North Shore Gas Company

Proposed general increase in rates and revisions to service classifications, riders and terms and conditions of service

Docket No. 23-0068

(cons.)

The Peoples Gas Light and Coke Company

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VERIFIED EMERGENCY MOTION FOR CLARIFICATION OF COMMISSION ORDER

Pursuant to Section 200.190(a) of the Rules of Practice of the Illinois Commerce Commission ("Commission"), Peoples Gas Light and Coke Company ("Peoples Gas" or the "Company") respectfully seeks expedited clarification of one significant element of the Commission’s November 16, 2023 Order ("Order"). Specifically, the Commission ordered the Company to stop its Safety Modernization Program ("SMP") and removed the Company’s entire forecasted investment in SMP and other necessary work— $265 million\(^1\)—from its test year rate base. Order at 29. In doing so, the Commission reduced the Company’s 2024 revenue requirement by $14.3 million.

The Commission Order directing a complete “pause” of the SMP combined with a full disallowance of the capital investment for the work that has historically fallen under the SMP

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\(^1\) $265 million represents the work falling within the broad category of SMP that was forecasted to be placed in service in 2024. The full amount of forecasted spending for this work in 2024 is $280 million. Eidukas Dir., PGL Ex. 1.0, 4:63-67.
designation was not recommended by any party to this proceeding. The Commission described its decision as “another course of action” it was taking sua sponte. Id. at 25-26. The Order noted that “the funding level disallowed relates solely to the SMP work being conducted neighborhood by neighborhood” on the grounds that “neighborhood by neighborhood modernization has failed to adequately prioritize the replacement of high-risk pipe as directed by PHMSA, the Kiefner Study and the Commission.” Id. The Commission further stated that it “expects PGL to continue to address existing and new leaks as it would in the normal course of prioritizing customer safety… .” Id. This motion seeks expedited clarification from the Commission about the work it is ordering the Company to complete in 2024.

At the core of the issue needing clarification is that the Order assumes all $265 million of the work falling within the “SMP” designation that the Commission disallowed for 2024 consists solely of “neighborhood by neighborhood” work. That is not the case, however. This misunderstanding may stem from the fact that the Commission’s Final Order in Docket 16-0376 required the Company to report all of its work being recovered under Rider QIP as “qualifying infrastructure plant” (as defined in 220 ILCS 5. 9-220.3(b)) in its quarterly “SMP” reports. However, as the Company’s quarterly reports show, work contained within the “SMP” designation also includes a variety of typical gas utility work needed for safety, reliability, and compliance with governmental and third-party requests to move facilities that have nothing to do with “neighborhood by neighborhood” work. For the reasons explained below, whatever the source of this confusion, the Order’s directive to pause only “neighborhood by neighborhood” work while disallowing investment amounts well beyond that category of work needs to be clarified. Further, the Company needs clarification on what to do with “neighborhood” projects
that were started in 2023 but were not planned to be completed until 2024 so as not to leave work uncompleted, or customers and neighborhoods in unsafe or unsightly conditions.

By treating all of the Company’s planned 2024 SMP work as “neighborhood” work, the Order introduces a number of practical challenges for the Company that require clarification this year. The Company seeks clarification in order to restore roughly $134 million of needed 2024 work as reflected in the following chart and explained in detail below:

Briefly, the first category of formerly-QIP recoverable plant that has been included under the broader “SMP” is generally referred to as the “neighborhood program” and consists of the following categories of formerly-QIP recoverable work:
• replacement of older piping materials that are prone to leaks, cracks, and breaks (e.g., cast and ductile iron main),

• relocation of meters from the inside of customer homes, and

• upgrading the gas system to medium pressure.

While the “neighborhood program” work is what most think of when they hear the term “SMP,” there are several other categories of important safety and reliability-related work that do not fit under the “neighborhood by neighborhood” category that Peoples Gas needs to perform next year (and performed prior to the existence of Rider QIP) that are related to safety and reliability, but were also recoverable under the rider. This work includes:

• emergency replacement of leaking pipe segments (sometimes referred to as “short-cycle” work),

• “system improvement” projects to address reliability problems on portions of the distribution system, and

• “public improvement” projects where the Company is asked to move its facilities by the City of Chicago, other governmental agencies, or other underground users, and

• high pressure projects.

