Before the Pennsylvania Public Utility Commission

INOVA ENERGY LLC **Complainant,** ***v.*** Pike County Light & Power Company and Corning Energy Corporation, f/k/a Corning Natural Gas Holding Corporation **Respondents.**	**Docket №.** C-2026-3060035 **BRIEF OF COMPLAINANT INOVA ENERGY, LLC** ***Civil Action***

BRIEF OF COMPLAINANT INOVA ENERGY, LLC

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I. INTRODUCTION

A. Statement of the Case

This proceeding concerns whether Pike County Light & Power Company ("Pike") complied with its Commission-approved obligations governing the participation of Electric Generation Suppliers ("EGSs") in Pike's service territory when Inova Energy, LLC ("Inova") sought to become Pike's first new third-party competitive supplier in decades.

The dispute is not, as Pike has sometimes framed it, simply whether Inova requested information Pike did not possess. Nor does Inova contend that Pike was required to implement Electronic Data Interchange ("EDI") after the Commission granted Pike an EDI waiver. The record instead presents a more fundamental supplier-coordination problem.

Pike maintained a Commission-filed Electric Generation Supplier Coordination Tariff establishing the procedures and information by which an EGS could serve Pike customers. Pike admits that it did not update that Tariff in the last twenty-six years, calling it a "ministerial administrative error." Husted Direct Testimony ("Husted D.T.") at 6:1-5; Telephonic Hearing Transcript ("Tr.") 63:3-6; Compl. Ex. 49, Interrogatory 21. Yet when Inova sought to enter Pike's territory, Pike never filed a revised Supplier Coordination Tariff and never told Inova that it should cease relying upon the Commission-filed Tariff. Pike's witness Marie Husted ("Husted") confirmed both points during the hearing. Compl. Ex. 11, Interrogatory 1; Compl. Ex. 49, Interrogatory 26; Tr. 63:10–13.

Pike instead affirmatively proceeded to onboard Inova under its supplier-coordination regime. Pike supplied an *Individual Coordination Agreement*, researched and eventually located its *Purchase of Receivables* ("POR") agreement, supplied customer information, coordinated with Orange & Rockland Utilities ("O&R") and ultimately confirmed to O&R that Inova had satisfied Pike's requirements and was ready to serve customers. On February 8, 2023, O&R advised New

York Independent System Operator (“NYISO”) that “Pike County Light and Power has confirmed that Inova Energy LLC has met all of their requirements and are ready to serve customers.” Pike Ex. 12. NYISO activated Inova’s load bus two days later. What followed was an extended dispute concerning the operational information necessary for Inova to forecast, price, schedule and settle competitive electric supply for Pike customers.

Pike’s own evidence establishes that this information did not exist in an operational vacuum. Pike already had an established supplier-coordination relationship with Direct Energy/NRG. Pike also maintained an ongoing relationship with O&R through which Pike sent customer account and meter-usage information for settlement. Husted testified that she personally works on that settlement process and sends O&R an Excel sheet containing Pike customer account and meter-usage information. Pike D.T. at 2.

Further evidence establishes that Pike could obtain at least some information from O&R, did obtain information from O&R, and ultimately provided Inova limited information that Pike earlier had represented it could not provide or did not maintain in the form requested.

The Commission-approved settlement requires Pike to update its Eligible Customer List (“ECL”) monthly and provide it to EGSs serving Pike’s territory on a monthly basis and upon request. Pike itself acknowledges that requirement. The ECL must contain, “at a minimum,” specified information including twelve months of monthly consumption and, where available, transmission/capacity obligations, peak/off-peak consumption, and monthly peak demand. The record identifies an ECL transmitted to Inova on September 29, 2022, and another on March 5, 2025, but identifies no monthly ECL transmissions during the approximately twenty-nine months between them. Indeed, Pike’s March 5 letter asked Inova to advise whether it “wishes to receive the ECL monthly" so that Pike could "work to set up access." Pike Exs. 10, 13; Compl. Ex. 9, p. 1; Husted D.T. 6:7–14, 10:8–13.

At the hearing, however, Husted admitted that Pike had provided Inova nothing since March 5, 2025. Tr. 81:8–82:7. When Judge Guhl asked whether there was any reason Pike had not continued providing monthly consumption information, Husted answered: "No, there's not." When the Presiding Officer then asked why Pike had not updated the ECL monthly as the settlement requires, Husted testified: "I didn't think, during the testimony, that we were—or during this whole process, that we were supposed to do anything until we were directed to by either our attorney or somebody at the PUC." Tr. 81:8–82:7.

It is respectfully submitted, this testimony resolves at least one substantial portion of this case. Pike's obligation to update and provide the ECL was not conditioned upon receiving a new direction from counsel or the Commission after Inova filed its *Complaint*. The Commission had already issued that direction.

It is respectfully argued, the record establishes violations of Pike's Commission-approved supplier-coordination obligations and its filed Tariff, together with unreasonable practices that impeded Inova's ability to participate in Pike's competitive retail market.

B. Procedural History and Federal Court Referral

Inova commenced this formal *Complaint* following an extended effort to resolve its supplier-coordination problems with Pike informally and after Commission staff had previously become involved in attempting to facilitate communications.

The *Complaint* asks the Commission to determine regulatory issues within its expertise, including whether Pike complied with its Supplier Coordination Tariff, Commission Orders and approved settlements governing EGS coordination; whether Pike's conduct constituted unreasonable or discriminatory utility practices; and whether Corning Energy Corporation

("Corning") bears responsibility for conduct in which its officer participated and for conduct performed for Pike through the Commission-approved affiliated-service structure. The *Complaint* expressly identifies tariff compliance, Commission-order compliance, competitive-market interference, affiliate responsibility, and prospective regulatory relief as issues presented.

The matter also arises in connection with litigation pending in federal court, where claims for monetary damages remain. The Commission proceeding concerns the regulatory determinations referred to the Commission and prospective regulatory relief; Inova does not request that the Commission adjudicate the damages reserved to the federal action.

An evidentiary hearing was conducted before Administrative Law Judge Marta Guhl on July 15, 2026. At the outset, Judge Guhl summarized the proceeding as involving Inova's allegation that Corning and Pike failed to comply with Pike's tariff and Commission Orders concerning information required to be supplied to energy suppliers such as Inova. Tr. 5-6.

Inova presented the testimony of Eric Brunhammer, its President, together with its admitted exhibits. Pike and Corning presented the testimony of Marie Husted, Director of Corporate Energy Supply, together with Respondents' admitted exhibits. The matter is now ripe for decision.

II. LEGAL STANDARDS

A. Burden of Proof

As the complainant, Inova bears the burden of proving the facts necessary to establish the violations alleged in its *Complaint*. 66 Pa. C.S. § 332(a). The ultimate burden remains with the complainant, although Pennsylvania decisions recognize that the burden of going forward may shift once a *prima facie* case is established. See *Burleson v. Pa. Pub. Util. Comm'n*, 501 Pa. 433, 461 A.2d 1234 (1983). The Commission's findings must rest upon competent record evidence rather than speculation.

That burden does not require Inova to prove that Pike acted with improper subjective intent. The relevant questions are whether the governing Commission Orders, approved settlements, Tariff provisions and statutory duties applied; what those obligations required; what Pike actually did; and whether Pike's conduct complied with those obligations.

The evidentiary record includes contemporaneous Pike and Corning communications, Pike's discovery admissions, Commission Orders, Pike's Supplier Coordination Tariff, Pike's own operational records, and testimony from the individuals directly involved. Accordingly, many of the dispositive facts do not depend upon a credibility contest between Brunhammer and Husted.

The present record satisfies that burden through the governing Tariff and Commission Orders, Pike's discovery admissions, contemporaneous communications, operational records, and the hearing testimony of the persons directly involved.

B. Standard Applicable to Inova's *Complaint*

A formal complainant may seek Commission determination that a jurisdictional utility has violated the Public Utility Code, a Commission regulation or Order, or an applicable Commission-filed tariff. Public utility tariffs are public regulatory documents setting forth rates, services, rules, regulations, and practices; they "have the force and effect of law" and bind the utility as well as the customer. *PPL Elec. Utils. Corp. v. Pa. Pub. Util. Comm'n*, 912 A.2d 386, 402 (Pa. Cmwlth. 2006).

Pennsylvania law therefore requires an effective tariff to be applied according to its approved language. See *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067, 1070 (Pa. Cmwlth. 1981) (tariff provisions, including rules and notice requirements, are binding; an attempt to vary the tariff's terms was ineffective). In construing a tariff, the Commission looks first to the four corners of the instrument, reads the tariff as a whole, and gives effect, as far as possible, to every word, clause, and sentence. *PPL Elec.*, 912 A.2d at 400–01.

Commission Orders must likewise be applied according to what the Commission actually ordered. Section 703(g) permits the Commission, after notice and an opportunity to be heard, to rescind or amend a prior order. 66 Pa. C.S. § 703(g). The Pennsylvania Supreme Court distinguishes a permissible clarification from a substantive alteration: an agency may clarify a prior order without new process, but it "may not effect substantive change" without satisfying § 703(g). *Montour Trail Council v. Pa. Pub. Util. Comm'n*, 547 Pa. 367, 371, 690 A.2d 703, 705 (1997). See also *Popowsky v. Pa. Pub. Util. Comm'n*, 805 A.2d 637, 643–44 (Pa. Cmwlth. 2002).

This case therefore requires the Commission to determine first what Pike's Supplier Coordination Tariff required and then what the Commission's 2019 Orders actually changed. The Commission need not decide the outer limit of its authority to alter a tariff without a conforming tariff filing. The narrower question is whether the 2019 Orders actually rescinded, suspended, waived, or superseded the substantive Supplier Tariff provisions Pike now seeks to disregard.

That narrow approach is also consistent with *Philadelphia Suburban Water Co. v. Pa. Pub. Util. Comm'n*, 808 A.2d 1044, 1061 n.30 (Pa. Cmwlth. 2002), which rejected the contention that Commission approval of a related agreement itself made the agreement an unstated exception to an existing tariff.

C. Commission Orders and Supplier-Coordination Tariff Requirements

i. EDI Waiver

The Commission's February 19, 2019, Order at Docket No. P-2018-3005165 granted Pike relief from implementation of EDI requirements. The Order arose from Pike's contention that the cost of implementing EDI was disproportionate to the number of switching transactions occurring in Pike's relatively small service territory. Pike Ex. 2.

The waiver must be applied according to what it waived: EDI.

Indeed, Pike's own witness described EDI as a method of transmitting information and acknowledged that Excel, CSV, or other data files could be used to exchange the same information without EDI. Tr. 61:18–62:2. On cross-examination, Husted agreed that the EDI exemption concerned how information would be exchanged, rather than eliminating the underlying information itself. Tr. 62:3–7. Nor could Husted identify any non-EDI supplier-coordination procedure that Pike had advised Inova should be disregarded because of the waiver. Tr. 62:14–18.

Accordingly, Inova does not contend that Pike violated Commission requirements merely because Pike did not transmit information through EDI. The question is whether Pike supplied information otherwise required by the Commission Orders and those provisions of its filed Supplier Coordination Tariff that remained effective.

ii. ECL Requirements

The Commission-approved settlement requires Pike to develop an ECL, update it monthly, and provide it to EGSs serving Pike's territory monthly and upon request.

The ECL must contain, "at a minimum," identified customer information including:

- Load Profile Group per Tariff;
- Transmission/Capacity Obligation (NYISO), current/future, if available;
- twelve months of monthly consumption;
- on-peak/off-peak consumption, if available; and
- monthly peak demand, if available.

Pike D.T. at 4–5.

