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People's Counsel

November 16, 2023

Brinda Westbrook-Sedgwick
Commission Secretary
Public Service Commission
of the District of Columbia
1325 G Street, N.W., Suite 800
Washington, D.C. 20005

Re: Formal Case No. 1154, *In the Matter of Washington Gas Light Company's Application for Approval of PROJECTpipes 2 Plan.*

Dear Ms. Westbrook-Sedgwick:

Enclosed for filing in the above-referenced proceeding, please find the *Office of the People's Counsel for the District of Columbia's Motion in Opposition to Washington Gas's Motion for Extension of Pipes 2 Plan* in the above-captioned case.

If there are any questions regarding this matter, please contact me at 202.727.3071.

Sincerely,

/s/ Ankush Nayar

Ankush Nayar
Assistant People's Counsel

Enclosure

cc: Parties of record

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**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA**

In the Matter of)	
)	
Application of Washington Gas Light Company’s for Approval of PROJECTpipes 2 Plan)	Formal Case No. 1154
)	
)	

**OFFICE OF THE PEOPLE’S COUNSEL FOR THE
DISTRICT OF COLUMBIA’S OPPOSITION TO WGL’S MOTION FOR
ENLARGEMENT OF TIME**

I. INTRODUCTION

Pursuant to Rule 105. 8 of the Public Service Commission of the District of Columbia’s (“PSC” or “Commission”) Rules of Practice and Procedure,¹ the Office of the People’s Counsel for the District of Columbia (“Office” or “OPC”), the statutory representative of the District of Columbia’s utility ratepayers and consumers,² hereby respectfully submits the *Office of the People’s Counsel for the District of Columbia’s Motion in Opposition to Washington Gas’s Motion for Extension of Pipes 2 Plan* (“Motion”).³ Specifically, OPC moves that the Commission deny extending the PROJECTpipes 2 Plan (“PIPES 2” or “Pipes 2 Plan”), as requested by the Washington Gas Light Company (“WGL”).⁴

II. SUMMARY OF OPC’S COMMENTS

As OPC stated in earlier filings, submitted in Formal Case No. 1175, where it advocated pausing PROJECTpipes, there appears to be no reduction in leaks, and WGL appears to be unable

¹ 15 DCMR §§105.8 and 117.5 (Lexis 2023).

² D.C. Code § 38-804 (Lexis 2023)

³ This Motion is supported by the District of Columbia Government and the Apartment and Office Building Association of Metropolitan Washington.

⁴ *Formal Case No. 1154, In the Matter of Washington Gas Light Company’s Application for Approval of PROJECTpipes Plan 2 (“Formal Case No. 1154”)*, Washington Gas’s Motion for Extension of Pipes 2 Plan, filed November 6, 2023 (“WGL Motion”).

to keep up with repairs of existing leaks during PIPES 2. Because Grade 1 leaks, which are the most serious, have increased during PIPES 2, and the Company has been unable to address these leaks in a timely manner, it would not be prudent to extend PIPES 2, let alone extend it for another year.

Therefore, OPC submits, the Commission should reject WGL’s Motion at this time for the following reasons: (1) WGL has not been able to reduce new Grade 1 Leaks or address existing leaks in a timely manner under PROJECT*pipes*; (2) extending PIPES 2 is not necessary for WGL to schedule contractors, pursue replacement activity, or maintain the operation of its distribution system; (3) Program 10 (Work Compelled by Others), in particular, should be denied, as WGL provides no evidence that DC PLUG activity would impact leaks along WGL’s distribution system; and (4) if WGL’s motion is not rejected outright, a final decision should not be made until after the release of the Audit Report by Continuum Capital on PIPES 2. Based on these reasons, the Commission should direct WGL to concentrate its efforts on reducing Grade 1 leaks without the accelerated recovery provided by PROJECT*pipes*.

III. BACKGROUND

On November 6, 2023, the Washington Gas Light Company (“WGL”) filed a motion requesting an extension of the Pipes 2 Plan.⁵ The Company proposes a one-year extension, which would extend PIPES 2 to December 31, 2024, with a spending cap of \$57.3 million, including a spending cap of \$17.5 million specifically for Program 10.⁶ This motion was filed after the Company filed its Application for a proposed third phase of PROJECT*pipes*, the “PROJECT*pipes* 3 Plan” (“Pipes 3 Plan”), earlier this year on January 20, 2023, resulting in the initiation of Formal

⁵ *Id.*

⁶ *Id.* ¶¶ 3, 6-7.

