

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1325 G STREET, N.W., SUITE 800  
WASHINGTON, D.C. 20005**

**ORDER**

**February 19, 2025**

**FORMAL CASE NO. 1154, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S APPLICATION FOR APPROVAL OF PROJECTPIPES 2 PLAN,**

**and**

**FORMAL CASE NO. 1179, IN THE MATTER OF THE INVESTIGATION INTO WASHINGTON GAS LIGHT COMPANY'S STRATEGICALLY TARGETED PIPE REPLACEMENT PLAN, Order No. 22367**

**I. INTRODUCTION**

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) denies in part and grants in part the Joint Response and Motion filed by the Office of the People’s Counsel for the District of Columbia (“OPC”), the District of Columbia Government (“DCG”), the Apartment and Office Building Association of Metropolitan Washington (“AOBA”), and the Sierra Club in response to Washington Gas Light Company’s (“WGL” or “Company”) Motion for Evidentiary Hearing<sup>1</sup> and the Joint Motion to Dismiss the Application Due to Noncompliance with Order No. 22003.<sup>2</sup> The Commission also denies WGL’s Motion for an Evidentiary Hearing and directs the parties to file issues of material fact in dispute by May 30, 2025. The Commission amends the procedural schedule as noted in Attachment A. Finally, WGL’s PIPES 2 program is extended through December 31, 2025, with a surcharge-eligible spend of \$34 million.

**II. BACKGROUND**

2. The Commission initiated this proceeding in Order No. 22003 to investigate WGL’s new Strategically Targeted Pipe Replacement Plan (“PROJECTpipes”), later revised as WGL’s District Strategic Accelerated Facility Enhancement Plan (“SAFE Plan” or “the Plan”).

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<sup>1</sup> *Formal Case No. 1179, In the Matter of the Investigation Into Washington Gas Light Company’s Strategically Targeted Pipes Replacement Plan (“Formal Case No. 1179”),* Washington Gas Light Company’s Motion for a Finding and Determination that Formal Evidentiary Hearings Are Necessary to Address Material Disputed Issues of Fact and to Establish Procedures and Matters to be Addressed at the Prehearing Conference Scheduled for January 13, 2025, filed January 2, 2025 (“WGL’s Motion”).

<sup>2</sup> *Formal Case No. 1179,* the Office of the People’s Counsel of the District of Columbia, the District of Columbia Government, the Apartment and Office Building Association of Metropolitan Washington, and the Sierra Club’s Joint Response to Washington Gas Light’s Motion for Evidentiary Hearing and Joint Motion to Dismiss the Application Due to Noncompliance with Order No. 22003/Motion for Enlargement of Time, filed January 9, 2025 (“Joint Response/Motion”). The Joint Response/Motion does not have page numbers on it. Therefore, the first page of the motion will be designated as page 1, and the remaining pages will be referred to in sequential order.

WGL's SAFE Plan was filed on September 27, 2024, and seeks authorization to undertake targeted replacement of certain vintage pipe materials and to recover the costs associated with the SAFE Plan through the previously approved surcharge mechanism for WGL's accelerated pipe program.<sup>3</sup>

3. By Order No. 22317, the Commission granted OPC and the DCG's Joint Motion to enlarge the time for Parties to file Direct Testimony; modified all the other procedural dates, and extended WGL's PROJECT*pipes* 2 Plan ("PIPES 2") and surcharge from February 28, 2025, through April 30, 2025.<sup>4</sup>

4. On January 2, 2025, WGL filed a motion requesting the Commission convene an in-person evidentiary hearing asserting that there are material issues of fact in dispute.<sup>5</sup> OPC, DCG, AOBA, and the Sierra Club (hereinafter, "Joint Movants") filed a Joint Response/Motion to dismiss WGL's SAFE Application due to noncompliance with Order No. 22003.<sup>6</sup> On January 8, 2025, the Commission issued a Public Notice holding the procedural schedule in abeyance until further Order of the Commission.<sup>7</sup> On January 13, 2025, the Philadelphia-Baltimore-Washington Laborers' District Council ("PBWLDC") filed an Opposition to the Joint Motion to Dismiss the Application,<sup>8</sup> the Sierra Club filed an additional response to WGL's Motion for an Evidentiary Hearing,<sup>9</sup> and WGL filed a Motion for Leave to Reply and Response, and Motion for Further Extension of PIPES 2 ("WGL's 2<sup>nd</sup> Motion").<sup>10</sup>

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<sup>3</sup> *Formal Case No. 1179*, Washington Gas Light Company's Revised Application for Approval of the District Strategic Accelerated Facility Enhancement Plan, filed September 27, 2024. WGL Exhibit A-1 (Rogers Direct) at 5.

<sup>4</sup> *Formal Case No. 1179*, Order No. 22317, rel. October 24, 2024 ("Order No. 22317").

<sup>5</sup> WGL's Motion at 4.

<sup>6</sup> *Formal Case No. 1179*, the Office of the People's Counsel of the District of Columbia, the District of Columbia Government, the Apartment and Office Building Association of Metropolitan Washington, and the Sierra Club's Joint Response to Washington Gas Light's Motion for Evidentiary Hearing and Joint Motion to Dismiss the Application Due to Noncompliance with Order No. 22003/Motion for Enlargement of Time, filed January 9, 2025 ("Joint Response/Motion"). The Joint Response/Motion does not have page numbers on it. Therefore, the first page of the motion will be designated as page 1, and the remaining pages will be referred to in sequential order.

<sup>7</sup> *Formal Case No. 1179*, Public Notice, rel. January 8, 2025 ("Notice").

<sup>8</sup> *Formal Case No. 1179*, Philadelphia-Baltimore-Washington Laborers' District Council ("PBWLDC") Opposition to the Joint Motion to Dismiss the Application Due to Noncompliance with Order No. 22003/Motion for Enlargement of Time, filed January 14, 2025 ("PBWLDC's Opposition").

<sup>9</sup> *Formal Case No. 1179*, Sierra Club's Response to WGL's Motion for an Evidentiary Hearing, filed January 14, 2025 ("Sierra Club's Motion").

<sup>10</sup> *Formal Case No. 1179*, Washington Gas Motion for Leave to Reply to the Joint Response of the Office of the People's Counsel, the District of Columbia Government, the Apartment and Office Building Association of Metropolitan Washington, and the Sierra Club to Washington Gas Light Company's Motion for Evidentiary Hearing, and Washington Gas Light Company's Response to the Joint Motion of the Office of the People's Counsel, the District of Columbia Government, the Apartment and Office Building Association of Metropolitan Washington, and the Sierra Club to Dismiss the Application Due to Noncompliance with Order No. 22003 and Motion for Enlargement of Time, and Motion for Further Extension of the PROJECT*pipes* 2 Program, filed January 14, 2025 ("WGL's 2<sup>nd</sup> Motion").

