



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

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

April 29, 2020

***Via Electronic Filing***

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v.  
Philadelphia Gas Works  
Docket No. R-2020-3017206  
**I&E Motion to Extend**

Dear Secretary Chiavetta:

Enclosed please find the **Expedited Motion of the Bureau of Investigation and Enforcement to Extend the Statutory Suspension Period During the Emergency Interruption of Normal Operations of the Pennsylvania Public Utility Commission** for the above-captioned proceeding.

Consistent with Paragraph 8 of the Commission's March 20, 2020 Emergency Order at Docket No. M-2020-3019262 (Re: Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements), electronic copies only are being served on all active parties of record as evidenced in the attached Certificate of Service. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Carrie B. Wright  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 208185  
(717) 783-6156  
[carwright@pa.gov](mailto:carwright@pa.gov)

CBW/ac  
Enclosures

cc: Honorable Charles E. Rainey, Jr. (*Chief ALJ, PUC Philadelphia – via email only*)  
Honorable Darlene Heep (*ALJ, PUC Philadelphia – via email only*)  
Honorable Marta Guhl (*ALJ, PUC Philadelphia – via email only*)  
Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission           :  
  :  
  v.                 :     Docket No. R-2020-3017206  
  :  
Philadelphia Gas Works                             :

**NOTICE TO PLEAD**

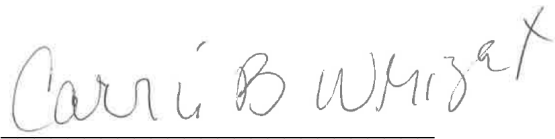
*To: Daniel Clearfield, Esquire, and Sarah Stoner, Esquire  
      Counsel for Philadelphia Gas Works*

You are hereby notified to file a written response to the attached Expedited Motion in the form and manner as directed by the presiding officer. If you do not file a written response to I&E’s Expedited Motion, the presiding officer may rule in favor of I&E on the attached Motion without a hearing.

All pleadings, such as answers to motions, must be filed with the Secretary of the Pennsylvania Public Utility Commission:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

You must also serve a copy of your response on the undersigned I&E prosecutor.

  
\_\_\_\_\_  
Carrie B. Wright  
Prosecutor  
PA Attorney ID No. 208185

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, Pennsylvania 17120  
(717) 783-6156

Dated: April 29, 2020

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2020-3017206
	:	
Philadelphia Gas Works	:	

---

**EXPEDITED MOTION OF THE BUREAU OF INVESTIGATION AND  
ENFORCEMENT TO EXTEND THE STATUTORY SUSPENSION PERIOD  
DURING THE EMERGENCY INTERRUPTION OF NORMAL OPERATIONS  
OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

---

**I. INTRODUCTION**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully request that Chief Administrative Law Judge Charles Rainey (“Chief ALJ Rainey”), Administrative Law Judge Darlene Heep, and Administrative Law Judge Marta Guhl (“the ALJs”) issue an Order granting an extension of the statutory suspension period arising under 66 Pa. C.S. § 1308(d) until January 14, 2021, due to the disaster emergency interruption of the normal operations of the Commission as a result of the coronavirus pandemic.

As explained in more detail below, pursuant to the authority issued in both Governor Tom Wolf’s Proclamation of Disaster Emergency due to COVID-19 (“coronavirus”), and the Commission’s Emergency Order<sup>1</sup> dated March 20, 2020 related to suspension of statutory and regulatory deadlines, I&E’s request that the schedule for the above-referenced PGW base rate case be extended until January 14, 2021 is necessary

---

<sup>1</sup> *Re: Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements, EMERGENCY ORDER*, Docket No. M-2020-3019262 (dated March 20, 2020, ratified March 26, 2020).

and reasonable. Without the requested relief, severe and irreparable harm would occur to I&E, as well as potentially both PGW and its ratepayers.

Further, I&E requests expedited resolution of this Motion.

In support of this Motion, I&E avers the following:

## **II. PROCEDURAL HISTORY**

1. On February 28, 2020, Philadelphia Gas Works filed Supplement No. 128 to PGW’s Gas Service Tariff – Pa. P.U.C. No. 2 (“Supplement No. 128”) in which, PGW seeks an increase in annual distribution revenues of \$70 million, to become effective April 28, 2020.