The qualifiers are important. Certain fields are required only "if available." But other requirements—including the monthly updating and provision of the ECL and twelve months of monthly consumption—are not qualified in that manner.

iii. Billing File Requirements

The Commission-approved Settlement imposed supplier-coordination duties in addition to the ECL. Paragraphs 21 through 24 separately require reconciliation information, billing files, monthly synchronization information, and acknowledgments or responses relating to enrollment, drop, and change transactions. Those provisions confirm that the 2019 framework did not reduce Pike's supplier-coordination responsibilities to a single ECL file.

iv. Tariff Requirements

Pike's Supplier Coordination Tariff remains Commission-filed. Pike admits it has not updated that Tariff for more than twenty-six years. Pike D.T. at 6.

Relevant provisions include Rule 4.12(c), concerning historical customer information, and Rule 6.2.3, governing information Pike is to provide to assist an EGS in forecasting and scheduling its customers' hourly energy requirements.

Rule 6.2.3 provides that, because the EGS must forecast, calculate and furnish hourly energy requirements for its customers, Pike will assist the EGS by:

(a) providing historical customer electric-consumption data under Rule 4.12(c);

(b) indicating customers' load-profile strata; and

(c) providing scheduling software containing applicable losses and load-profile factors for the various load-profile strata. Compl. Ex. 1.

Other Tariff provisions concerning supplier coordination, cooperation, load profiling and settlement must be considered to the extent preserved and established by the record.

III. SUMMARY OF ARGUMENT

The record establishes that Pike violated its Commission-approved supplier-coordination obligations and failed to administer its Supplier Coordination Tariff in a reasonable and nondiscriminatory manner.

First, Pike failed to comply with the Commission-approved requirement that its ECL be updated and provided monthly. The evidentiary record identifies an ECL Pike provided to Inova on September 29, 2022, and another ECL provided on March 5, 2025, but identifies no monthly ECL transmissions to Inova during the approximately twenty-nine months between those productions. Pike Exs. 10, 13; Compl. Ex. 9; Husted D.T. 6:7–14, 10:8–13. Indeed, Pike's March 5, 2025, letter asked Inova to advise whether it "wishes to receive the ECL monthly" so that Pike could "work to set up access." Compl. Ex. 9, p. 1. Pike's witness then admitted that Pike provided Inova nothing after March 5, 2025, that there was no reason it had failed to continue providing monthly consumption information, and that she believed Pike need do nothing during the proceeding unless directed by counsel or the Commission. Tr. 81:8–82:7.

Second, Pike cannot transform its EDI waiver into a general waiver of supplier-information obligations. Pike's witness expressly agreed that the EDI waiver concerned the method of information exchange rather than the information itself and identified no non-EDI supplier-coordination procedure Pike had told Inova to disregard because of the waiver. Tr. 62:3–7, 14–18.

Third, Pike continued to maintain a Commission-filed Supplier Coordination Tariff that Pike admittedly failed to update for more than twenty-six years. Pike nevertheless never told Inova to stop relying on the Commission-filed Supplier Coordination Tariff. Tr. 63:10–13. To the contrary, Pike understood that Inova was attempting to become an EGS within Pike's territory and provided Inova an Individual Coordination Agreement in March 2022. Tr. 63:14–17; Pike Ex. 9; Tr. 63:18–64:15. In that March 23, 2022, communication, Pike advised Inova that it was Pike's first third-party provider and that responding to Inova had required research. Pike Ex. 9; Tr. 64:5–18.

Fourth, the record does not support Pike's broad suggestion that the operational information Inova sought simply did not exist or was unavailable. Pike ultimately provided customer PLC information and twenty-four months of historical usage "as per the Tariff Agreement." Pike's own exhibits identify Strata IDs, monthly demand, usage and monthly ICAP information. Pike also worked with O&R for settlement and could request information from O&R.

Fifth, Pike's treatment of Inova must be evaluated against its existing supplier-coordination process with Direct Energy/NRG. Pike had an established operational process with its incumbent EGS while simultaneously researching how to onboard Inova, its first new third-party supplier.

Finally, Corning cannot be treated as a stranger to the conduct. Personnel of Corning Natural Gas Corporation performed supplier-coordination functions for Pike under the affiliated-service structure, while Russell S. Miller—an officer of Corning Natural Gas Holding Corporation, now Corning Energy Corporation—participated directly in responding to Inova's supplier-information requests, directed personnel to obtain capacity information from O&R, and ultimately directed verification that Pike had fulfilled its Tariff obligations. Compl. Ex. 44, PIKE000049, PIKE000053; Compl. Ex. 48; Compl. Amended Ex. 42, PIKE003034–35.

The Commission should therefore find the violations established and direct prospective compliance.

IV. ARGUMENT

A. WHETHER PIKE VIOLATED COMMISSION ORDERS AND APPROVED SETTLEMENTS, 66 PA. C.S. § 501(c)

i. Information Pike Was Required to Provide Pursuant to Commission Order

The starting point is the Settlement approved by the Commission's January 17, 2019, Order. The Commission approved that Settlement in its entirety and without modification. Its requirements therefore cannot be reduced to Pike's subsequent understanding of what information it considered convenient or readily available to provide.

Paragraph 20 imposed two distinct types of obligations. First, Pike was required to develop an Eligible Customer List ("ECL"), update it monthly, and provide it to EGSs serving customers in Pike's territory on a monthly basis and upon request. Second, Paragraph 20 prescribed minimum information to be included in the ECL and expressly conditioned certain individual fields upon availability. That drafting distinction matters.

Where the Settlement intended an availability qualification, it said so. Transmission/Capacity Obligation (NYISO), Current/Future; on-peak/off-peak consumption; and monthly peak demand contain an "if available" qualification. Monthly consumption does not. Nor does the requirement that the ECL itself be updated and provided monthly.

The Commission's February 19, 2019, EDI Waiver Order did not eliminate those obligations. As discussed more fully below, the Commission relieved Pike from specified standardized EDI and switching requirements while expressly relying upon alternative customer-data-sharing measures and Pike's commitment to provide specified information to EGSs. The waiver therefore changed the prescribed mechanism for supplier communications; it did not excuse compliance with the affirmative information-sharing obligations imposed by the Commission-approved Settlement.

Pike's compliance must therefore be evaluated separately as to: (1) the unconditional recurring requirement to update and provide the ECL monthly; and (2) those individual ECL fields expressly conditioned upon availability.

ii. Information Pike Provided or Did Not Provide to Inova

Inova does not contend that Pike provided no information. The record instead demonstrates a piecemeal course of production in which Pike supplied onboarding materials and portions of the required or requested customer information at various times, failed to maintain the recurring monthly ECL production required by the Commission-approved Settlement, and at times characterized information as unavailable that its own subsequent evidence demonstrated either could be obtained through O&R or was already in Pike's possession.

Pike first provided supplier-onboarding materials in March 2022. On March 23, 2022, Pike sent Inova the *Coordination Agreement and Scheduling Coordination Designation Form*. *Answer* ¶180. On September 29, 2022, Pike provided an ECL, and on October 26, 2022, Pike supplied *Purchase of Receivables* documents. *Id*. ¶¶182–183. Those productions demonstrate that Pike had begun the supplier-coordination process. Pike Exhibit 10 identifies the September 29, 2022, transmission as an ECL, and Husted identified confidential Pike Exhibit 13 as the ECL actually provided to Inova. Pike Exs. 10, 13; Husted D.T. 6:11–14. The record identifies no monthly ECL transmissions to Inova during the approximately twenty-nine months between that production and the next identified ECL on March 5, 2025.

By early 2023, Inova's requests had shifted to operational customer information necessary to price and serve customers. On May 11, 2023, Abram Stephens advised Inova that Pike was providing "PLC's for the customers that you had requested" and, "[a]s per the Tariff Agreement," twenty-four months of monthly historical usage. Compl. Ex. 37. Inova promptly advised Pike that the information identified as "PLC's" was not the individual customer Peak Load Contribution or capacity tag it had requested. Compl. Ex. 38.

On May 31, 2023, Stephens advised Inova that, after consulting with Husted, Pike had determined that capacity tags were not something Pike was then capable of tracking because they supposedly required hourly data. Compl. Ex. 39. The May 11 production therefore did not resolve Inova's request: Pike initially characterized the material as containing the requested PLCs, Inova explained the distinction, and Pike then stated that it could not provide the customer-specific capacity information sought.

The subsequent record materially qualifies that representation. On June 28, 2023, Pike explained that each customer file had a STRATA ID associated with it, that the STRATA ID determined capacity allocation to the customer, and that the resulting allocation affected NYISO charges. Compl. Ex. 48. Pike thereafter worked through O&R and, on July 24, 2023, supplied capacity tags for specified customers. Pike D.T. 9:1–4; Pike Exs. 5–6. On August 7, 2023, Pike supplied additional information correlating rate codes with Strata IDs. Pike D.T. 7:2–6; Pike Exs. 7, 7a.

Those later productions do not necessarily establish that every requested field was continuously available to Pike in every form Inova requested. They do establish, however, that Pike's May 31 response did not end the availability inquiry. Information Pike initially stated it could not track was subsequently obtained through the O&R relationship upon which Pike relied for settlement and allocation functions.

The March 5, 2025, production presents an even clearer inconsistency. Pike transmitted another ECL and additional customer information. Compl. Ex. 9; Husted D.T. 10:8–13. Pike subsequently admitted that it actually provided the ECL transmitted with the March 5 letter and noted only that it had "previously provided this information to Inova." Compl. Ex. 12, Admission No. 30. The March 5 letter nevertheless acknowledged that the ECL did not include Load Profile Group per Tariff, on-peak/off-peak consumption, or monthly peak demand. Compl. Ex. 9, pp. 2–3; see also Compl. Ex. 12, Admission No. 32.

The March 5 letter is also significant for what it reveals about Pike's administration of the recurring ECL obligation. Pike stated: "Please advise if Inova wishes to receive the ECL monthly, and Pike will work to set up access." Compl. Ex. 9, p. 1. That contemporaneous statement indicates that, as of March 5, 2025, Pike had not established monthly ECL delivery to Inova and was treating monthly delivery as something Inova needed affirmatively to request. Paragraph 20, however, separately requires Pike to update the ECL monthly, provide it monthly, and provide it upon request. Compl. Ex. 4, p. 9, ¶ 20.

Pike's own witness subsequently acknowledged that its March 5 representation concerning Load Profile Group information was erroneous. The March 5 correspondence stated that Pike did not possess or have the current ability to gather and report "Load Profile Group per Tariff." Husted later testified: "We have the Load Profile Group per tariff and that information was provided to Inova in Pike Exhibit 13." Husted D.T. 10:3–7.

Pike's March 5 correspondence also characterized the requested load-profile information as "not readily available" and stated that it would be "cumbersome" to provide for all customers. Compl. Ex. 9, p. 3; Husted D.T. 10:14–11:4; Tr. 75:12–76:11. At the same time, however, Pike stated that it was willing to work with Inova to assemble load profiles for individual customers upon request. Compl. Ex. 9, p. 3; Husted D.T. 10:14–11:4; Tr. 76:12–15.

Pike Exhibit 13 was not information Pike first acquired after making the March 2025 representation. It was the ECL Pike had provided to Inova in September 2022. At hearing, Brunhammer confirmed that the 2022 ECL contained Strata IDs, and examination of Exhibit 13 confirmed the presence of that field. Tr. 30:20–31:17; 33:1–6. Thus, by Pike's own evidence, when Pike represented in March 2025 that it did not possess or have the current ability to gather and report Load Profile Group information, Pike had already possessed and transmitted the pertinent information approximately two-and-one-half years earlier.

That inconsistency is especially significant because "Load Profile Group per Tariff" was expressly identified in Paragraph 20 as a minimum ECL field without an "if available" qualification. Pike's own evidence therefore establishes that its March 2025 explanation was factually incorrect.

Most importantly, March 5, 2025, was Pike's final production. During Judge Guhl's examination, Husted testified that Pike provided Inova nothing thereafter. She acknowledged that monthly consumption was a required ECL field and identified no reason Pike had not continued providing it. Tr. 81:8–25. When asked why Pike was not updating the ECL monthly, Husted testified that she believed Pike was not supposed to do anything during the proceeding unless directed by counsel or someone at the Commission. Tr. 82:1–7.

