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July 12, 2024

VIA ELECTRONIC FILING

Brinda Westbrook-Sedgwick
Commission Secretary
Public Service Commission
of the District of Columbia
1325 "G" Street, NW, 8th Floor
Washington, D.C. 20005

Re: Formal Case No. 1175
[Washington Gas's Application for Reconsideration of Order No. 22003]

Dear Ms. Westbrook-Sedgwick:

Transmitted for filing is Washington Gas Light Company's Application for Reconsideration of Order No. 22003.

Sincerely,

Cathy Thurston-Seignious
Supervisor, Administrative and
Associate General Counsel

cc: Per Certificate of Service

BEFORE THE
PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA

IN THE MATTER OF APPLICATION OF WASHINGTON GAS LIGHT COMPANY FOR APPROVAL OF PROJECTPIPES 3 PLAN	)	Formal Case No. 1175

WASHINGTON GAS LIGHT COMPANY'S
APPLICATION FOR RECONSIDERATION OF ORDER NO. 22003

Pursuant to 15 DCMR § 140.1, Washington Gas Light Company ("Washington Gas" or "Company") hereby submits its Application for Reconsideration of Order No. 22003, issued on June 12, 2024, in the above-captioned proceeding ("Application"). As discussed herein, the Public Service Commission of the District of Columbia ("Commission") should reconsider certain limited portions of its decision that define electrification in lieu of safety-driven accelerated pipeline replacement activities as the "new normal" and would require the Company to perform acts that are either infeasible or incongruous with public safety.

Pursuant to 15 DCMR §140.7 and D.C. Code §34-604(b), Washington Gas hereby consents that Order No. 22003 should not be stayed. The Company is making every effort to fully comply with the parameters identified in Order No. 22003 in the revised plan and anticipates that it will file the revised plan in the new docket created by the Commission, Formal Case No. 1179, within 45 days of the Commission's Order No. 22003.

I. STANDARD OF REVIEW

The Commission's regulations require that applications for reconsideration or modification of a Commission decision or order specifically provide the grounds on which the order or decision is considered to be unlawful or erroneous.[1] Under the statute, any party affected by a final decision or order of the Commission may file a petition of appeal with the D.C. Court of Appeals.[2] In reviewing decisions or orders rendered by the Commission on appeal, the D.C. Court of Appeals' scope of review is limited to questions of law, including constitutional questions, and findings of fact that appear to be unreasonable, arbitrary or capricious.[3] The Court has held, "We readily may conclude that findings of fact are 'unreasonable, arbitrary, or capricious' within the meaning of § 34-606 if they are not based on evidence that a reasonable mind would accept as adequate" and that "when the Commission makes factual findings based on the record before it, review in this court extends to whether those findings are supported by substantial evidence."[4]

II. ARGUMENT

By this Application, Washington Gas seeks reconsideration of a narrow issue in Order No. 22003, that the "new normal", as defined by the Commission as "electrification and targeted replacement as opposed to the complete replacement of over 400 miles of aging, high risk pipelines" is unreasonable, arbitrary or capricious and should be reversed or modified. By statute, Washington Gas is

[1] 15 DCMR § 140.2.
[2] D.C. Code § 34-605(a).
[3] D.C. Code § 34-606.
[4] *Office of the People's Counsel v. Public Service Commission of the District of Columbia,* 797 A.2d 719, 726 (D.C. 2002).

obligated to provide safe and adequate natural gas service to its customers in the District of Columbia.[5] This statutory obligation is the premise of the Company's efforts to accelerate the replacement of higher risk pipe in its system. Order No. 22003 would create obligations that hinder the Company's ability to implement a program that focuses on safety first and foremost throughout the entire gas system. It is unreasonable for the Commission to prioritize electrification over safety as it evaluates PROJECT*pipes*. Other proceedings, such as Formal Case No. 1167, are the forum to address broad-ranging matters related to energy transition issues. The instant proceeding must remain steadfastly focused on the safety of the gas distribution system. Any requirements in Order No. 22003 that attempt to define a "new normal" in the District as electrification, and to prioritize electrification over safety should be reversed. While the Commission has a statutory duty to consider environmental impacts and the future of energy in the District, it should not do so at the expense of traditional safety principles it has consistently endorsed, particularly where there are other dockets already open focused on the same non-safety issues.[6]

The Commission's Order is premised on an assumption that is both factually unsupported and legally impermissible—that the District of Columbia is fully implementing an electrification-only approach to decarbonization, and as such,

[5] D.C. Code § 34-1101(a).