2. On March 6, 2020, the Governor of the Commonwealth of Pennsylvania, Tom Wolf, (“Governor Wolf”) issued a Proclamation of Disaster Emergency<sup>2</sup> wherein it states: “WHEREAS, a novel coronavirus (now known as “COVID-19”) emerged in Wuhan, China, began affecting humans in December 2019, and has since spread to 89 countries, including the United states ....” The Proclamation further states: “... NOW THEREFORE, pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code, 35 Pa. C.S. § 7101, *et seq*, I do hereby proclaim the existence of a disaster emergency throughout the Commonwealth.” This Proclamation is in effect for up to ninety (90) days unless the governor acts to extend it further.

3. Additionally, the Proclamation states: “FURTHER, I hereby suspend the provisions of any regulatory statute prescribing the procedures for conduct of

---

<sup>2</sup> Proclamation of Disaster Emergency (March 6, 2020) <https://www.governor.pa.gov/wp-content/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>.

Commonwealth business, or the orders, rules or regulations of any Commonwealth agency, if strict compliance, with the provisions of any statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency.”

4. On March 15, 2020, Governor Wolf, through the Deputy Secretary for Human Resources and Management, issued an Executive Order implementing telework protocol for at least 14 days beginning March 16, 2020, and the closing of all state offices in Dauphin County and the Capitol Complex. As a result, the Commission’s offices, including I&E’s offices were closed. The Executive Order instituted the state’s telework protocol for the foreseeable future. As of the filing of this Motion, the Commission is still working under a telework protocol.

5. Base rate cases generally operate on a nine-month statutory time frame under 66 Pa. C.S. §1308. If for some reason, the Commission were unable to render a decision within that time frame, Section 1308 provides that the rate increase would go into effect at the end of the statutory period as the rates were filed, subject to refund plus interest for amounts that are later deemed not to be just and reasonable.

6. Your Honor has the authority pursuant to 66 Pa. C.S. § 331(d) regarding the authority of the presiding officer to: (d)(4) regulate the course of the hearing; (d)(7) dispose of procedural requests or similar matters; and (d)(9) take any other action authorized by commission rule. *See also* 52 Pa. Code § 5.483.

7. On March 20, 2020, the Commission issued an Emergency Order at Docket No. M-2020-3019262, that provided for the suspension, extension, or waiver of statutory

or regulatory deadlines where necessary during the course of the Governor's Proclamation of Disaster Emergency.<sup>3</sup> The Emergency Order states "...in pending rate case litigation, the Chief Administrative Law Judge is authorized to establish reasonable deadlines under the circumstances after consideration of the position of the parties and the presiding Administrative Law Judge."

8. On April 20, 2020, ALJ Darlene Heep and ALJ Marta Guhl issued a Prehearing Conference Order scheduling a prehearing conference on May 5, 2020.

9. Based, on both the authority given to Your Honors by the Public Utility Code, and the guidance provided by the Commission's Emergency Order, I&E request Your Honors extend the statutory suspension period in this proceeding by a time commensurate with the Commission's closing.

### **III. GROUNDS FOR RELIEF**

#### **A. Reason for the Requested January 14, 2020 Extension**

10. By Order entered April 16, 2020, the Commission suspended the Company's filing until November 28, 2020. In this Motion, I&E respectfully requests that the suspension be extended to January 14, 2021, which is approximately seven weeks from the original suspension period.

11. The requested seven-week extension is reasonable because Commission employees are currently in the sixth week of teleworking and it has recently been determined that Commission offices will remain closed until at least May 8, 2020. If May 8 is the return date, Commission employees will have been out of the office for

---

<sup>3</sup> See also, 35 Pa. C.S. § 7301(f)(1).

eight weeks. However, returning to work on May 8 for all Commission employees is not certain as the office closures have been extended several times. Moreover, even if May 8 is the return date, there may be a gradual return to work rather than all employees returning at the same time. Accordingly, Commission employees may be out of the office for longer than the currently anticipated eight weeks or may be working from the Commission's offices on some type of reduced schedule once returning to work is possible.