That explanation is inconsistent with the Commission-approved Settlement. Paragraph 20 requires Pike to update and provide the ECL monthly and to provide it upon request. The obligations are cumulative, not alternatives. Nothing in the Settlement suspends the monthly requirement during litigation or conditions it upon repeated requests by an EGS.

The record therefore demonstrates a broader failure to implement Paragraph 20's recurring monthly ECL requirement. The evidentiary record identifies the September 29, 2022, ECL and the March 5, 2025, ECL but identifies no monthly ECL transmissions to Inova during the approximately twenty-nine months separating them. Although Husted testified generally that Pike sent Inova an ECL on "multiple occasions," Pike identified no intervening monthly ECL transmissions in that testimony. Husted D.T. 6:7–14. Pike's March 5, 2025, statement asking whether Inova wished to receive the ECL monthly is likewise inconsistent with any contention that Pike had already established a monthly ECL-delivery process for Inova. Compl. Ex. 9, p. 1.

The noncompliance did not end there. March 5, 2025, was Pike's final identified production, and Husted testified that Pike provided Inova nothing thereafter. Tr. 81:8–21. She acknowledged that monthly consumption was required, identified no reason Pike had not continued providing it, and explained that Pike had not updated the ECL monthly because she believed Pike need do nothing during the proceeding unless directed by counsel or the Commission. Tr. 81:14–82:7. Paragraph 20 itself supplied the direction: the ECL was to be updated and provided monthly and upon request.

The record also demonstrates that Pike's reliance upon "availability" cannot sustain its broader defense. Where Paragraph 20 expressly conditioned information upon availability, the Commission should apply that qualification according to its terms. But Pike cannot establish nonavailability merely by showing that information was not immediately identifiable in the particular source it initially consulted. The record demonstrates that certain information Pike initially characterized as unavailable could subsequently be obtained through O&R, and that Pike affirmatively characterized Load Profile Group information as unavailable despite having possessed and supplied the pertinent information years earlier.

iii. Whether Information Was Available

The Commission should distinguish between three categories of information.

First, certain obligations were not conditioned upon availability at all. The ECL was required to be updated and provided monthly; monthly consumption was a required field; and "Load Profile Group per Tariff" was expressly identified as minimum ECL information without an "if available" qualification. The absence of any identified monthly ECL transmissions between

September 29, 2022, and March 5, 2025, together with Pike's admitted cessation of production after March 5, therefore cannot be explained by the "availability" qualifications applicable only to specified ECL fields.

Second, Paragraph 20 expressly conditioned particular fields upon availability. Those include Transmission/Capacity Obligation (NYISO), Current/Future; on-peak/off-peak consumption; and monthly peak demand. As to those fields, Inova bears the burden of demonstrating that the information was available within the meaning of the *Settlement*. The evidence should be evaluated field by field rather than through a categorical presumption that all information requested by Inova necessarily existed.

Third, Pike's own evidence demonstrates that its determinations of availability were not reliable. As detailed above, Pike obtained capacity-related information through O&R after stating that it could not track that information, and Pike acknowledged that its March 2025 representation concerning Load Profile Group information was erroneous. See *supra* § IV.A.ii.

O&R also advised that Pike could contact O&R if Pike required information from O&R, and Pike identified O&R personnel performing functions involving customer load profiles, STRATA IDs, settlement, NYISO allocation, capacity obligations, billing, and EGS support. Compl. Ex. 22, p. 1; Compl. Ex. 49, Interrogatory 3. Pike further admitted receiving an O&R Settlement Strata ID Table in January 2026. Compl. Ex. 49, Interrogatory 2.

Thus, Pike cannot establish nonavailability merely because information was not immediately identifiable in the particular source initially consulted. Although the record does not establish that every requested item was continuously available in every requested format, it establishes that Pike's categorical assertions of nonavailability were unreliable and that certain information was obtainable through the existing Pike/O&R settlement relationship.

Accordingly, the Commission should find that Pike failed to comply with the Commission-approved recurring ECL obligation. The record identifies ECLs provided to Inova on September 29, 2022, and March 5, 2025, but identifies no monthly ECL transmissions during the approximately twenty-nine months between them; Pike's March 5 letter itself asked whether Inova wished to receive the ECL monthly; and Pike's witness admitted that Pike provided Inova nothing thereafter. Pike Exs. 10, 13; Compl. Ex. 9; Husted D.T. 6:7–14, 10:8–13; Tr. 81:8–82:7. Pike also failed to provide required, unqualified ECL information accurately and consistently. As to fields expressly conditioned upon availability, the evidence demonstrates that Pike's categorical assertions of nonavailability were unreliable and that certain information was obtainable through the existing Pike/O&R settlement relationship. Those findings establish noncompliance with the Commission's Orders independently of the additional Supplier Tariff violations addressed in Section IV.B.

B. WHETHER PIKE VIOLATED ITS SUPPLIER TARIFF PROVISIONS

i. Whether the 2019 Orders Superseded, Modified, Waived, or Otherwise Affected Pike's Existing Tariff Obligations

Pike's defense rests principally upon the proposition that the Commission's 2019 Orders displaced the substantive supplier-coordination requirements contained in Pike's Commission-approved Electric Generation Supplier Coordination Tariff and limited Pike's obligations to the information expressly enumerated in the 2018 Settlement. The admitted regulatory record does not support that proposition.

The Commission unquestionably granted Pike significant regulatory relief in 2019. It relieved Pike from implementing and using the Commission's established Electronic Data Interchange ("EDI") standards and modified the requirements applicable to customer switching. But the Commission did not expressly repeal, rescind, suspend, or waive Rules 4.12(c), 6.2.3, or

7.3(b) of Pike's Supplier Coordination Tariff. Nor did it state that the Eligible Customer List ("ECL") created through the *Settlement* constituted the exclusive universe of information Pike could thereafter be obligated to provide to an EGS.

To the contrary, the Commission granted the EDI waiver against the background of alternative data-sharing obligations designed to preserve a functioning competitive retail market without requiring Pike to incur the expense of implementing standardized EDI. The Commission expressly relied upon Pike's commitments to develop cost-effective customer-data-sharing measures "fundamentally necessary to ensure a properly functioning competitive retail market," provide specific data to EGSs, and process supplier changes through an alternative procedure.

The Commission need not adopt a broad rule that every later Commission directive automatically amends an earlier tariff. Pennsylvania law supplies a narrower path. A filed tariff is a binding regulatory instrument, and the utility may not vary its approved terms based upon its own *post hoc* understanding. *PPL Elec. Utils. Corp. v. Pa. PUC*, 912 A.2d 386, 400–02 (Pa. Cmwlth. 2006); *Brockway Glass Co. v. Pa. PUC*, 437 A.2d 1067, 1070 (Pa. Cmwlth. 1981). The relevant question is whether the Commission actually exercised its authority in 2019 to displace the substantive Supplier Tariff obligations now at issue.

The text of the 2019 Orders does not do so. The Orders expressly identify EDI and switching relief; they do not identify Rules 4.12(c), 6.2.3, or 7.3(b) as rescinded, suspended, waived, or superseded. Pike also admits that it never filed a tariff supplement modifying its Supplier Coordination Tariff following the 2019 Orders. Compl. Ex. 11, Interrogatory 1; Compl. Ex. 49, Interrogatory 26. That filing history is confirmatory, although Inova does not contend that a conforming tariff supplement necessarily was the only legally available means by which the Commission could have modified Pike's obligations.

The admitted Orders answer the question more narrowly. The February 2019 Order identifies the subject of Pike's *Petition* as waiver from the EDI and customer-switching requirements of 52 Pa. Code § 57.174 and from the Commission's established EDI requirements. In disposing of that *Petition*, the Commission determined that Pike should receive the requested waivers in a manner consistent with the Settlement approved in the parallel Default Service Plan proceeding and specifically granted relief from § 57.174's electronic-data-transfer-and-exchange requirements and the applicable three-business-day switching requirement.

The Commission did not state that Pike's Supplier Coordination Tariff was rescinded. It did not identify Rules 4.12(c), 6.2.3, or 7.3(b) by number. It did not state that the ECL replaced all other supplier-coordination obligations. And it did not authorize Pike to refuse information merely because Pike no longer utilized standardized EDI.

Nor did the Commission waive the competitive safeguards contained in 52 Pa. Code §§ 54.121 and 54.122. The Commission-approved *Settlement* specifically enumerated the regulatory waivers granted to Pike, including §§ 54.185(e)(2), 54.185(e)(6), portions of § 69.1805, § 69.1807(3), and §§ 57.173–57.174 concerning customer switching. Sections 54.121 and 54.122 were not among them. The February 2019 Order likewise granted targeted EDI and switching relief while relying upon Pike's alternative customer-information and supplier-coordination commitments. The regulatory record thus distinguishes between the standardized mechanism Pike was excused from using and the substantive competitive and supplier-coordination functions Pike remained obligated to perform.

Pike's litigation position therefore depends not upon express language repealing these Tariff rules but upon an implied-supersession theory. Its discovery response states that "to the extent" the Tariff required information or EDI that the Commission ruled Pike did not have or was not required to provide, the later Orders altered Pike's duties. Compl. Ex. 49, Interrogatory 21. Pike simultaneously acknowledged that the Supplier Tariff had not been updated since 1999 and characterized that failure as a "ministerial administrative error." *Id*.

The Commission expressly granted EDI and switching relief and expressly imposed new ECL and related data-sharing duties. It did not state that Rules 4.12(c), 6.2.3, or 7.3(b) were abolished. Reading an unspoken wholesale repeal into those Orders would extend them beyond what the Commission actually said.

The instruments instead can be read together. Paragraph 20's express "if available" qualifications govern the ECL fields to which those words attach. Its requirement of "Load Profile Group per Tariff" is consistent with the preexisting load-profile provisions, and its "at a minimum" language does not purport to make the ECL the exclusive universe of supplier information.

The Commission found that Pike had committed to customer-data-sharing measures "fundamentally necessary to ensure a properly functioning competitive retail market" and relied upon Pike's commitment to provide specific data to EGSs in granting regulatory relief.

Accordingly, the 2019 Orders waived standardized EDI requirements, modified specified switching requirements, and imposed affirmative ECL and related supplier-data obligations. They did not expressly rescind, suspend, waive, or supersede Rules 4.12(c), 6.2.3, or 7.3(b). The Commission therefore need not decide whether it theoretically could have modified Pike's Tariff through some other procedure; it need determine only that the 2019 Orders did not accomplish the wholesale substantive modification Pike now attributes to them.

ii. Rule 4.12(c)

Rule 4.12(c) required Pike to make specified customer information available to an EGS. The information identified by the Tariff included customer and account information, rate class, “Rate Class Load Profile and Class Strata (if any),” Installed Capacity Obligation, historical energy usage for the preceding twenty-four months and, where applicable, billing-demand history.

Pike does not dispute what Rule 4.12(c) required before the 2019 Orders. In discovery, Pike admitted that immediately before January 17, 2019, it was required to provide the information listed in Rule 4.12(c) to EGSs serving customers in Pike’s territory.

The 2018 *Settlement* created an ECL containing substantial overlap with Rule 4.12(c), including Tariff Rate Class, “Load Profile Group per Tariff,” monthly consumption and, if available, specified capacity and usage information. Paragraph 20 nevertheless described those fields as required “at a minimum” and did not state that Rule 4.12(c) was eliminated.

Indeed, when specifically asked in discovery to identify the provisions of the *Settlement* and 2019 Orders that replaced, superseded, modified, or eliminated Rules 4.12(c), 6.2.3, or 7.3(b), Pike referred to its general position that the later Orders altered prior Tariff duties to the extent of inconsistency. Compl. Ex. 49, Interrogatories 21–25. Pike did not identify language in the 2019 Orders expressly rescinding, suspending, waiving, or superseding those Tariff provisions.

