



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

May 28, 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 Exceptions

Dear Secretary Homsher:

Enclosed please find the Exceptions 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.

Colby B. Widdowson
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 326185
(717) 787-2139
cwiddowson@pa.gov

CBW/nb
Enclosures

cc: Deputy Chief Administrative Law Judge Christopher P. Pell (*via email* – cpell@pa.gov)
Pamela McNeal, Legal Assistant (*via email* – pmcneal@pa.gov)
Stephanie M. Wimer, Deputy Chief Prosecutor (*via email* – stwimer@pa.gov)
Robert Horensky, Manager, Safety Division (*via email* – rhorensky@pa.gov)
Office of Special Assistants (*via email* – ra-osa@pa.gov)
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	:	

**EXCEPTIONS OF THE
BUREAU OF INVESTIGATION AND ENFORCEMENT**

Colby B. Widdowson
Prosecutor
PA Attorney ID No. 326185

Stephanie M. Wimer
Deputy Chief Prosecutor
PA Attorney ID No. 207522

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

Dated: May 28, 2026

I. INTRODUCTION

On May 8, 2026, the Initial Decision of presiding Deputy Chief Administrative Law Judge Christopher Pell (“DCALJ” or “DCALJ Pell”) was issued in the instant proceeding, which pertains to a November 30, 2021 natural gas explosion at 815 Jackson Street, Philadelphia. The explosion resulted in damage to 815 Jackson Street, the evacuation of six residences, and the precautionary medical evaluation of three individuals. The explosion was caused by the release of natural gas from a circumferential crack on Philadelphia Gas Works’ (“PGW”) cast iron main in front of 815 Jackson Street.¹ The cast iron main cracked due to downward bending forces applied to the main and the loss of support from soil instability and undermining resulting from excavations and the repair of sewer system failures, which occurred immediately adjacent to the main.²

The Initial Decision denies the Formal Complaint of the Commission’s Bureau of Investigation and Enforcement (“I&E”) in its entirety. The Initial Decision denies I&E’s Formal Complaint because “I&E did not meet its burden of demonstrating that Philadelphia Gas Works failed to adhere to Federal regulations and its own Bulletins regarding pipeline safety, and because it did not meet its burden of demonstrating that Philadelphia Gas Works failed to provide adequate and reasonable service.”³

I&E respectfully disagrees with DCALJ Pell’s Initial Decision denying the Formal Complaint and files these Exceptions pursuant to 52 Pa. Code § 5.533. As I&E details below, DCALJ Pell erred in multiple facets in reaching the conclusion to deny the Formal Complaint.

¹ I&E St. 1 at 25; I&E Exhibit 10.

² I&E St.1 at 25; I&E Exhibits 9 & 10.

³ *Pa. Pub. Util. Comm’n, Bureau of Investigation and Enforcement v. Philadelphia Gas Works*, Docket No. C-2024-3052277 (Initial Decision entered May 8, 2026) (“ID”) at 1.

I&E incorporates its Main Brief and Reply Brief by reference and maintains its positions and arguments expressed in those briefs.

As such, I&E respectfully requests that this Honorable Commission set aside the Initial Decision and adopt I&E's proposed Findings of Fact, Conclusions of Law, and Ordering Paragraphs,⁴ sustain the Formal Complaint, in full, and assess a \$300,000 civil penalty.

II. I&E EXCEPTIONS

1. The Initial Decision errs in failing to find significant, uncontroverted facts.

I&E respectfully requests that the Commission reject the Initial Decision's Findings of Facts and adopt I&E's Proposed Findings of Fact.⁵ I&E makes this request based on the Initial Decision's failure to find, let alone discuss, significant facts that were uncontroverted and uncontested. It is I&E's position that these facts are crucial to any decision that is rendered on I&E's Formal Complaint and were inexplicably overlooked in the Initial Decision.

First, it must be understood that PGW can receive notice of underground street trouble ("UST") via Pennsylvania ("PA") One Call tickets. The Initial Decision made two findings related to PGW's Bulletin #54,⁶ but ignores the important fact that Bulletin #54 identifies that PGW can receive notice of USTs via PA One Call tickets.⁷ Recognition that PGW can receive notice of USTs via PA One Call tickets is necessary because PGW was put on notice by three PA One Call tickets that indicated the need for sewer repairs and failures of the sewer system in the 800 block of Jackson Street, which can result in leakage of water and sewage, which in turn can undermine support for nearby facilities.⁸

⁴ Appendixes A, B, and C, respectively, of I&E's Main Brief.