12. I&E's request to extend the suspension to January 14, 2021, is appropriate as that is the first Public Meeting date scheduled in January. Aligning the extension with the Public Meeting schedule is critical to ensure that the extension can be fully utilized by the parties, the ALJs and the Commission.

13. The current pandemic has impacted I&E's operations, however, it has impacted the Commission's operations as well. A review of the timeline from PGW's prior rate case filed February 28, 2017, and the instant rate case filed February 28, 2020, demonstrates the impact. The Commission Order suspending and investigating the Company's 2017 rate case was issued on March 16, 2017; however, the Commission did not suspend this rate case until April 16, 2020. Similarly, the ALJs have scheduled a prehearing conference for this case on May 5, 2020; however, in the 2017 proceeding, the prehearing conference was held approximately six weeks earlier on March 29, 2017. The prehearing conference impacts many matters in a base rate proceeding including modifications to the Commission's discovery rules, setting the procedural schedule, and

the scheduling of public input hearings,<sup>4</sup> among other things. Each of these factors has a major procedural impact on base rate cases and, as a result of the current closure, it is undeniable that the parties have been operating on a delayed schedule when compared to the 2017 proceeding.

**B. Impact of the Closure on I&E's Operations**

14. The closing of Commission offices has rendered it difficult for I&E, as a statutory party in this base rate proceeding, to investigate and analyze the requested base rate increase within the statutory nine-month time period.

15. In the March 20 Emergency Order issued by the Commission, the Commission correctly noted that the closure of Commission offices presents “many challenges for the Commission, the regulated community, and the public.” The Emergency Order further explained that while the Commission and the regulated community “operate under reasonable statutory and regulatory deadlines necessary to ensure timely administration of the Public Utility Code,” the Commission is cognizant that some deadlines may, at this juncture, hinder the public service mission of the Commission and its stakeholders.

16. Therefore, while the Emergency Order encourages parties before the Commission to cooperate regarding the suspension, extension, waiver, or change or regulatory, statutory or procedural deadlines, it also, however, noted that all statutory, regulatory or procedural deadlines prescribed by the Public Utility Code or applicable

---

<sup>4</sup> It is worthwhile to note that the 2017 public input hearings were held on May 9-10, 2017; however, a similar timeline cannot be contemplated in this proceeding given that the prehearing conference will not occur until May 5, 2020.



law may be extended, waived or changed as a result of the Governor's Proclamation of Disaster Emergency.

17. Importantly, no stakeholders have filed a Petition for Reconsideration, or Clarification challenging the Commission's authority to alter statutory and regulatory deadlines in this manner.

18. There are "telework" and work from home provisions in place for Commission employees, and I&E employees are willing and able to review and analyze the Company's rate increase data from home. However, similar to the timing of the Commission's suspension order and prehearing conference scheduling noted above, certain aspects of I&E's review of this filing have been slowed and impacted due to these new and unprecedented working conditions.

Another example is that I&E designates rate case teams where in-person meetings with technical supervisors, attorneys and all expert witnesses are routinely held and informal discussions with team members occur often. Given the current pandemic, those in-person meetings and informal discussions among team members about various issues can no longer occur. To be clear, I&E teams have been actively communicating via email and conference calls during this period of teleworking; however, the new process has impacted the flow of information among members of the rate case team.

19. Lastly, as hearings related to PGW cases are required statutorily to be held in Philadelphia, it is unclear whether the closure of all non-essential businesses will impact I&E's ability to travel to Philadelphia for evidentiary hearings in the near future. Further, it is impossible to determine at this juncture when the Commission's

Philadelphia offices will be reopened to hold the hearings in person. While telephonic evidentiary hearings are possible, I&E submits it may not be the preferred method in a fully litigated base rate case.

### **C. Potential Impact on Customers**

20. Governor Wolf's determination that all non-essential business in the Commonwealth be temporarily suspended has presented other issues that must be reviewed carefully in the context of this base rate proceeding.