The evidentiary record further demonstrates that Pike continued after 2019 to possess, obtain, and furnish information corresponding to Rule 4.12(c). Pike supplied twenty-four months of historical usage in May 2023 and subsequently provided additional ECL, capacity, and Class Strata information. The significance of those productions is not that every item was furnished simultaneously or that every requested field was always available. It is that Pike’s own performance is inconsistent with the proposition that Rule 4.12(c)’s substantive customer-information function disappeared when standardized EDI was waived.

The Commission should accordingly determine Rule 4.12(c)’s continuing effect by reading its substantive customer-information requirements together with the express qualifications imposed by the 2019 *Settlement*, rather than by accepting Pike's theory that the entire provision was implicitly superseded.

iii. Rule 6.2.3

Rule 6.2.3 is even less susceptible to Pike's blanket supersession theory because it does not merely prescribe an electronic means of transmitting data. It allocates substantive responsibilities between Pike and an EGS in the scheduling process.

The Rule provides that the EGS must forecast, calculate, and furnish Pike with the hourly energy requirements of its customers. In turn, Pike is required, "[t]o assist EGSs in the scheduling process," to provide historical customer electric-consumption data as provided in Rule 4.12(c), indicate customers' load-profile strata, and provide scheduling software containing applicable losses and load-profile factors for the various strata.

Pike admits that Rule 6.2.3 applies to EGSs, although it disputes whether the entirety of the provision remained applicable following the 2019 Orders. No provision of the 2019 Orders expressly eliminates Rule 6.2.3. Nor are its principal substantive requirements inherently inconsistent with the waiver of EDI. The obligation to assist an EGS in forecasting and scheduling by providing historical usage and identifying load-profile strata is distinct from the technical protocol through which that information is exchanged.

The *Settlement* reinforces rather than negates that conclusion. Paragraph 20 expressly requires the ECL to contain "Load Profile Group per Tariff." It would be anomalous to construe that later Commission-approved requirement as simultaneously eliminating the underlying Tariff function to which it expressly refers.

Pike's discovery response concerning Rule 6.2.3 further illustrates the limited nature of its actual post-2019 argument. When asked what Rule 6.2.3 required immediately after January 17, 2019, Pike responded that it was no longer required to provide information it did not have available, citing transmission/capacity obligation and on-peak/off-peak consumption. That response does not identify any Commission action eliminating Rule 6.2.3(b)'s requirement to indicate customer load-profile strata or Rule 6.2.3(c)'s scheduling-assistance function.

The operational evidence confirms that non-EDI supplier coordination remained both possible and necessary. Pike's March 7, 2023, internal communication acknowledged that Direct/NRG had more than one thousand EGS customers, that Pike received pricing changes concerning those customers, that Pike sent settlement information to O&R, and that O&R transmitted its allocation to NYISO. Compl. Ex. 35. Pike also acknowledged that it exchanged usage information electronically with NRG notwithstanding its exemption from standardized EDI. Russell Miller wrote in June 2023 that "we do exchange usage information electronically with current EGS on system NRG we just don't utilize EDI." Compl. Ex. 45, PIKE000310.

Those facts materially undermine any proposition that the absence of standardized EDI rendered substantive scheduling coordination unnecessary or impossible.

The Commission should therefore conclude that the 2019 Orders did not expressly rescind or waive Rule 6.2.3's substantive scheduling-assistance functions. The later requirement that Pike provide "Load Profile Group per Tariff" is textually consistent with the continued operation of those functions.

iv. Other Applicable Supplier-Coordination Provisions, Including Rule 7.3(b), to the Extent Preserved and Litigated

Rule 7.3(b) provides the clearest example of the distinction between actual hourly meter data and the load-profile methodology used when hourly meter data do not exist.

Pike's Supplier Coordination Tariff, Rule 7.3(b), provides that, for customers without hourly meters, a load profile is used to impute hourly usage from monthly usage data; the resulting hourly usage is adjusted for losses; and the load profile used depends upon the customer's service classification and usage. The Rule further requires Pike to furnish the EGS with the load profiles used for settlement and balancing purposes in electronic format. Compl. Ex. 1, Pike Supplier Coordination Tariff, Rule 7.3(b). Pike admits that its customers include customers without hourly or interval meters. Thus, the absence of hourly meters does not render Rule 7.3(b) irrelevant. Husted D.T. 8:8. It is the condition that activates the load-profile methodology described by the Rule.

The February 2019 EDI waiver plainly affects any requirement that Pike employ the Commission's standardized EDI protocol. It does not follow that the waiver eliminated the substantive requirement to provide the load profiles used for settlement and balancing.

The Commission granted relief from standardized EDI because of Pike's small size and the disproportionate expense of implementing that system. Pike's own proposal contemplated continued exchange of customer information through a non-EDI mechanism permitting upload and download of Excel or CSV files. The most natural construction of Rule 7.3(b) and the subsequent waiver therefore is that the waiver relieved Pike of the prescribed standardized EDI method, not of the underlying supplier-coordination function.

Pike's contrary discovery position—that after January 2019 it was no longer required to provide "hourly usage information because it is not available"—conflates two concepts. Rule 7.3(b) does not require actual hourly meter readings from customers who lack hourly meters. It expressly provides that a load profile is used to impute hourly usage from monthly usage data.

Pike's March 2025 correspondence further illustrates the distinction. Pike stated that rate-class load-profile data were "not readily available" and would be "cumbersome" to provide for all customers. Compl. Ex. 9, p. 3; Husted D.T. 10:14–11:4; Tr. 75:12–76:11. Pike nevertheless offered to work with Inova to assemble load profiles for individual customers. Compl. Ex. 9, p. 3; Husted D.T. 10:14–11:4; Tr. 76:12–15. That evidence is inconsistent with a categorical assertion that load-profile information was simply unavailable.

Rule 7.3(b), therefore, was not rendered meaningless by the EDI waiver. The Commission should determine that the waiver affected the prescribed transmission mechanism but did not expressly eliminate the substantive load-profile obligation applicable to non-hourly-metered customers. For these reasons, Pike's violations cannot be excused on the ground that its *Supplier Coordination Tariff* became obsolete upon issuance of the 2019 Orders. Those Orders altered specified EDI and switching requirements; they did not authorize Pike unilaterally to disregard the substantive customer-information, scheduling-assistance, and load-profile obligations that remained in its filed Tariff.

C. WHETHER PIKE VIOLATED 66 PA. C.S. §§ 1301 AND 703

The evidence discussed above establishes more than isolated failures to produce particular items of information. It demonstrates Pike's unreasonable administration of the regulated supplier-coordination functions through which a licensed EGS obtains the information and assistance necessary to serve retail customers in Pike's territory. The legal significance of that conduct should be evaluated under the statutory and regulatory provisions specifically governing utility service and competitive EGS access rather than by treating 66 Pa. C.S. § 1301 as a general prohibition against every unreasonable utility practice.

Section 1301(a) principally addresses rates, requiring that every rate made, demanded, or received by a public utility be just and reasonable and conform to Commission regulations and orders. 66 Pa. C.S. § 1301(a). Inova therefore does not depend upon § 1301 as creating a freestanding "just and reasonable practices" standard governing every aspect of supplier coordination.

The more directly applicable statutory requirement is § 1501, which Inova expressly pleaded in its *Formal Complaint*. Section 1501 requires a public utility to furnish and maintain "adequate, efficient, safe, and reasonable service and facilities," requires such service to be reasonably continuous and without unreasonable interruption or delay, and requires service to conform to Commission regulations and orders. 66 Pa. C.S. § 1501. Inova's *Complaint* expressly alleged violations of § 1501 and invoked the Commission's jurisdiction over the reasonableness of Pike's service, adherence to its Tariff, and nondiscriminatory treatment.

The Commission's competitive-safeguard regulations supply still more specific standards for the EDC/EGS relationship. Section 54.121 states that the purpose of those safeguards is to ensure direct access on equal and nondiscriminatory terms to customers and generation suppliers, prevent discrimination in rates, terms, or conditions of service by EDCs, and establish and maintain an effective and vibrant competitive retail-electric market. 52 Pa. Code § 54.121.

Section 54.122 implements those safeguards through specific rules of conduct. As pertinent here, § 54.122(2) prohibits an EDC from giving an EGS, including its affiliate or division, any preference or advantage in disseminating or disclosing customer information and requires such dissemination or disclosure to occur simultaneously and in an equal, nondiscriminatory manner, subject to applicable privacy and confidentiality restrictions. "Customer information" expressly includes customer identity, usage patterns, service requirements, and facilities. Section 54.122(6) separately prohibits preference or advantage in disclosing information concerning the operational status or availability of the distribution system. And § 54.122(7) requires EDCs to supply regulated services and apply tariffs to nonaffiliated EGSs in the same manner as to themselves or their affiliates, uniformly and nondiscriminatorily. 52 Pa. Code § 54.122(2), (6), (7).

As demonstrated in Section IV.B.i, Pike's 2019 regulatory relief did not waive §§ 54.121 or 54.122. Those competitive safeguards therefore remained applicable notwithstanding Pike's exemption from standardized EDI.

i. Pike's Existing Supplier-Coordination Process with Direct Energy/NRG

The record establishes that Pike was not operating in a territory devoid of competitive retail-generation activity when Inova sought to enter. Direct Energy/NRG already had a substantial customer presence in Pike's territory.

In March 2023, Russell S. Miller stated internally that "NRG AKA Direct has over a thousand EGS customers." Compl. Ex. 35. Pike further admitted that the continuing Direct/NRG supplier process consisted of spreadsheets produced during discovery. Compl. Ex. 49, Interrogatory 4. That admission further confirms that the absence of standardized EDI did not preclude Pike from conducting supplier coordination through alternative electronic means. Miller described an established operational process under which Pike received pricing changes concerning Direct/NRG customers, Pike supplied settlement information to O&R, and O&R supplied allocation information used in NYISO settlement. *Id.* Pike also acknowledged that it exchanged usage information electronically with NRG even though Pike did not utilize standardized EDI. Compl. Ex. 45, PIKE000310; see also *supra* § IV.B.iii.

This evidence does not establish—and Inova does not contend—that Direct/NRG requested or received every particular data field later requested by Inova. Its significance is narrower and more probative. Pike already maintained a functioning non-EDI supplier-coordination relationship through which another EGS served more than one thousand customers, exchanged information with Pike, and participated in an operational settlement process involving Pike, O&R, and NYISO.

That fact is especially significant in light of Pike's waiver defense. Pike's relationship with Direct/NRG demonstrates in practice what the 2019 regulatory record contemplated in principle: standardized Pennsylvania EDI was not a prerequisite to functioning EGS coordination in Pike's territory.

The Direct/NRG evidence therefore is not offered as proof that every difference between the two suppliers constituted unlawful discrimination. It provides evidence of the operational framework Pike had available and actually used for an existing EGS, against which Pike's administration of regulated supplier-coordination functions toward Inova may properly be evaluated.

ii. Pike's Treatment of Inova

When Inova sought to enter Pike's territory, its experience was materially different. Pike advised Inova that it was the "first third party provider" and that responding to Inova had required "some research." Pike Ex. 9. Pike subsequently had to locate its purchase-of-receivables documentation and determine the procedures applicable to Inova. By August 15, 2023, Husted was "rereading the tariff for Pike," while Russell Miller instructed Husted and Stephens to "ensure we have provided all items our tariff obligates us to" and stated that he wanted verification that Pike had fulfilled its Tariff obligations. Pike Exs. 10–12; Compl. Amended Ex. 42, PIKE003034–35.

The evidence does not show that Pike provided Inova nothing. Pike supplied onboarding documents, an ECL, purchase-of-receivables materials, historical usage information, and eventually certain capacity, Strata, and related information. The relevant problem is the manner in which Pike administered those obligations: production was piecemeal; Pike repeatedly took positions concerning information availability that subsequent evidence contradicted or materially qualified; and Pike ultimately ceased performing an express recurring ECL obligation.