Case No. 1175.⁷ The Company argues that because there is no procedural schedule issued yet in Formal Case No. 1175 and additional time is needed to issue a final decision on its Pipes 3 Plan, PIPES 2 should be continued for the duration of 2024.⁸ The Company posits that this is necessary for the Company to continue its pipe replacement activities, schedule contractors, and coordinate pipe replacement activities with DC PLUG construction, pursuant to Program 10.⁹

Pursuant to Commission Order No. 20671 PIPES 2 was approved as a three-year plan spanning from 2021 through the end of 2023, with a total spending cap of \$150 million.¹⁰ The Commission approved proposed Distribution Programs 1, 2, 3, 4, 5 and 10 as part of PIPES 2, with these programs eligible for cost recovery under the PROJECT*pipes* surcharge.¹¹ Program 9, the Advanced Leak Detection (“ALD”) Pilot was also approved but was not eligible for recovery under the surcharge.¹²

PROJECT*pipes* is dedicated to replacing the highest risk pipes along WGL’s infrastructure. Each program under PIPES 2 is generally categorized and focused on replacing piping based on the material used in its construction: Program 1 – Bare Steel Main and Services (including Contingent Main and Affected Services); Program 2 – Unprotected Wrapped Steel Main and Services (including Contingent Main and Affected Services); Program 3 – Vintage Mechanically Coupled Main and Services (including Contingent Main and Affected Services); Program 4 – Cast-iron Main (including Contingent Main and Affected Services); and Program 5 – Copper Services.¹³

⁷ *Formal Case No. 1175, Washington Gas Light Company’s Application for Approval of PROJECTpipes 3 Plan (“Formal Case No. 1175), Public Notice, ¶ 5, January 20, 2023.*

⁸ WGL Motion ¶ 6.

⁹ *Id.* ¶¶ 7-8

¹⁰ *Formal Case No. 1154, In the Matter of Washington Gas Light Company’s Application for Approval of PROJECTpipes Plan 2 (“Formal Case No. 1154”), Order No. 20671, ¶ 1, rel. December 11, 2020.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at ¶ 8.

For Programs 1-5, pipes are prioritized based on their risk using probabilistic computer modeling software, with PIPES 2 employing a modeling software known as Optimain.¹⁴ Recently, the Company has transitioned to a new software program known as JANA.¹⁵

Program 10 – Work Compelled by Others, is distinct as it permits the company to prioritize replacing certain pipes made of materials found under Programs 1-5 “due to other third-party utility work.”¹⁶ Thus, replacement under Program 10 is not driven by computer predictive modeling but rather the activities of third-parties. Program 9 – the ALD Pilot Program, is designed to identify leaks using vehicle-mounted sensors and thus is also distinct from the predictive based model.¹⁷

The Commission determined that there would be a spending cap for each year of PIPES 2, including \$42.70 million for 2021, \$50 million for 2022, and \$57.3 million for 2023.¹⁸ For Program 10, there were specific spending caps of \$12.5 million in 2021, \$12.5 million for 2022, and \$17.5 million for 2023.¹⁹ The Company had discretion to spend the remaining balance how it wished on Programs 1-5.²⁰ Program 9 had an approved budget of \$1.4 million over the course of the pilot.²¹

As a condition of approval, Order 20671 required that an audit of the administration of the first two years of PIPES 2 would need to be completed as well. A vendor for the audit, Continuum Capital, was approved on May 17, 2023.²² The audit is required to be completed and delivered to

¹⁴ Application at p. 13

¹⁵ *Id.* at p. 14.

¹⁶ *Formal Case No. 1154*, Order No. 20671 ¶ 68.

¹⁷ *Formal Case No. 1154*, Order No. 21580 ¶ 51, rel. March 10, 2023.

¹⁸ *Id.* ¶ 89.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* ¶ 67.

²² *Formal Case No. 1154*, Order 21620 ¶ 5, rel. May 17, 2023

the Commission within six months of selection, placing the date for completion in November 2023.²³

On December 22, 2022, WGL filed its Pipes 3 Plan with the Commission.²⁴ On January 20, 2023, the Commission issued a Public Notice inviting interested parties to provide comments on February 21, 2023, with reply comments due on March 8, 2023.²⁵ OPC filed a “Motion for Enlargement of Time” on February 2, 2023, in order to have additional time to procure a consultant, which the Commission granted.²⁶ On April 27, 2023, OPC filed a second motion, requesting an enlargement of time, noting, among other things, that it was working with other intervenors to develop a joint procedural schedule.²⁷ The Commission granted the request for additional time, extending the deadline to file comments until June 16, 2023.²⁸ OPC filed its Comments on June 16, 2023.²⁹ The Office recommended pausing PROJECTpipes and rejecting the Pipes 3 Plan.³⁰ OPC advocated that if the Commission declined to reject the Pipes 3 Plan, discovery should occur after the Audit Report of PIPES 2 and the bi-monthly reports of the Advanced Leak Detection Pilot became available.

The Company filed Reply Comments on July 17, 2023.³¹ Since that time there have been no further directives from the Commission; however, WGL submitted a proposed project list under

²³ *Id.* ¶ 3.