The Commission’s Order does not explicitly address non-“neighborhood by neighborhood” work, such as responding to short term emergencies, requests by the City of Chicago in connection with other infrastructure projects, and addressing leaks and other reliability threats outside of the neighborhood-by-neighborhood risk-ranking approach. Yet this is exactly the type of public improvement, system improvement, and short-term emergency work that fell within the broad term “SMP” only because these initiatives were historically eligible for
QIP recovery. They are not driven by the neighborhood model of accelerating the replacement of high-risk-ranked cast iron and ductile iron pipe, moving meters from inside to outside, and upgrading the system to medium pressure on a neighborhood-by-neighborhood basis.

In addition, while the Company understands the Commission’s directive to pause work on neighborhood projects and has not initiated any new neighborhood work since November 21, shortly after the Order was issued, it is important that the Commission allow Peoples Gas to finish projects that were started in 2023 and would otherwise be left in a state of incompletion, creating eyesores and risks to public safety. Accordingly, the Company seeks clarification that it may continue with these limited aspects of the SMP in 2024.

In total, the amount of 2024 investment to perform work just in these categories is forecast to be $134.4 million,\(^2\) and the Company requests that it be allowed to make these limited investments and have this amount be restored to its rate base. The revenue requirement impact of restoring this amount to rate base, including the placement of previously-started work into service, is approximately $9.1 million.\(^3\) Proposed clarifying language is provided in Appendix A to this motion.

The Company urges the Commission to act promptly on this request, as it will materially impact ongoing work in the City of Chicago beginning just one month from today. While the Company has stopped any new “neighborhood” work from beginning since November 21, there is also urgency in the Company receiving this clarification as it needs to be able to inform and

\(^2\) Note that differences between the motion and exhibits are due to rounding.

\(^3\) As explained in this motion, some of the work the Company is requesting permission to continue performing in 2024 involves the completion of previously-started projects. As a result, the total amount of dollars that would go into service in 2024 is $150.3 million. This includes the approximately $16 million previously spent on already started projects in addition to the $134.4 million the Company is seeking clarification to spend in 2024.

In determining revenue requirements in this motion, the Company assumed an average life for the assets of 35 years, accruing a 1% cost of removal per year, and the economic cost of capital per the Final Order for the 2024 test year of 8.55%.
retain its contractors if the requested work is allowed to proceed in 2024. The extent of the Commission’s ultimate definition of what it meant to “pause” the “SMP” and the related disallowance of costs will determine the scope of necessary management and union employee layoffs and contractor terminations as of January 1, 2024. Granting this motion will also allow Peoples Gas to continue to coordinate underground work with the City of Chicago and other stakeholders and to complete already-started work in neighborhoods and on the high-pressure transmission “backbone” that is needed to provide reliable service in Chicago.

People’s Gas requests that responses to this motion be due in three business days, and replies be due two business days later, to allow this motion to be taken up at the Commission’s December 14, 2023 open meeting and a clarifying decision to be issued by the end of the year.

I. Categories of 2024 work that require clarification.

The Company needs clarification from the Commission on how to implement the “pause” for SMP while continuing needed 2024 work in four categories. These categories are as follows:

- **Emergency work**: This is work to address emergency natural gas leaks that occur in the City of Chicago as a result of cracks, gas line strikes by contractors during excavation, or other disturbances. These situations require immediate attention, as they cause Grade 1 and 2 leaks that pose a hazard to human health and welfare as well as personal property. These problems are addressed wherever they arise in the City without regard for whether they fall in a neighborhood that is currently under construction. The Company forecasts spending $28.9 million on emergency work in 2024 based on historical trends, as explained in Exhibit 1.

- **Needed system improvement (“SI”) work**: This is work that requires the Company to repair isolated parts of the natural gas distribution system where
there are significant leaks and under- or over-pressurization problems, which pose the potential to (and in some cases actually do) interrupt service to customers. This work is completed outside of the Company’s neighborhood program. The Company forecasts spending $31.6 million on SI work in 2024, as discussed in Exhibit 1.

- **City of Chicago and third party accommodation requests (also known as “public improvement” or “PI” work):** This work is performed separate from the neighborhood by neighborhood work. Public improvement work is done in response to and in coordination with underground work being done by the City and other third parties. Peoples Gas is frequently required to relocate its facilities to accommodate the needs of other users of the underground way, and when those users are opening the street to complete their own work, Peoples Gas upgrades leak-prone pipe to modern materials. The Company forecasts spending $18.5 million on this work in 2024, as discussed in Exhibit 1.

