

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

**REPLY BRIEF OF COMPLAINANT
INOVA ENERGY, LLC**

Civil Action

REPLY BRIEF OF COMPLAINANT INOVA ENERGY, LLC

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TABLE OF CONTENTS

TABLE OF CITATIONS TO COMPLAINANT'S MAIN BRIEF AND REPLY BRIEF.....	<i>ii</i>
I. INTRODUCTION	1
A. Statement of the Case.....	1
B. Procedural History and Federal Court Referral.....	1
II. LEGAL STANDARDS	2
A. Burden of Proof.....	2
B. Standard Applicable to Inova’s <i>Complaint</i>	2
C. Commission Orders and Supplier-Coordination Tariff Requirements	2
i. EDI Waiver	2
ii. ECL Requirements.....	3
iii. Billing File Requirements.....	3
iv. Tariff Requirements.....	3
III. SUMMARY OF ARGUMENT	4
IV. ARGUMENT	4
A. WHETHER PIKE VIOLATED COMMISSION ORDERS AND APPROVED SETTLEMENTS, 66 PA. C.S. § 501(c)	4
i. Information Pike Was Required to Provide Pursuant to Commission Order.....	4
ii. Information Pike Provided or Did Not Provide to Inova.....	4
iii. Whether Information was Available	5
B. WHETHER PIKE VIOLATED ITS SUPPLIER TARIFF PROVISIONS	5
i. Whether the 2019 Orders Superseded, Modified, Waived, or Otherwise Affected Pike’s Existing Tariff Obligations.....	5
ii. Rule 4.12(c)	8
iii. Rule 6.2.3.....	8
iv. Other.....	10
C. WHETHER PIKE VIOLATED 66 PA. C.S. §§ 1301 and 703	10
i. Pike’s Existing Supplier-Coordination Process with Direct Energy/NRG	10
ii. Pike’s Treatment of Inova.....	11
D. WHETHER PIKE VIOLATED 66 PA. C.S. §§ 2802 and 2807	11
E. WHETHER CORNING ENERGY CORPORATION BEARS DIRECT OR DERIVATIVE RESPONSIBILITY FOR THE CONDUCT AT ISSUE	11
F. RELIEF	14
V. CONCLUSION	14
Appendix C – PROPOSED ORDERING PARAGRAPHS.....	C-1
Appendix D - UNITED STATES DISTRICT COURT MEMORANDUM AND ORDER.....	D-1

**TABLE OF CITATIONS TO COMPLAINANT'S
MAIN BRIEF AND REPLY BRIEF**

Page references are separately identified for Complainant's Main Brief and Reply Brief. A dash indicates that the authority is not cited in that brief.

CASES

Authority	Main Brief	Reply Brief
Burleson v. Pennsylvania Public Utility Commission, 501 Pa. 433, 461 A.2d 1234 (1983)	6	—
Brockway Glass Co. v. Pennsylvania Public Utility Commission, 437 A.2d 1067 (Pa. Cmwlth. 1981)	7, 21	—
Indianapolis Power & Light Co. v. Pennsylvania Public Utility Commission, 711 A.2d 1071 (Pa. Cmwlth. 1998)	36–37	—
Interstate Gas Supply, Inc. v. Pennsylvania Public Utility Commission, 343 A.3d 1152 (Pa. 2025)	34	—
Montour Trail Council v. Pennsylvania Public Utility Commission, 547 Pa. 367, 690 A.2d 703 (1997)	8, 35	—
Philadelphia Suburban Water Co. v. Pennsylvania Public Utility Commission, 808 A.2d 1044 (Pa. Cmwlth. 2002)	8	—
Popowsky v. Pennsylvania Public Utility Commission, 805 A.2d 637 (Pa. Cmwlth. 2002)	8, 35	—
PPL Electric Utilities Corp. v. Pennsylvania Public Utility Commission, 912 A.2d 386 (Pa. Cmwlth. 2006)	7, 21	—

STATUTES

Authority	Main Brief	Reply Brief
66 Pa. C.S. § 332(a)	6	—
66 Pa. C.S. § 501(c)	12	4
66 Pa. C.S. § 703	28, 36	2, 10
66 Pa. C.S. § 703(g)	8, 35	—
66 Pa. C.S. § 1301	28, 36	2, 10
66 Pa. C.S. § 1501	29, 33, 36	2, 10–11, 14
66 Pa. C.S. § 2802	36, 38–39, 44	11
66 Pa. C.S. § 2803	37–38	—

Authority	Main Brief	Reply Brief
66 Pa. C.S. § 2806(e)	37–38	—
66 Pa. C.S. § 2807	36–39, 44	11

REGULATIONS

Authority	Main Brief	Reply Brief
52 Pa. Code § 5.406(a)(1)	40	—
52 Pa. Code § 5.408	40	6
52 Pa. Code § 5.501(c)	—	7
52 Pa. Code § 54.121	22, 29–30, 35–36, 44	2, 5, 10–11
52 Pa. Code § 54.122	22, 29–30, 33–36, 44	2, 5, 10–11
52 Pa. Code § 54.185(e)(2), (6)	22	—
52 Pa. Code §§ 57.173–57.174	22	—
52 Pa. Code § 69.1805	22	—
52 Pa. Code § 69.1807(3)	22	—

COMMISSION ORDERS, SETTLEMENTS, AND PROCEEDINGS

Authority	Main Brief	Reply Brief
Commission-approved 2019 Settlement concerning Pike’s Default Service Plan and EGS coordination	4, 9–10, 12– 17, 20–25, 32–33, 39, 44–45	3–6, 11
January 17, 2019, Commission Order, Docket No. P-2018-3002709	12, 20–26, 28, 35, 39, 45	1, 3, 5–6, 8– 9, 11, 14
February 19, 2019, Commission EDI Waiver Order, Docket No. P-2018-3005165	8, 13, 20–26, 28, 35, 39, 45	1, 3, 5–6, 8– 9, 11, 14
2020 Default Service Plan Order (as referenced in the briefs)	—	1, 5–6
August 11, 2016, Commission Order, Docket Nos. A-2015-2517036 et al.	40	—

Authority	Main Brief	Reply Brief
Petition of Pike County Light & Power Company-Electric for Approval of Default Service Plan, Docket No. P-2026-3062915 (filed June 1, 2026), including Exhibit ML-7	—	1, 6–7, 9

PIKE SUPPLIER COORDINATION TARIFF

Authority	Main Brief	Reply Brief
Rule 4.12(c)	10, 20–25, 44	6, 8
Rule 6.2.3	10, 20–26, 44	1, 6, 8–10
Rule 7.3(b)	21–24, 26–28, 44	6, 10

I. INTRODUCTION

A. Statement of the Case

Respondents' *Main Brief* attempts to reduce this case to a simple proposition: Inova wanted information that Pike was not required to provide, Pike supplied what it was required to provide, and any remaining deficiencies resulted from an outdated tariff or isolated administrative errors. The record instead shows that Pike supplied supplier-coordination information piecemeal, made representations concerning availability that its own evidence undermined, and did not provide Inova with the functioning non-EDI supplier process it maintained for Direct Energy/NRG. The specific evidence is addressed below.