### III. DISCUSSION

#### A. Order No. 22003<sup>11</sup>

5. On December 22, 2022, WGL filed its PIPES 3 proposal, a five-year program that cost \$671.8 million and contained eleven different program areas. Order No. 22003 dismissed WGL's PIPES 3 proposal and directed the Company to submit a revised plan.<sup>12</sup> The Order outlined a comprehensive framework with informational and substantive requirements and analyses to be included in the revised plan. WGL's revised plan was to align with the District's climate objectives and focus on high-risk pipe replacements. The Commission directed that the new plan incorporate lessons learned during the first 10 years of PROJECT*pipes* and prescribed 18 matters that WGL's revised plan should address.<sup>13</sup>

6. In addition, the Commission noted that the revised plan should provide greater cost efficiency and clearer metrics for evaluating progress. The Commission directed that the new plan prioritize the aging highest-risk pipeline segments more rigorously based on safety risks and environmental impacts. Also, the revised plan was to implement robust monitoring mechanisms to address previous concerns about underperformance. The measures should include establishing specific strategies, defining performance metrics, ensuring regular reporting, and creating feedback loops to continuously improve the program.<sup>14</sup>

#### B. WGL SAFE Plan

7. WGL contends that the Company's SAFE Plan addresses the Commission's directives in Order No. 22003 and continues the Company's efforts to enhance safety, improve reliability, and reduce greenhouse gas emissions through targeted infrastructure replacement.<sup>15</sup> WGL set a budget for the SAFE Plan at \$215 million over three years (CY25 - \$50 million, CY 26 - \$75 million, and CY27 - \$90 million) to replace approximately 12.4 miles of main and 3,608 services (CY25 – 2.2 miles of main, 1,191 services replaced, 39 services transferred; CY26 – 2.5 miles of main, 1,515 services replaced, 116 services transferred; CY27 – 7.7 miles of main, 902 services replaced, 399 services transferred).<sup>16</sup> This plan represents roughly a \$400 million

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<sup>11</sup> *Formal Case No. 1179*, Order No. 22003, rel. June 12, 2024 (“Order No. 22003”). On reconsideration, the Commission denied WGL's request for reconsideration of Order No. 22003. See *Formal Case No. 1179*, Order No. 22317.

<sup>12</sup> Order No. 22003, ¶ 61.

<sup>13</sup> Order No. 22003, ¶ 51 (a)-(r).

<sup>14</sup> Order No. 22003, ¶ 50.

<sup>15</sup> WGL Exhibit A-1 (Rogers Direct) at 4. The Plan provides two timelines for completion/retiring the existing high-risk mains and high-risk services on its DC System. One plan's scenario has completion/retirement by 2045. The second plan provides a 10-year PIPES average replacement rate scenario noting the number of mains and services to be completed by 2045 and indicating that final completion would require an additional 98.75 years ending in 2145.

<sup>16</sup> WGL Exhibit C-1 (Jacas Direct) at 24-25.

decrease from the originally proposed PIPES 3 plan. WGL further states that while this program will target the same vintage materials that comprise PIPES 2, the Company has incorporated the Commission's requirements from Order No. 22003.<sup>17</sup>

8. According to WGL, the SAFE Plan will function as a single program that encompasses all eligible materials based on the JANA risk model and the risk-reduced-per-dollar-spent regardless of the material type. The Plan notes that this will maximize benefits and efficiently remove the most at-risk pipes from the distribution system.<sup>18</sup> In addition, this consolidated approach will allow the Company to prioritize replacements solely based on risk reduction potential rather than being constrained by a specific budget or target, allowing for more efficient removal of at-risk pipes from the system. WGL states that "the Commission should allow greater acceleration to ensure the safety of customers, particularly where the work is consistent with the goal of greater decarbonization."<sup>19</sup> The Plan proposes to essentially use the surcharge existing cost recovery mechanism under the Accelerated Pipe Replacement Program Adjustment mechanism used for PROJECTpipes with one modification.<sup>20</sup>

### **C. WGL's Motion For Evidentiary Hearing**

9. WGL asserts that the Commission is obligated to adhere to the criteria established by the District of Columbia Court of Appeals' requirement to have in-person evidentiary hearings.<sup>21</sup> WGL asserts that many of the issues that need to be resolved are "entirely fact-based and, therefore, require the Commission to make findings of fact that, ... cannot be resolved as issues of 'policy' or 'law' or by making purported 'inferences' from undisputed facts."<sup>22</sup> WGL asserts this case requires the Commission to: (1) act in a quasi-judicial capacity to "identify and affirm the existence and accuracy of one fact over alternative factual scenarios" to arrive at a determination, and (2) provide the Parties with an opportunity for an in-person evidentiary hearing consistent with D.C. Code § 34-908.<sup>23</sup> WGL suggests a non-exclusive list of disputed issues as follows: (1) Do repair methods reduce operational risk if the pipe being repaired is made of a vulnerable material; (2) Do non-pipe alternatives reduce risk on the system; (3) Are there specific, heightened risks associated with vulnerable pipe material if other construction is occurring in proximity to the Company's facilities; and (4) Is the Company's Customer Choice Pilot Program

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<sup>17</sup> WGL Exhibit C-1 (Jacas Direct) at 13.

<sup>18</sup> WGL Exhibit C-1 (Jacas Direct) at 14.

<sup>19</sup> WGL Exhibit A-1 (Rogers Direct) at 42.

<sup>20</sup> In WGL's Direct and Rebuttal testimony, the Company cites to a NARUC Report that indicates that a surcharge recovery was a common program used in many states. WGL Exhibit (2B) (Witness Quarterman Direct) at 25.

<sup>21</sup> WGL's Motion at 8.

<sup>22</sup> WGL's Motion at 8.

<sup>23</sup> WGL's Motion at 9.

properly designed to identify the impacts of electrification.<sup>24</sup> WGL maintains that a hearing is necessary and proposes a schedule for witness testimony and for convening the hearings.

**D. Joint Response/Motion, and Sierra Club, and PBWLDC's Responses**

10. The Joint Movants request that the Commission dismiss WGL's Application for noncompliance with Order No. 22003, or in the alternative, if an evidentiary hearing is held, grant an enlargement of time to conduct discovery on WGL's Rebuttal Testimony.<sup>25</sup> The Joint Movants argue that the Commission does not need to conduct a hearing to dismiss the District SAFE Plan for noncompliance with Order No. 22003, but any evidentiary hearing in this proceeding should be limited to whether the Company's SAFE Plan complies with Order No. 22003.<sup>26</sup> The Joint Movants claim that WGL's application is deficient and uncurable because it fails to address the strategic pipe replacement and decommissioning plans required by Order No. 22003 because the Company states that "the risks associated with the vintage facilities cannot truly be addressed through anything other than full replacement of aged and vulnerable facilities."<sup>27</sup> In addition, the Joint Movants argue that WGL's proposal violates the Order's directives because WGL did not scale down the pipe replacement program by developing a "new normal" that would consist of electrification and targeted replacement for aging at-risk pipes but submitted an overarching program composed of projects selected based on system risk reduction per dollar spent.<sup>28</sup> The Joint Movants assert that WGL's new application was supposed to "demonstrate the critical balance between reductions in future leaks and GHG emissions against the risk of stranded assets" but that the plan does not discuss the stranded assets that will result from WGL's 34-month \$215,000,000 plan.<sup>29</sup> The Joint Movants believe that dismissal is necessary to ensure accountability and prevent WGL from circumventing critical regulatory requirements.<sup>30</sup>

11. Alternatively, the Joint Movant requests that the Commission issue a new procedural schedule that provides sufficient time for discovery of the Company's rebuttal testimony to afford parties an opportunity to meaningfully participate in any evidentiary hearing.<sup>31</sup> The Joint Movant notes that WGL's rebuttal testimony was over 350 pages long, including testimony and exhibits from 8 witnesses, and included two new witnesses. The Joint Movants assert that the rebuttal testimony is 50% larger than its filed application, and the parties need reasonable time to review, analyze, and prepare comprehensive data requests and follow-up

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<sup>24</sup> WGL's Motion at 9-10.