- **Uncompleted 2023 work:** This work is already in progress and replaces leak prone pipe, neighborhood-by-neighborhood, on a risk-ranked basis. This type of “carry-over” work is ongoing throughout the year and projects begun in one year often carry over into the subsequent year. If certain projects begun in 2023 are not allowed to be completed in 2024, it will delay retirement of vintage pipe, leaving multiple pipes/systems in place, increasing risks of hits to the pipe through digging, and leaving those pipes in states of incompletion that will create eyesores and risks to public safety, including torn up streets, sidewalks, and yards, street and sidewalk blockages, unconnected customer service lines with above-ground
exposed pipe, and targets for vandalism and theft. Additionally, this will leave unsightly and unfinished pipe work inside customer homes where preparation for the relocation of gas meters has been started including coring holes through customer building walls. There is also one high pressure project that is underway in the Central Business District and will continue in 2024. High pressure work is also separate from the neighborhood work, and involves installation of high pressure transmission mains, which provide the “backbone” for future upgrades to bring the entire gas network in Chicago up to medium pressure. Failure to allow completion of these in-progress high-pressure projects carries the same problems described above for unfinished neighborhood work, plus the risk of abandoning critical infrastructure in a prime utility corridor space in the City of Chicago right of way. The Company estimates that it would cost $55.4 million ($46.7 million for uncompleted neighborhood work and $8.7 million for uncompleted high pressure work) to complete these carry-over projects in 2024, as shown in Exhibit 1.

II. **The Commission should clarify its Order to ensure that certain categories of work are allowed to continue in 2024.**

The Order lacks clarity regarding treatment of various components of work in 2024. On one hand, the Order disallows the full $265 million investment of what has been referenced as SMP, implying that all “SMP” work must cease immediately. Order at 29. On the other hand, the Order indicates that the Commission only intended to address “neighborhood by neighborhood” work. *Id.* The Order also compels the Company to continue to address new leaks in the interest of public safety but disallows recovery of the Company’s forecasted costs of doing so. *Id.* It is not possible for the Company to follow these inconsistent directives absent some clarification
from the Commission. Further, the Order provides no direction on how to immediately “pause”
the SMP without leaving open trenches, exposed pipes, and other complications of construction
in progress across Chicago. Given the high stakes for the Company’s and contractors’ employees
and Chicago’s residents and visitors, clarification is necessary.

Peoples Gas requests that the Commission amend the Order to clarify that the Company
should continue to pursue its 2024 emergency, needed system improvement, and
governmental/third-party accommodation work, which are planned and executed completely
separately from “neighborhood by neighborhood” projects referenced in the Order. The
Company also requests that the Commission allow it to finish projects that are already in
progress, to avoid having duplicate systems in place, metal plates on streets in disrepair, traffic
barrels and barricades in place, and meters left dangling on customer residences and businesses
while the SMP is paused. Completion of this “carry-over” work is critical to ensure public safety,
system integrity, and reliable gas service. Carry-over work exists in both the neighborhood and
high pressure work categories, as explained below. The “pause” of SMP work should be limited
to the non-carry-over neighborhood and high pressure projects that the Company intended to
commence in late 2023 and 2024, for which Peoples Gas has already implemented the
Commission-ordered pause as of November 21st. These paused projects represent well over half
of the originally-proposed capital spending for 2024. See Exhibit 1.

Before addressing each of these categories of work individually, it should be noted that
since the QIP law will no longer be in force in 2024, the designation of “SMP” work is
somewhat arbitrary. The label had been useful shorthand for work that was eligible for recovery
through Rider QIP while that rider was in effect. However, much of the work historically
categorized as “SMP” would be completed through normal distribution capital spending in the
absence of the rider. In fact, *only* the neighborhood category of work is principally aimed at replacing leak-prone pipe on an accelerated basis.\footnote{Certainly replacement of these leak-prone pipes is also addressed through emergency work, as well as third party accommodation (i.e., public improvement) and system improvements, since the majority of the Company’s aging natural gas pipe in Chicago remains leak-prone and problems are most likely to arise with such pipe.} Therefore, it may be helpful to keep in mind that except for neighborhood and high pressure work, all of the QIP-eligible work would be pursued in the ordinary course of operations in 2024.