[6] For example, the Commission stated that "[w]hile the Commission agrees that pipe repairs continue to be necessary for controlling the active leaks occurring in the District, the Commission cannot allow the system to deteriorate unabated, even as the District undergoes its energy transition thus, a strategically focused pipe replacement program needs to be considered to avoid cascading leaks in the future by replacing aging, leak-prone high-risk mains and services, thereby enhancing the safety, reliability, and GHG emissions for the District residents until the plans for full electrification are solidified." Formal Case No. 22003 at 17.

there will be no need for gas pipeline infrastructure. This conclusion, however, is not supported in this record by fact or law. Setting aside that there are potential scenarios where gas infrastructure plays an important role in economy-wide decarbonization efforts, as explored in Formal Case No. 1167, this assumption ignores Washington Gas's Federal Charter, which gives the utility the right to sell gas and to lay pipeline infrastructure throughout the District of Columbia. As a gas utility, Washington Gas has a duty to safely operate that infrastructure consistent with federal regulations. While Washington Gas exercises its right to continue to provide energy service, the Commission has a coincident legal duty to ensure that the utility can continue to provide safe and adequate gas service to District residents and obtain timely cost recovery for these critical public safety activities. As discussed herein, some of the requirements for the restructured replacement plan are based on these faulty assumptions that may hinder the Company's efforts to meet its statutory obligation to provide safe and reliable service; therefore, these requirements should be reversed.

A. The Commission's requirement that electrification is the "new normal" and that consequently the Company must account for electrification plans in the District is inappropriate and infeasible.[7]

By Order No. 22003, the Commission directed Washington Gas to file a strategically targeted pipe replacement plan that includes the following discussion:

> Explain how the restructured targeted replacement program would account for any electrification programs within the District. This explanation should include specific plans for coordination with interested stakeholders and the D.C. Government to ensure that

[7] The Commission also stated that "WGL's updated Application must also consider future electrification programs in the District." Formal Case Nos. 1154, 1175 and 1179, Attachment to Order No. 22003 at 1.

replaced pipes are not expected to be decommissioned within 10 years of installation.[8]

In the Order, the Commission acknowledged that it "cannot and is without authority to prevent WGL from selling natural gas."[9] Yet, the Commission directed the Company to explain how its restructured plan "would account for" the District's electrification programs "to ensure that replaced pipes are not expected to be decommissioned within 10 years of installation."[10] This requirement is largely based on the assumption that "plans for full electrification [will be] solidified." The Commission goes on to define the "new normal" as "electrification and targeted replacement as opposed to the complete replacement of over 400 miles of aging, high risk pipelines."[11] Based on these assumptions, the Commission instructed Washington Gas to revise its application to "minimiz[e] the stranded assets"[12] instead of prioritizing safety.

The District does not have an electrification plan that would allow the Company to explain how its restructured safety plan would account for any electrification programs within the District. Given that there is no specific plan at this time, the Company has no basis for concluding that any of its facilities will be decommissioned within 10 years of installation. The Commission itself has highlighted a Rocky Mountain Institute white paper, titled "*Non-Pipeline Alternatives ("NPA"): Emerging Opportunities in Planning for U.S. Gas System*

[8] Formal Case Nos. 1154, 1175 and 1179 at 20.
[9] Formal Case Nos. 1154, 1175 and 1179, Order No. 22003 at 16.
[10] *Id.* at 20.
[11] *Id.* at 18.
[12] *Id.*

Decarbonization, finding that "no avoided replacement NPA project involving more than five customers has been successful in the United States."[13] Therefore this requirement is premature and infeasible to implement.

Further, the assumption that full electrification will be implemented in the District circumvents dockets, like Formal Case No. 1167, convened for the purpose of considering the future of natural gas in the District of Columbia.[14] These proceedings are vital to maintaining equitable access to energy service. The Commission itself highlighted the Massachusetts Department of Utilities' conclusion that "geographically targeted electrification should be cautioned because electrification raises concerns over customer choice, cost, obligation to serve, and customer service protections."[15] An electrification-only decarbonization strategy may very well be contrary to the reality of the District's energy needs. Washington Gas is happy to engage with the Commission and other stakeholders regarding the future of energy in dockets that directly center on this question. The Commission should not make that determination here.

The assumption on full electrification is also at odds with the Commission's recognition that Section 7 of Washington Gas's Federal Charter gives it "full power and authority to manufacture, make, and sell gas…and <u>to lay pipes for the purpose of conducting gas in any of the streets, avenues, and alleys of the said city</u> . . . ."[16] The Commission has correctly observed: "While the Commission has an

[13] *Id.* at 16–17.

[14] Formal Case No. 1167, Order No. 20662 (November 18, 2020) and Order No. 20754 (June 4, 2021).

[15] *Id.* at 16.