²⁴ *Formal Case No. 1175*, Washington Gas Light Company’s Application for Approval of PROJECTpipes 3 Plan, filed December 22, 2022 (“Application”).

²⁵ *Formal Case No. 1175*, Washington Gas Light Company’s Application for Approval of PROJECTpipes 3 Plan (“*Formal Case No. 1175*”), Public Notice, ¶ 5, January 20, 2023.

²⁶ *Formal Case No. 1175*, OPC Motion for Enlargement of Time, filed February 1, 2023; *Formal Case No. 1175*, Order No. 21573, ¶ 1, rel. February 17, 2023.

²⁷ *Formal Case No. 1175*, OPC’s Second Motion for Enlargement of Time, p. 5, filed April 27, 2023.

²⁸ *Formal Case No. 1175*, Order No. 21613, ¶ 1 rel. May 10, 2023.

²⁹ *Formal Case No. 1175*, The Office of the People’s Counsel for the District Of Columbia’s Comments on Washington Gas Light’s PROJECTpipes 3 Plan, filed June 16, 2023 (“Comments”).

³⁰ *Id.* at 2-3.

³¹ *Formal Case No. 1175*, Washington Gas’s Reply Comments, filed July 17, 2023 (“WGL Reply Comments”).

the Pipes 3 Plan on October 31, 2023.³² On November 6, 2023, WGL filed its motion to extend PIPES 2.

III. DISCUSSION

A. **The Request for an extension should be denied because PROJECT*pipes* has not succeeded in reducing leaks, and WGL is unable to successfully address existing leaks.**

Project Pipes thus far has not mitigated the issue of leaks along WGL's distribution system, and the problem appears to be getting worse. WGL is not able to keep up with repairs of *existing* Grade 1 leaks and at the same time the number of *newly* reported Grade 1 leaks continue to rise.

WGL's inability to repair existing leaks is troubling, which OPC highlighted in its Comments, filed earlier in the year, citing data from PHMSA and LIDORAC. For example, the number of leaks reported in 2022 was 1,018 with WGL managing to repair only 969 of those leaks in that year.³³ Additionally, over the last three years, the number of Grade 1 leaks that continue to be postponed until the following year keeps growing. In 2020 the number of Grade 1 leak repairs rolled over into the following year was 49; this rose to 77 in 2021 and then reached 125 in 2022.³⁴ From 2020 through 2022, this represents a 255% increase in a *failure* to repair the most hazardous leaks in a timely fashion.

This was a concern OPC raised earlier during the proceedings in PIPES 2. OPC noted that increasing funding in PIPES 2, particularly as it related to programs such as "Work Compelled by Others" would divert resources necessary for the Company to keep up with its ordinary operating

³² *Formal Case No. 1175*, Washington Gas's Final Annual Project List, filed October 31, 2023.

³³ Comments at pp. 14-15.

³⁴ *Id.*

and maintenance obligations.³⁵ That appears to have come to fruition, creating a safety hazard and contributing to GHG emissions.

In its Reply Comments in Formal Case No. 1175, WGL had no response to OPC's concern regarding the failure to make timely repairs and the increasing postponement of repairs to Grade 1 Leaks. The Company only addressed data presented by OPC showing the growing number of new Grade 1 Leaks. Remarkably, WGL argued that the growing number of new Grade 1 leaks was simply evidence of the continued need for PROJECT*pipes*, suggesting that the problem would be even worse if PROJECT*pipes* were not in effect.³⁶

This response is problematic for at least two reasons. *First*, the burden of proof remains on the Company to indicate that it is entitled to surcharge recovery and that the program is working. The Company provides little to no verifiable evidence indicating that PROJECT*pipes* is enhancing safety and mitigating leaks effectively. It simply makes bald face assertions that matters would be worse without PROJECT*pipes* and that stakeholders should simply trust the Company when it says as much. *Second*, such reasoning is contradicted by the Company itself through prior assertions where it pointed to certain years with more favorable data, which suggested leaks were decreasing, to argue that PROJECT*pipes* is working.³⁷ Not only has the Company failed to show that PROJECT*pipes* is effective, but it now suggests that the number of leaks reported cannot confirm that it is working or failing.

Such arguments cannot be accepted by the Commission. To do so would divorce PROJECT*pipes* from the most logical metric for measuring its success – *reducing* leaks. Yet, as of 2022, there were 1,018 new Grade 1 Leaks reported versus just 905 in 2016. After six years of

³⁵ Formal Case No. 1154, Order 20671 ¶ 69.

³⁶ WGL Reply Comments at p. 13.