### A. Emergency work.

The Commission’s Order as well as Commissioner McCabe’s and Paradis’ on the record statements made abundantly clear that the Commission expects Peoples Gas to continue to address emergencies on its system in the normal course. Order at 29. The Commission specifically noted that it “expects PGL to continue to address existing and new leaks as it would in the normal course of prioritizing customer safety…”. \textit{Id.} The Company of course agrees that this work is critically important to ensure the safety of Chicago residents and visitors.

Emergency work\footnote{This is sometimes referred to a “short cycle” work, which refers to the special procedure in place that allows Peoples Gas to obtain expedited permits from the City of Chicago to enable emergency work.} includes responding to and addressing Grade 1 and 2 leaks on the Company’s system, which can and regularly do occur as a result of natural forces like frost heave, as well as manmade issues like strikes by contractors. These leaks pose immediate and near-term risks to people and property and must be addressed quickly. In most cases, where the leak occurs on old, leak-prone pipe, Peoples Gas will replace that pipe with modern material, rather than attempting to patch the old pipe (which often is unsuccessful and can lead to yet more leaks as the patching process disturbs other sections of pipe, which is ultimately more disruptive and costly).

The Commission must allow this work to continue, and the Company is entitled to recover the cost of doing the work. It would be unjust and unreasonable to require the Company
to perform this work but refuse to allow it adequate revenues to do so. The Company estimates the cost of such work in 2024 will be $28.9 million. Exhibit 1. Peoples Gas requests that the Commission clarify its Order to allow this work to continue and restore $1.7 million to the Company’s revenue requirement to cover the cost of this work.

B. System improvement work.

System improvement projects are also pursued independent of neighborhood work. These projects address specific targeted problems wherever they are located in the City and are focused on areas where there are many leaks, or where there are specific operational issues that threaten to disrupt service to customers. An example can be where there is very low pressure and water gets in the main and on cold days this can cause a freeze up in the pipe causing an interruption to service. This work is not based on the risk-ranking model that determines the ordering of the neighborhood projects, but rather is based on actual operational experience. Pausing this work could significantly harm customers by threatening reliability, leading to system failures during the coldest parts of the year. It could also lead to serious public safety issues by failing to address the potential for more serious leaks before they happen.

Peoples Gas estimates $31.6 million in SI work in 2024. Exhibit 1. This estimate was developed based upon $19.5 million needed to complete SI projects begun in 2023 and a conservative forecast of additional SI projects that will be needed in 2024. Peoples Gas requests that that the Commission clarify its Order to allow this work to continue and restore $2 million to the Company’s revenue requirement to cover the cost of this work.

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6 This figure is based upon past actual spend levels for emergency work over the past several years and is likely conservative, as it is nearly certain that leaks on the riskiest pipe in the system that would have been addressed under the neighborhood approach but for the Commission’s ordered “pause” will develop into emergency work in 2024.

7 SI projects planned for 2024 are listed and detailed in Exhibit 2.
C.    City of Chicago/third party request (public improvement) work.

Public improvement work is directed by the City of Chicago and other third parties and is planned and completed separately from neighborhood work, and therefore appears to fall outside the Commission’s criticism – and disallowance – of “SMP work being conducted neighborhood by neighborhood.” Order at 29. Nevertheless, the Order disallows the full forecast budget for this work in 2024, which totals $18.5 million. This discrepancy requires clarification.

Public improvement projects involve situations where the City or other underground users are working under the streets.8 In some cases, this work requires Peoples Gas to relocate its facilities,9 but even where relocation is not strictly required, the Company tries to take advantage of these situations to efficiently replace leak-prone pipe in the same area. So, for example, if the City has to open streets in an area to complete sewer work, Peoples Gas will coordinate with City crews to simultaneously replace leak-prone pipe in the area. This saves costs for customers, prevents multiple disruptions to City streets, and eliminates duplicative restoration costs.

Peoples Gas estimates $18.5 million in PI work in 2024. Exhibit 1. This estimate was developed based upon $5.2 million needed to complete PI projects begun in 2023 and a conservative estimate of 2024 PI work based upon the cost required to comply with such requests in the past several years. Peoples Gas requests that that the Commission clarify its Order to allow this work to continue and restore $1.2 million to the Company’s revenue requirement to cover the cost of this work.