[16] An Act to Incorporate the Washington Gas Light Company ("Federal Charter"), § 7, 9 Stat. 722-724 (1848) (emphasis added).

obligation, within its statutory authority, to help advance the District's climate policies, we remind all concerned that the Commission cannot and is without authority to prevent WGL from selling natural gas."[17] The Commission's affirmative legal duty is to ensure that Washington Gas continues to furnish safe and adequate gas service.[18] Congress, in the District Charter established under the D.C. Home Rule Act, detailed the scope and purpose of the Commission as ensuring that utilities "furnish service and facilities reasonably safe and adequate."[19] The Commission should clarify that it is not requiring the Company to delay or forgo priority safety work because there may be future electrification efforts, as doing so is contrary to law and the Commission's prior conclusions.

To the extent that the Commission is drawing assumptions based on the D.C. Council's policy interests, the D.C. Council has also enshrined in statute "[i]t is in the public interest to promote the availability to customers of adequate, reliable, and reasonably priced retail natural gas from licensed natural gas suppliers that provide customers with the price, terms, conditions, and quality options they elect to meet their respective natural gas needs."[20] As the sole gas distribution company in the District, any such gas would be provided via Washington Gas's pipeline system which must be safe to operate.

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[17] Order No. 22003, 16; *see also,* Formal Case No. 1167, Order No. 21593, 3; *see also* Formal Case No. 1167, Order No. 21631, 5 (reaffirming by unanimous vote that Federal Charter prohibits the Commission from "limit[ing] WGL's right to sell natural gas").

[18] The Commission has also previously recognized this duty. In Formal Case No. 1167, the Commission acknowledged, "our enabling statute can be read to require WGL to provide gas service to its customers at a reasonable rate rather than as authority to ban their service altogether." Order No. 21593, 3. Additionally, in the present order at issue, the Commission acknowledges that it "must ensure the continued safety and reliability of the gas distribution system in the District . . . ." Order No. 22003 at 5.

[19] D.C. Code § 1-204.93 (emphasis added).

[20] D.C. Code § 34-1671.01(1) (emphasis added).

Even if the faulty assumption regarding electrification is put aside, the Commission's concerns about stranded assets are misplaced. The Commission speculates "plans for full electrification [will be] solidified," but the need for pipeline replacements to enhance safety exists now. Unsupported speculation on the possibility of future plans should not be the basis for an administrative agency decision addressing current system safety. Further, the Commission has many ratemaking approaches to address stranded assets available, such as allowing for accelerated depreciation on new infrastructure. Forgoing or slowing important safety upgrades should not be used as a method for addressing the possibility that at some currently unknown point in the future, natural gas service may not be required at a specific location or within the District. As the RMI study (cited by this Commission) makes clear, electrification is likely to take decades and the safety of the natural gas distribution system during that time cannot be compromised.

The Company also seeks reconsideration of this decision because it requires consideration of factors that, to date, are non-existent. To the Company's knowledge, the District of Columbia Government does not have any electrification programs in place with defined parameters that target specific components/areas of the gas distribution system to be evaluated for alignment with electrification efforts currently or within 10 years of installation. As long as the Company is statutorily obligated to serve customers, remaining customers on the system and the broader public itself require that the Company maintains a safe and reliable system by prioritizing replacements by risk.

In addition, the Commission required the Company to include the following

discussion in its restructured replacement plan:

> Identify the number of miles of mains and number of services that can be decommissioned each year of the program either due to abandonment of redundant facilities or customers pursuing electrification opportunities on radial portions of the system.[21]

Washington Gas currently has no information that indicates that its customers are pursuing electrification opportunities in a way that would allow for abandonments. Furthermore, while the Commission notes that it has "seen a lack of coordination between WGL and electrification programs in the District," and "that there is a need for more coordination amongst District entities and stakeholders to examine how to best address moving towards the decommissioning of main pipelines,"[22] these comments are contrary to the Commission's own understanding that Washington Gas has a right to serve customers in the District and that it is therefore not obligated to plan to decommission its pipelines, as doing so runs afoul of the utility's Federal Charter. The Commission should not use the possibility of future electrification-related abandonments to impact the prioritization of currently required risk-driven safety work.

For these reasons, the Commission's decision to define a new normal within the District that prioritizes electrification and requires Washington Gas to modify its planned safety work around the possibility of future electrification is erroneous and should be reversed.

[21] Formal Case Nos. 1154, 1175 and 1179, Order No. 22003 at 20.
[22] *Id.* at 24.

III. CONCLUSION

Washington Gas respectfully requests that the Commission reconsider certain portions of its decisions in Order No. 22003, as discussed herein.

Respectfully submitted,

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Supervisor, Administrative and
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CERTIFICATE OF SERVICE

I, the undersigned counsel, hereby certify that on this 12th day of July 2024, I caused copies of the foregoing document to be hand-delivered, mailed, postage-prepaid, or electronically delivered to the following:

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