³⁷ *See id.* at p. 13-14

data, it does not appear that PROJECT*pipes* is effective. Therefore, it is not prudent to grant an unprecedented one-year extension of the PIPES 2 Plan at this moment. As OPC noted in its Comments, more time is needed to evaluate PROJECT*pipes*, and whether it is truly enhancing safety before continuing surcharge recovery.³⁸

Until the Commission's evaluation of PROJECT*pipes* is completed, the Commission should direct WGL to concentrate its efforts on reducing Grade1 leaks. Doing so is in the public interest because 1) it enhances safety and 2) it advances the city's climate-related priority of reducing GHG emissions.

B. WGL does not require an extension of the Pipes 2 Plan to schedule contractors.

WGL does not require a one-year extension to ensure continuation of replacement work. WGL argues that it requires one-year extension of PIPES 2 in order to have “adequate qualified contractor crews” for the upcoming year.³⁹ As indicated above, it is questionable whether the replacement work is being administered effectively to even warrant such an extension. In addition, WGL offers no evidence that scheduling or retaining contractors is dependent on surcharge recovery, which is merely one way to recover costs for a utility. Certainly, WGL does not argue that it has insufficient funds to hire contractors. The Company simply fails to draw the nexus between continuing PIPES 2, and its ability to schedule contractors. At this juncture, WGL's self-serving but unsupported assertion remains an unconvincing reason to approve a year-long extension. The ability to retain contractors to maintain the distribution system should not be dependent on a surcharge, and a surcharge does not equate to safety.

³⁸ Comments at 16.

³⁹ WGL Motion ¶ 7.

C. There should be no further extension to Program 10.

WGL argues that in addition to scheduling contractors, an extension of the Pipes 2 Plan is necessary so that the Company can support replacement work “resulting from the Potomac Electric Power Company’s (Pepco) DC PLUG initiative.”⁴⁰ However, there is no evidence that any DC PLUG work is being performed in proximity to WGL’s infrastructure. There are no parameters or guidelines indicating DC PLUG work is being performed near any WGL infrastructure such that it would create a risk to WGL’s infrastructure. Additionally, the issue of whether WGL should be granted authority to halt DC PLUG construction activity to preempt PEPCO with its own excavation and pipe replacement work is being discussed in other proceedings. This is not in dispute, as WGL acknowledges in its motion that it is seeking Commission support in these matters, which remain outstanding.

While WGL argues that the pipes that would be replaced would likely be cast iron anyway, this argument is insufficient to grant additional funds. The purpose of PROJECT*pipes* is to replace the *riskiest* pipes. Presumed, yet unspecified, proximity to DC PLUG activities is insufficient reason to prioritize pipes for replacement on the off chance they may be made of cast iron. In any event, WGL offers no project list and therefore no indication as to the pipes that would be replaced under Program 10.

Instead, WGL seeks funding in an attempt to replace infrastructure of an unspecified material and distance from DC PLUG construction. It is inappropriate at this time to award surcharge recovery and the continuation of a program that does not have clear parameters – particularly, when issues such as permitting and coordination have not been clearly decided in other proceedings. Accordingly, WGL’s request for continuation of Program 10 must be rejected.

⁴⁰ *Id.* ¶ 8.

D. The Commission should not approve any extension until the Audit Report is issued.

While OPC opposes granting WGL's request to extend the Pipes 2 Plan, it is preferable that if the Commission is inclined to extend the Plan, it at least review the Audit Report prior to doing so. Pursuant to Commission Order 21620, the Audit Report is due to be filed later this month. The Report will contain the findings of the audit performed by Continuum Capital. This will inform the Commission and stakeholders as to how WGL has administered the Pipes 2 Plan. Allowing stakeholders an opportunity to review the Audit Report and provide comments will be beneficial in helping further inform the Commission prior to any decision. Rather than commit to the Pipes 2 Plan for another year, the Commission and the parties should have an opportunity to review the Audit Report.

The Audit Report may provide additional reasons to deny extending the Pipes 2 Plan, or, alternatively, provide cause to provide a shorter extension. With the Audit Report due within a few days, waiting until its availability is a better alternative than simply granting WGL's request.

IV. CONCLUSION

WHEREFORE, for the reasons stated herein, the Office respectfully requests the Commission grant the *Office of the People's Counsel for the District of Columbia's Motion in Opposition to Washington Gas's Motion for Extension of Pipes 2 Plan* and deny WGL's request to extend PIPES 2.

Respectfully Submitted,

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Dated: November 16, 2023

CERTIFICATE OF SERVICE

Formal Case No. 1154, In the Application of Washington Gas Light Company for Approval of PROJECTpipes 2 Plan

I certify that on November 16, 2023, a copy of the *Office of the People's Counsel for the District of Columbia's Motion in Opposition to Washington Gas's Motion for Extension of Pipes 2 Plan* was served on the following parties of record by hand delivery, first class mail, postage prepaid or electronic mail:

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