waiver of that objection.); *City of Philadelphia, Civ. Serv. Comm'n v. Lewis*, 96 Pa. Cmwlth. 638, 508 A.2d 633 (1986) (holding that failure to object evidence at the Commission hearing operates to waive objection on appeal to the admission of the evidence); and *Carl v. Kurtz*, 255 Pa. Super. 198, 203, 386 A.2d 577, 579 (1978) ("when evidence is admitted without objection, even though it may in fact be 'incompetent,' it may be used by the factfinder for whatever probative value it may have.").

¹⁴ *Vicari v. Spiegel*, 936 A.2d 503, 510 (Pa. Super. 2007), *aff'd*, 605 Pa. 381, 989 A.2d 1277 (2010) (citing *Carrozza v. Greenbaum*, 866 A.2d 369, 379 (Pa. Super. 2004)).

¹⁵ *Id.*

PGW did not follow its procedures. Specifically, PGW did not follow its procedures relating to the protection of cast iron from disturbance because they did not safeguard their facilities, did not perform inspection and necessary follow-up actions upon receipt of notice of sewer system failures and repairs, and did not act on the multiple One Call notices detailing extensive excavation activities at and around its facilities.¹⁶

Water and sewer leaks weaken the surrounding soil which is the foundation for pavement and underground utilities such as water, gas, or sewer facilities. Sewers and sewer laterals are located well below gas facilities, making the probability of gas mains losing support high. The repair process to excavate sewer facilities will also loosen and weaken supporting soil due to the size of the excavation during the sewer repair process. The likelihood of further weakening of the soil surrounding the pipeline facilities is increased if there are multiple excavations in close proximity. Additionally, PGW was aware of five (5) other cast iron main breaks on the 800 block of Jackson Street in the preceding 12 years.¹⁷

In my professional opinion, the primary cause of the explosion was the release of natural gas from a circumferential crack on the cast iron main in front of 815 Jackson Street. The cast iron main cracked due to the instability of the soil due to sewer failures and excavations to repair sewer laterals in the vicinity of the main. Undermining in the area caused sufficient softening or removal of material supporting the cast iron main which led to the material failure. Graphitization of the cast iron main coupled with lack of support and downward bending movements caused the crack and subsequent release of gas.¹⁸

My opinion has not changed. I still believe PGW did not follow its procedures and failed to take appropriate measures to safeguard its facilities while having knowledge of third party excavation activities to repair sewer system failures.¹⁹

Ms. Cooper Smith's testimony taken in its entirety demonstrates the requisite degree of certainty.

¹⁶ I&E St. 1 at 20.

¹⁷ I&E St. 1 at 21.

¹⁸ I&E St. 1 at 25.

¹⁹ I&E St. 1-R at 20.

PGW further asserts that Ms. Cooper Smith's testimony regarding soil support for the cast iron main must be speculative because she lacked firsthand knowledge gained from observing the soil support on scene. While Ms. Cooper Smith was not physically on scene, she was intimately involved in the entirety of the investigation. Ms. Cooper Smith directly supervised her investigators, directed the investigator steps, maintained communication with her investigators throughout, requested and reviewed PGW documents, and supervised, directed, and provided input in the writing of the investigatory report.²⁰ In her testimony, Ms. Cooper Smith relied on competent evidence that was admitted, without objection, at the hearing, including photographs of the scene, PGW's two root cause reports, and PGW's admissions in its Answer to the Formal Complaint.²¹ First, there was uncontradicted testimony and photographs that the roadway over the sewer system failure excavation was sunken downwards,²² the sidewalk immediately adjacent to PGW's cast iron main was also sunken downwards, indicating lack of soil support,²³ and when excavation at PGW's cast iron main began the sidewalk buckled downwards and a void measuring approximately 50-inches wide by 16-inches deep, directly over PGW's main, was discovered.²⁴ These facts are all indicative of inadequate soil support and were relied upon by Ms. Cooper Smith.

Additionally, Ms. Cooper Smith relied upon the two PGW commissioned root cause analyses, both of which concluded that the cast iron main failed due to a lack of support.²⁵ As discussed in I&E's Main Brief, at 18-21, the analysis done by AEL and FCNA both

²⁰ N.T. at 75-77.

²¹ I&E St. 1 at 10-11, 14-15; I&E St. 1-SR at 3-4; and N.T. at 78-81.