Respondents' principal legal defense rests upon the Commission's waiver of standardized Electronic Data Interchange ("EDI"). But Pike's own evidence distinguishes standardized EDI from the underlying exchange of supplier information. Tr. 61:18-62:7.

Respondents' *Main Brief* also makes a significant admission concerning Pike's filed *Supplier Tariff*. Respondents acknowledge that Pike's *Supplier Tariff* was never revised to conform to the 2019 Settlement Order, EDI Waiver Order, and 2020 DSP Order and state that Pike "is now seeking that revision through its current Default Service Plan proceeding." Resp. Br. at 19. In that proceeding, Docket No. P-2026-3062915, Pike proposes to implement the EDI waiver while retaining electronic supplier-data provisions and leaving Rule 6.2.3's historical-consumption and load-profile-strata requirements substantively intact. The proposal is not evidence of retroactive liability; it is relevant because Respondents themselves invoked the pending DSP proceeding, and Pike's proposal distinguishes elimination of standardized EDI from elimination of underlying supplier-information functions.

B. Procedural History and Federal Court Referral

Inova relies upon the procedural history stated in its *Main Brief*.

The issue is not whether Inova was entitled to every item of information it requested as a matter of commercial preference. The issue is whether the record establishes noncompliance with the Commission Orders, Settlement provisions, Tariff requirements, and regulatory obligations placed before the Commission.

II. LEGAL STANDARDS

A. Burden of Proof

Inova accepts its burden to establish the violations alleged in its *Complaint* by a preponderance of the evidence. That burden does not require proof that every item Inova requested was independently mandated or that Pike intentionally obstructed Inova; it requires proof of the violations asserted.

B. Standard Applicable to Inova's *Complaint*

Respondents devote substantial attention to 66 Pa. C.S. §§ 1301 and 703. Inova need not establish that either provision creates a freestanding supplier-information requirement. The more directly applicable standards are § 1501, the Commission's Orders and approved Settlement, Pike's filed Tariff, and 52 Pa. Code §§ 54.121 and 54.122.

C. Commission Orders and Supplier-Coordination Tariff Requirements

i. EDI Waiver

Respondents treat Pike's EDI waiver as eliminating underlying supplier-information obligations. The record distinguishes the two: Husted testified that Excel or CSV could convey the same information without standardized EDI, Tr. 61:18-62:7, and Pike actually exchanged supplier information with NRG electronically and through spreadsheets. Compl. Ex. 45 at PIKE000310; Compl. Ex. 49, Interrogatory 4. The additional significance of Pike's pending tariff proposal is addressed in Section IV.B.i below.

ii. ECL Requirements

Paragraph 20 of the Commission-approved 2019 Settlement imposed distinct requirements concerning the Eligible Customer List (“ECL”). Compl. Ex. 4 at 9, ¶ 20. Those distinctions arose directly during the Presiding Officer’s examination. Husted testified that the last information Pike provided Inova was on March 5, 2025, that Pike had provided nothing since then, and that there was no reason it had not continued providing monthly-consumption information. Tr. 81:8–25. Judge Guhl then separately observed that “the eligible customer list will be updated on a monthly basis” and asked why Pike had not been doing so for Inova. Husted testified that she did not think Pike was supposed to do anything during the proceeding unless directed by counsel or someone at the Commission. Tr. 82:1–7.

Respondents’ redirect established that Pike had provided an ECL in 2022; it did not establish that Pike was updating the ECL monthly as Paragraph 20 separately required. Tr. 82:14–83:6. Respondents’ arguments concerning Pike’s administration of those requirements are addressed in Section IV.A below.

iii. Billing File Requirements

Inova relies upon its *Main Brief* concerning the Settlement’s alternative billing-file requirements.

iv. Tariff Requirements

Pike admits that it did not revise its Supplier Tariff after the 2019 Orders and characterizes that omission as a “ministerial administrative error.” Compl. Ex. 49, Interrogatories 21, 26. The effect of the Orders upon the unrevised Tariff is addressed in Section IV.B.i below.

III. SUMMARY OF ARGUMENT

For the reasons set forth below, Respondents' *Main Brief* does not overcome the violations established in Inova's *Main Brief* and the evidentiary record.

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 2019 Settlement established an ECL containing specified customer, rate, meter, load-profile, shopping-status, usage, net-metering, and tax information. Compl. Ex. 4 at 9, ¶ 20. "Load Profile Group per Tariff" was among the prescribed fields. Certain other fields, including NYISO transmission/capacity obligation, on/off-peak consumption, and monthly peak demand, —were expressly qualified by "if available."

Pike's March 5, 2025, letter illustrates the issue. Pike identified "Load Profile Group per Tariff" as a required ECL field but did not provide it. Compl. Ex. 9. Pike characterized load-profile information as not readily available and cumbersome to produce for all customers while offering to assemble individual profiles upon request. *Id.*; Husted D.T. 10:14-11:4; Tr. 75:12-76:15.

However, Pike's September 2022 ECL contained Strata information. Pike Ex. 13; Tr. 30:20-31:17, 33:1-6. Husted further acknowledged that Pike possessed information its March 2025 correspondence had characterized differently. Husted D.T. 10:3-7.

ii. Information Pike Provided or Did Not Provide to Inova

Respondents rely upon two March 2023 commercial-customer contracts as proof that Inova could establish pricing without the information it later sought. Resp. Br. at 3. But those contracts passed capacity and transmission costs through to the customers. Tr. 33:10–34:2; Compl. Ex. 27.