8 PI projects planned for 2024 are listed and detailed in Exhibit 2.
9 Illinois’ home rule doctrine establishes that the City can require Peoples Gas to relocate its facilities. Peoples Gas Light & Coke Co. v. City of Chicago, 109 N.E.2d 777, 785-786 (Ill., 1952). Therefore, Peoples Gas does not have any viable choice but to relocate its facilities when requested to do so by the City.
D. Uncompleted 2023 “Carry-over” work.

Finally, the Company requests that the Commission clarify its Order to allow it to finish projects that are already in process, and that would be left in their current incomplete state as of January 1, 2024 if all SMP work is “paused” and supporting spending is disallowed. These projects fall within the neighborhood and high pressure categories of work. While the Order specifically references and disallows “neighborhood by neighborhood” work, Peoples Gas is concerned that a literal reading of this provision would result in unintended consequences. As of the date of this filing, Peoples Gas has 50 projects underway in 13 neighborhoods. Further, one high pressure project is underway in the Central Business District. The neighborhood projects are shown on the map contained in Exhibit 3 and both the neighborhood projects and the high pressure project are explained individually in greater detail in Exhibits 4 and 5. All of these projects will be finished in 2024, and therefore will be used and useful in the provision of utility service.

Stopping carry-over neighborhood and high pressure work abruptly on January 1 would result in streets, sidewalks, and yards remaining torn up for at least a year, resulting in obvious safety hazards and a City-wide eyesore. In addition, road and sidewalk closures and restrictions would cause traffic and pedestrian issues and it would be nearly impossible to effectively monitor such sites to prevent accidents and material thefts. Individual customers’ property would be left in disarray due to unrestored property and unfinished meter installations. Finally, in some locations, as of the end of 2023, main will have already been laid and services run to residences and businesses. In these situations where all that is left to complete is installation of a meter or physically switching over to the new gas lines, an abrupt stoppage of work will result in customers being denied the safety and reliability benefits of the new equipment. Further, not
allowing the completion of this in-progress work will delay retirement of vintage pipe, leaving multiple pipes/systems in place increasing risks of hits to the pipe through third parties who do work and dig near the Company’s facilities.

Peoples Gas is concerned that without any clarification there will be many locations throughout the City where SMP projects initiated in 2023 are not allowed to be completed, the streets will be left open and sidewalks torn up. The following photo of work underway in the Garfield Ridge neighborhood demonstrates this point.\textsuperscript{10}

\textsuperscript{10} Additional photos of carry-over work are provided in Exhibit 6.
Peoples Gas asks the Commission to clarify its Order to allow the Company to finish carry-over neighborhood and high pressure projects. The Company estimates that the cost to do so will be $55.4 million, and requests that $4.1 million be restored to the revenue requirement to cover the cost of this work.

III. Conclusion

For the reasons stated above, Peoples Gas requests that the Commission clarify its Order to allow certain aspects of the SMP to continue in 2024 in the interest of public safety and system reliability. Peoples Gas also requests that the Commission clarify its Order to restore $134.4 million to the Company’s rate base and $9.1 million to its revenue requirement to cover the cost of this work. Proposed clarifying language for the Commission’s Order is provided in Appendix A to this motion. Finally, the Company requests an expedited briefing schedule in this case to allow the issue to be taken up at the Commission’s final 2023 open meeting on December 14. Specifically, Peoples Gas proposes that responses to this motion be filed within three business days and replies be filed two business days after that.

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11 Peoples Gas seeks permission to continue with all planned PI and SI work in 2024, as explained above. However, if the Commission’s Order is intended to halt such work, then Peoples Gas seeks clarification that it will at least be allowed to finish the $5.2 million of PI and $19.5 million of SI projects that will carry-over as of January 1, 2024, and requests that $1.6 million be included in revenue requirement to permit that work.

12 This amount consists of $46.7 million of carry-over neighborhood projects and $8.7 million of carry-over high pressure projects.
Dated: December 1, 2023

Respectfully submitted,

**NORTH SHORE GAS COMPANY AND**
**THE PEOPLES GAS LIGHT AND COKE COMPANY**

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VERIFICATION BY CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, 735 ILCS 5/1-109, the undersigned certifies that the statements set forth in the foregoing Emergency Motion for Clarification of Commission Order are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

[Signature]

Theodore Eidukas