²² Answer at par. 63; I&E St.1 at 15; I&E Exhibit 10.

²³ I&E St.1 at 10; I&E Exhibit 1.

²⁴ Answer at par. 58; I&E St.1 at 10; I&E Exhibit 3.

²⁵ See I&E Exhibits 9 and 10.

concluded that the cast iron main failed due to a lack of soil support and did not find any other plausible reason for the cast iron main failure, nor has PGW provided any plausible reason for the failure.²⁶ This is all competent evidence, relied upon by Ms. Cooper Smith, of a significant disturbance and degradation to the soil support at 815 Jackson Street.

On the other hand, PGW proffers the testimony of its witness, Joseph Hawkinson, as conclusive evidence that the cast iron main had adequate soil support.²⁷ In contrast to Ms. Cooper Smith's testimony, Mr. Hawkinson did not identify any firsthand knowledge or any documents, photographs, reports, or other competent evidence that he relied upon to reach his conclusion. Conversely, PGW's other witness, Joseph Leva, who was present at the scene of the explosion,²⁸ failed to provide an opinion as to soil support for the cast iron main when given the opportunity, as part of his direct testimony. Specifically:

Q. WHAT WAS THE CONDITION OF THE SOIL SURROUNDING THE CRACKED MAIN WHEN IT WAS EXCAVATED?

A. Many photographs show the condition of the soil surrounding the cracked main during the excavation, both in BI&E's testimony exhibits and in PGW Exhibit JH-1. For the most part, during excavation a small cavity was found near PGW's 4-inch cast iron main. Given the age of the sidewalk above PGW's main (i.e., it was not disturbed by the prior plumber excavations in September 2021), there is no way of knowing when the voids may have formed and there was no indication from the surface of any underground street troubles near PGW's main. It is impossible to know what the surrounding condition was prior to the main breaking for certain.²⁹

²⁶ See I&E Exhibits 9 and 10.

²⁷ PGW Main Brief at 24, quoting N.T. at 132-33.

²⁸ PGW St. 2-R at 9.

²⁹ PGW St. 2-R at 11.

Mr. Leva, may not have known the condition of the soil surrounding the cast iron main, but, as discussed in detail above, there was plenty of evidence, including the two root cause reports, that the soil support around the cast iron main was compromised and the cast iron main failed due to a lack of soil support.

2. The Three One Call Notices of Sewer System Failures are Evidence of USTs, Pursuant to PGW's Bulletins #312 and 54

PGW's arguments in this section amount to nothing more than red herrings and an attempt to push its safety responsibilities onto other parties.

PGW seeks to misdirect the Commission by arguing that I&E is attempting to create a "two ticket standard" or a standard that PGW must be at every excavation. At no point has I&E argued that PGW should be at every excavation or that two One Call tickets alone require PGW to investigate an excavation. I&E only asks that PGW meet the minimum safety standards for a pipeline operator. PGW misses the point that it is the content of the One Call ticket, not the existence of the One Call ticket itself, that created the obligation to investigate the USTs. As extensively discussed in I&E's Main Brief, it is the fact that the three One Call tickets indicated that sewer system failures occurred and repair and replacement of sewer traps would be necessary. PGW's Bulletins #312 and #54 make it plain that sewer system failures are considered a UST and PGW can receive notice of sewer system failures via One Call notices.³⁰ In addition, PGW's witness, Joseph Hawkinson, acknowledges that PGW does not need explicit or definitive knowledge that PGW's facilities

³⁰ I&E Exhibits 11 and 12.

will be affected to be required to act in accordance with Bulletin #312, but merely an understanding that there is a “possibility” that PGW’s facilities will be affected.³¹