⁵ I&E's Proposed Findings of Fact are found at Appendix A of I&E's Main Brief.

⁶ ID at 7.

⁷ I&E's Proposed Findings of Facts 110 and 111. I&E St.1 at 18-19; I&E Exhibit 13.

⁸ I&E's Proposed Findings of Fact 32. I&E St. 1-SR at 13; PGW St. 1-R at 22; N.T. at 109-110, 136, 141.

Second, the Initial Decision finds certain facts, but does not specifically find that PGW knew these facts, despite uncontroverted testimony and PGW's own admissions.⁹ Specifically, it is uncontested that PGW *knew*: (1) the main in front of 815 Jackson Street was a cast iron main and was in excess of 120 years old;¹⁰ (2) that sewer system failures had occurred at 815 and 813 Jackson Street;¹¹ (3) that the sewer lateral was made of either cast iron or terracotta, both of which are brittle and fragile;¹² (4) that sewer and water system failures, and the associated excavations, represent a risk to its system due to soil instability caused by water saturation, erosion, and removal of soil support;¹³ (5) the size and depth of the excavation, that the excavation would occur at or immediately adjacent to its cast iron facility, and the excavation would be significantly deeper than its facility;¹⁴ (6) that the sewer system failures and excavations were in close proximity and were immediately next door to each other;¹⁵ (7) that excavations around and beneath gas facilities cause soil instability by disturbing and removing compacted soil;¹⁶ (8) that cast iron becomes brittle and is susceptible to breaking with little notice;¹⁷ and (9) that excavations next to and immediately adjacent to PGW facilities pose risks to those facilities.¹⁸

Third, the Initial Decision fails to recognize that PGW did not conduct any investigation or inspection of the sewer system failures or excavations at 813 and 815 Jackson Street to ensure

⁹ ID at 10.

¹⁰ I&E's Proposed Findings of Fact 34 and 35. Answer at par. 21, 22, and 24; N.T. at 149.

¹¹ I&E's Proposed Findings of Fact 36. I&E St. 1-SR at 13; I&E Exhibits 6-8

¹² I&E's Proposed Findings of Fact 38. N.T. at 139.

¹³ I&E's Proposed Findings of Facts 39 and 40. I&E St. 1-SR at 13; PGW St. 1-R at 22; N.T. at 109-110.

¹⁴ I&E's Proposed Findings of Fact 41. I&E St. 1-SR at 13; I&E Exhibits 6-8.

¹⁵ I&E's Proposed Findings of Fact 42. I&E St. 1-SR at 13; I&E Exhibits 6-8.

¹⁶ I&E's Proposed Findings of Fact 43. Answer at par. 41; PGW St. 1-R at 22; N.T. at 109.

¹⁷ I&E's Proposed Findings of Fact 44. PGW St. 1-R at 10, 29; N.T. at 107.

¹⁸ I&E's Proposed Findings of Fact 99. I&E St.1 at 18; I&E Exhibit 12. Section III(D) of Bulletin #313 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 protection of PGW underground structures" and should be "aware of insufficient shoring which could potentially cause damage to PGW."

the integrity of its cast iron main and the safety of the public.¹⁹ As discussed in extensive detail below, the point of PGW’s Bulletins #312, #313, and #54 is to take proactive steps to investigate a possible threat posed by a UST and prevent damage to its cast iron main pipeline. This finding directly points to PGW’s failure to ensure the safety of its vulnerable cast iron facilities and ultimately the public.

Fourth, the Initial Decision erroneously concludes that “it is impossible to know for certain what the surrounding conditions were prior to the main breaking,”²⁰ despite significant, undisputed facts that directly point to the failure of the cast iron main being caused by the lack of soil support. Those undisputed facts include evidence of how undermining can occur,²¹ evidence that there was a lack of soil support around the cast iron main,²² and two separate independent investigations that determined the cause of the failure was loss of soil support.²³

One of the biggest threats to cast iron pipelines is earth movement, which can be caused by digging, seasonal frost heave, or changes in ground water levels.²⁴ Undermining is the shifting or removal of soil that directly supports the integrity or stability of a structure.²⁵ Undermining can occur on all axes and does not need to occur directly underneath a structure to adversely impact its integrity and stability.²⁶ 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.²⁷

On-scene observations provide direct evidence that there was a lack of soil support around the cast iron main. At the scene of the explosion, newer sections of sidewalk were visible

¹⁹ I&E’s Proposed Findings of Fact 50. I&E St. 1 at 20.