For example, Pike represented in May 2023 that it was not capable of tracking the requested capacity-tag information because doing so supposedly required hourly data. Compl. Ex. 39 at PIKE000307. After further communication concerning O&R's role, Pike subsequently obtained and furnished capacity-related information for specified customers.

Pike's response also illustrates the problem with treating its historical practice with Direct/NRG as defining the scope of its obligations. Pike told Inova, "We have not provided this for any other EGS on our system and we cannot provide it for you." Compl. Ex. 44 at PIKE000048. But whether Pike historically provided a particular category of information to its incumbent EGS does not determine whether Pike was required to provide that information under its filed Tariff, the Commission-approved Settlement, or other applicable Commission requirements. Pike's obligations were established by those regulatory instruments, not by the limitations of its historical practice with Direct/NRG.

Similarly, Pike represented in its March 5, 2025, correspondence that it did not possess or could not gather "Load Profile Group per Tariff." Compl. Ex. 9. Pike's witness subsequently acknowledged that this representation was erroneous and that Pike had the information and had previously provided it in the September 2022 ECL admitted as Pike Exhibit 13. Pike Ex. 13; Husted D.T. at 10:3–7.

That inconsistency materially undermines Pike's broader contention that operational information was "unavailable" merely because it was not readily identifiable in the particular source Pike consulted when responding to Inova's requests.

The recurring ECL obligation presents an even more direct failure. Paragraph 20 of the Commission-approved Settlement required Pike to update the ECL monthly and provide it to EGSs serving in its territory both monthly and upon request. The hearing record established that Pike's last such production was March 5, 2025, and that Pike supplied nothing further thereafter. Pike's witness explained that Pike generally waited for a request and that, during the litigation, she believed Pike was not supposed to do anything further unless directed by counsel or the Commission. Tr. 81:8–82:7.

That explanation cannot be reconciled with the Settlement. "Monthly" and "upon request" establish independent requirements. The Settlement contains no litigation exception and did not authorize Pike to suspend monthly ECL production after a complaint was filed.

Those failures have independent significance under § 1501. Administration of EGS onboarding, customer-information exchange, ECL production, load-profile information, capacity information, scheduling assistance, and settlement coordination constitutes acts performed by Pike in carrying out regulated obligations imposed by its Tariff and Commission Orders. Pike was required to furnish those functions reasonably, without unreasonable delay, and in conformity with the Commission's regulations and Orders. The piecemeal production, erroneous determinations of information availability, and cessation of the monthly ECL obligation establish that Pike failed to satisfy that standard.

The same conduct implicates the Commission's more specific competitive safeguards. Section 54.122(2) applies directly to dissemination and disclosure of customer information. The information at issue in this proceeding included historical customer usage, ECL information, load-profile information, and other customer-specific information bearing upon usage patterns and service requirements. The Commission need not determine that every data field sought by Inova falls within subsection (2); the regulation expressly reaches the customer-information functions that formed a substantial part of this dispute.

Section 54.122(7) separately governs Pike's provision of regulated services and application of its Tariff to a nonaffiliated EGS. This case does not concern an optional commercial accommodation unrelated to Pike's regulated utility responsibilities. It concerns functions expressly addressed by Pike's Commission-filed Supplier Coordination Tariff and Commission-approved Orders governing the EDC/EGS interface.

That distinction is consistent with *Interstate Gas Supply, Inc. v. Pennsylvania Public Utility Commission*, 343 A.3d 1152 (Pa. 2025). There, the Supreme Court rejected application of § 54.122(7) to an EDC's billing of an EGS's non-commodity goods and services because the requested billing was not a regulated service within the applicable statutory framework. *Id.* The Court did not invalidate § 54.122(7) or hold that tariff-required EDC functions fall outside it. Here, unlike the ancillary non-commodity billing involved in *Interstate Gas Supply*, the functions at issue arise from Pike's filed Supplier Coordination Tariff and Commission Orders governing retail-generation supplier coordination.

Section 54.122(6) provides an additional safeguard to the extent particular information at issue concerned the operational status or availability of Pike's distribution system. Inova need not—and does not—contend that every requested capacity, Strata, load-profile, or usage field necessarily falls within subsection (6). The Commission can resolve the customer-information and tariff-administration issues under the provisions directly applicable to those subjects without expanding subsection (6) beyond its text.

The Direct/NRG evidence reinforces these conclusions without requiring the Commission to determine that Direct and Inova were identically situated in every respect. Inova does not contend that the record establishes Direct/NRG requested and received every identical item of information sought by Inova. Nor is it necessary to infer discriminatory intent from every difference in Pike's dealings with the two suppliers. The more limited point established by the evidence is that Pike maintained a functioning non-EDI supplier-coordination structure for an existing EGS while its treatment of Inova was characterized by uncertainty concerning onboarding procedures, delayed identification of its own obligations, piecemeal information production, inconsistent determinations concerning information availability, and eventual cessation of an express monthly information-sharing obligation.

The Commission's own competitive-safeguard regulations make those circumstances legally significant. Section 54.121 identifies equal and nondiscriminatory direct access and an effective competitive retail market as the purpose of the safeguards. Section 54.122(2) regulates customer-information disclosure, while § 54.122(7) requires uniform and nondiscriminatory provision of regulated services and application of tariffs to nonaffiliated EGSs. Those provisions provide the specific regulatory standards against which Pike's conduct should be measured.

Section 703 serves a different function. It does not create an independent substantive prohibition against the supplier-coordination conduct at issue. It is relevant, however, to Pike's contention that the 2019 Orders altered or displaced previously existing obligations. Section 703(g) reserves to the Commission authority to rescind or amend its Orders. See *Montour Trail Council v. Pa. PUC*, 547 Pa. 367, 371, 690 A.2d 703, 705 (1997); *Popowsky v. Pa. PUC*, 805 A.2d 637, 643–44 (Pa. Cmwlth. 2002). As demonstrated in Section IV.B, the Commission's 2019 Orders expressly granted specified EDI and switching relief while imposing continuing supplier-information obligations. Pike could not expand those waivers through its own administrative interpretation to accomplish a substantive displacement the Commission itself did not order.

Accordingly, the evidence establishes that Pike failed to furnish reasonable supplier-coordination service in conformity with its Tariff and Commission Orders, in violation of 66 Pa.

C.S. § 1501, and failed to administer customer-information, regulated-service, and tariff obligations consistently with the competitive safeguards imposed by 52 Pa. Code §§ 54.121 and 54.122. To the extent § 1301 applies because a challenged tariff provision or practice affected matters encompassed within the Public Utility Code's definition of "rate," Pike's conduct must also conform to § 1301's just-and-reasonable standard. The Commission need not, however, expand § 1301 into a general regulation of non-rate utility practices, or treat § 703 as an independent substantive prohibition, to determine that Pike violated the statutory, regulatory, Tariff, and Commission-order obligations established by this record.

D. WHETHER PIKE VIOLATED 66 PA. C.S. §§ 2802 AND 2807

Pennsylvania's Electricity Generation Customer Choice and Competition Act was enacted to replace monopoly control over electric generation with a competitive retail generation market in which customers could obtain generation service from competing EGSs. Section 2802 declares that "it is now in the public interest to permit retail customers to obtain direct access to a competitive generation market," 66 Pa. C.S. § 2802(3), and that "[c]ompetitive market forces are more effective than economic regulation in controlling the cost of generating electricity." 66 Pa. C.S. § 2802(5). More specifically, the General Assembly declared that the purpose of Chapter 28 is "to establish standards and procedures in order to create direct access by retail customers to the competitive market for the generation of electricity." 66 Pa. C.S. § 2802(12). Section 2802(14) correspondingly declares that electric utilities should provide open access over their transmission and distribution systems so as to permit competitive suppliers to sell electricity directly to Pennsylvania consumers.

The Commonwealth Court has construed these provisions consistently with their text. In *Indianapolis Power & Light Co. v. Pennsylvania Public Utility Commission*, the Court stated that "[t]he purpose of the Electricity Generation Customer Choice and Competition Act . . . is clear: to relinquish the local utilities' monopoly control over the generation of electricity and to invite competition in an effort to lower electric generation rates for the citizens of this Commonwealth." 711 A.2d 1071, 1073–74 (Pa. Cmwlth. 1998). The Court further recognized that the Act mandates "direct access by retail customers to the competitive market for the generation of electricity" and requires utilities "to provide open access over their transmission and distribution systems to allow competitive suppliers to generate and sell electricity directly to consumers." *Id.* at 1073-74.

The statutory definition of "direct access" confirms that the concept encompasses more than the theoretical ability of an EGS to enter an EDC's territory. "Direct access" means "[t]he right of electric generation suppliers and end-use customers to utilize and interconnect with the electric transmission and distribution system on a nondiscriminatory basis at rates, terms and conditions of service comparable to the transmission and distribution companies' own use of the system to transport electricity from any generator of electricity to any end-use customer." 66 Pa. C.S. § 2803.

Chapter 28 further connects direct access to the procedures and tariffs of the EDC itself. Section 2806(e) provides that each EDC's restructuring filing include "procedures for ensuring direct access to all licensed electric generation suppliers" and "revised tariffs and rate schedules implementing the restructuring plan." 66 Pa. C.S. § 2806(e). Pike's supplier-coordination procedures and filed Supplier Coordination Tariff therefore are not collateral to Chapter 28's direct-access framework; they are among the mechanisms through which that framework is implemented.

Section 2807 further implements those restructuring policies through duties imposed upon electric distribution companies. Section 2807(a) requires an EDC to "implement procedures to require all electric generation suppliers to deliver energy to the electric distribution company at locations and in amounts which are adequate to meet the energy supplier's obligations to its customers." 66 Pa. C.S. § 2807(a). Although § 2807(a) does not itself prescribe the particular customer-data fields an EDC must furnish to an EGS, its requirement that the EDC implement procedures governing EGS delivery obligations necessarily operates in conjunction with the supplier-coordination procedures established through the EDC's Commission-approved tariffs and orders. The statute further establishes a rebuttable presumption that the EDC has the ability to receive energy at all points on its system sufficient to meet the needs of all EGS customers on that system. 66 Pa. C.S. § 2807(b). Read together with §§ 2802, 2803 and 2806(e), these provisions contemplate a functioning operational interface between the distribution utility and the competitive suppliers dependent upon its system. That statutory division is particularly relevant here. Inova does not seek to regulate Pike's generation activities; it challenges Pike's administration of the supplier-coordination functions through which a licensed EGS interacts with Pike's regulated distribution system.

The Commission has likewise recognized the relationship between EDC disclosure of customer information and the functioning of the competitive retail market. In addressing EDC disclosure of customer information to EGSs, the Commission explained that EDCs should continue to make a reasonable amount of customer information available to EGSs because "[t]he availability of this information fosters a more level playing field between the supplier affiliates of EDCs and alternative EGSs," thereby providing customers additional opportunities to make informed generation-supply choices. *Rulemaking Re Electric Generation Customer Choice*, 34 Pa.B. 4949, 4955 (Sept. 4, 2004). That determination directly links EDC disclosure of customer information to the functioning of the competitive retail market contemplated by Chapter 28.

Those statutory objectives are implemented here through Pike's Commission-approved Supplier Coordination Tariff and the 2019 Orders. As demonstrated above, Pike failed to maintain the required monthly ECL process, administered supplier-coordination obligations concerning forecasting, scheduling, capacity and settlement in a piecemeal manner, and made inaccurate or inconsistent representations concerning the availability of operational information. See supra §§ IV.A–C. Those failures occurred after Pike had confirmed that Inova had satisfied Pike's requirements and was ready to serve customers. Pike Ex. 12.

The Commission therefore need not hold that §§ 2802 and 2807 independently transform every particular data field requested by an EGS into an element of statutory "direct access." Inova's claim is narrower. The particular supplier-coordination obligations arise from Pike's filed Tariff and the Commission's Orders, while Chapter 28 supplies the statutory framework within which those obligations operate. Pike's failure to maintain the Commission-approved monthly ECL process, its piecemeal administration of supplier-coordination obligations directly related to forecasting, scheduling, capacity and settlement, and its inaccurate representation and inconsistent responses concerning the availability of operational information materially impaired Inova's ability to perform the functions contemplated by that regulatory framework.