PGW continues its attempt to push its pipeline safety responsibilities onto unaffiliated third parties. In a continuation of statements made by PGW’s witness, Joseph Hawkinson, in his rebuttal testimony, PGW argues that under the Pennsylvania One Call Law,³² 73 P.S. § 180, excavators are responsible to report “any adverse conditions to the utility facilities owner.”³³ In Mr. Hawkinson’s rebuttal testimony, he states that if the excavators “noticed any *threat* to PGW’s facilities” (emphasis added) and if the excavators “had encountered any voids and cavities under PGW facilities or damaged PGW facilities, they were obligated to notify the proper authorities including PGW.”³⁴ Despite what PGW may argue and believe, the PA One Call Law only requires that excavators “report immediately to the facility owner any break or leak on its lines, or any dent, gouge, groove or other damage to such lines or to their coating or cathodic protection, made or discovered in the course of the excavation or demolition work.”³⁵ The PA One Call Law does not require the excavator to report “any adverse condition,” sewer system failures, voids, soil instability, or any other threats to a pipeline, only the actual damage identified at Section 180(7).³⁶ PGW as the subject matter expert on the safety of its pipeline, is responsible for, and best situated to, identifying and remediating “adverse conditions” and threats to its pipelines. However, PGW failed to do

³¹ N.T. at 115-116.

³² 73 P.S. §§ 176 *et seq.*

³³ PGW Main Brief at 30.

³⁴ PGW St. 1-R at 31.

³⁵ 73 P.S. § 180(7).

³⁶ N.T. at 126.

that at Jackson Street and now attempts to shift its legal obligations to an unaffiliated third-party excavator.

I&E has not sought, nor is it asking, PGW to monitor every excavation in its service territory. I&E simply asks that the minimum safety requirements established by PGW's procedures, the Federal regulations, Commission regulations, and the Public Utility Code be enforced. Commission enforcement of these minimum safety standards does not require "impermissible retroactive rulemaking,"³⁷ it only requires that PGW comply with its public safety obligations.

3. I&E Satisfied Its Preponderance of Evidence Burden for Counts 1-3

I&E's Main Brief, at 34-39, thoroughly discusses how I&E proved beyond a preponderance of evidence that PGW violated 49 C.F.R. § 192.605(a). I&E incorporates that argument herein and maintains its position that PGW violated the Code of Federal Regulations.

PGW argues that it had "*no* notice of water or sewer system failures,"³⁸ (emphasis present) and therefore had no obligation to protect its cast iron main pursuant to Bulletins #312, 313, and 54. I&E clearly explained in its Main Brief that PGW was on notice via the PA One Call notices that indicated that excavations would be occurring to repair and replace sewer curb traps at 815 and 813 Jackson Street. It is a ridiculous notion to suggest that the need to repair and replace sewer curb traps, next door to each other, by different entities, is not an indication, or notice, of a failure of that part of the sewer system. Based on PGW's argument here, PGW believes it is only responsible for acting to protect its cast iron main

³⁷ PGW Main Brief at 31.

³⁸ PGW Main Brief at 33.

when it receives notice that specifically states “sewer system failure” and any variation of that does not require action by PGW. This rigid and inflexible interpretation by PGW will only serve to place the public at further risk by PGW’s inaction.

Without any support in the record, PGW attempts to distinguish sewer laterals from the “sewer system.” PGW argues that sewer laterals to residences are “a feeder to the system and not the sewer ‘system’ itself.”³⁹ PGW provides no support for this argument, as the record is devoid of this newly presented idea of a “feeder” system. Furthermore, PGW’s witness, Joseph Hawkinson, made it crystal clear in his testimony that the sewer laterals are used to transport sewage comprised of liquids and solids.⁴⁰

In this section PGW further attempts to argue that the excavation occurred seven and a half feet from its cast iron main. However, the excavation would have, at a minimum, come within three and half feet of the cast iron main and could have come closer. The cast iron main was located seven and half feet from the curb line and the Clements’ excavation in the sidewalk at 815 Jackson Street would be at least four feet wide.⁴¹ Quick math shows that seven and a half feet from the curb minus the four feet wide excavation equals three and a half feet. PGW did not produce any evidence showing that the excavation occurred directly at the curb line, if it began closer to the cast iron main, or extended beyond four feet. In short, PGW is unable to produce evidence of how close the excavation came to its cast iron main because it did not observe, inspect, or investigate the sewer system failure and excavation.

³⁹ PGW Brief at 33-34.

⁴⁰ N.T. at 140.

⁴¹ I&E Exhibits 6 and 7; Confidential Security Information JH-3.