<sup>25</sup> Joint Response/Motion at 3-4.

<sup>26</sup> Joint Response/Motion at 11.

<sup>27</sup> Joint Response/Motion at 6.

<sup>28</sup> Joint Response/Motion at 6, *citing* Order No. 22003 ¶ 49.

<sup>29</sup> Joint Response/Motion at 7.

<sup>30</sup> Joint Response/Motion at 8.

<sup>31</sup> Joint Response/Motion at 9.

requests prior to the commencement of an evidentiary hearing.<sup>32</sup> The Joint Movants argue that they will be prejudiced if the Commission does not grant the requested additional time for evaluation of WGL's rebuttal testimony. In addition, cross-examination is "invaluable to aid in the process by eliciting facts that may undermine [or bolster] the credibility of a witness, or the reliability of their methodology or opinions."<sup>33</sup> The Joint Movants argue that access to and time for evaluating information and witness testimony is also essential to effective cross-examination of subject matter expert testimony and proposed a revised procedural schedule for the Commission's adoption.<sup>34</sup>

12. **Sierra Club** supports the Joint Movant's position but adamantly urges the Commission to let the PIPES 2 surcharge expire on April 30, 2025, the deadline if the procedural schedule is modified.<sup>35</sup>

13. **PBWLDC** argues that granting a delay of the proceeding will cause a lapse in funding of PIPES 2 since it is funded only through April 30, 2025, which would: (1) adversely impact the safety of the natural gas distribution system; (2) lead to immediate layoffs of the contractor workforce and demobilization by the contractors; (3) risk dismissal of pending applications and loss of Operator Qualifications ("OQ") credential to perform gas distribution work; (4) cause economic hardship on contractor crew members; and (5) hinder WGL's lead contractor's ability to remobilize (reallocation of crews and machinery) in the future (4 to 5 years).<sup>36</sup> Lastly, PBWLDC states that the Joint Movants have not identified a valid reason for enlarging the time and that because the Commission has already held the procedural schedule in abeyance, it is unnecessary to enlarge the time.<sup>37</sup>

#### **E. WGL's 2<sup>nd</sup> Motion in Response to Parties' Request**

14. WGL states that the Commission should: (1) deny the Parties' Motion to Dismiss; (2) deny the Motion for Enlargement of Time, and promptly rule on any outstanding motions to compel and schedule evidentiary hearings to commence seven (7) days after issuance of an order, or alternatively modify the procedural schedule consistent with WGL's proposal; (3) deny the Parties' Motion to limit the Scope of Evidentiary Hearings; and (4) grant WGL's Motion for Further Extension of PIPES 2.<sup>38</sup> The Company requests that, regardless of any other action the Commission may take, the Commission "must further extend PIPES 2 and the funding authorized

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<sup>32</sup> Joint Response/Motion at 9.

<sup>33</sup> Joint Response/Motion at 10.

<sup>34</sup> Joint Response/Motion at 9-10, *citing Clifford v. US*, 532 A.2d 628, 634 (1987).

<sup>35</sup> Sierra Club's Motion at 1.

<sup>36</sup> PBWLDC's Opposition at 2-5.

<sup>37</sup> PBWLDC's Opposition at 5.

<sup>38</sup> WGL's 2<sup>nd</sup> Motion at 2.

under this program beyond April 30, 2025, the date established in Order No 22317.”<sup>39</sup>

15. WGL states that the Commission directed WGL “to file a new restructured Pipes Application that targets the highest-risk segments of the aging, leak-prone mains, and services in the District for a period of three years (2025-2027).”<sup>40</sup> The Company maintains that the District SAFE Plan complies with the directives in Order No. 22003 to strategically replace leak-prone pipes to reduce risk, improve safety, and ensure reliable service.<sup>41</sup> WGL also states that as per the Commission’s directives, the plan is scaled down and focuses on and prioritizes the “highest risk” segments of pipe, demonstrating that the District SAFE Plan achieves “greater cost-effectiveness.”<sup>42</sup> The Company asserts that the plan’s “risk reduced-per-dollar spent metric” achieves cost-effectiveness by focusing work on the pipes that would reduce the most risk per dollar spent.<sup>43</sup> WGL argues that this methodology complies with paragraphs 49 and 50 of Order No. 22003 and PHMSA’s safety regulations regarding the manner in which assets should be prioritized for removal and the use of risk spend efficiency.<sup>44</sup>

#### **IV. DECISION**

16. The Commission denies the Joint Movants’ motion to dismiss but grants an extension of time to conduct discovery; denies WGL’s motion for an evidentiary hearing until the Commission determines if there are material issues in disputes warranting a hearing; and grants WGL’s request to extend PIPES 2 until December 31, 2025. Therefore, we deny the Joint Movants’ requests. However, our ruling on the Joint Motion should not be deemed a ruling that WGL’s SAFE application warrants approval.

##### **A. Joint Movants’ Motion to Dismiss**

17. In addressing motions to dismiss, the Commission has been guided by the Superior Court Rules of Civil Procedure. Generally, a motion to dismiss is reviewed pursuant to Super. Ct. Rule 12(b)(6) which requires that we view the facts in the light most favorable to the nonmoving party, in this case, WGL.<sup>45</sup> Dismissal is appropriate only if, after viewing the allegations in this manner, the complainant cannot demonstrate any set of facts that would support a claim for relief. The Commission’s review is generally limited to the pleadings. However, if the Commission considers matters outside the pleadings, the motion may be converted into one for summary

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<sup>39</sup> WGL’s 2<sup>nd</sup> Motion at 5.

<sup>40</sup> WGL’s 2<sup>nd</sup> Motion at 17.

<sup>41</sup> WGL’s 2<sup>nd</sup> Motion at 18.

<sup>42</sup> WGL’s 2<sup>nd</sup> Motion at 18-19.

<sup>43</sup> WGL’s 2<sup>nd</sup> Motion at 19.

<sup>44</sup> WGL’s 2<sup>nd</sup> Motion at 19.

<sup>45</sup> *Formal Case No. 1051, In the Matter of Verizon Washington DC, Inc.’s Weather Forecast Service*, Order No. 14157, ¶ 10, reviewing Motion to Dismiss under the Super. Ct. R. 12(b)(6).

judgment under Rule 56.<sup>46</sup> Such motions, especially at this stage, are generally disfavored and rarely granted.<sup>47</sup> In addition, when appropriate, the Commission can evaluate a motion to dismiss pursuant to Super. Ct. Rule 41(b)(1)(A).<sup>48</sup> Under Super. Ct. Rule 41, the Courts have developed different standards for reviewing motions to dismiss, and certain factors are routinely considered, such as whether the conduct was willful or in bad faith, whether the plaintiff received a warning, or whether an adjudication on the merits is in the public interest.

18. Accordingly, pursuant to Super. Ct. Rule 12(b)(6), the Commission must examine the Plan in the light most favorable to the nonmoving party – the Company. In addition, because the Joint Motion alleges that the District SAFE Plan does not comply with Commission Order No. 22003 and should be dismissed, the Commission will also review this matter under Super. Ct. Rule 41.