They therefore do not establish that Inova possessed the information necessary to calculate those components. Moreover, Inova explained that the requested data was necessary to “properly price the larger accounts,” while smaller accounts could be priced using O&R’s templated load-profile data, a factual allegation Respondents admitted. Compl. ¶ 61; Answer ¶ 61. The existence of two commercial contracts using pass-through provisions therefore does not establish that Inova possessed the information necessary to price other customers or customer classes.

iii. Whether Information was Available

O&R advised Inova that Pike was responsible for Pike-customer metering data and could contact O&R for needed information. Compl. Ex. 22. Pike later admitted receiving an “O&R Settlement Strata ID Table” and identified O&R personnel performing load-profile, STRATA, settlement, reconciliation, NYISO-allocation, capacity, billing, and EGS-support functions. Compl. Ex. 49, Interrogatories 2-3. The fact that information resided with or was processed by O&R therefore does not establish its unavailability to Pike.

B. WHETHER PIKE VIOLATED ITS SUPPLIER TARIFF PROVISIONS

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

Respondents argue that the 2019 Settlement Order, EDI Waiver Order, and subsequent DSP Order displaced or superseded portions of Pike’s *Supplier Tariff* even though Pike never revised the *Tariff* itself. Inova does not dispute that Commission Orders may modify requirements otherwise appearing in an approved tariff. The question is which requirements the Commission actually waived, modified, or superseded.

The 2019 Settlement expressly identified the regulatory waivers Pike sought. The Commission’s competitive safeguards at 52 Pa. Code §§ 54.121 and 54.122 were not among them. Nor did the Settlement state that Pike’s supplier-information obligations generally were

eliminated. Rather, the Commission granted specified waivers associated with standardized EDI and approved alternative procedures for Pike's small service territory. The evidentiary record likewise distinguishes standardized EDI (*i.e.*, the method of electronic interchange) from the underlying supplier information: Husted testified that Excel or CSV files could convey the same information without standardized EDI. Tr. 61:18-62:7.

Respondents' own discovery answers further demonstrate why the effect of the 2019 Orders must be determined provision by provision. When asked to identify the provisions of the Settlement and Commission Orders that replaced, superseded, modified, or eliminated Supplier Tariff Rules 4.12(c), 6.2.3, and 7.3(b), Respondents referred generally to the Commission Orders and their position concerning the effect of those Orders rather than identifying language expressly eliminating each of those provisions. Compl. Ex. 49, Interrogatories 21–25. Pike further acknowledged that the *Supplier Tariff* had not been revised, characterizing that failure as a “ministerial administrative error.” Compl. Ex. 49, Interrogatory 21; see also Compl. Ex. 11, Interrogatory 1; Compl. Ex. 49, Interrogatory 26.

Respondents now affirmatively rely upon Pike's pending Default Service Plan proceeding to address that omission, stating that the *Supplier Tariff* “was not revised to conform to the 2019 Settlement Order, EDI Waiver Order, and 2020 DSP Order” and that Pike “is now seeking that revision through its current Default Service Plan proceeding.” Resp. Br. at 19. Having invoked that pending proceeding to support their interpretation of the existing Tariff, Respondents cannot simultaneously treat the nature of Pike's proposed revision as irrelevant to that argument.

Accordingly, Inova respectfully requests that the Presiding Officer take official notice pursuant to 52 Pa. Code § 5.408 of Pike's June 1, 2026, Petition and its Exhibit ML-7 filed in *Petition of Pike County Light & Power Company-Electric for Approval of Default Service Plan*,

Docket No. P-2026-3062915, for the limited purpose of evaluating Respondents’ contention concerning the effect of the prior Commission Orders upon Pike’s unrevised *Supplier Tariff*. Because the Petition and Exhibit ML-7 thereto are Commission records in that docket, Inova does not reproduce them as an appendix to this *Brief*. See 52 Pa. Code § 5.501(c).

Pike’s Petition describes the *Supplier Tariff* as having remained unrevised since 1999 and characterizes Exhibit ML-7 as a comprehensive modernization intended to reflect current practices and conform the Tariff to intervening Commission rulings. In implementing the EDI waiver, the proposed tariff continues to provide that Pike “shall make available to an EGS” information regarding the EGS’s customers in an electronic file and revises the enumerated information to include, among other things, an ECL revision date, Load Profile Group, monthly consumption, historical energy usage, and, if available, transmission/capacity information. *Petition of Pike County Light & Power Company-Electric*, Docket No. P-2026-3062915, Ex. ML-7, Original Pages 11-13 (filed June 1, 2026).

Inova does not offer the pending tariff proposal as evidence that the proposed provisions governed Pike’s past conduct, nor does Inova ask the Commission to apply Exhibit ML-7 retroactively. Its relevance is narrower. Respondents themselves rely upon the pending proceeding to explain what they contend the earlier Commission Orders did to Pike’s unrevised Tariff. Pike’s proposed implementation, however, distinguishes elimination of standardized EDI from elimination of the underlying exchange of supplier information. The pending proposal therefore reinforces why Respondents’ broad contention that the EDI waiver displaced the supplier-information provisions upon which Inova relies cannot substitute for identifying the particular provision of the Commission’s Orders that waived, modified, or superseded each *Tariff* obligation at issue.

The Commission should therefore determine the effect of the 2019 Orders provision by provision, according to what those Orders actually waived, modified, or superseded, rather than treating the waiver of standardized EDI as a wholesale elimination of Pike’s supplier-coordination obligations.

ii. Rule 4.12(c)

Respondents argue that Rule 4.12(c)’s reference to an EGS’s “Customers” relieved Pike of any obligation before Inova enrolled customers. Resp. Br. at 18. That construction is inconsistent with Pike’s own administration of the supplier-entry process. Pike knew that Inova was attempting to become an EGS in its territory, provided Inova the Individual Coordination Agreement, and advised Inova that it was Pike’s “first third party provider” and that Pike had undertaken research concerning the process. Pike Ex. 9; Tr. 63:14–64:18. Pike thereafter supplied Inova an ECL before Inova had enrolled customers and ultimately confirmed that Inova had satisfied Pike’s requirements and was ready to serve customers. Pike Exs. 10, 12, 13.