In another attempt to avoid its responsibilities to public safety, PGW argues that the excavation was outside the “tolerance zone,” despite the “tolerance zone” not being applicable to PGW. The “tolerance zone” is a term that applies to excavators⁴² under the PA One Call Law. The “tolerance zone” is defined as the “horizontal space within eighteen inches of the outside wall or edge of a line or facility” and when inside the “tolerance zone” an excavator is required to use prudent excavation techniques.⁴³ PGW attempts to avail itself of this eighteen inch rule, despite a “tolerance zone” requirement for facilities owners not appearing in the Public Utility Code, Commission regulations, Code of Federal Regulations, PGW’s applicable Bulletins,⁴⁴ or the PA One Call Law.⁴⁵ Additionally, PGW has admitted that excavations around its facilities can cause soil instability by removing compacted soil, without any qualification about the non-applicable “tolerance zone.”⁴⁶ Even PGW’s Bulletin #313(III)(D)(2), without reference to “tolerance zone,” recognizes that excavations next to and immediately adjacent to PGW facilities pose risks to those facilities and requires that PGW Damage Prevention Inspectors “be acquainted with the correct and various methods of shoring and sheathing used by the contractors and whether the shoring is suitable for the

⁴² “Excavator” is defined as any person who or which performs excavation or demolition work for himself or for another person.” 73 P.S. § 176. “Excavation work” is defined as “the use of powered equipment or explosives in the movement of earth, rock or other material, and includes, but is not limited to, anchoring, augering, backfilling, blasting, boring, digging, ditching, drilling, driving-in, grading, plowing-in, pulling-in, ripping, scraping, trenching and tunneling.” *Id.*

⁴³ 73 P.S. § 176 & 73 P.S. § 180(4).

⁴⁴ The only mention of “Tolerance Zone” in PGW’s three applicable Bulletins, is at Bulletin #313(III)(D)(11), which states that “any contractor using a Vermeer trenching machine must be strictly enforced to comply with the 18 inch tolerance zone from any PGW structures.”

⁴⁵ 73 P.S. § 177, Duties of Facility Owners, only requires a facility owner “to mark, stake, locate or otherwise provide the position of the facility owner's underground lines at the work site within eighteen inches horizontally from the outside wall of such line in a manner so as to enable the excavator, where appropriate, to employ prudent techniques.”

⁴⁶ Answer at par. 41; PGW St. 1-R at 22; N.T. at 109.

protection of PGW underground structures” and should be “aware of insufficient shoring which could potentially cause damage to PGW.”⁴⁷

4. I&E Satisfied Its Preponderance of Evidence Burden for Counts 4-7

I&E’s Main Brief, at 39-44, thoroughly discusses how I&E proved beyond a preponderance of evidence that PGW violated 49 C.F.R. §§ 192.703(a)&(b) and 192.755(a)&(b) . I&E incorporates that argument herein and maintains its position that PGW violated the Code of Federal Regulations.

PGW’s only argued defense here is that there is no evidence that soil support for the cast iron main was disturbed. However, this argument clearly fails. I&E presented substantial and un rebutted evidence of significant soil support disturbances at PGW’s cast iron main. First, there was uncontradicted testimony and evidence that the roadway over the sewer system failure excavation was also sunken downwards,⁴⁸ the sidewalk immediately adjacent to PGW’s cast iron main was sunken downwards, indicating lack of soil support,⁴⁹ and when excavation at PGW’s cast iron main began the sidewalk buckled downwards and a void measuring approximately 50-inches wide by 16-inches deep, directly over PGW’s main, was discovered.⁵⁰ These facts are all evidence of significant disturbance and degradation to the soil support at 815 Jackson Street.

⁴⁷ I&E Exhibit 12.

⁴⁸ Answer at par. 63; I&E St.1 at 15; I&E Exhibit 10.

⁴⁹ I&E St.1 at 10; I&E Exhibit 1.

⁵⁰ Answer at par. 58; I&E St.1 at 10; I&E Exhibit 3.

Second, I&E presented testimony that the existence of soil beneath a main does not mean the main is fully supported, as soil conditions can affect the support it provides to a main.⁵¹ PGW did not rebut or contradict this testimony.

Third, and finally, PGW commissioned two root cause analyses, both of which concluded that the cast iron main failed due to a lack of support. As discussed in I&E's Main Brief, at 18-21, the analyses done by AEL and FCNA both concluded that the cast iron main failed due to a lack of soil support and did not find any other plausible reason for the cast iron main failure.⁵² It is noteworthy, that PGW failed to address or acknowledge the conclusions of its own root cause analyses in its Main Brief.