19. WGL asserts that the District SAFE Plan complies because the Plan: (1) targets the highest-risk segments of the aging, leak-prone mains and services in the District for a period of three years (2025-2027); (2) strategically replaces leak-prone pipes to reduce risk, improve safety, and ensure reliable service; and (3) is scaled down and focuses on and prioritizes the “highest risk” segments of pipe, demonstrating that District SAFE achieves “greater cost-effectiveness”. Taking these statements as true, the Commission has no reason to believe that the SAFE Plan was not submitted in good faith and was submitted in an effort to comply with Order No. 22003.

20. After reviewing the District SAFE Plan and WGL’s responses to discovery,<sup>49</sup> the Commission finds that the Plan makes a *prima facie* showing that it meets the requirements set forth in Order No. 22023 and, therefore, denies the Motion to Dismiss.<sup>50</sup> In meeting the *prima*

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<sup>46</sup> D.C. Rules of Civ. Proc. 56(a).

<sup>47</sup> See, e.g., *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (holding that dismissal at the pleadings stage is a drastic remedy available only when a complaint fails to allege facts sufficient to state a claim); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (explaining that a complaint is entitled to a presumption of correctness and that dismissal is warranted only where no set of facts, however favorable to the plaintiff, could support the claim.).

<sup>48</sup> Super. Ct. R. 41(b)(1)(A) states that “If the plaintiff fails to prosecute or to comply with these rules or a court order: (i) a defendant may move to dismiss the action or any claim against it; or (ii) the court may, on its own initiative, enter an order dismissing the action or any claim”. A motion to dismiss under Rule 41 could essentially be viewed as a sanction rather than a decision on the merits of the case. See *Formal Case No. 1156, In the Matter of the Application of Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service in the District of Columbia (“Formal Case No. 1156”)*, Order No. 20632, ¶ 19, rel. September 24, 2020 (“Order No. 20632”), citing *Ball v. City of Chicago*, 2 F.3d 752, 759-60 (7th Cir. 1993); *Poulis v. State Farm Fire and Cas. Co.*, 747 F.2d 863, 867-68 (3d Cir. 1984); *Harding v. Fed. Reserve Bank of N.Y.C.*, 707 F.2d 46, 50 (2d Cir. 1983).

<sup>49</sup> The Commission enters WGL’s Responses to PSC Staff Data Request No. 1 into the record.

<sup>50</sup> The determination of a *prima facie* showing is fact sensitive and the Commission will decide based on the circumstances whether a response to an Order is sufficient. See generally, *Cumulus Media, Inc. v. Clear Channel Communications, Inc.*, 304 F.3d 1167, 1176 (11th Cir. 2002)(*Prima facie* showing means that the evidence is such a nature as to be sufficient to establish a fact and which if un rebutted, remains sufficient for that purpose); see also, *In*



*facie* requirements, WGL’s application encompasses a sufficient number of the directives from Order No. 22003 and warrants the Commission’s evaluation of the merits of the proposal while weighing the Parties’ testimony regarding the proposal. The Plan provides information on past replacement activities, current system conditions, and existing performance metrics. The Plan also includes information regarding timelines,<sup>51</sup> historical data,<sup>52</sup> scope and feasibility,<sup>53</sup> budget assumptions,<sup>54</sup> and prioritization methodology<sup>55</sup> as required by the Commission. The District SAFE Plan is structured as a single overarching program that WGL asserts prioritizes replacements based on a risk-reduction-per-dollar spent metric using the JANA risk model as opposed to the PIPES 2 multiple distinct programs with separate budgets. Consistent with the Order’s directive to “narrowly focus the new plan on the aging highest-risk pipe segments that are highly susceptible to leaks [and] increased GHG emissions from leaks,”<sup>56</sup> the SAFE Plan categorizes replacements based on specific materials and electrification considerations and proposes to maximize benefits and efficiently remove the most risk from the system.<sup>57</sup> The Plan provides basic cost estimates, justifications for expenditures, and explanations of the proposed cost recovery mechanism.

21. The District SAFE Plan proposes a three-year replacement schedule (2025-2027) and outlines a 2045 completion scenario aligning with the District’s climate goals.<sup>58</sup> It also presents a PROJECT*pipes* average replacement scenario, demonstrating the long-term impact of different pacing strategies. The Plan also provides a breakdown of remaining miles and service lines to be replaced, along with leak rates by material type.<sup>59</sup> The Company asserts that project selections will be developed based on both short and long-term considerations (using JANA) and will be presented to the Commission annually for review and approval following the existing process for project list submittals already approved by the Commission.<sup>60</sup> It references lessons learned from the first ten years of PROJECT*pipes*, fulfilling the directive to incorporate prior program data. Lastly, the Plan proposes a \$215 million budget over three years.

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*re E.I Dupont de Nemours and Co*, 136 S.W.3d 218 (Tex. 2004)(Prima Facie showing standard requires only the “minimum quantum of evidence necessary to support a rational inference that the allegation of fact is true.”).

<sup>51</sup> See Order No. 22003, ¶ 49.

<sup>52</sup> See Order No. 22003, ¶ 51(a)-(e).

<sup>53</sup> See Order No. 22003, ¶ 51(f), (g), (m), and (n).

<sup>54</sup> See Order No. 22003, ¶ 51(h) and (o).

<sup>55</sup> See Order No. 22003, ¶¶ 48, and 51(j), (k), and (l).

<sup>56</sup> See Order No. 22003, ¶ 49.

<sup>57</sup> See Order No. 22003, ¶ 51(f), (g), (m), and (n).

<sup>58</sup> See WGL’s 2<sup>nd</sup> Motion at 17. See also Order No. 22003, ¶ 49.

<sup>59</sup> See WGL A-1 (Rogers Direct) at Exhibit (A)-1 at 40-41. See also Order No. 22003, ¶ 49.

<sup>60</sup> See WGL Exhibit C-1 (Jacas Direct) at 24.

22. While the Plan is deficient in appropriately describing the methodology for tracking GHG emissions reductions and strategies for minimizing stranded assets,<sup>61</sup> the Commission credits WGL's contentions that some of the requested elements lack established industry standards or clear regulatory benchmarks. Accordingly, we will not require WGL to provide further surrebuttal testimony to comply with our directives in paragraphs 51 (h), (j), (n), (o), (q), and (r) of Order No. 22003 at this time.

23. Further, Order No. 22003 required that the revised plan incorporate the 19 recommendations from the Continuum Audit Report.<sup>62</sup> The Commission recognizes that because the District SAFE Plan's objectives are different from the original accelerated pipes plans, some of the criteria set forth in the Audit Report assessing PIPES 2 would apply during the implementation of WGL's SAFE Plan if approved. Therefore, the Commission will not require WGL to provide further surrebuttal testimony on how the SAFE Plan incorporates the 19 recommendations from the Continuum Audit Report at this time. Overall, the Commission finds that WGL's SAFE Plan provides sufficient detail at this juncture to continue our evaluation of the merits of the application.

24. It is important to remember that this is a proactive program that targets the oldest, most vulnerable pipes prone to failure and leaks. While the Company is expected to continue repairing active leaks, the primary objective of this program is to improve system safety and reliability by preventing leaks and potential failures. To specifically investigate the Company's management of gas leaks, the Commission initiated *Formal Case No. 1178*.<sup>63</sup>

25. Additionally, the Commission emphasizes that even though the motion to dismiss is denied, that does not mean that the Commission is approving the Plan as proposed. It simply means that at this time, the Company has presented a *prima facie* showing to proceed forward. In order to fully evaluate the Plan on its merits and hear from the intervening parties and the community, the case will proceed.