Respondents’ construction would create a circular supplier-entry regime: an EGS would have to acquire customers before obtaining information associated with preparing to price, enroll, schedule, and serve those customers. Inova does not contend that every item of customer-specific information must be furnished before an EGS identifies a particular customer. The narrower point is that the word “Customers” cannot reasonably be read to make actual enrollment a categorical prerequisite to Pike’s supplier-coordination obligations, particularly where Pike itself administered the process by furnishing supplier information to Inova before enrollment.

iii. Rule 6.2.3

To assist EGS scheduling, Rule 6.2.3 requires Pike to provide historical customer electric-consumption data as provided in Rule 4.12(c) and to indicate customers’ load-profile strata. Pike’s

productions were episodic rather than recurring: it provided historical usage in May 2023, its September 29, 2022, ECL contained Strata-related information, and Respondents identify an additional August 2023 production obtained from O&R correlating load profiles and Strata IDs. Compl. Ex. 37; Pike Exs. 7, 13. Respondents contend that Rule 6.2.3 did not apply to Inova because the Rule concerns an EGS’s “customers,” and Inova never enrolled or supplied a customer in Pike’s territory. Resp. Br. at 10, 18, 22. Respondents further contend that, even if Rule 6.2.3 applied, Pike provided the historical usage, rate and Strata, capacity, and other customer information required by the *Tariff*. *Id.*

Pike’s own pending tariff proposal is nevertheless relevant to Respondents’ broader contention that the 2019 Orders altered the operation of the unrevised *Supplier Tariff*. In Exhibit ML-7, Pike proposes to revise Rule 6.1 to provide that NYISO processes and requirements govern and supersede Rule 6 “[t]o the extent” NYISO assumes responsibility for the activities governed by that Rule. *Petition of Pike County Light & Power Company-Electric*, Docket No. P-2026-3062915, Ex. ML-7, Original Page 21 (filed June 1, 2026). Yet Pike leaves Rule 6.2.3 substantively intact, including the Company’s obligations to provide historical customer consumption data and indicate customers’ load-profile strata.

As to Rule 6.2.3 specifically, Exhibit ML-7 further undercuts Respondents’ contention that intervening Commission Orders displaced the Rule’s supplier-information requirements. Although Pike proposes to revise Rule 6.1 to provide that NYISO processes and requirements supersede Rule 6 “[t]o the extent” NYISO has assumed responsibility for the activities governed by that Rule, Pike leaves Rule 6.2.3 substantively intact, including the Company’s obligations to provide historical customer-consumption data and indicate customers’ load-profile strata. Thus,

Pike's own proposed implementation distinguishes between particular functions assumed by NYISO and the information obligations retained in Rule 6.2.3.

iv. Other

Respondents' reliance on the absence of hourly meters does not resolve Rule 7.3(b), which itself addresses customers without hourly meters and uses load profiles to impute hourly usage from monthly usage. Inova therefore relies upon Rule 7.3(b) principally to demonstrate that the absence of hourly meters did not eliminate the relevance of load-profile information. The Commission need not determine that Pike independently violated Rule 7.3(b) in order to grant the relief Inova seeks.

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

Respondents' arguments concerning §§ 1301 and 703 do not resolve Inova's claims under § 1501, the Commission Orders, Pike's filed Tariff, and 52 Pa. Code §§ 54.121 and 54.122.

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

Pike's Direct/NRG relationship is relevant not because the suppliers made identical requests, but because it demonstrates an existing functioning non-EDI supplier process. Direct/NRG served more than 1,000 Pike customers; Pike exchanged pricing and settlement information concerning those customers; the continuing process used spreadsheets; and Pike exchanged usage information electronically notwithstanding its EDI waiver. Compl. Ex. 35; Compl. Ex. 45 at PIKE000310; Compl. Ex. 49, Interrogatory 4.

That evidence undercuts Respondents' reliance on the absence of standardized EDI as an explanation for Pike's treatment of Inova. Pike's existing relationship with Direct/NRG demonstrates that Pike could administer supplier-coordination functions and exchange supplier information through non-EDI mechanisms. The evidence therefore also provides a relevant factual comparison in evaluating whether Pike administered its supplier-coordination responsibilities

toward Inova reasonably and consistently with the competitive safeguards in 52 Pa. Code §§ 54.121 and 54.122.

ii. Pike's Treatment of Inova

Respondents rely upon Brunhammer's August 2023 statement that he did not think Pike was "blocking" Inova. That statement is not an admission of regulatory compliance, and Inova's claims do not require proof of intentional obstruction. Contemporaneously, Miller asked whether Pike had fulfilled its tariff obligations and directed personnel to ensure Pike had provided all tariff-required items. Compl. Amended Ex. 42 at PIKE003034-35. Those communications rebut the suggestion that Pike's compliance was then understood to be settled. The record therefore concerns more than the isolated administrative error Respondents portray.

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

Inova does not contend that §§ 2802 and 2807 independently require every requested data field. They provide the competitive market context for Pike's more specific obligations under § 1501, the Commission Orders, its Tariff, and the competitive safeguards. The 2019 Orders granted specified waivers and substituted alternative procedures; they did not eliminate supplier coordination.

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

Respondents' corporate-separateness argument conflates distinct entities and distinct bases of responsibility. Inova does not contend that common ownership, standing alone, makes Corning Energy Corporation ("CEC") responsible for Pike's regulatory obligations. Nor does Inova ask the Commission to disregard the separate corporate existence of Pike, Corning Natural Gas Corporation ("CNG"), or CEC. The evidence instead requires consideration of which entity's

functions were being performed and the corporate capacity in which the individuals involved acted.

The corporate relationships are important. Corning Natural Gas Holding Corporation (“CNGHC”), now Corning Energy Corporation (“CEC”), acquired and became the parent of Pike. Compl. ¶ 18; Answer ¶ 18 (admitted). Corning Natural Gas Corporation (“CNG”), by contrast, is a separate corporate entity. Husted testified that she is employed by CNG, that Pike and CNG are affiliates, and that she performs work for Pike. Husted D.T. 1:14–2:3.

Husted’s role principally bears upon Pike’s responsibility. Although Husted was employed by CNG, the record establishes that she performed supplier-coordination functions for Pike, including communications with EGSs concerning Pike, administration of ECL matters, and interaction with O&R concerning Pike. Husted D.T. 1:14-2:3; Tr. 59:18-22. Those functions were performed for Pike through the affiliated-service arrangement. The fact that Pike utilized an employee of an affiliated corporation to perform its regulated functions does not transfer Pike’s regulatory obligations to that affiliate or relieve Pike of responsibility for the manner in which those functions were performed.

CNG is not a named Respondent in this proceeding. Inova therefore does not seek a determination that CNG is separately liable for Husted’s conduct. Nor is such a determination necessary to decide Pike’s responsibility. The relevant point is that Pike cannot avoid responsibility for its supplier-coordination functions merely because those functions were carried out on its behalf by personnel technically employed by CNG.

The evidence concerning named Respondent CEC is materially different. Russell S. Miller participated directly in the matters involving Inova while identifying himself through titles associated with CNGHC. In the admitted August 2023 communications, Miller sought

confirmation that Pike had satisfied its Tariff obligations, stating: “If we have fulfilled our obligations under the tariff we are okay. I just want verification of that.” Compl. Amended Ex. 42 at PIKE003034. Miller further directed personnel to “ensure we have provided all items our tariff obligates us to” provide. Compl. Amended Ex. 42 at PIKE003035.