Accordingly, based upon the violations of the Commission's Orders and Pike's Supplier Coordination Tariff established above, the Commission should further conclude that Pike failed to administer its supplier-coordination procedures consistently with its obligations under 66 Pa. C.S. § 2807 and Chapter 28's direct-access framework. Those violations also frustrated the competitive market and direct-access policies expressly declared by the General Assembly in 66 Pa. C.S. § 2802.

E. WHETHER CORNING ENERGY CORPORATION BEARS DIRECT OR DERIVATIVE RESPONSIBILITY FOR THE CONDUCT AT ISSUE

The supplier-coordination conduct at issue did not occur within Pike as a stand-alone operating company acting solely through its own personnel. Pike historically operated through Commission-approved affiliated-service arrangements. Before Corning's acquisition, Pike represented to the Commission that it had "no operating employees" and that Orange and Rockland Utilities, Inc. ("O&R") provided the facilities and workforce required to conduct Pike's distribution, commercial, and general and administrative operations pursuant to an affiliated-interest agreement. *Joint Application* ¶ 9.[1] In connection with Corning Natural Gas Holding Corporation's ("CNGHC") acquisition of Pike, the Joint Applicants sought Commission approval of an Affiliated Interest Agreement between Pike and Corning Natural Gas Corporation ("CNG") so that the necessary "operations and service agreements" would be in place upon closing. *Joint Application* ¶ 33. The Commission thereafter approved the *Joint Application* as modified by the *Joint Petition for Settlement* and expressly approved the *Affiliated Interest Agreement* attached to the *Joint Application* as Attachment 12. August 11, 2016, *Commission Order*, Docket Nos. A-2015-2517036 *et al*., ¶¶ 3, 8. The *Joint Application* further represented that approximately 53% of Pike's customers then received generation service from an EGS and that CNGHC "will continue the existing program." *Joint Application* ¶ 39.

Under the Commission-approved *Affiliated Interest Agreement*, CNG provides Pike administrative, management, and other services, including billing and EDI-related functions. *Affiliated Interest Agreement* ¶ 1 & Ex. B. More importantly, the evidentiary record independently

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[1] Inova respectfully requests that the Presiding Officer take official notice of the *Joint Application of Pike County Light & Power Company, Corning Natural Gas Holding Corporation and Orange and Rockland Utilities, Inc.*, filed December 4, 2015, at Docket Nos. A-2015-2517036 *et al*., specifically Paragraphs 9, 33 and 39. See 52 Pa. Code § 5.408. The *Joint Application* is a Commission public record and concerns the acquisition and affiliated-service structure directly relevant to the responsibility issues presented here. See also 52 Pa. Code § 5.406(a)(1). The Commission subsequently approved the *Joint Application* as modified by the *Joint Petition for Settlement* and expressly approved the *Affiliated Interest Agreement* attached to the Joint Application as Attachment 12. August 11, 2016 Commission Order, Docket Nos. A-2015-2517036 et al., ¶¶ 3, 8.

establishes that this affiliate-service structure extended to the supplier-coordination functions at issue in this proceeding. Marie Husted testified that she is employed by CNG as Director of Corporate Energy Supply, that Pike and CNG are affiliates, and that she performs work for Pike. Her Pike responsibilities include communicating with Direct Energy and other EGSs, providing ECLs, and performing Pike settlement work with O&R. Husted D.T. 1:14–2:3; Tr. 59:18–22.

That evidence establishes that personnel of CNG performed regulated supplier-coordination functions on Pike's behalf. CNG, however, is a separate corporate entity from the named Respondent, Corning Energy Corporation, formerly CNGHC. The evidentiary record nevertheless establishes direct participation by an officer of the named Respondent. Russell S. Miller participated personally in Pike's response to Inova while identifying himself in the relevant communications as an officer of CNGHC. Compl. Ex. 35, PIKE000324; Compl. Ex. 44, PIKE000048. On June 28, 2023, Miller responded directly to Inova concerning customer capacity information and explained that each Pike customer file had a STRATA ID that determined the capacity allocated to that customer and affected the NYISO charges associated with POLR and EGS customers. Compl. Ex. 48. On July 6, 2023, Miller directed Stephens to ask his O&R contact what capacity tag or capacity was associated with each Strata ID. Compl. Ex. 44, PIKE000053.

Miller's participation continued as the dispute concerning Pike's supplier obligations developed. On August 14, 2023, Stephens advised Inova that he had spoken with Miller and that Miller had supplied responses to Inova's questions concerning the requested supplier information. Compl. Ex. 44, PIKE000049. The following morning, Miller instructed Stephens and Husted to "ensure we have provided all items our tariff obligates us to," and subsequently stated that he wanted verification that Pike had fulfilled its obligations under the Tariff. In those communications, Miller identified himself as Vice President – Energy Supply & Business Development of CNGHC. Compl. Amended Ex. 42, PIKE003034–35.

The record therefore establishes two related but legally distinct forms of involvement. First, Pike's regulated operations were performed through a Commission-approved affiliate-service structure, and personnel of CNG actually performed supplier-coordination functions for Pike. Pike remains responsible for compliance with its own Tariff and Commission Orders regardless of whether it performed those obligations through its own employees or through personnel of an affiliate acting on its behalf. A regulated utility cannot avoid responsibility for its Commission-imposed obligations merely because the operational work necessary to perform those obligations was assigned to an affiliate.

Second, the involvement of the named Corning Respondent was not limited to its status as Pike's corporate parent. Miller, while identifying himself as an officer of CNGHC, personally participated in responding to Inova's supplier-information requests, directed personnel to obtain capacity information from O&R, supplied responses concerning the requested information, and directed Pike personnel to determine whether Pike had fulfilled its Tariff obligations. Those acts provide a basis for determining Corning Energy Corporation's responsibility that is independent of the mere existence of common ownership or the separate services performed by CNG.

The Commission should therefore find Pike responsible for violations arising from supplier-coordination functions performed on its behalf through the affiliated-service arrangement. The Commission should separately find Corning Energy Corporation directly responsible to the extent the violations established in this proceeding resulted from conduct undertaken, directed, approved, or participated in by Miller while acting on behalf of CNGHC, now Corning Energy Corporation. To the extent particular conduct was performed solely by personnel of the separate

CNG affiliate in carrying out Pike's regulated obligations, that conduct remains attributable to Pike; responsibility should not be imposed upon Corning Energy Corporation merely from common ownership or corporate affiliation absent evidence of its direction, approval, participation, or control.

This approach respects the separate corporate identities of Corning Energy Corporation and CNG while giving effect to the actual evidentiary record. Inova does not ask the Commission to disregard corporate separateness or impose liability upon the named Corning Respondent solely because it owns Pike. Rather, Inova asks the Commission to determine responsibility according to the conduct actually established: Pike remained the regulated utility subject to the Tariff and Commission Orders; CNG personnel performed supplier-coordination functions on Pike's behalf; and an officer of the named Corning Respondent personally participated in and directed aspects of Pike's response to Inova concerning the very supplier-coordination obligations at issue.

The Commission need not determine damages or impose "joint and several liability" in the civil-litigation sense. The federal court referred the matter to the Commission "for a determination of liability," while retaining jurisdiction over the federal action. The Commission therefore need determine only responsibility for the regulated conduct within its expertise and within the scope of the formal Complaint and federal referral.

F. RELIEF

Inova requests regulatory and prospective relief appropriate to the violations established. Specifically, the Commission should:

1. determine that Pike failed to comply with applicable Commission Orders and Commission-approved settlement obligations governing supplier coordination and ECL information;

2. determine that Pike violated applicable provisions of its Commission-filed Supplier Coordination Tariff, including Rules 4.12(c), 6.2.3, and, to the extent established by the record, 7.3(b);
3. determine that Pike failed to furnish reasonable supplier-coordination service in conformity with its Tariff and Commission Orders and failed to administer customer-information and regulated-service obligations consistently with the competitive safeguards of 52 Pa. Code §§ 54.121 and 54.122;
4. determine that the conduct frustrated the competitive-retail-electricity requirements and policies embodied in §§ 2802 and 2807;
5. determine the responsibility of Corning Energy Corporation for conduct undertaken, directed, approved, or participated in by its officers, including Russell S. Miller, and determine the regulatory significance of supplier-coordination functions performed for Pike through the Commission-approved affiliated-service arrangement;
6. direct Pike to maintain and administer a supplier-coordination process that complies with its effective Commission Orders and filed Tariff;
7. direct Pike to provide ECLs and required updates at the frequency required by the Commission-approved settlement, without requiring an EGS to make repetitive requests for information the settlement requires Pike to provide monthly;
8. require Pike to clarify and document the means by which EGSs may obtain supplier-coordination information maintained by or obtainable through O&R where that information is within Pike's applicable regulatory obligations; and
9. grant such additional prospective regulatory relief as the Commission determines necessary to prevent recurrence.

Inova does not request an award of the damages pending before the federal court.

V. CONCLUSION

The record ultimately presents a straightforward regulatory problem.

Pike maintained a Commission-filed Supplier Coordination Tariff for more than twenty-six years without updating it. When its first new third-party supplier sought to enter the market, Pike had to research its own onboarding procedures and locate its own supplier agreements. Pike nevertheless accepted Inova into that process, coordinated Inova's NYISO activation, and confirmed that Inova had satisfied Pike's requirements and was ready to serve customers.

When Inova thereafter sought the information necessary to forecast, price and schedule supply, Pike's responses were piecemeal and inconsistent. Pike supplied some information, later supplied information it previously had difficulty providing, relied upon O&R for essential settlement functions, and maintained an established non-EDI operational process with Direct/NRG.

Pike's own discovery responses further establish that its filed Supplier Coordination Tariff was never updated following the 2019 Orders, while the admitted record demonstrates that non-EDI supplier coordination continued through Direct/NRG and O&R. Most significantly, Pike's own witness admitted under questioning from the Presiding Officer that Pike had stopped supplying Inova information after March 5, 2025; that there was no reason it had failed to continue providing monthly consumption; and that Pike had not updated the ECL monthly because she believed Pike need do nothing during the proceeding unless directed by counsel or the Commission. Tr. 81:8–82:7.

But Pike had already been directed by the Commission.

The Commission should therefore sustain Inova's Complaint to the extent set forth above, make the requested regulatory determinations, find Pike and Corning responsible for their respective conduct, and order appropriate prospective relief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of September, 2026, a true and correct copy of the foregoing **Complainant Inova Energy LLC's Main Brief, including Appendix A – Proposed Findings of Fact and Appendix B – Proposed Conclusions of Law**, was served electronically upon the Presiding Officer and counsel of record in the above-captioned proceeding as follows:

Honorable Marta Guhl
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APPENDIX A

PROPOSED FINDINGS OF FACT

A. Parties, Tariff, and Regulatory Framework

1. Pike County Light & Power Company is an electric distribution company subject to regulation by the Pennsylvania Public Utility Commission. Pike maintains a Commission-approved Electric Generation Supplier Coordination Tariff. *Formal Complaint* ¶ 17; *Answer* ¶ 17; Compl. Ex. 1, Pike Supplier Coordination Tariff.

2. Pike's Supplier Coordination Tariff was approved in 1999. Compl. Ex. 1, Pike Supplier Coordination Tariff.

3. Rule 4.12(c) identifies customer information to be made available to an EGS, including rate class, Rate Class Load Profile and Class Strata if any, Installed Capacity Obligation, twenty-four months of historical energy usage, and applicable billing-demand history. Compl. Ex. 1, Pike Supplier Coordination Tariff at p. 12.

4. Rule 6.2.3 provides that an EGS must forecast, calculate, and furnish hourly energy requirements and that Pike will assist by providing historical consumption data, customer load-profile strata, and scheduling support incorporating applicable losses and load-profile factors. Compl. Ex. 1, Pike Supplier Coordination Tariff at p. 19.