## **B. Motion for Enlargement of Time and the Request for Extension of Discovery**

26. The Commission has broad authority in managing its docket. Generally, the Commission will grant a request of this nature if good cause is shown.<sup>64</sup> In this instance, we are persuaded by the Joint Movants that they should have an opportunity to conduct further discovery of WGL's Rebuttal Testimony and Exhibits. The Commission believes that providing the Parties with an opportunity to further review the Rebuttal Testimony and further develop their position

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<sup>61</sup> See Order No. 22003, ¶¶ 44, 51(j).

<sup>62</sup> Order No. 23003, ¶ 52.

<sup>63</sup> See *GD-2024-01, In the Matter of the Petition for Investigation Into Washington Gas Light Company's System Leak Reduction Practices and Transparency*, Order No. 22004, rel. June 12, 2024.

<sup>64</sup> See, e.g., *Formal Case No. 1175, In the Matter of Washington Gas Light Company's Application for Approval of PROJECTpipes 3 Plan*, Order No. 21573, ¶ 10, rel. February 17, 2023.

through supplemental testimony will make the record more complete and aid the Commission and the Parties' review. Thus, the Commission finds that good cause exists to warrant additional time for the Parties' review and further discovery. The Commission has updated the Procedural Schedule (Attachment A) accordingly.

### **C. Motion for Evidentiary Hearing**

27. Although there is a statutory requirement that the Commission cannot enter an order affecting rates without a formal hearing, the D.C. Court of Appeals has held that a formal hearing is unnecessary when there is no dispute over material facts and if the only disputes involve law or policy.<sup>65</sup> Generally, a fact is something that can be proven true or false through objective evidence. However, the interpretation of law or the establishment of a policy usually rests on an opinion, and an opinion cannot be verified as true or false. An example of a fact would be that WGL states it needs \$215 million for the SAFE Plan. An opinion is that WGL doesn't deserve that much. Words like "should," "must," "good," and "worst" usually signal an opinion rather than a fact.

28. The Parties are directed to file a Joint List of Material Issues of Fact In Dispute by May 30, 2025, which should: (a) identify with specificity material issues of disputed facts; (b) set forth the Parties' stipulations; (c) indicate the number of witnesses as well as the nature of their testimony in the Joint Witness Cross Examination Matrix; (d) provide admissions; (e) authenticate documents; and (f) address any other procedural matters.<sup>66</sup> The Commission will subsequently rule whether it will convene an evidentiary hearing to address material issues of facts in dispute. If, on the other hand, the only disputes concern inferences to be drawn that are issues of policy or law, the Commission will convene a limited or legislative-style hearing. Because the Commission is extending the discovery in this matter and requiring the submission of material issues in dispute, WGL's request to hold evidentiary hearings is premature, and WGL's motion has been denied at this time.

### **D. Motion for Extension of PIPES 2**

29. The Commission does not take the motion to extend PIPES 2 lightly; in fact, it is viewed as an option of last resort. As stated in Order No. 22003, the Commission seeks to move to a paradigm that targets the highest-risk segments of the aging, leak-prone mains and services in the District. However, given the litigious nature of this case, combined with new directives for additional discovery and the remaining supplemental testimony, the Commission feels compelled to extend PIPES 2. The Commission believes it is in the public interest to approve the extension while evaluating the SAFE Plan in order to maintain the continued safety and reliability of the gas distribution system. Therefore, the Commission extends the PIPES 2 Plan and surcharge through December 31, 2025.

30. Therefore, consistent with Order Nos. 21960 and 22317, in addition to the

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<sup>65</sup> *Watergate East Inc. v. District of Columbia Public Service Commission*, 662 A.2d 881, 890 (D.C. 1995)(citing *Potomac Electric Power Co. v. Public Service Comm'n*, 457 A. 2d 776, 789 (D.C. 1983)).

<sup>66</sup> If Parties cannot agree on a Joint List of Material Issues of Fact list, Parties can file individual lists.

approved funding levels of the 14-month PIPES 2 extension,<sup>67</sup> we authorize an additional surcharge eligible spend associated with the additional eight-month extension period (through December 31, 2025) capped at \$34 million, with expenditures on Program 10 projects limited to \$7 million. For services replaced through Programs 1, 3, and 5, the spending limit will be \$15 million, and for mains replaced through Programs 2, 3, and 4, the spending cap will be \$12 million during the extension period. Based on the expected rate of replacements during the existing 14-month extension through April 30, 2025, the Commission anticipates that this additional time and funding will enable the Company to replace an additional 3.2 miles of main with an estimated 960 additional services, either remediated or transferred. The Commission expects WGL to replace a total of 8.72 miles of main with an estimated 2,628 services, either remediated or transferred during the 22-month extension period ending December 31, 2025.<sup>68</sup> A failure to complete these replacement targets may result in a reduction of the overall surcharge-eligible spending limit of \$92.5 million that the Commission has approved for PIPES 2.<sup>69</sup>

31. As a result of our extension, the Commission directs WGL to file an updated *Formal Case No. 1154* PIPES 2 Project list for the extension period within 15 days of the date of this Order, consistent with all of the requirements specified in Order Nos. 21960 and 22317.<sup>70</sup> WGL shall also provide the latest risk score for each project.

**THEREFORE, IT IS ORDERED THAT:**

32. Washington Gas Light Company's Motion for Leave to Reply is **GRANTED**, and the Reply is **ACCEPTED** as filed;

33. The Joint Motion to Dismiss is **DENIED**;

34. The Joint Motion for Enlargement of Time is **GRANTED**;

35. Washington Gas Light Company's District SAFE Plan meets the *prima facie* directives of Order No. 22003;

36. The Commission **DENIES** Washington Gas Light Company's request for an Evidentiary Hearing;

37. The Commission **ADOPTS** an updated procedural schedule as outlined in Attachment A;

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<sup>67</sup> *Formal Case No. 1154, In the Matter of Washington Gas Light Company's Application for Approval of PROJECTpipes 2 Plan*, Order No. 21960, ¶ 15, rel. February 23, 2024, ("Order No. 21960"); *see also, Formal Case No. 1154 and Formal Case No. 1179*, ¶ 14, Order No. 22317.

<sup>68</sup> *See* Order No. 21690, ¶ 14, and Order No. 22317, ¶ 14.

<sup>69</sup> The \$92.5 million spending limit is based on the \$50 million from the 12-month extension (Order No. 21960, ¶ 14, plus the \$8.5 million with the additional 2-month extension (Order No. 22317, ¶ 14, and the \$34 million with the extension being granted in this Order.

<sup>70</sup> *See* Order No. 21690, ¶¶ 15-17, and Order No. 22317, ¶ 16.

38. The Commission **GRANTS** Washington Gas Light Company's Motion for Further extension of PROJECT*pipes 2* and extends the time of the PROJECT*pipes 2* from April 30, 2025, to December 31, 2025, with a surcharge eligible spend of \$34 million; and

39. Washington Gas Light Company is **DIRECTED** to file an update to the *Formal Case No. 1154* PIPES 2 Project list within 15 days of the date of this Order to address the PIPES 2 extension period.