21. For one, it is unclear whether the parties would be able to timely schedule public input hearings in this proceeding while this Emergency Closure continues. As a utility rate increase such as this involves a substantial property right,<sup>5</sup> the public's right to due process is paramount. Public input hearings are a vital part of the rate case process and effort must be taken to ensure that the public has its chance to be heard.

In the 2017 Proceeding a total of 4 public input hearings were held in which 24 consumers testified.<sup>6</sup> These customers largely testified about affordability concerns and inability to pay their PGW bills. It is likely that these types of concerns will be even greater considering the impact coronavirus has had on the economy and employment. It is important for customers to be given the opportunity to voice their concerns about this rate increase and the current statutory deadlines must be modified to allow for this. By way of comparison, in the 2017 proceeding public inputs were held on May 9, and May 10, 2017. In the instant proceeding, the prehearing conference will not even be held until

---

<sup>5</sup> *Joseph Horne Co. v. Pa. PUC*, 467 A.2d 1212, 78 Pa. Commw. 566, Commw. 1983, 485 A.2d 1105, 506 Pa. 475.

<sup>6</sup> *Pa. Pub. Util. Commission v. PGW*, Docket No. R-2017-2586783, (RD, p. 12).

May 5, 2020. I&E is concerned that this will not allow sufficient time for the scheduling of public input hearings or allow the parties sufficient time to respond to the public input testimony before direct testimony is due.

22. Another pressing matter is the Governor's Emergency Order requiring that all non-life sustaining business close.<sup>7</sup> As a result of this Emergency Order, construction work has largely ceased in the Commonwealth. While I&E believes that PGW has the ability to respond to emergency situations such as explosions and major gas leaks, it is likely that the Governor's Emergency Order has slowed down PGW's non-emergency infrastructure improvements such as the replacement of cast iron mains and the like. Careful consideration must be given to how this may impact the revenue requirement requested by PGW as the parties will have to re-evaluate PGW's ability to complete any construction projects in the future included as part of this filing within the fully projected future test year ("FPFTY").

23. Additional consideration must be given to the economic impact of this crisis as it relates to PGW's filing as well. Specifically, low and moderate income customers who may already be struggling to afford their utility bills may be hit particularly hard as non-essential business remains largely halted. These already struggling customers are likely facing substantial loss of income. In turn, the loss of income by these customers may serve to drive up PGW's uncollectible expense. It will also require reexamination of PGW's low-income programs. PGW's service territory

---

<sup>7</sup> Order of the Governor of the Commonwealth of Pennsylvania Regarding the Closure of All Businesses that are Not Life Sustaining (March 19, 2020) <https://www.governor.pa.gov/wp-content/uploads/2020/03/20200319-TWW-COVID-19-business-closure-order.pdf>.

already consists of a large low-income population. At this juncture, it is impossible to determine how many more customers in this service territory will be in need of rate assistance. Therefore, more time is necessary to assess the impact of the current crisis on PGW's low and moderate income customers.

24. These are circumstance that could not have been taken into consideration or planned for as of the filing of PGW's base rate case. As these circumstances have changed, not just in the minor way change always occurs during the pendency of a base rate case, but in a major, jarring way the parties to this proceeding must be afforded the opportunity to examine the impact these changes will have on PGW's filing and requested revenue requirement.

**D. Potential Impact on PGW**

25. To be clear, I&E's duty to represent the public interest involves a duty not only to PGW's customers, but also to PGW. I&E's request for more time in this proceeding will also allow I&E to evaluate the appropriate level of cash and other financial metrics to ensure that PGW is able to pay its bills and access capital at rates that are reasonable.

I&E remains mindful that PGW is a cash flow basis company and, as such, consideration needs to be given to that, which is why I&E is proposing the extension to January 14, 2020 rather than some later date. To be clear, I&E's request for extra time is not designed to frustrate its attempt to increase rates, but the extra time is necessary to I&E to fully explore, not only the needs of PGW's customers, but the needs of PGW itself as a result of this pandemic.

26. The global financial situation is markedly different than it was when PGW filed its base rate case. And while PGW does not require the traditional rate of return analysis, there is still an impact. It is imperative that PGW have access to capital at reasonable rates. It is imperative that PGW meet its debt service coverage obligations. It is important that PGW have enough cash on hand to support its operations. All of these factors are potentially impacted by the current disruption of day to day business in the Commonwealth. It is important that PGW continue to be able to operate safely and reliably. The extra time requested by I&E will allow for sufficient review of what level of revenue PGW needs to continue safe and reliable operations.