5. I&E Satisfied Its Preponderance of Evidence Burden for Counts 9-10

I&E's Main Brief, at 44-45, thoroughly discusses how I&E proved beyond a preponderance of evidence that PGW violated 52 Pa. Code § 59.33 and 66 Pa.C.S. § 1501. I&E incorporates that argument herein and maintains its position that PGW violated the Commission regulations and the Public Utility Code.

C. I&E's Requested Relief and Application of Civil Penalties

PGW's argument that it is not subject to civil penalties is non-sensical in light of prior Commission actions and the statutory framework. This argument is an attempt to escape any responsibility and liability for its misconduct and inaction. I&E has already addressed this argument in its Main Brief, at 48-49, and incorporates it herein.

The Pennsylvania General Assembly placed PGW under the Commission's authority and subject to the Public Utility Code. This action by the General Assembly also subjects

⁵¹ N.T. at 77.

⁵² See I&E Exhibits 9 and 10.

PGW to civil penalties under 66 Pa.C.S. § 3301(c), without consideration of its municipal status.

As identified in I&E's Main Brief, civil penalties are meant to act as a deterrent to future misconduct. Here, PGW argues that its customers will bear the cost of any civil penalty because of its organizational model and, consequently, a civil penalty is not appropriate.⁵³ However, the opposite view should be taken here. PGW is obviously aware that its customers may bear the burden of civil penalty. Therefore, PGW should be further encouraged and proactive in avoiding violations of the minimum safety standards, so its customers are not additionally burdened. Unfortunately, it does not appear that PGW has learned this lesson, as evidenced by the similar conduct in the 8th Street Settlement and the lack of changes and improvements in response to this explosion and the 8th Street explosion.⁵⁴

Additionally, PGW attempts to rely on Statements to the 8th Street Settlement by Chairman DeFrank and Commissioner Zerfuss; however, the 8th Street Settlement, as a settlement, is not precedential in a litigated matter, such as this.⁵⁵ These statements should not be considered binding on the Commission.

⁵³ PGW Main Brief at 41.

⁵⁴ N.T. at 112-113, 128-130; *See also* I&E's Main Brief at 26-27.

⁵⁵ The Commonwealth Court, in *HIKO Energy, LLC v. Pennsylvania Pub. Util. Comm'n*, 163 A.3d 1079, 1102 (Pa. Commw. Ct. 2017), *aff'd*, 653 Pa. 1, 209 A.3d 246 (2019), affirmed prior Commission interpretations that settlements are not binding precedent. The Court stated that "the PUC previously explained that it 'vigorously, and without equivocation, reject[s] considering a settlement as precedent, as to any subsequent issue, in any proceeding'" (quoting Pa. Pub. Util. Comm'n. *The Bell Tel. Co. of Pa.*, No. R-811819, 68 Pa.P.U.C. 430, 0088 WL 1535014 (Nov. 10, 1988) (emphasis in original)) and "the [PUC's] approval of a settlement does not establish legal precedent, because parties frequently waive their legal rights regarding certain issues in a settlement." *Customer Assistance Programs: Funding Levels & Cost Recovery Mechanisms*, No. M-00051923, (Dec. 18, 2006) at 17.

In short, a civil penalty is necessary here to act as a deterrent to PGW and PGW has not provided sound argument as to why a civil penalty should not be applied.

D. I&E Has Not Applied a Strict Liability Standard

Yet again, PGW relies on a red herring argument to distract this Commission from PGW's failures to meet its safety obligations. PGW argues that I&E is applying a strict liability standard to hold PGW "responsible for any explosion regardless of cause."⁵⁶ I&E has not argued for, nor suggested anywhere, that strict liability should be applied in this case.⁵⁷ This is a clear overexaggeration of the violations alleged in I&E's Formal Complaint.

In fact, not a single violation alleged by I&E requires an explosion as an element of the violation. As plainly laid out in I&E's Main Brief,⁵⁸ I&E alleged and successfully proved, beyond a preponderance of evidence, violations of 49 C.F.R. §§ 192.605(a), 192.703(a)&(b), and 192.755(a)&(b), 52 Pa. Code § 59.33, and 66 Pa.C.S. § 1501. I&E's Main Brief plainly identifies the elements of the offenses and how I&E satisfied its burden to prove those elements, none of which required an explosion. In short, even if the pipeline failure did not lead to an explosion, I&E has satisfied its burden of proof and successfully proved the violations alleged in the Formal Complaint.