²⁰ ID at 47-51.

²¹ I&E St.1 at 6; N.T. at 77.

²² Answer at par. 55 and 58; I&E St.1 at 10; I&E Exhibits 1, 2, 3, and 5.

²³ Answer at par. 59, 62, 63, and 66; I&E St.1 at 14-15; I&E St. 1-SR at 3-4; I&E Exhibits 9 and 10; N.T. at 79.

²⁴ I&E’s Proposed Findings of Fact 67. I&E St.1 at 6.

²⁵ I&E’s Proposed Findings of Fact 68. I&E St.1 at 6.

²⁶ I&E’s Proposed Findings of Fact 69. I&E St.1 at 6.

²⁷ I&E’s Proposed Findings of Fact 70. N.T. at 77.

in front of 815 Jackson Street and immediately adjacent to PGW's cast iron main.²⁸ The newer section of sidewalk immediately adjacent to PGW's cast iron main was sunken downward, as evidenced by the collection of water and debris at the lowest point.²⁹ When PGW's post-explosion excavation at the 4-inch cast iron main, in front of 815 Jackson Street, began, the sidewalk buckled downwards, indicating that the sidewalk lacked support.³⁰ PGW's excavation, at the 4-inch cast iron main, uncovered a void underneath the sidewalk that measured approximately 50-inches wide by 16-inches deep.³¹

The cause of the crack in the 4-inch cast iron main was clearly determined by two different independent entities, Affiliated Engineers Laboratory ("AEL") and Forensic Consultants of North America, LLC ("FCNA"). AEL undertook a metallurgical evaluation of the cracked cast iron main.³² AEL's metallurgical evaluation found that "[e]xternal stresses applied to a graphitized gas main induced a circumferential crack" and the cast iron pipe "experienced an external bending force acting upon it where a through wall-crack initiated and propagated near its bottom."³³ AEL identified three causes for the bending forces: (1) frost upheaval during freeze/thaw cycles; (2) poor bedding; and (3) loss of soil support or external force from soil disturbances near the buried pipe or undermining.³⁴ AEL was able to rule out frost upheaval as a cause of the external bending forces.³⁵ On the other hand, compromised pipeline bedding and loss of soil support are related to each other, as pipeline bedding can be

²⁸ I&E's Proposed Findings of Fact 58. Answer at par. 55; I&E St.1 at 10; I&E Exhibits 1, 2, and 5.

²⁹ I&E's Proposed Findings of Fact 59. I&E St.1 at 10; I&E Exhibit 1.

³⁰ I&E's Proposed Findings of Fact 60. I&E St.1 at 10; I&E Exhibits 2 and 3.

³¹ I&E's Proposed Findings of Fact 61. Answer at par. 58; I&E St.1 at 10; I&E Exhibit 3.

³² I&E's Proposed Findings of Fact 74. Answer at par. 59; I&E St.1 at 14; I&E Exhibit 9.

³³ I&E's Proposed Findings of Fact 75. I&E St. 1-SR at 3; I&E Exhibit 9 at 4, 28-29.

³⁴ I&E's Proposed Findings of Fact 81. I&E St. 1-SR at 4; I&E Exhibit 9.

³⁵ I&E's Proposed Findings of Fact 82. I&E St. 1-SR at 4; I&E Exhibit 9.

negatively impacted by sewer failures and excavations and the compromise of pipeline bedding leads to the loss of support for a pipeline.³⁶

FCNA investigated the root cause of the explosion at 815 Jackson Street.³⁷ FCNA found that the “street surface where the excavation occurred directly in front of 815 Jackson Street was sunken downward several inches” and “that the unearthing of soil caused an underground cavity that can affect and compromise underground utilities such as the underground natural gas piping, water piping and sewer piping located adjacent to the curbside excavation work.”³⁸ FCNA specifically concluded that: “Excavation, backfilling, replacement of soil and asphalt surfaces by Clemens [sic] Brothers Plumbing, while completing a lateral curb trap, most likely contributed to the damage/cracking of the underground natural gas pipe and subsequent escape and migration of gas vapors that entered the subject residence of 815 Jackson Street.”³⁹