5. Rule 7.3(b) provides that, for customers without hourly meters, load profiles are used to impute hourly usage from monthly usage data and are provided to EGSs for settlement and balancing purposes. Compl. Ex. 1, Pike Supplier Coordination Tariff at p. 19.

6. Pike serves customers without hourly or interval meters. Husted D.T., 8:8.

B. 2019 Commission Orders and Settlement

7. Pike sought Commission waiver of standardized EDI and customer-switching requirements. Compl. Ex. 4, Petition for Waiver, Docket No. P-2018-3005165.

8. Pike proposed exchanging customer information through Excel or CSV files and an FTP-type system instead of standardized EDI. Compl. Ex. 3, Order Docket No. P-2018-3005165 p. 4.

9. The Commission granted Pike's waiver in a manner consistent with the settlement approved in the parallel Default Service Plan proceeding. *Id*. at p. 7.

10. The Commission relied upon Pike's commitments to develop cost-effective customer-data-sharing measures necessary to support a functioning competitive retail market and to provide specified information to EGSs. *Id*. at pp. 7-8.

11. Paragraph 20 of the settlement requires Pike to update its ECL monthly and provide it to EGSs serving Pike's territory monthly and upon request. Compl. Ex. 4, Petition for Waiver, Docket No. P-2018-3005165. p. 9, ¶ 20.

12. Paragraph 20 states that the ECL shall contain the enumerated information "at a minimum." *Id*.

13. The enumerated information includes "Load Profile Group per Tariff." *Id*.

14. Transmission/Capacity Obligation (NYISO), current/future, is required "if available." *Id*.

15. On-peak/off-peak consumption and monthly peak demand likewise are designated "if available." *Id*.

16. The settlement separately requires cash-reconciliation files, billing files, monthly synchronization lists, and responses to enrollment, drop, and change requests. *Id*. at pp. 10-11. ¶¶ 22-24.

C. Continued Supplier Tariff

17. Pike did not file a tariff supplement modifying its Supplier Coordination Tariff following the 2019 Orders. Compl. Ex. 11 at Interrogatory 1; Compl. Ex. 49, Interrogatory 26.

18. Pike contends that the 2019 Orders altered certain preexisting Tariff requirements. Compl. Ex. 49, Interrogatories 21, 32, 34 and 36.

19. In discovery, when asked to identify the provisions of the Settlement and 2019 Orders that replaced, superseded, modified, or eliminated Rules 4.12(c), 6.2.3, or 7.3(b), Pike referred to its general position that the later Orders altered prior Tariff duties to the extent of inconsistency. Compl. Ex. 49, Interrogatories 21–25.

20. Pike acknowledged that its Supplier Coordination Tariff had not been updated since 1999 and characterized that failure as a "ministerial administrative error." Compl. Ex. 49, Interrogatory 21.

21. Pike's hearing witness confirmed that Pike had not updated the Supplier Coordination Tariff for more than twenty-six years. Husted D.T. 6:1-5; Tr. 63:3-6.

22. Pike did not tell Inova to stop relying upon Pike's Commission-filed Supplier Coordination Tariff. Tr. 63:10-13.

D. Inova's Attempt to Become Operational

23. Pike understood that Inova was attempting to become an EGS within Pike's territory. Tr. 63:14-17.

24. Pike provided Inova an Individual Coordination Agreement in March 2022. Pike Ex. 9; Tr. 63:18–64:15.

25. In the March 23, 2022, communication, Pike advised Inova that it was Pike's first third-party provider and that responding had required research. Pike Ex. 9; Tr. 64:5-18.

E. Meaning of the EDI Waiver

26. Pike's witness testified that EDI is a method of electronic data interchange used to transmit information. Tr. 61:18-22.

27. Pike's witness testified that Excel, CSV, or other data files could be used to exchange the same information without EDI. Tr. 61:20-62:2.

28. Pike's witness agreed that the EDI exemption concerned the manner in which the information was exchanged rather than the underlying information itself. Tr. 62:3-7.

29. Pike's witness identified no non-EDI supplier-coordination procedure that Pike had advised Inova should be disregarded because of the waiver. Tr. 62:14-18.

F. Direct/NRG and Pike's Existing Operational Process

30. On March 7, 2023, Russell Miller wrote that Direct/NRG had more than one thousand EGS customers in Pike's territory. Compl. Ex. 35.

31. Miller stated that Pike received pricing changes for those customers. *Id*.

32. Miller stated that Pike sent settlement information for those customers to O&R and that O&R then sent its allocation to NYISO. *Id*.

33. On June 21, 2023, Miller stated that Pike exchanged usage information electronically with NRG even though Pike did not utilize EDI. Compl. Ex. 45, PIKE000310.

34. Pike admitted that Direct/NRG's continuing supplier process consisted of spreadsheets produced during discovery. Compl. Ex. 49, Interrogatory 4.

G. O&R and Availability of Operational Information

35. O&R advised Inova that Pike was responsible for collecting Pike customer metering data and that specific data requests should be directed to Pike. Compl. Ex. 22, pp. 1 and 3.

36. O&R advised Inova that Pike could contact O&R directly if Pike required information from O&R. Compl. Ex. 22, p. 1.

37. Pike admitted that it received an O&R Settlement Strata ID Table in January 2026. Compl. Ex. 49, Interrogatory 2.

38. Pike identified O&R personnel performing functions relating to Pike customer load profiles, STRATA IDs, settlement, reconciliation, NYISO allocation, capacity obligations, billing, and EGS support. Compl. Ex. 49, Interrogatory 3.

H. March 5, 2025, Production and Load-Profile Information

39. Pike's March 5, 2025, letter provided Inova twenty-four months of past usage information and an ECL. Compl. Ex. 9.

40. Pike's March 5, 2025, letter identified "Load Profile Group per Tariff" as information the Commission required in the ECL. *Id*. at pp. 2-3.

41. The letter stated that Pike had not included Load Profile Group per Tariff, on-peak/off-peak consumption, or monthly peak demand in the ECL. *Id*. at p. 3.

42. Pike admitted that the March 5 letter characterized load-profile information as not readily available and cumbersome to provide for all customers. *Id*. at p. 3; Husted D.T. 10:14-11:4; Tr. 75:12-76:11.

43. Pike admitted that the letter stated Pike was willing to assemble load profiles for individual customers upon request. Compl. Ex. 9, p. 3; Husted D.T. 10:14-11:4; Tr. 76:12-15.

44. Pike subsequently acknowledged that its March 5, 2025, representation concerning "Load Profile Group per Tariff" was erroneous and that Pike possessed the information. Husted D.T. 10:3–7.

I. Pike's Provision of the Monthly ECL

45. On September 29, 2022, Pike transmitted an ECL to Inova. Pike Ex. 10; Husted D.T. 6:11–14.

46. Pike Exhibit 10 identifies the attachment transmitted on September 29, 2022 as "ECL Report - August 2022 Data - run 9-9-22.xlsx." Pike Ex. 10.

47. Husted identified confidential Pike Exhibit 13 as the ECL Excel sheet provided to Inova with the September 29, 2022, transmission. Husted D.T. 6:11–14; Pike Ex. 13.

48. Pike's March 5, 2025, letter transmitted another ECL to Inova. Compl. Ex. 9; Husted D.T. 10:8–13; Compl. Ex. 12, Admission No. 30.

49. In its response to Request for Admission No. 30, Pike admitted that it provided the ECL transmitted with the March 5, 2025, letter and stated that it had "previously provided this information to Inova." Compl. Ex. 12, Admission No. 30.

50. Pike's March 5, 2025, letter stated: "Please advise if Inova wishes to receive the ECL monthly, and Pike will work to set up access." Compl. Ex. 9, p. 1.

51. Paragraph 20 requires Pike to update the ECL monthly and to provide the ECL to EGSs serving customers in Pike's territory on a monthly basis and upon request. Compl. Ex. 4, p. 9, ¶ 20; Compl. Ex. 2, ¶ 1.

52. During examination by the Presiding Officer, Pike's witness testified that March 5, 2025, was the last date on which Pike provided the subject information to Inova. Tr. 81:8-13.

53. Pike's witness agreed that monthly consumption for each of twelve months was one of the required items of information. Tr. 81:14-17.

54. Pike's witness testified that Pike provided Inova nothing after March 5, 2025. Tr. 81:18-21.

55. Pike's witness testified that there was no reason Pike had not continued providing the monthly consumption information and stated that Pike generally waited for a request. Tr. 81:22-25.

56. When asked why Pike had not updated the ECL monthly, Pike's witness testified that she did not believe Pike was required to do anything unless directed by Pike's attorney or someone at the Commission. Tr. 82:1-7.

57. On redirect, Pike's witness testified that Inova had not stated that it wanted the information provided monthly. Tr. 82:25-83:7.

J. Pike's Response Concerning Inova's Ability to Operate

58. In responding to Inova's request for supplier-related information, Pike stated: "We have not provided this for any other EGS on our system and we cannot provide it for you. If you believe we are preventing you from doing business on the Pike system please contact the PaPUC." Compl. Ex. 44, PIKE000048.

K. Corning Energy Corporation's Participation

59. Russell S. Miller participated directly in responding to Inova's requests concerning EGS services in Pike's territory and identified himself in those communications as an officer of Corning Natural Gas Holding Corporation. Compl. Ex. 35, PIKE000324; Compl. Ex. 44, PIKE000048.

60. On June 28, 2023, Russell S. Miller responded directly to Inova regarding customer capacity information and explained that each Pike customer file had a STRATA ID that determined the capacity allocated to that customer and affected the NYISO charges associated with POLR and EGS customers. Miller identified himself as Chief Information Officer and Senior Vice President Energy Supply of Corning Natural Gas Holding Corporation. Compl. Ex. 48.

61. On July 6, 2023, after Inova requested STRATA and capacity information, Miller directed Abram Stephens to ask his contact at O&R what capacity tag or capacity was associated with each Strata ID. Compl. Ex. 44, PIKE000053.

62. On August 14, 2023, Abram Stephens advised Inova that he had spoken with Miller and that Miller had supplied responses to Inova's questions concerning the requested supplier information. Compl. Ex. 44, PIKE000049.

63. On August 15, 2023, Miller instructed Stephens and Husted to "ensure we have provided all items our tariff obligates us to," and subsequently stated that he wanted verification that

Pike had fulfilled its obligations under the Tariff. In those communications, Miller identified himself as Vice President – Energy Supply & Business Development of Corning Natural Gas Holding Corporation. Compl. Amended Ex. 42, PIKE003034–35.

APPENDIX B

PROPOSED CONCLUSIONS OF LAW

A. Federal Court Referral and Scope of Commission Determination

1. The United States District Court for the Middle District of Pennsylvania stayed the federal action and referred the matter to the Pennsylvania Public Utility Commission for a determination of regulatory liability, while retaining jurisdiction over the federal action pending the Commission's determination.
2. The principal regulatory question referred to the Commission is whether Pike County Light & Power Company was required to provide the customer and supplier-coordination information requested by Inova Energy LLC, and the extent to which the Commission's Orders granting Pike regulatory waivers limited or modified those requirements.
3. Resolution of that question requires the Commission to determine the effect of its January 17, 2019, Order at Docket No. P-2018-3002709, its February 19, 2019, Order at Docket No. P-2018-3005165, the Commission-approved settlement incorporated into those Orders, and Pike's Commission-approved Electric Generation Supplier Coordination Tariff.
4. The Commission must further determine whether Pike's challenged conduct was expressly authorized by the Commission's Orders or instead was inconsistent with obligations that remained applicable to Pike following those Orders.