**A TRUE COPY:**

**BY DIRECTION OF THE COMMISSION:**

A handwritten signature in black ink, reading "Brinda Westbrook-Sedgwick". The signature is written in a cursive, flowing style.

**CHIEF CLERK:**

**BRINDA WESTBROOK-SEDGWICK  
COMMISSION SECRETARY**

### FC1179 Attachment A

1	Additional Discovery on WGL's Rebuttal Begins	February 19, 2025
2	Deadline for Data Requests to WGL Regarding Rebuttal Testimony	March 5, 2025
3	WGL Responses to Data Requests	March 19, 2025
4	Parties' Supplemental Testimony Responding to WGL Rebuttal	April 21, 2025
5	Deadline for WGL Data Requests on Supplemental Testimony	May 2, 2025
6	Data Request Responses Due	May 16, 2025
7	WGL Surrebuttal	May 27, 2025
8	Deadline for Submission of Joint List of Material Issues of Fact	May 30, 2025
9	Settlement and Stipulation Conference	June 2, 2025
10	Parties' Report on Joint Stipulations	June 4, 2025

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1325 G STREET, N.W., SUITE 800  
WASHINGTON, D.C. 20005**

**February 19, 2025**

**FORMAL CASE NO. 1179, IN THE MATTER OF THE INVESTIGATION INTO  
WASHINGTON GAS LIGHT COMPANY'S STRATEGICALLY TARGETED PIPE  
REPLACEMENT PLAN,**

**DISSENT OF COMMISSIONER BEVERLY TO ORDER NO. 22367**

1. Generally speaking, a “plan” is a detailed explanation of the steps to achieve an objective, and the costs associated with each step. WGL’s 264-page application has only three paragraphs that reference elements of a plan and all it really tells the public is that the Company wants a \$215 million surcharge for unspecified work over a 3-year period.<sup>1</sup> This plan is facially deficient. In fact, it is substantially more deficient than the prior Pipes 3 Application that was 654 pages, with 21 pages of data, analysis, and individual program descriptions. The Commission rejected Pipes 3 as deficient before this stage in the process so I’m perplexed as to how the Commission can move District SAFE forward when it is even worse than the Pipes 3 plan that it replaced.

2. When the Commission rejected Pipes 3, it stated that it wanted to establish a new normal. The Commission gave the Company a list of factors to address in the new plan so that it would better align with the Commission’s expectations. Although the Commission determined in the current order that the Company made a prima facie showing of satisfactorily addressing these factors, as I note in my attachment below, the Company’s response to these factors is worthless.<sup>2</sup> And to understand why it’s worthless, we need look no further than the Company’s own testimony where Witness Jacas makes clear that the Company has no intention of deviating from Pipes 2, the plan on which Pipes 3 was based. Specifically, Witness Jacas states, “the Company is not fundamentally altering the District SAFE Plan approach from what the Commission approved through the PIPES 2 proceeding.”<sup>3</sup>

3. Of note is that the District SAFE plan has removed detail regarding individual

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<sup>1</sup> *Formal Case No. 1179*, Washington Gas Light Company’s Revised Application for Approval of the District Strategic Accelerated Facility Enhancement Plan, filed September 27, 2024 (“District SAFE Application”), Exhibit WG (A)-1 to Witness Rogers’ Testimony, pgs 30-31.

<sup>2</sup> Instead of incorporating the Commission’s directives in Order No. 22003 into a new approach, the Company treated the factors as mere suggestions subject to comment and didn’t include any of it in a plan. Whatever one thinks about the comments themselves, they do nothing to make a nonexistent District SAFE plan better than the Pipes 3 plan that it replaced and, in that sense, the comments are worthless.

<sup>3</sup> District SAFE Application, Testimony of Witness Jacas at 13. Witness Jacas claims his comment applies to the portion of the plan that he sponsors, which is the same three paragraph reference to a plan in the attachment to Witness Rogers’ testimony.

programs, so that it is not possible from a review of the application to determine what level of replacement will be undertaken by pipe material, which is particularly concerning given WGL's demonstrated poor progress replacing cast iron pipe. This application has also removed advanced leak detection and no longer tries to even estimate GHG emissions reductions from the implementation of the program.<sup>4</sup>

4. District SAFE is not a new plan or a plan at all. It is essentially the continuation of Pipes 2, rebranded as District SAFE. All it does is present a request for more money to develop project lists in the future just as it would have done under Pipes 2, as though the Commission never said anything about the need for a new approach. Allowing this "plan" to move forward embraces the same failed pipe replacement strategy that the Commission disavowed in Order No. 22003. To me, this entire exercise has become a waste of time and money with no real benefit to the climate.<sup>5</sup> Instead of focusing significant capital investment in the prevention of future leaks on the system, as WGL does by prioritizing the replacement of pipes that aren't leaking, we should give actively leaking pipes a higher priority in the plan.<sup>6</sup>

5. Unlike some other jurisdictions, we don't have a cap on cost recovery for lost and unaccounted for gas. That creates a disincentive for the company to curb this problem because the cost for lost gas is just dumped onto the backs of ratepayers. We also need to have better leak accounting than we get from WGL. The District Government has consistently been able to find a significantly higher number of leaks than WGL during leak surveys, and we recently got some potential explanation as to why this is happening in WGL's most recent filing in *Formal Case No. 1178*. WGL, in its response regarding the settings it uses for its ALD survey equipment, noted that it uses a sensitivity of 20 ppm above background levels for detecting methane emission points on its system. WGL states: "These parameters reflect a customized application of Picarro's ALD technology, optimized for Washington Gas's operating environment. By *focusing on larger leaks* that contribute significantly to emissions and safety risks, the program enhances safety and reduces environmental impact while maintaining operational efficiency."<sup>7</sup> (emphasis added). The District Government's filing indicates that it was able to detect leaks at a sensitivity of 1 ppm. WGL's customized survey equipment may be significantly undercounting leaks by using a sensitivity threshold 20 times that of the District Government. The District Government's consultant also

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<sup>4</sup> The Commission apparently sees no problem moving forward with this application, going so far as to take WGL's assertion at face value that no compliant GHG reduction calculation methodologies are available to the Company.

<sup>5</sup> It's particularly important to keep our energy bills as low as possible because they are a significant driver of inflation.

<sup>6</sup> I recognize that the Pipes program is primarily a safety initiative to replace (or repair) high risk pipes based on material composition, but D.C. Code § 34-808.02 also requires us to consider the extent to which a utility plan impacts the District's climate commitments. To consider both leaks and safety, all we have to do is make high-risk, actively leaking pipes a higher priority.

<sup>7</sup> *Formal Case No. 1178*, Washington Gas Light Company's Response regarding Lost and Unaccounted for Gas questions and Picarro settings, filed January 30, 2025.



noted that, based on WGL's mapping, it appears that WGL is grouping multiple leaks together.<sup>8</sup> In order to better address this problem, we need to consider engaging our own consultant or work with DOEE to do a comprehensive leak survey of the entire city that measures concentrations and flow rates of leaks, according to a sensitivity level and technical parameters that we approve. At that point, we can determine the GHG impact of existing leaks and direct WGL to repair or replace super-emitters. Because this case and *Formal Case No. 1178* are interrelated, I re-state my position that these two cases should never have been separated.<sup>9</sup> In fact, it should all be part of one integrated planning exercise.