Fifth, and finally, the Initial Decision did not find that the home explosion at 815 Jackson Street was the second instance of similar conduct by PGW. The Commission approved a settlement at PUC v. PGW, Docket No. C-2022-3033834, (“8th Street Settlement”) on January 8, 2025.⁴⁰ The 8th Street Settlement was factually similar to the instant case and involved a December 19, 2019, natural gas explosion at 1435 South 8th Street, Philadelphia, PA, resulting in two fatalities and extensive property damage.⁴¹ In the two years between the 8th Street explosion (December 19, 2019) and the explosion at 815 Jackson Street (November 30, 2021), PGW did not make any material changes to Bulletins #312, 313, or 54 and did not take other necessary action or make necessary changes to their policy and procedures to reduce risk and

³⁶ I&E’s Proposed Findings of Facts 83 and 84. N.T. at 79; I&E St. 1-SR at 4.

³⁷ I&E’s Proposed Findings of Fact 85. Answer at par. 62; I&E St.1 at 15; I&E Exhibit 10.

³⁸ I&E’s Proposed Findings of Facts 86 and 87. Answer at par. 63; I&E St.1 at 15; I&E Exhibit 10.

³⁹ I&E’s Proposed Findings of Fact 89. Answer at par. 66; I&E St.1 at 15; I&E Exhibit 10.

⁴⁰ I&E’s Proposed Findings of Fact 133. I&E St. 1-SR at 14; PUC v. PGW, Docket No. C-2022-3033834.

⁴¹ I&E’s Proposed Findings of Facts 134 and 135. I&E St. 1-SR at 14-15; PGW St. 1-R at 47; PUC v. PGW, Docket No. C-2022-3033834.

prevent reoccurrence of events related to excavations to repair water and sewer system failures at or near their cast iron mains.⁴² The fact of similar prior conduct is significant here because a natural gas distributor is required to have a Distribution Integrity Management Plan (“DIMP”), which requires operators to know their systems, take preventative actions, and learn from prior incidents on their system with the goal of reducing risk in its system.⁴³

The Initial Decision erred in choosing to overlook and not address or consider the above facts. To disregard, nor give due to consideration to, the above undisputed facts, is a failure to have a clear understanding of the issues involved in this case and the violations that I&E proved beyond a preponderance of the evidence.⁴⁴

2. The Initial Decision errs in failing to define “actual knowledge” and incorrectly applies “actual knowledge” as the standard.

For the reasons described in greater detail below, I&E respectfully submits that the Initial Decision’s failure to define “actual knowledge” and the blanket application of “actual knowledge” led to the incorrect result in this matter. To adopt the Initial Decision’s blanket application of “actual knowledge,” effectively immunizes a utility that deliberately avoids investigating threats to its system, and, in fact, encourages a utility to refrain from conducting any investigation.

Without making a Finding of Fact,⁴⁵ Conclusion of Law,⁴⁶ or engaging in any meaningful analysis, the Initial Decision concluded that I&E was required to prove “actual knowledge.”⁴⁷

⁴² I&E’s Proposed Findings of Facts 136 and 138. I&E St. 1-SR at 15; N.T. at 112; PUC v. PGW, Docket No. C-2022-3033834.

⁴³ N.T. at 84, 99. 49 CFR § 192.1007.

⁴⁴ To establish a claim by a preponderance of the evidence means to offer evidence that outweighs or is more convincing than, by even the smallest amount, the probative value of the evidence presented by the opposing party. *Povacz v. Pa. Pub. Util. Comm’n*, 280 A.3d 975, 999 (Pa. 2022), citing *Stacey Weaver v. PPL Electric Utilities Corp.*, Docket No. C-2018-3005382 (Order entered September 17, 2020).

⁴⁵ ID at 3-12.

⁴⁶ ID at 51-54.

⁴⁷ ID at 46.