Those communications are significant because CNGHC is the former corporate name of the named Respondent CEC. Thus, unlike Husted’s employment by the separate corporate entity CNG, Miller’s participation while acting on behalf of CNGHC constitutes evidence of participation by personnel of the corporate entity that is itself a Respondent in this proceeding. Inova therefore need not attribute CNG’s conduct to CEC merely because of corporate affiliation in order to establish a basis for CEC’s potential responsibility.

The record accordingly supports two separate inquiries. First, Pike remains responsible for its regulated supplier-coordination functions notwithstanding its use of CNG personnel to perform those functions through the affiliated-service arrangement. Second, CEC bears separate responsibility to the extent the Commission finds that conduct resulting in the violations was undertaken, directed, approved, or participated in by Miller while acting on behalf of CNGHC, now CEC.

Accordingly, Inova does not seek to pierce the corporate veil or impose liability based merely upon corporate affiliation. It asks the Commission to determine responsibility according to the functions actually performed and the corporate capacities in which the relevant individuals acted. Pike remains responsible for supplier-coordination functions performed on its behalf, while CEC is separately responsible to the extent the evidentiary record establishes its own participation, through Miller acting for CNGHC/CEC, in the conduct giving rise to the violations.

F. RELIEF

Respondents characterize this matter as a singular administrative issue. The record supports the prospective relief requested in Inova's Main Brief: a clear supplier-coordination process consistent with applicable Commission Orders, the effective Tariff, § 1501, and the competitive safeguards.

Inova does not ask the Commission to dictate the outcome of Pike's pending DSP proceeding. It asks the Commission to determine the obligations governing the conduct before it and require prospective compliance with the Tariff and Commission requirements ultimately in effect.

V. CONCLUSION

Respondents' *Main Brief* does not overcome the record evidence or establish that Pike's EDI waiver eliminated the underlying supplier-coordination obligations at issue. For the reasons stated above and in Inova's *Main Brief*, Inova respectfully requests that the Commission adopt its Proposed Findings of Fact and Conclusions of Law and grant the prospective relief requested in its *Main Brief*.

Inova respectfully requests that the Presiding Officer take official notice of the District Court's December 22, 2025 Memorandum and Order pursuant to 52 Pa. Code § 5.406(a)(1), as records of a court of the Commonwealth's unified judicial system or of the courts of the United States, and § 5.408, to the extent applicable.

The District Court's Memorandum and accompanying Order are attached as Appendix D. They are included not as additional evidentiary material, but as the controlling procedural documents defining the regulatory questions referred to the Commission and the scope of the requested determination of liability. The Court identified the question with particularity: whether the governing regulatory requirements obligated Pike to provide the requested customer data and

the extent to which the Commission's waiver Orders limited those requirements. Appendix D, Memorandum at 8–12; Order ¶¶ 1–3.

Respectfully submitted,

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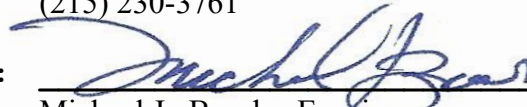
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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of September 2026, a true and correct copy of the foregoing **Complainant Inova Energy LLC's Reply Brief**, was served electronically upon the Presiding Officer and counsel of record in the above-captioned proceeding as follows:

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APPENDIX C – PROPOSED ORDERING PARAGRAPHS

THEREFORE, IT IS ORDERED:

1. The Formal Complaint of Inova Energy, LLC against Pike County Light & Power Company and Corning Energy Corporation is sustained to the extent set forth in the accompanying Opinion and this Order.
2. The Commission's February 19, 2019, Order at Docket No. P-2018-3005165 relieved Pike County Light & Power Company from the obligation to implement and utilize the Commission's standardized Electronic Data Interchange protocol and granted the related switching relief specified in that Order. The waiver concerned the prescribed method of electronic data exchange and did not constitute a blanket waiver of Pike's substantive customer-information or supplier-coordination obligations.
3. Neither the Commission's January 17, 2019, Order at Docket No. P-2018-3002709 nor its February 19, 2019, Order at Docket No. P-2018-3005165 expressly rescinded, suspended, waived, or superseded the substantive supplier-coordination obligations contained in Rules 4.12(c), 6.2.3, or 7.3(b) of Pike's Commission-filed Electric Generation Supplier Coordination Tariff.
4. To answer the regulatory question referred by the United States District Court—whether the governing regulatory requirements obligated Pike to provide the customer data requested by Inova and the extent to which the Commission's Orders granting Pike regulatory waivers limited those requirements—Pike remained required after the 2019 Orders to provide customer data requested by Inova to the extent that the data fell within the Commission-approved Settlement or the surviving provisions of Pike's Supplier Coordination Tariff. *Inova Energy, LLC v. Pike County Light & Power Company*, Civil Action No. 3:25-cv-00817, Memorandum, Doc. 32, at 8–12 (M.D. Pa. Dec. 22, 2025),

attached as Appendix D. Those requirements included: (a) a monthly Eligible Customer List containing the fields required by the Settlement; (b) twelve months of monthly consumption; (c) the historical customer-consumption information required by Rule 4.12(c); (d) applicable load-profile information and load-profile strata required by Rules 4.12(c) and 6.2.3 and, to the extent established by the record and determined in the accompanying Opinion, Rule 7.3(b); and (e) the scheduling assistance required by Rule 6.2.3.

5. The Settlement's express qualifications remained controlling. Transmission or capacity obligations, on-peak and off-peak consumption, and monthly peak demand were required as Eligible Customer List fields only if available. This Order does not determine that Pike was required to provide every item requested by Inova. Rather, Pike's obligation extended to information required by the Commission-approved Settlement, the surviving provisions of its Supplier Coordination Tariff, and other applicable Commission requirements, subject to any express availability qualification, as determined in the accompanying Opinion.
6. The Commission's 2019 Orders did not expressly authorize Pike to withhold information required by the Commission-approved Settlement or the surviving provisions of its Supplier Coordination Tariff, or otherwise to disregard the substantive supplier-coordination obligations identified in the accompanying Opinion. Noncompliance with those surviving obligations therefore was not conduct expressly authorized by the Commission merely because Pike possessed an Electronic Data Interchange waiver.
7. Pike County Light & Power Company violated the Commission-approved Settlement by failing to update and provide its Eligible Customer List monthly and by failing to provide

the Eligible Customer List information required to the extent specified in the accompanying Opinion.