6. For the reasons above, I respectfully dissent.<sup>10</sup>

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<sup>8</sup> *Formal Case No. 1178*, District of Columbia Government Letter responding to an inquiry from staff at the Public Service Commission for the District of Columbia that arose during the Second Technical Conference, December 6, 2024.

<sup>9</sup> I incorporate my Partial Concurrence to Order Nos. 22003 & 22004 by reference.

<sup>10</sup> I note that 8 Councilmembers filed a letter on February 11, 2025, requesting that the Commission reject the District SAFE application.

### Attachment A

Below is an analysis of the Commission’s directives governing WGL’s filing requirements in Order No. 22003 and WGL’s compliance with each:

- “The Commission expects WGL’s new Application to reflect a focused approach, demonstrating the critical balance between reductions in future leaks and GHG emissions against the risk of stranded assets as the District continues its energy transition.”<sup>11</sup>
  - Instead of engaging with the Commission’s prompt, WGL rejects the Commission’s premise, arguing: “...the Company is not currently aware of any data on its system that indicates there is a threat posed by stranded assets.”<sup>12</sup> In the application, WGL also presented its proposed “customer choice program” as a way to address the Commission’s “concerns” (which WGL apparently does not share) with the risk of stranded assets, by allowing customers to opt out of planned service replacement within twelve months if they are planning to electrify: “The Customer Choice Pilot Program attempts to balance the Company’s need to ensure that its facilities are safe, with the Commission’s concern regarding stranded assets.”<sup>13</sup>
  - In WGL’s rebuttal testimony, the Company contradicts itself, arguing that the customer choice program was not designed to address stranded asset concerns: “Witness Botwinick’s point regarding the interrelationship with the Customer Choice Pilot Program and stranded assets is without merit, because the Customer Choice Pilot Program was not designed to solve for all stranded asset concerns.”<sup>14</sup> The Company also again rejects the Commission’s premise of addressing stranded assets in its application, arguing that addressing stranded assets “should be done outside of the context of a proceeding limited to a three-year plan to address high-risk, leak-prone pipe in the District.”<sup>15</sup> The Company also argues that the consideration of stranded assets “has no place in pipeline safety related decision-making,”<sup>16</sup> again contradicting the Commission’s directive. Another

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<sup>11</sup> Order No. 22003, ¶ 49

<sup>12</sup> District SAFE Application, Testimony of Witness Rogers at 11.

<sup>13</sup> District SAFE Application, Testimony of Witness Rogers at 9.

<sup>14</sup> District SAFE Rebuttal, Testimony of Witness Rogers at 44.

<sup>15</sup> *ibid.*

<sup>16</sup> District SAFE Rebuttal, Testimony of Witness Quarterman at 29.

Company witness recommends that the Commission move its consideration of stranded assets to another proceeding: “Moreover, I recommend that the Commission address the need to minimize potential stranded costs associated with the energy transition in its latest proceeding on the future of gas.”<sup>17</sup> This highlights the fact that a major deficiency in planning for pipe replacement is the lack of an established integrated thermal plan for the utility.

- WGL’s argument that it sees no risk *from the Company’s perspective* of stranded costs is clarified by Witness Fang, who argues that any stranded assets should still be eligible for full cost recovery by the Company: “In the matter of potential stranded assets resulting from yet to be seen underutilization of the natural gas assets due to acceleration of the electrification policies and goals, utilities should be permitted to recover the full cost of and authorized return on prudent investments made to ensure safe and reliable service during this transition.”<sup>18</sup> Therefore, the Company sees no risk because it expects full cost recovery regardless of how the energy transition proceeds.
- “the Company’s new Application should be narrowly focused on the aging highest-risk pipe segments that are highly susceptible to leaks, increased GHG emissions from leaks, and subsequent failures in the near future if not replaced.”<sup>19</sup>
  - The Application provides an overview of the average age of pipes across WGL’s distribution system in the District in Exhibit (A)-1. However, the application is silent about the age (either specific or average) of the pipes to be replaced under the three-year program, stating only that age is a factor in the Company’s risk model (JANA Lighthouse).
  - While the Application provides testimony in support of the use of the JANA Lighthouse model, WGL fails to provide any information about how age or material are treated in the risk model, or the outputs of the software for the Commission or parties to review. There is no list of the riskiest pipes (or even groups of pipes) according to the JANA model for the Commission or parties to review. Therefore, it is not possible to know if the proposed District SAFE program is “narrowly focused” on the highest-risk pipe segments, or whether the Commission agrees with WGL’s risk formula.
  - The Application did not provide an estimate of the impact of the 3-year program on GHG emissions, so it is not possible for the Commission or other parties to determine if the program will be tailored to avoid GHG emissions. This is compounded by the fact that WGL does not measure fugitive GHG emissions

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<sup>17</sup> District SAFE Rebuttal, Testimony of Witness Fang at 3.

<sup>18</sup> District SAFE Rebuttal, Testimony of Witness Fang at 10.

<sup>19</sup> Order No. 22003, ¶ 49

- from its system.
- While the Application describes that the JANA risk methodology can predict pipeline failures, the application is silent as to the Commission’s directive to prioritize “near-term” failures. The Application does explain how the risk methodology separates out pipes that may fail in the near term or how it will prioritize selecting pipes that are in danger of near-term failure, because it does not provide any information about the pipes it plans to replace under the program.
  - “The Application should focus on originally conceived 40 plus year replacements based on only pipe age and material type. The change in focus will contract the scope of the work that is necessary in addressing the District’s aging infrastructure with the highest risk to help maintain the safety and reliability of the gas distribution system.”<sup>20</sup>
    - The Company made clear that its use of JANA Lighthouse provides risk scores for inclusion in the surcharge recovery program based on more inputs than just pipe age and material for accelerated recovery: “JANA Lighthouse uses a variety of data from Washington Gas as model inputs. Basic asset data typically includes the following categories: asset properties (*e.g.*, geometry, size, installation year, material properties); asset operating conditions (*e.g.*, pressure, pressure history); installation details (*e.g.*, depth of cover, installation method); and maintenance/inspection history. Additional data sources are also used to supplement the asset data; for example, information about the local environment, such as soil pH, surrounding population and infrastructure, proximity to road/rail crossings, flood zones, etc. is used to inform probability analysis of threats and consequences.”<sup>21</sup> While the Commission directed WGL to pull out a subset of pipes for accelerated recovery based purely on material and age, WGL appears to continue to conflate normal pipe replacement with what the Commission narrowly defined for this program in Order No. 22003.
  - “the Commission also expects the Company’s new restructured pipe replacement plan to reflect the actual rates of replacements seen over the first 10 years of PROJECTpipes and incorporate the lessons learned and the Commission’s directives based on the Continuum Audit to establish an achievable “new normal” for accelerated replacements.”<sup>22</sup>
    - WGL’s rate of replacement appears even lower than the previous application. The audit recommendations will be discussed in more detail in a later section, but the Company largely has not yet implemented the audit recommendations approved and required by the Commission.

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<sup>20</sup> Order No. 22003, ¶ 49

<sup>21</sup> District SAFE Application, Testimony of Witness Stuber at 8.