The failure to define or provide context for “actual knowledge” results in the Initial Decision requiring that I&E prove that PGW had irrefutable knowledge “that its 4-inch main near 815 Jackson Street was disturbed by sewer failures and the excavation work performed nearby.”⁴⁸ The Initial Decision proceeded to apply a blanket “actual knowledge” standard, without identifying or explaining what that standard is, despite I&E supplying the definition of “actual knowledge” in its Main Brief.⁴⁹ Black’s Law Dictionary defines “actual knowledge” as “direct and clear knowledge” or “knowledge of information that would lead a reasonable person to inquire further.”⁵⁰ The Commission has opined that “actual notice” “include[s] such notice as is affirmatively proved to have been given to a party directly, and also such notice as a party is presumed to have received personally because facts within its knowledge were sufficient to place upon the party the duty to inquire about the fact or condition in question.”⁵¹

As argued in its Main Brief, and as it relates to the “knowledge” element of Section 192.755, I&E believes that to maintain consistency with Parts 191 and 192 and the definitions of “discovery of condition”⁵² and “confirmed discovery,”⁵³ “knowledge,” in this section, should be construed as “constructive knowledge.”⁵⁴ The Federal pipeline safety regulations impose affirmative duties on pipeline operators, such as PGW, to proactively discover conditions and take remedial action based on what they discover through required inspections, assessments, and

⁴⁸ ID at 51.

⁴⁹ I&E Main Brief at 32-33.

⁵⁰ Knowledge, Black's Law Dictionary (12th ed. 2024).

⁵¹ *KA at Fairless Hills, LP v. PECO Energy Company*, Docket No. C-2017-2592335, at 22.

⁵² Discovery of a condition occurs “when an operator has adequate information about a condition to determine that the condition presents a potential threat to the integrity of the pipeline.” 49 C.F.R. §§ 192.710 & 192.933.

⁵³ Confirmed discovery means “when it can be reasonably determined, based on information available to the operator at the time a reportable event has occurred, even if only based on a preliminary evaluation.” 49 C.F.R. § 191.3.

⁵⁴ I&E Main Brief at 33-34. Black’s Law Dictionary defines “constructive knowledge” as “knowledge that one using reasonable care or diligence should have, and therefore that is attributed by law to a given person.” Knowledge, Black's Law Dictionary (12th ed. 2024).

monitoring activities,⁵⁵ regardless of whether they had actual knowledge of specific defects. Repair obligations are triggered by the discovery of adverse conditions rather than waiting for confirmation of a defect – which is too late and when catastrophic consequences can occur. The Initial Decision fails to appreciate that precautionary steps must be taken to avoid potential pipeline risk when adverse conditions are discovered that can affect pipeline facilities.

However, even if the above definition of “actual knowledge” and “actual notice” are applied, I&E has met those burdens with the evidence presented. In keeping with the regulatory framework for natural gas operators to use reasonable effort and exercise reasonable care to protect the public, PGW had in its possession the requisite “knowledge of information that would lead a reasonable [utility] to inquire further” to investigate and ascertain to what extent its cast iron facility’s support has been disturbed by sewer system failures and excavations and what forms of protection would be necessary.⁵⁶

As it relates to all other alleged violations, support for “constructive knowledge” being the appropriate standard can be found in PGW’s Bulletins themselves. None of the three PGW Bulletins at issue mention, let alone define, knowledge.⁵⁷ The use of the words “could” and “may” in PGW Bulletins #312 and #313 make it exceedingly clear that PGW does not need irrefutable knowledge that damage to its pipeline will occur prior to initiating an investigation or remediating threats. In Bulletin #312, PGW directs the following:

1. “On major construction projects or where important pipeline facilities **may be** affected, a supervisor shall determine the need to assign a full time inspector or watchman during the period of construction.” (emphasis added).
2. “Wherever pipeline facilities are or **may be** endangered, the appropriate supervisor shall be promptly informed.” (emphasis added).

⁵⁵ See 49 CFR §§ 192.701 *et seq.* “Each segment of pipeline that becomes unsafe must be replaced, repaired or removed from service.” 49 CFR § 192.703(b).

⁵⁶ I&E’s Main Brief identified 15 facts and circumstances that demonstrate PGW’s knowledge. See I&E’s Main Brief at 35-36.

⁵⁷ I&E Exhibits 11-13.

3. “Where pipeline facilities *may be* affected, appropriate personnel shall be dispatched promptly to determine the effect of the [water or sewer system] failure on pipeline facilities.” (emphasis added).