8. Pike County Light & Power Company violated Rules 4.12(c) and 6.2.3 of its Commission-filed Electric Generation Supplier Coordination Tariff and, to the extent established by the record and determined in the accompanying Opinion, Rule 7.3(b), by failing to provide the customer information and supplier-coordination assistance required by those provisions.
9. Pike County Light & Power Company failed to furnish reasonable supplier-coordination service in conformity with its Tariff and applicable 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. That conduct also frustrated the competitive-retail-electricity requirements and policies embodied in 66 Pa. C.S. §§ 2802 and 2807, to the extent determined in the accompanying Opinion.
10. To the extent determined in the accompanying Opinion, Corning Energy Corporation is responsible for conduct resulting in the violations determined herein that 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. Pike County Light & Power Company remains responsible for regulated supplier-coordination functions performed on its behalf through the Commission-approved affiliated-service arrangement.
11. Pike County Light & Power Company shall maintain and administer a supplier-coordination process that complies with its effective Commission Orders and Commission-filed Electric Generation Supplier Coordination Tariff.

12. Pike County Light & Power Company shall provide Eligible Customer Lists and required updates at the frequency required by the Commission-approved Settlement, without requiring an Electric Generation Supplier to make repetitive requests for information that the Settlement requires Pike to provide monthly.
13. Pike County Light & Power Company shall clarify and document the means by which Electric Generation Suppliers may obtain supplier-coordination information maintained by or obtainable through Orange and Rockland Utilities, Inc., where that information is within Pike's applicable regulatory obligations.
14. Consistent with the District Court's retention of jurisdiction, nothing in this Order determines or awards the amount of damages, lost profits, or other monetary relief asserted in the related federal litigation. *Inova Energy, LLC v. Pike County Light & Power Company*, Civil Action No. 3:25-cv-00817, Order, Doc. 33, ¶¶ 1–3 (M.D. Pa. Dec. 22, 2025), attached as Appendix D.
15. Any relief requested by Inova Energy, LLC that is inconsistent with this Order is denied.
16. This proceeding at Docket No. C-2026-3060035 shall be closed.

APPENDIX D

UNITED STATES DISTRICT COURT MEMORANDUM AND ORDER

Inova Energy, LLC v. Pike County Light & Power Company, et al.

Civil Action No. 3:25-cv-00817

Documents 32 and 33, filed December 22, 2025

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

INOVA ENERGY, LLC, :
 :
 Plaintiff : CIVIL ACTION NO. 3:25-817
 :
 v. : (JUDGE MANNION)
 :
 PIKE COUNTY LIGHT & POWER :
 COMPANY and CORNING :
 ENERGY CORPORATION *formerly* :
 known as CORNING NATURAL :
 GAS HOLDING CORPORATION, :
 :
 Defendants :

MEMORANDUM

Presently before the court is the motion to dismiss, (**Doc. 16**), filed by Defendants Pike County Light & Power Company and Corning Energy Corporation. Defendants' motion sets forth three arguments as to why the court should dismiss Plaintiff Inova Energy, LLC's antitrust lawsuit. First, Defendants contend that the Pennsylvania Public Utility Commission should resolve Plaintiff's claims under the primary jurisdiction doctrine. (**Doc. 16**, ¶ 5(a)). Second, Defendants argue that they are immune from antitrust liability under the state action immunity doctrine. (*Id.*, ¶ 5(b)). Finally, absent valid federal antitrust claims in light of the two aforementioned legal theories, Defendants argue that the court lacks

supplemental jurisdiction to consider any remaining state claims. (*Id.*, ¶ 5(c)).

I. Factual and Procedural Background

This case involves a private antitrust action initiated by Inova Energy, LLC (hereinafter referred to as “Inova” or “Plaintiff”), a Pennsylvania foreign LLC engaged in the business of selling electricity to retail customers within the commonwealth of Pennsylvania as an Electric Generation Supplier (“EGS”). (Doc. 7, ¶ 2). The first named Defendant in this matter, Pike County Light & Power Company, is a Pennsylvania Electric Distribution Company (“EDC”) and a wholly owned subsidiary of the second named Defendant, Corning Energy Corporation, a New York corporation formerly known as Corning Natural Gas Holding Company (herein collectively referred to as “Defendants” or “Pike”). (Doc. 7, ¶¶ 2-3).

Inova’s original complaint was filed on November 8, 2024, in the Eastern District of Pennsylvania and was amended on March 31, 2025. Subsequently, Judge John R. Padova of the Eastern District issued an order transferring the case to this court on the grounds of improper venue.

The amended complaint, filed with this court on March 31, 2025, alleges that Pike engaged in “illegal anticompetitive conduct to insulate, extend, and protect its monopoly over the electric distribution service

territory". (Doc. 7, ¶ 1). More particularly, Inova alleges that Pike failed to provide them with customer data necessary to offer competitive electric generation services to its customers, despite being required to exchange this data under the Electricity Generation Customer Choice and Competition Act ("Competition Act") and the Pennsylvania Public Utility Commission's ("PUC" or "Commission") regulations. (Doc. 7).

For context, the Competition Act, passed by the Pennsylvania General Assembly in 1996, restructured Pennsylvania's electricity market by providing retail customers with "direct access to a competitive market for the generation and sale or purchase of electricity." 66 Pa.C.S. §2802(13). To accomplish this market transition, the Competition Act delegated "full power and authority" to the Commission "to enforce, execute and carry out ... its regulations," in order to "prevent anticompetitive ... conduct." 66 Pa.C.S.A. §§501, 2811. Accordingly, the Commission's role was to promulgate regulations at a micro level to effectively implement the broad requirements outlined in the Competition Act.

Under 66 Pa.C.S.A. §2807, the Competition Act established broad requirements for EDCs such as Pike to follow, including the obligation to provide adequate and accurate customer information to ESGs such as Inova. To ensure compliance with these requirements, EDCs were required

to file various plans, reports, and contracts for the Commission's approval, including tariffs and default service plans. Through these filings, the Commission required EDCs to show that they incorporated Electronic Data Interchange ("EDI") protocols, which was the default standard for transferring and exchanging customer data with ESGs. *In re Standards for Electronic Data Transfer and Exchange*, Docket No. M-00960890, F.0015, 1998 WL 553021. However, the Commission allowed EDCs to petition for waivers to certain regulations, including the EDI requirements, provided they demonstrate that such an exception is justified. See 52 Pa. Code §5.41.