E. I&E Has Not Made Any Concessions as to PGW's Obligation to Inspect USTs

PGW's argument that I&E conceded that PGW has no obligation to monitor third-party excavations, "ignored the triggers" previously agreed to in the 8th Street Settlement,

⁵⁶ PGW's Main Brief at 42.

⁵⁷ Additionally, PGW did not cite to anywhere in the record where an argument for strict liability was made.

⁵⁸ I&E Main Brief at 34-45.

and that I&E failed prove that PGW violated the 8th Street Settlement are yet more attempts to misdirect this Commission.

As discussed above, the 8th Street Settlement became final on January 8, 2025, well after the incident underlying this Complaint. As such, the 8th Street Settlement is not applicable to PGW's inaction at 815 and 813 Jackson Street.

Beyond the fact that the 8th Street Settlement was not final or effective, I&E's prior prosecutorial conduct in a settled matter is not applicable to a fully litigated case. This Commission's Order in the 8th Street Settlement clearly addresses the relative positions of Parties that enter into a settlement. The Commission explained that:

Settlements are compromises that must serve the public interest to meet with our approval. In our examination of Settlements, we do not weigh the evidence thus far submitted by the parties or opine on the respective litigation positions and risk assessments that ultimately led the parties to the negotiating table prior to the conclusion of litigation. We recognize that no respondent party must admit to violations – nor must the moving party withdraw its complaint to reach a settlement – as that is what settling avoids. Simply put, our focus in cases such as this, where tragic events resulted in loss of life and substantial property damage, must be on whether the Settlement, as crafted, not only reduces the time and expense associated with litigation, but also calls for meaningful measures to advance the safe operation of utility infrastructure to the distinct benefit of the public safety.

PUC v. PGW, Docket No. C-2022-3033834 at 44-45. Without specific admissions in a Settlement, a Settlement only imposes future obligations upon Parties.

PGW cites to Section V of the 8th Street Settlement to support this red herring, but chose to ignore an important part of Section V. Specifically, Section V(4) states that “Nothing in this Section shall relieve PGW from its duty and obligation to ensure the

integrity of its facilities and compliance with Federal and State regulations.”⁵⁹ Even if the 8th Street Settlement was in effect at the time of the Jackson Street explosion, this Section goes to the heart of I&E’s underlying Complaint that PGW did not ensure the integrity of its facilities and failed to meet the minimum safety standards established by its Bulletins, the Code, Commission regulations, and the Code of Federal Regulations.

IV. CONCLUSION

A natural gas distribution operator has a responsibility to protect the public from danger and exercise reasonable care to reduce the hazards presented by its facilities. An operator falls short of these minimum requirements when it buries its head in the sand and willfully ignores facts and circumstances that clearly indicate a vulnerable cast iron main is at risk. It is the responsibility of an operator to act upon the facts and circumstances in its possession to ensure the safety of its vulnerable facilities and ultimately the public. An operator cannot be permitted to shift its responsibilities on to a third party, who does not own or operate those facilities.

As demonstrated by all of the facts in PGW’s possession, PGW knew that the support for its buried cast iron pipeline would be disturbed by the sewer system failures and excavations. Minimum safety standards required that PGW take action as necessary to repair, replace, or remove the cast iron pipeline and to take steps to provide permanent protection to the cast iron pipeline. Again, had PGW met these minimum requirements, the failure of the cast iron main and the natural gas explosion could have been avoided.

⁵⁹ 8th Street Settlement at 31-33.

A civil penalty is necessary to deter PGW from future conduct similar to this case and the 8th Street explosion. A \$300,000 civil penalty is necessary, reasonable, and in the public interest. Based upon PGW's failure to follow its procedures and failure to protect its vulnerable cast iron pipeline, resulting in a natural gas explosion, I&E respectfully requests that this Honorable Commission find PGW to be in violation of the Public Utility Code, Commission regulations, and the Code of Federal Regulations, as alleged, and assess a Three Hundred Thousand Dollar (\$300,000.00) civil penalty.

Respectfully submitted,



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Dated: February 13, 2026

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Reply Brief** dated February 13, 2026, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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