In Bulletin #313, PGW directs that:

1. “[T]he inspector should be looking for any activity or changes in the environment that *could affect* the safety of the pipeline.” (emphasis added).
2. “Any excavations (including backfilled openings that are not familiar to the inspectors), grading, demolition, or other construction activity *which could result* in damage to a pipeline, loss of support due to settlement or shifting of soil around a pipeline, undermining or damage to a pipeline support, or loss of cover or excess fill.” (emphasis added).

Additionally, the Initial Decision’s blanket application of “actual knowledge” misunderstands the purpose of PGW’s Bulletins. The purpose of PGW’s damage prevention bulletins is to take proactive steps to investigate threats and prevent damage, not to sit back and wait for irrefutable knowledge of the existence of a threat to its pipeline, which is almost certainly too late. The need to take proactive steps and to investigate notice of a UST is evident in the wording of PGW’s Bulletins requiring PGW to “patrol,” “investigate,” “inspect,” and “determine the effect of the failure on [PGW] pipeline facilities.”⁵⁸ Specifically, the Bulletins require the following:

1. “Where pipeline facilities may be affected, appropriate personnel shall be dispatched promptly *to determine the effect* of the failure on pipeline facilities.”⁵⁹
2. “*Inspection and necessary follow-up* action shall be in accordance with the "Protection of PGW Facilities from Underground Street Troubles" procedure.”⁶⁰
3. “[I]nstitute necessary actions such as *patrolling*, supporting, replacing, relocating or removing from service the affected gas facilities.”⁶¹
4. “*To inspect* third party construction activities for the main purpose of protecting PGW underground structures and facilities.”⁶²

⁵⁸ I&E Exhibits 11-13.

⁵⁹ I&E Exhibit 11.

⁶⁰ I&E Exhibit 11.

⁶¹ I&E Exhibit 11.

⁶² I&E Exhibit 12.

5. “*To perform patrols* along the routes of all transmission mains and other critical pipelines in the distribution system.”⁶³
6. “Certain excavations should be *carefully inspected* after heavy rainfalls, looking for trench erosion and when found should be brought to the attention of the contractor, City Inspector and the PGW supervisor.”⁶⁴
7. “When *performing a pipeline patrol*, the inspector should be looking for any activity or changes in the environment that could affect the safety of the pipeline.”⁶⁵
8. “The Supervisor will then *immediately investigate* and start remediation procedures if necessary.”⁶⁶
9. “*Dispatching and investigating* failures of underground structures such as water and sewer mains that could reduce or eliminate support of PGW pipelines.”⁶⁷
10. “If the Inspector *can determine* at the time that PGW is not involved due to the distance of our structures from the UST and the containment of the UST problem, the job may be finalized at this point.”⁶⁸
11. “PGW employee *observation* during the course of their work; for example, during a leak survey, leak investigation, main replacement or new business work.”⁶⁹
12. “*Investigation of a UST* - The magnitude and proximity (to PGW structures) of the underground trouble is important to observe and report.”⁷⁰

PGW’s Bulletin #54 even goes so far as to list “Additional UST Investigation Points.”⁷¹

To apply the Initial Decisions’ blanket requirement that PGW must have irrefutable knowledge “that its 4-inch main near 815 Jackson Street was disturbed by sewer failures and the excavation work performed nearby” is counterintuitive to PGW’s own procedures and the intent of the Federal pipeline safety regulations. If PGW must know beyond a shadow of a doubt that its cast iron pipeline has been undermined by a sewer failure and excavations, it would obviate

⁶³ I&E Exhibit 12.
⁶⁴ I&E Exhibit 12.
⁶⁵ I&E Exhibit 12.
⁶⁶ I&E Exhibit 12.
⁶⁷ I&E Exhibit 13.
⁶⁸ I&E Exhibit 13.
⁶⁹ I&E Exhibit 13.
⁷⁰ I&E Exhibit 13.
⁷¹ I&E Exhibit 13.

the stated need to “patrol,” “investigate,” “inspect,” and “determine at the time that PGW [facilities are] not involved.”

The Initial Decision’s requirement for irrefutable knowledge is also contradicted by its own Findings of Fact. Specifically, at Findings of Fact nos. 10-15, the Initial Decision finds that sewer system failures are USTs, that can reduce or eliminate support for PGW pipelines, and “PGW has an obligation to *investigate* USTs.”⁷² By its own Findings of Fact the Initial Decision recognizes that PGW must investigate a UST, not just wait for irrefutable knowledge “that its 4-inch main near 815 Jackson Street was disturbed by sewer failures and the excavation work performed nearby.”