With this regulatory framework in mind, the Commission issued various orders approving Pike's default service plans and EDI waiver petition after demonstrating that the cost of implementing an EDI system was high relative to Pike's size as a company. (Doc 7, ¶¶ 33-48). As a result, Pike argues that they do not have the customer information that Inova requests, nor are they required to provide such information in light of the Commission's orders granting their waiver petition. (Doc 23, at 7).

Inova argues that, despite Pike being granted a waiver from implementing the EDI standards, they are still required to provide the requested customer data through a website-based File Transfer Protocol

("FTP") platform, which was the alternative data exchange method that the companies agreed Pike would use for customer data exchange. (Doc. 24 at 3). Stated differently, Inova claims that the Commission's order granting Pike's petition for a waiver "merely authorizes the use of an alternative delivery method; it does not relieve Pike of its duty to furnish the information itself." (Doc. 24 at 3).

According to Inova's amended complaint, the failure to provide this necessary customer data in accordance with the Competition Act and the Commission's regulations is a violation of both federal and state laws. Specifically, at the federal level, Inova maintains that Pike's actions implicate Sections 1 through 4 of the Sherman Antitrust Act (15 U.S.C. §§1–4), as well as Sections 4 and 16 of the Clayton Antitrust Act (15 U.S.C. §§15, 26). At the state level, Pike's actions allegedly violate Pennsylvania's Unfair Trade Practices and Consumer Protection Law (UTCPL) (73 P.S. §201), and also constitute tortious interference under Pennsylvania law.

Pike's instant motion to dismiss was filed on May 15, 2025. Inova filed a brief in opposition, (Doc. 24), on June 18, 2025, to which Pike responded with a subsequent reply brief (Doc. 27). Having reviewed all relevant pleadings, the court finds the motion now ripe for disposition.

II. Discussion

Pike's motion to dismiss sets forth three arguments for the court to consider. Primarily, Pike argues that Inova's claims fall within the special expertise of the Commission and should therefore be dismissed under the primary jurisdiction doctrine (Doc. 16, ¶ 5(a)). Alternatively, Pike argues that they are immune from antitrust liability under the state action immunity doctrine, given that the Commission has authorized and actively supervises Pike's activities within the restricted electricity market. (*Id.*, ¶ 5(b)). Finally, if the court agrees that Pike is immune from antitrust claims, Pike argues that the court lacks supplemental jurisdiction to consider any remaining state claims. (*Id.*, ¶ 5(c)).

For purposes of Pike's motion to dismiss this court has taken as true Inova's allegations that Pike was required to provide the requested customer data under the Competition Act and the Commission's regulations yet failed to do so. On the basis of such allegations the court agrees that deference should be given to the Commission to resolve the merits of Inova's claims on primary jurisdiction grounds. Accordingly, the

court will not address the remaining arguments, except for the issue of primary jurisdiction.¹

The doctrine of primary jurisdiction is a longstanding legal principle aimed at “promoting proper relationships between the courts and administrative agencies charged with particular regulatory duties.” *United States v. Western Pac. R. Co.*, 352 U.S. 59, 63 (1956). As explained by the Supreme Court, the primary jurisdiction doctrine:

applies where a claim is originally cognizable in the courts, and comes into play whenever enforcement of the claim requires the resolution of issues which, under a regulatory scheme, have been placed within the special competence of an administrative body; in such a case the judicial process is suspended pending referral of such issues to the administrative body for its views.

Id. at 64.

While “[n]o fixed formula exists for applying the doctrine,” *id.*, the Third Circuit has recognized the following four-factor test for determining whether a district court should abstain from hearing an otherwise valid claim on primary jurisdiction grounds:

¹ The Court’s resolution of Pike’s claims concerning state-action immunity and the absence of supplemental jurisdiction depends on the Commission’s determination.

1) Whether the question at issue is within the conventional experience of judges or whether it involves technical or policy considerations within the agency's particular field of expertise; 2) Whether the question at issue is particularly within the agency's discretion; 3) Whether there exists a substantial danger of inconsistent rulings; and 4) Whether a prior application to the agency has been made.

Baykeeper v. NL Industries, Inc., 660 F.3d 686, 691 (3d Cir. 2011) (citing *Global Naps, Inc. v. Bell Atl.-N.J.*, 287 F.Supp.2d 532, 549 (D.N.J.2003)).

As the court will analyze below, all four of these factors weigh in favor of the primary jurisdiction doctrine.

i. The Need for the Commission's Expertise

In order to analyze Inova's claims under the first factor, the "question at issue" must be identified and described with particularity. Broadly speaking, the underlying dispute in this case revolves around Pike's obligations as an electric distributor to provide customer data to its supplier, Inova. These obligations are regulated through the Commission, and are enforced on an individual basis through regulatory orders and through the company's filings, which require the Commission's approval. Therefore, the question at issue is whether these regulations required Pike to provide the requested customer data, and the extent to which the Commission's orders

granting Pike's waiver limited these requirements. This question falls directly within the Commission's field of expertise.

As briefly mentioned, the Commission operates with authority granted to it by the Pennsylvania General Assembly and is responsible for promoting competition within Pennsylvania's electric utility industry in accordance with the Competition Act. In furtherance of this objective, the Commission requires electric utility companies to incorporate interaction and coordination protocols that enable the transfer of electronic data and customer information from distributors to suppliers. These requirements, which included EDI implementation, were set forth in Pike's Electric Generation Supplier Coordination Tariff. (Doc. 7, ¶ 24-25). However, since the adoption of the EDI standards, the Commission has issued a series of regulatory orders granting Pike's petitions for EDI waivers while approving Pike's default service plans reflecting these waivers. (Doc. 7, ¶ 33-48). The crux of this dispute lies in the impact of these regulatory orders.

Although the parties appear to agree on the procedural history between Pike and the Commission, they each reference the Commission's orders as evidence to support their claims. On one hand, Pike argues that they have no obligation to provide the information requested by Inova, stating, "nor is [Pike] compelled to provide information beyond what the

Commission had required in its various orders.” (Doc. 23, at 7). However, Inova contends that Pike “incorrectly interprets [the orders] as a waiver from the obligation to provide the underlying customer data.” Inova further cites to Pike’s latest waiver petition and claims that Pike had agreed to provide the customer data through the alternative FTP protocol. (Doc. 24, at 3). Consequently, Inova’s claims directly implicate Pike’s filings and the subsequent orders issued by the Commission granting Pike’s waiver petition.