#### **IV. CONCLUSION**

27. I&E's requested extension of the suspension period to January 14, 2021 is designed to provide sufficient time to fully and completely review the Company's rate request and thus fulfill I&E's mission to represent the public interest in rate proceedings.

28. I&E's ability to fully and completely investigate the Company's requested base rate increase is necessary to establish a full and complete record before the ALJs and for the Commission.

29. Therefore, the suspension of the procedural schedule is reasonable and necessary and the suspension order must also stay the mandates regarding Commission action in 66 Pa. C.S. § 1308(d).

WHEREFORE, the Bureau of Investigation and Enforcement respectfully requests that Chief Administrative Law Judge Charles Rainey, Administrative Law Judge Darlene Heep, and Administrative Law Judge Mart Guhl issue an Order extending the statutory

deadline for this proceeding until January 14, 2021 and to order the parties to establish a procedural schedule taking into account the extension of the statutory deadlines.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Carrie B. Wright". The signature is written in black ink and is positioned above the typed name.

Carrie B. Wright  
Prosecutor  
PA Attorney ID No. 208185

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, Pennsylvania 17120  
(717) 783-6156

Dated: April 29, 2020

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :  
 :  
 v. : Docket No. R-2020-3017206  
 :  
 Philadelphia Gas Works :

**VERIFICATION**

I, Carrie B. Wright, Prosecutor for the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.



---

Carrie B. Wright  
Prosecutor  
PA Attorney ID No. 208185  
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, Pennsylvania 17120  
(717) 783-6156

Dated: April 29, 2020

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :  
v. : Docket No. R-2020-3017206  
Philadelphia Gas Works :

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Motion** dated April 29, 2020, in the manner and upon the persons listed below:

**Served via Electronic Mail Only**

Sarah C. Stoner, Esq.  
Daniel Clearfield, Esq.  
Eckert Seamans Cherin & Mellott, LLC  
[sstoner@eckertseamans.com](mailto:sstoner@eckertseamans.com)  
[dclearfield@eckertseamans.com](mailto:dclearfield@eckertseamans.com)

Sharon E. Webb, Esq.  
Daniel G. Asmus, Esq.  
Office of Small Business Advocate  
[swebb@pa.gov](mailto:swebb@pa.gov)  
[dasmus@pa.gov](mailto:dasmus@pa.gov)

Robert D. Knecht  
Industrial Economics Incorporated  
[rdk@indecon.com](mailto:rdk@indecon.com)

Christy M. Appleby, Esq.  
Darryl A. Lawrence, Esq.  
Santo G. Spataro, Esq.  
Laura J. Antinucci, Esq.  
Office of Consumer Advocate  
[OCAPGW2020@paoca.org](mailto:OCAPGW2020@paoca.org)

Todd S. Stewart, Esq.  
Hawke McKeon & Sniscak LLP  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)

Charis Mincavage, Esq.  
Adeolu A. Bakare, Esq.  
Jo-Anne Thompson, Esq.  
McNees Wallace & Nurick LLC  
[cmincavage@mcneeslaw.com](mailto:cmincavage@mcneeslaw.com)  
[abakare@mcneeslaw.com](mailto:abakare@mcneeslaw.com)  
[jthompson@mcneeslaw.com](mailto:jthompson@mcneeslaw.com)

Gregory J. Stunder, Esq.  
Graciela Christlieb, Esq.  
Philadelphia Gas Works  
[Gregory.Stunder@pgworks.com](mailto:Gregory.Stunder@pgworks.com)  
[Graciela.Christlieb@pgworks.com](mailto:Graciela.Christlieb@pgworks.com)

John W. Sweet, Esq.  
Elizabeth R. Marx, Esq.  
Ria M. Pereira, Esq.  
Pennsylvania Utility Law Project  
[pulp@palegalaid.net](mailto:pulp@palegalaid.net)



Carrie B. Wright  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 208185