B. Effect of the 2019 EDI Waiver

5. The February 19, 2019, Order granted Pike relief from the Commission's established Electronic Data Interchange requirements and from portions of 52 Pa. Code § 57.174 governing the means and timing of customer switching.
6. The EDI waiver relieved Pike from the obligation to implement and utilize the standardized EDI protocol prescribed by the Commission.
7. The EDI waiver did not eliminate the underlying need for customer-data exchange or supplier coordination. The Commission granted the waiver in reliance upon Pike's commitments to develop cost-effective customer-data-sharing measures, to provide specific information to EGSs, and to support a properly functioning competitive retail market.
8. Pike's own proposed alternative to standardized EDI contemplated continued exchange of customer-data files through non-EDI means, including Excel or CSV files exchanged through an FTP-type system.

9. Accordingly, the waiver of EDI concerned the prescribed method of electronic data exchange and did not constitute a blanket waiver of every substantive customer-data or supplier-coordination obligation otherwise applicable to Pike.

C. Governing Tariff Construction and Effect of Later Commission Orders

10. Commission-approved tariffs are public regulatory instruments that have the force and effect of law and bind the utility as well as the customer. *PPL Elec. Utils. Corp. v. Pa. Pub. Util. Comm'n*, 912 A.2d 386, 402 (Pa. Cmwlth. 2006).

11. In construing an unambiguous tariff, the Commission looks first to the four corners of the instrument, reads the tariff as a whole, and gives effect, as far as possible, to every word, clause, and sentence. *PPL Elec*., 912 A.2d at 400–01.

12. A utility may not vary an applicable tariff term based upon its own understanding or practice. *Brockway Glass Co. v. Pa. Pub. Util. Comm'n*, 437 A.2d 1067, 1070 (Pa. Cmwlth. 1981).

13. Section 703(g) authorizes the Commission, after notice and an opportunity to be heard, to rescind or amend a prior Commission order. 66 Pa. C.S. § 703(g). A substantive change to a prior order is not a mere clarification and requires compliance with § 703(g). *Montour Trail Council v. Pa. Pub. Util. Comm'n*, 547 Pa. 367, 371, 690 A.2d 703, 705 (1997); *Popowsky v. Pa. Pub. Util. Comm'n*, 805 A.2d 637, 643–44 (Pa. Cmwlth. 2002).

14. The Commission need not decide whether every substantive tariff modification necessarily requires a conforming tariff supplement. The dispositive question is whether the 2019 Orders actually rescinded, suspended, waived, or superseded the substantive Supplier Tariff provisions at issue.

15. Neither the January 17, 2019, Order nor the February 19, 2019, Order states that Rules 4.12(c), 6.2.3, or 7.3(b) were rescinded, suspended, waived, or superseded.

16. Pike did not file a tariff supplement modifying its Supplier Coordination Tariff following the 2019 Orders, and when asked in discovery to identify language eliminating the Rules, Pike relied upon its implied-modification theory rather than identifying express operative language.

17. The Commission-approved Settlement instead continued to refer to "Load Profile Group per Tariff" and required specified ECL information "at a minimum."

D. Rule 4.12(c)

18. Prior to the 2019 Orders, Rule 4.12(c) required Pike to make specified customer information available to an EGS, including rate class, Rate Class Load Profile and Class Strata if any, Installed Capacity Obligation, historical energy usage, and applicable billing-demand history.

19. Pike admitted that immediately before January 17, 2019, it was required to provide the information listed in Rule 4.12(c) to qualifying EGSs.

20. Paragraph 20 of the Commission-approved settlement thereafter established an ECL containing overlapping categories of information, including Load Profile Group per Tariff, Transmission/Capacity Obligation if available, monthly consumption, on-peak/off-peak consumption if available, and monthly peak demand if available. The ECL was required to contain the listed fields "at a minimum."

21. Paragraph 20's express "if available" qualifications govern the ECL fields to which those words attach. The Commission need not characterize those express qualifications as a silent amendment of Rule 4.12(c) in order to give them effect.

22. Nothing in the Settlement or 2019 Orders expressly eliminated Rule 4.12(c) in its entirety or established the ECL as the exclusive universe of information Pike could be required to provide under the Supplier Tariff.

E. Rule 6.2.3

23. Rule 6.2.3 requires an EGS to forecast and furnish hourly energy requirements and requires Pike, in assisting the EGS with scheduling, to provide historical consumption data, identify customers' load-profile strata, and provide scheduling support incorporating applicable losses and load-profile factors.

24. Pike admitted that Rule 6.2.3 applies to EGSs, although Pike disputes whether every component remained applicable after the 2019 Orders.

25. The 2019 Orders contain no express waiver of Rule 6.2.3's substantive scheduling-assistance obligations.

26. The Commission-approved settlement's express requirement that the ECL contain "Load Profile Group per Tariff" is consistent with, rather than inconsistent with, the continuing operation of Rule 6.2.3's load-profile-strata requirement.

27. The 2019 Orders did not expressly rescind or waive Rule 6.2.3's substantive scheduling-assistance functions. The Settlement's express reference to "Load Profile Group per Tariff" is consistent with continued operation of those functions.

F. Rule 7.3(b)

28. Rule 7.3(b) provides that, for customers without hourly meters, a load profile is to be used to impute hourly usage from monthly usage data and that the load profile used for settlement and balancing is to be provided to the EGS.

29. Pike admitted that it serves customers without hourly or interval meters.

30. The absence of hourly meters therefore does not eliminate the applicability of Rule 7.3(b); it is the circumstance addressed by the rule's load-profile methodology.

31. The EDI waiver may excuse any requirement that the Rule 7.3(b) information be transmitted through the Commission's standardized EDI protocol.

32. The EDI waiver did not expressly eliminate Rule 7.3(b)'s substantive load-profile obligation; it relieved Pike from use of the standardized EDI protocol.

33. Actual hourly meter readings and load profiles used to impute hourly usage are distinct concepts. Pike's assertion that actual hourly usage information was unavailable does not, without more, establish that the load-profile obligation in Rule 7.3(b) was extinguished.

G. ECL and Other Commission-Approved Obligations

34. Paragraph 20 of the Commission-approved settlement required Pike to develop and update an ECL monthly and to provide the ECL to EGSs serving in Pike's territory monthly and upon request.

35. Paragraphs 21 through 24 separately imposed obligations concerning cash-reconciliation files, billing files, synchronization lists, and enrollment/drop/change responses.

36. The existence of these separate obligations confirms that the ECL was not the sole supplier-coordination mechanism contemplated by the 2019 regulatory framework.

37. The settlement's use of the phrase "at a minimum" establishes that the listed ECL fields were minimum required ECL contents and not an express limitation on every other supplier-information obligation arising under the Tariff or other Commission requirements.

H. Availability of Information

38. Where a particular Commission-approved requirement applies only if information is "available," availability must be evaluated in light of the actual manner in which Pike performs its regulated functions and coordinates with O&R.

39. Pike's relationship with O&R is integral to its electric-supply and NYISO operations, and Pike's own records establish recurring exchanges of settlement, reconciliation, usage, allocation, and supplier-related information involving Pike, O&R, and Direct/NRG.

40. Pike admitted that it received an O&R Settlement Strata ID Table and identified O&R personnel involved in load profiles, STRATA IDs, settlement, reconciliation, NYISO allocation, capacity obligations, billing, and EGS support.

41. Information is not necessarily unavailable merely because it is not stored in a particular Pike database or in the precise format requested by an EGS.

42. Where information is maintained, used, received, or reasonably obtainable through Pike's established operational relationship with O&R in connection with Pike's regulated functions, that fact is relevant to determining whether the information was "available" within the meaning of applicable Commission requirements.

I. Pike's Compliance

43. Pike was required to comply with the Commission-approved ECL obligations and with Supplier Coordination Tariff provisions that the 2019 Orders did not rescind, suspend, waive, or supersede.

44. Pike's March 2025 correspondence acknowledged that the Commission-required ECL included "Load Profile Group per Tariff" and further acknowledged that Pike had not included that field in the ECL then provided.

45. Pike's March 2025 correspondence also characterized load-profile information as not readily available and cumbersome rather than categorically nonexistent, and represented that Pike was willing to assemble load profiles for individual customers.

46. The Commission should determine, based upon the factual findings adopted in Appendix A, each instance in which Pike failed to comply with the monthly ECL requirement, surviving Tariff obligations, and other applicable supplier-coordination requirements.

J. Commission Authorization

47. The Commission's 2019 Orders expressly authorized Pike to operate without standardized EDI and granted relief concerning switching requirements.

48. The Commission's 2019 Orders did not expressly authorize Pike to disregard substantive customer-information or supplier-coordination obligations that remained applicable after the EDI and switching waivers.

49. Accordingly, noncompliance with obligations remaining applicable after the 2019 Orders was not conduct expressly authorized by the Commission merely because Pike possessed an EDI waiver.

50. This determination directly answers the federal court's referral question concerning whether the challenged conduct was authorized by the Commission or instead inconsistent with Pike's regulatory obligations.

K. Unreasonable and Discriminatory Practices

51. Pike was obligated under 66 Pa. C.S. § 1501 to furnish reasonable supplier-coordination service in conformity with its Tariff and applicable Commission requirements and was subject to the competitive safeguards of 52 Pa. Code §§ 54.121 and 54.122.

52. In determining whether Pike administered its supplier-coordination functions reasonably and consistently with 52 Pa. Code §§ 54.121 and 54.122, the Commission may consider the supplier-coordination mechanisms Pike maintained for Direct/NRG and compare those mechanisms with Pike's treatment of Inova.

53. The record establishes that Pike exchanged usage information electronically with Direct/NRG notwithstanding Pike's lack of standardized EDI and that Pike transmitted settlement information concerning Direct/NRG customers to O&R for NYISO allocation.

54. To the extent the Commission finds that materially comparable supplier-coordination services or information were made available to Direct/NRG but were denied to Inova without a reasonable regulatory basis, such conduct supports a finding of unreasonable or discriminatory treatment.

L. Competitive-Retail-Electricity Requirements

55. The Commission expressly recognized in granting Pike's EDI waiver that cost-effective customer-data-sharing measures were "fundamentally necessary to ensure a properly functioning competitive retail market" in Pike's territory.

56. Pike's supplier-coordination obligations must therefore be construed and administered consistently with Pennsylvania's statutory policy favoring competitive retail electric service and meaningful EGS access.

57. To the extent Pike's failure to perform surviving supplier-coordination obligations materially impaired Inova's ability to enter, price, schedule, or serve customers in Pike's service territory, the Commission may determine that such conduct was inconsistent with the applicable requirements and policies of 66 Pa. C.S. §§ 2802 and 2807.

M. Corning Energy Corporation

58. The performance of Pike supplier-coordination functions by personnel of Corning Natural Gas Corporation does not, merely by reason of corporate affiliation, establish responsibility of the separate named Respondent, Corning Energy Corporation, formerly Corning Natural Gas Holding Corporation. Pike remains responsible for regulated supplier-coordination functions performed on its behalf through the affiliated-service arrangement.

59. Corning Energy Corporation may separately be held responsible to the extent the evidentiary findings establish that conduct resulting in the violations determined herein was undertaken, directed, approved, or participated in by Russell S. Miller while acting on behalf of Corning Natural Gas Holding Corporation, now Corning Energy Corporation.

N. Relief and Federal Court Return

60. The Commission should sustain Inova's Complaint to the extent Pike is found to have violated Commission Orders, Commission-approved settlement requirements, surviving Supplier Coordination Tariff provisions, or applicable statutory duties.

61. The Commission should expressly identify which obligations remained applicable after the 2019 Orders and which specific obligations Pike violated.

62. The Commission should expressly determine that its 2019 Orders did not authorize any conduct found in the Adjudication to violate Pike's surviving regulatory obligations.

63. The Commission should direct Pike prospectively to administer its supplier-coordination functions in conformity with the obligations identified in the Commission's Adjudication and Order.

64. The Commission should not adjudicate the amount of Inova's damages, lost profits, or other monetary relief sought in the federal action.

65. Upon issuance of a final Commission determination, the regulatory questions referred by the United States District Court will have been resolved, permitting the parties to return to the federal court for further proceedings consistent with the Commission's liability determinations.