Faced with a similar issue in *MCI*, the Third Circuit described the scope of the Commission’s expertise in the context of the primary jurisdiction doctrine, stating:

The Pennsylvania Public Utility Law requires public utilities to file tariffs with the PUC. See 66 Pa.C.S. § 1302 (Purdon 1979 & Supp.1995). These tariffs are binding and dispositive of the rights and liabilities between the customer and the public utility. See 66 Pa.C.S. § 1303 (Purdon 1979). The PUC has enforcement power over its tariffs and regulations, and matters that pertain to those tariffs are considered to be within the particular expertise of the PUC. See 66 Pa.C.S. § 501, *et seq.* (Purdon 1979).

MCI Telecommunications Corp. v. Teleconcepts, Inc., 71 F.3d 1086, 1103 (3d Cir. 1995). More directly, the court held that “issues that implicate a

utility's tariff are deemed to be within the special expertise of the PUC". *Id.* at 1104.

While Inova's claims extend beyond a tariff dispute, the court finds no meaningful distinction in this case. The core issue revolves around Pike's adherence to their filings and a series of regulatory orders issued by the Commission. Therefore, resolving this dispute entails questions of compliance that fall directly under the Commission's enforcement power. Accordingly, the Commission is best positioned to resolve Inova's claims.

ii. The Commission's Discretion over Inova's Claims

The second factor weighs in favor of primary jurisdiction for similar reasons. As public utilities, Pike and Inova operate under the supervision of the Commission and are required to comply with its orders and regulations. These orders and regulations are designed to promote greater competition in the electricity generation market, to the extent that it serves the public interest. See 66 Pa.C.S.A. §2802. Importantly, the Commission recognizes that, on a case-by-case basis, serving the public interest may necessitate waiving these competition-enhancing regulations. See 52 Pa. Code §5.43(a). The approval of such exceptions is therefore contingent upon a public interest inquiry, a process in which the Commission retains complete discretion. See 66 Pa.C.S.A. §501; *see also City of Pittsburgh v.*

West Penn Power Co., 993 F. Supp. 2d 332, 338 n.13 (W.D. Pa. 1998) (citations omitted) (holding that “[t]he extent to which competition may be allowed between utilities is a matter within the exclusive discretion of the PUC.”).

In this case, Pike sought an exception by filing a petition for a waiver from the EDI standards and submitted supporting facts to justify their grounds for the request. The Commission considered Pike's concerns and, at its discretion, determined that granting Pike this waiver was in the public interest. (Doc. 7, ¶¶ 45, 46). In this same vein, determining whether Pike's failure to provide the customer data exceeded the scope of the waiver may ultimately necessitate a similar public interest inquiry, a process that is solely within the Commission's discretion.

iii. Substantial Danger of Inconsistent Rulings

Given the nature of the inquiry that is required to resolve Inova's claims—particularly the interpretation of various orders from the Commission and the scope of Pike's waiver regarding data exchange—there is a significant risk that the court's decision would conflict with that of the Commission. Whether the Commission “expressly authorized Pike to proceed in the manner about which Inova complains,” (Doc. 23, at 18), as Pike contends, or whether Pike's refusal to comply with Inova's request

was done in defiance of the Commission, its regulations, and various orders, is a question that only the Commission can answer with certainty.

Inova argues that the Commission's inability to award damages eliminates the risk of inconsistent rulings. (Doc. 24 at 7). However, the Pennsylvania Supreme Court has rejected the argument that agencies lose primary jurisdiction over claims solely because they seek monetary relief, describing it as a "simplistic notion" that "ignores the reality that frequently both the courts and administrative agencies must each play roles in the adjudication of certain matters." *Elkin v. Bell Tel. Co. of Pa.*, 491 Pa. 123, 420 A.2d 371, 375 (1980).

To accommodate an agency's inability to award damages, *Elkin* recognized a "bifurcated procedure," whereby issues concerning liability are referred to an administrative agency while the civil suit is stayed to allow the issue of damages to proceed pending the agency's determination. *Id.* at 376. This mechanism was bolstered by the Third Circuit in *MCI*, 71 F.3d at 1106, which utilized the bifurcated procedure from *Elkin* by instructing the district court to transfer a third-party claim to the PUC for a determination of liability while retaining jurisdiction over damages pending the PUC's decision. In fact, despite Inova's argument that a request for damages prevents the court from deferring to the Commission, Inova

immediately presents an alternative argument requesting that the court bifurcate their claims. See (Doc. 24, at 7) (stating that “should the Court find primary jurisdiction is deemed to rest with the PUC, it is respectfully submitted the judicial proceedings be suspended while the technical issue is referred to the PUC for its views”).

Accordingly, given the prior findings that Inova’s claims fall within the Commission’s expertise, the court will not circumvent the Commission’s discretion to adjudicate liability. Doing so would pose a significant risk of inconsistent rulings.

iv. Prior Relief Sought from the Commission

Finally, the Commission provides several procedures to address Inova’s claims. These include formal and informal complaint procedures under 52 Pa. Code §§5.21 and 56.163, a dispute resolution process outlined in 52 Pa. Code §54.122(4)(i)-(iv), and various petition procedures for clarifying and resolving controversies, including 52 Pa. Code §§5.42 and 5.572. Despite these options, Inova failed to raise their claims to the Commission entirely.

Although Inova correctly notes that none of these procedures offered through the Commission can provide monetary relief, the court will maintain jurisdiction over Inova’s claims. By doing so, Inova will have the opportunity

to proceed on the issue of damages through this court upon a favorable ruling from the Commission.

III. Conclusion

Accordingly, upon review of Pike's motion to dismiss (**Doc. 16**), Inova's claims will be stayed and transferred to the Commission for a ruling on liability. The court will retain jurisdiction over this case pending the Commission's determination of liability. An appropriate order follows.



MALACHY E. MANNION
United States District Judge

DATED: 12/22/25
25-0817-01

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

INOVA ENERGY, LLC, :
 :
 Plaintiff : CIVIL ACTION NO. 3:25-817
 :
 v. : (JUDGE MANNION)
 :
 PIKE COUNTY LIGHT & POWER :
 COMPANY and CORNING :
 ENERGY CORPORATION *formerly* :
 known as CORNING NATURAL :
 GAS HOLDING CORPORATION, :
 :
 Defendants :

ORDER

In accordance with the memorandum filed this same day, and upon review of Defendants' motion to dismiss, (Doc. 16), IT IS HEREBY ORDERED THAT:

1. The instant action is **STAYED**;
2. The Clerk of Court is directed to **TRANSFER** this case to the Pennsylvania Public Utility Commission for a determination of liability;
3. The Court will retain jurisdiction over this case pending the Commission's determination.


MALACHY E. MANNION
United States District Judge

DATED: 12/22/25
25-0817-01