If even more support is needed that irrefutable knowledge is the improper standard to apply, that evidence can be found in PGW’s own witness statement. At the evidentiary hearing, PGW’s witness testified that PGW’s Bulletin #312 only requires a possibility that PGW’s facilities may be affected and does not require PGW to have definitive or explicit knowledge that PGW facilities will definitely be affected.⁷³ PGW’s own procedures and statement recognize that irrefutable knowledge is not necessary for it to initiate an investigation to protect its cast iron pipelines.

The requirement to take proactive steps to investigate threats and prevent damage is further supported by, and consistent with, Federal pipeline safety regulations, the Public Utility Code, and Commission regulations. Federal pipeline safety regulations, require a natural gas distributor to have a DIMP which requires operators to know their systems, take preventative actions, and learn from prior incidents on their system with the goal of reducing risk in its

⁷² ID at 4-5 (emphasis added).

⁷³ N.T. at 115-116. The Initial Decision did not find this fact, despite the fact being uncontroverted and proposed in I&E’s Proposed Findings of Fact 96.

system.⁷⁴ Further, the Public Utility Code and Commission regulations require that an operator use reasonable effort and exercise reasonable care to protect the public.⁷⁵ Investigation and inspection, without needing irrefutable knowledge, fall squarely into the category of reasonable effort and reasonable care.

As has been thoroughly supported here and in I&E's Main Brief, the appropriate standard is "constructive knowledge." I&E has proven well beyond a preponderance of evidence that PGW had constructive knowledge, or knowledge that a "[utility] using reasonable care or diligence should have, and therefore that is attributed by law," that the safety of its cast iron main was threatened by the sewer system failures and excavations. However, even if "actual knowledge" and "actual notice" are applied, I&E has met those burdens with the evidence presented. As proven, PGW had in its possession the requisite "knowledge of information that would lead a reasonable [utility] to inquire further" to investigate and ascertain to what extent its cast iron facility's support has been disturbed by sewer system failures and excavations and what forms of protection would be necessary.

When a natural gas distributor receives a customer report of a natural gas odor, the gas distributor is not permitted to delay a leak investigation until it has irrefutable knowledge of a leak. So why should a natural gas distributor be permitted to wait for irrefutable knowledge that a UST and excavation have undermined a vulnerable cast iron pipeline in a densely populated area?⁷⁶ 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 shirk its responsibilities.

⁷⁴ I&E Main Brief at 26; N.T. at 84, 99; and 49 CFR § 192.1007.

⁷⁵ 66 Pa.C.S. § 1501, and 52 Pa. Code § 59.33.

⁷⁶ Section IV(A) of Bulletin #54 cautions that "[i]t is important to emphasize that every complaint of underground street troubles must immediately be brought to the attention of the Dispatcher in the same manner as gas leaks." I&E St.1 at 18-19; I&E Exhibit 13. The Initial Decision did not find this fact, despite the fact being uncontroverted and proposed in I&E's Proposed Findings of Fact 109.

3. The Initial Decision errs in requiring I&E to demonstrate the existence of an “emergency.”

In further justification for denying I&E’s Formal Complaint, the Initial Decision faults I&E for failing to “demonstrate that an emergency existed when PGW responded to the PA One Call tickets and marked their facilities in front of 813 and 815 Jackson Street.”⁷⁷ However, the Initial Decision provides no support in its Findings of Fact⁷⁸ or Conclusions of Law⁷⁹ for the erroneous conclusion that I&E was required to prove that an “emergency” existed.

The purpose of PGW’s Bulletins #312, #313, and #54 are to identify the actions and procedures to be used by PGW to protect its facilities from USTs, construction activities, and other damages.⁸⁰ An examination of these bulletins, clearly demonstrates that the existence of an “emergency” is not a requirement, nor even a consideration, for PGW to respond to and investigate notices of USTs.⁸¹ Additionally, the violations of the Federal pipeline safety regulations, the Public Utility Code, and Commission regulations alleged by I&E in its Formal Complaint do not require the existence of an “emergency.”⁸²

Bulletins #312, #313, and #54 are clearly marked as damage prevention and maintenance procedures, not emergency response procedures. These Bulletins identify their purpose as “[t]o remain in full compliance with all federal and state requirements with regard to underground pipeline facilities damage prevention,”⁸³ “[t]o provide clear instructions for Distribution Department damage prevention inspectors,”⁸⁴ and “dispatching and investigating failures of

⁷⁷ ID at 43, 47-48.

⁷⁸ ID at 3-12.

⁷⁹ ID at 51-54.

⁸⁰ I&E Exhibits 11-13. ID at 4-7.

⁸¹ I&E Exhibits 11-13. Bulletins #312 and #54 do not contain the word “emergency” at all and Bulletin #313 only references “emergency” in the Damage Prevention Inspectors prioritization of work and inspection of pipeline markers’ “emergency contact information.”

⁸² 49 CFR §§ 192.605(a), 192.703(a)&(b), and 192.755(a)&(b), 66 Pa.C.S. § 1501, and 52 Pa. Code § 59.33.

⁸³ I&E Exhibit 11.

⁸⁴ I&E Exhibit 12.

underground structures such as water and sewer mains that could reduce or eliminate support of PGW pipelines.”⁸⁵ The Bulletins are not emergency response plans per 49 CFR § 192.615, thus there is no requirement for the existence of an emergency.

The Initial Decision appears to rely on the definition of “emergency” from the PA One Call Law.⁸⁶ However, no violations of the PA One Call Law⁸⁷ were alleged in I&E’s Formal Complaint. The Initial Decision found that:

34. *The designation of “emergency” is defined by the excavator and automatically accepted and entered by the PA One Call System. PGW St. 2-R at 3.*
35. *Designation as an “emergency” does not always mean there is a threat to public safety involved, or an elevated risk. PGW St. 1-R at 37; PGW St. 2-R at 4.*
36. *Designation as an “emergency” could mean that a home or business is without water or sewer service, or other utilities, but not necessarily that the condition of the subject facility poses a physical danger to anyone or anyone else’s facilities.⁸⁸*

These Findings of Fact find that the determination and classification of an excavation as an “emergency” is subjective to the excavator and may not always be an “emergency.” These findings beg the question: How would PGW know if there is an actual emergency or a UST if they do not initiate an investigation of the PA One Call notice? As discussed in detail above, this finding highlights the importance of the requirement that PGW investigates USTs when it receives notice via PA One Call tickets. A municipally owned gas distribution company cannot blindly rely on an excavator’s assessment of a threat to a gas pipeline, when PGW is best positioned to know and understand the safety of its natural gas distribution system.

⁸⁵ I&E Exhibit 13.

⁸⁶ ID at 9 and 43; 73 P.S. § 176.

⁸⁷ Act of October 29, 2024, P.L. 1106, No. 127.

⁸⁸ ID at 9.

III. CONCLUSION

If PGW had followed its procedures, there would not have been a failed cast iron facility and a house explosion. PGW cannot permit cast iron main breaks and home explosions to occur when excavations are conducted for the next 35 years that it will take PGW to replace all of the cast iron in Philadelphia. PGW is ultimately responsible for the safe operation of its pipeline systems and the integrity management of its facilities. The threat of cast iron is such a concerning issue that the Pipeline and Hazardous Materials Safety Administration created specific regulations to address cast iron and the best ways to protect it.⁸⁹

For the reasons set forth above, I&E respectfully requests that this Honorable Commission set aside the Initial Decision and adopt I&E's proposed Findings of Fact, Conclusions of Law, and Ordering Paragraphs, sustain the Formal Complaint, in full, and assess a \$300,000 civil penalty.

Respectfully submitted,



Colby B. Widdowson
Prosecutor
PA Attorney ID No. 326185

Stephanie M. Wimer
Deputy Chief Prosecutor
PA Attorney ID No. 207522

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

Dated: May 28, 2026

⁸⁹ See 49 CFR § 192.489 (Remedial measures: Cast iron and ductile iron pipelines) and 49 CFR § 192.755 (Protecting cast-iron pipelines).

**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 **Exceptions of the Bureau of Investigation and Enforcement** dated May 28, 2026, upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Served via Electronic Mail

Norman J. Kennard, Esq.
Bryce Beard, Esq.
Daniel Clearfield, Esq.
Eckert Seamans Cherin & Mellot, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
nkennard@eckertseamans.com
bbeard@eckertseamans.com
dclearfield@eckertseamans.com



Colby B. Widdowson
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 326185
(717) 787-2139
cwiddowson@pa.gov