<sup>22</sup> Order No. 22003, ¶ 49

- “...WGL’s new PIPES plan must demonstrate greater cost effectiveness.”<sup>23</sup>
  - The budget WGL provides for its program does not provide enough information to determine the cost per mile or per service line, because the budget provides only annual spending amounts without any associated projects or programming.
  - The Company states that it has moved to “one overarching program comprised of projects selected based on the system risk-reduced-per-dollar spent,”<sup>24</sup> to maximize the risk per dollar. However, this does not address the Commission’s concerns raised in Order No. 22003 about the inordinate cost for pipe replacement that WGL has previously incurred.
  - Instead of demonstrating cost-effectiveness as required by Order No. 22003, the Company states that its high costs are due to the District’s road permit policies: “the District has adopted a number of onerous policies in recent years that have dramatically increased the cost and slowed the pace of replacement activities.”<sup>25</sup>
- “Miles of aging high-risk leak-prone main replaced to date per year by program and material type (e.g., cast-iron, bare and unprotected steel, etc.);”<sup>26</sup>
  - WGL partially provided this information by including the miles by material type, but not by program, and only up to 2023.<sup>27</sup>
- “The number of aging high-risk leak-prone services replaced to date per year by program and material type (e.g., copper, bare and unprotected steel, etc.);”<sup>28</sup>
  - WGL partially provided this information by including the number of services by material type, but not by program, and only up to 2023.<sup>29</sup>
- “Miles of aging high-risk leak-prone main remaining to be replaced by program and material type”<sup>30</sup>
  - WGL provides this information by material type, but not by program because it has eliminated individual programs from its application.<sup>31</sup>
- “The number of aging high-risk leak-prone services remaining to be replaced by program

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<sup>23</sup> Order No. 22003, ¶ 50

<sup>24</sup> District SAFE Application, Exhibit (A)-1 at 28.

<sup>25</sup> District SAFE Application, Testimony of Witness Jacas at 26.

<sup>26</sup> Order No. 22003, ¶ 51

<sup>27</sup> District SAFE Application, Exhibit (A)-1 at 16.

<sup>28</sup> Order No. 22003, ¶ 51

<sup>29</sup> District SAFE Application, Exhibit (A)-1 at 17.

<sup>30</sup> Order No. 22003, ¶ 51

<sup>31</sup> District SAFE Application, Exhibit (A)-1 at 29.

- and material type”<sup>32</sup>
- WGL provides this information by material type, but not by program because it has eliminated individual programs from its application.<sup>33</sup>
  - “Current estimated leak rates for existing pipes by material type (including methodology for calculation)”<sup>34</sup>
    - WGL provided the leak rates by material type but did not include its methodology for calculation.<sup>35</sup>
  - “Expected completion date for each program based upon current replacement rates, replacements to date, and remaining work to be completed. These estimates should include a detailed analysis of the need to replace the identified high-risk pipes and the ability to achieve this completion target”<sup>36</sup>
    - WGL did not provide completion dates at their current replacement rate. Instead, they modeled how fast they would have to go to complete replacement by 2045 (23 miles of main and 1500 services per year). WGL also states that it would not have completed the work under the original Project Pipes Plan until 2054, but does not provide an end date for District SAFE.<sup>37</sup>
    - WGL seems to desire completing replacement by 2045, but did not propose a program at the pace required to reach it. Instead, they blamed the Commission for underfunding pipe replacement: “In general, the Commission should allow greater acceleration to ensure the safety of customers, particularly where the work is consistent with the goal of greater decarbonization. Improvements in the District’s policies that would reduce or remove the significant cost drivers (described in Section V(c)-(f)), adoption of the proposed Customer Choice Pilot Program (described in Section VII(c)), and the approval by the Commission of incremental dollars for accelerated replacement activity, beyond those presented in Table 4 (Section VI(a)) could help further accelerate strategic facility enhancements to the District’s energy system, including a greater number of retirements and replacements of aging high-risk mains and services.”<sup>38</sup>
    - WGL appears to be suggesting that the Commission’s refusal to fund pipe

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<sup>32</sup> Order No. 22003, ¶ 51

<sup>33</sup> District SAFE Application, Exhibit (A)-1 at 29.

<sup>34</sup> Order No. 22003, ¶ 51

<sup>35</sup> District SAFE Application, Exhibit (A)-1 at 14.

<sup>36</sup> Order No. 22003, ¶ 51

<sup>37</sup> District SAFE Application, Exhibit (A)-1 at 40-41.

<sup>38</sup> District SAFE Application, Exhibit (A)-1 at 41-42.

replacement is at the heart of the slow pace of replacement. The Company appears to be saying that to keep up with a slower-than-normal pace, it needs accelerated recovery, and to keep up with the level of safety required by the federal government, it requires *even more* accelerated recovery. However, the Company has not proposed to replace leak-prone pipe at the rate it says is required, nor has it requested the requisite amount of funding it says is required to do so.

- “Expected replacements by program and material for the three-year period”<sup>39</sup>
  - WGL did not include this information in the application, and instead eliminated separate programs. While it states which materials will be considered for replacement, there is no way to know at what level each material will be replaced. Instead, the Company designed the application as a type of blank check, where they are awarded cost recovery up-front and will provide program design later, disadvantaging the Commission and non-utility parties.
- “Provide the basis for the proposed annual budgets for the three-year period”<sup>40</sup>
  - WGL provides an annual budget with no justification, instead stating: “The Company will use its currently implemented risk model (*e.g.*, JANA Lighthouse) to prioritize and establish the annual project list that can be accomplished within the annual program budget identified in Table 4.”<sup>41</sup>
- “Explain how, if at all, ALD is incorporated into proposed project selection. Specifically, whether leaks identified via ALD are processed differently in the risk modeling software than leaks found through traditional sources”<sup>42</sup>
  - WGL states that ALD is not a part of its program, because the Company is “awaiting new PHMSA regulations that may direct how natural gas companies deploy ALD.”<sup>43</sup> WGL explains that leaks identified via ALD are processed the same as other leaks in the modeling software.<sup>44</sup>
- “For proposed planned replacements for the next three years, provide a method for tracking estimated leak reductions and GHG emissions reductions that considers the actual condition, previous leaks, and material type of the pipes actually replaced (in contrast to the current approach for calculating fugitive emissions, which relies on general assumptions based on the pipe material). Figures shall be reported as annual reductions from each year of work, not cumulative totals, and shall include detailed explanations of

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<sup>39</sup> Order No. 22003, ¶ 51

<sup>40</sup> Order No. 22003, ¶ 51

<sup>41</sup> District SAFE Application, Exhibit (A)-1 at 30.

<sup>42</sup> Order No. 22003, ¶ 51

<sup>43</sup> District SAFE Application, Testimony of Witness Jacas at 16.

<sup>44</sup> District SAFE Application, Testimony of Witness Stuber at 11.

the methodology used to calculate the avoided leaks and GHG emissions”<sup>45</sup>

- WGL did not do this. The Company argues that it is not able to perform this calculation, although I note that the Company did not raise this issue in its Motion for Reconsideration of Order No. 22003. In its application, WGL argues: “The Company does not have an alternative methodology that factors in all of the elements outlined by the Commission in its Order. To the Company’s knowledge, there is no single method of tracking estimated leak reductions and GHG emission reductions that considers actual condition, previous leaks and pipe material type. While some of these factors are considered in the predictive JANA risk-ranking tool used by the Company to prioritize pipe replacements, the Company is not aware of an accounting methodology that calculates these reductions based on the factors identified by the Commission.”<sup>46</sup> Instead of using its existing methodology, the Company chose to provide no GHG estimate with its application, likely a consequence of providing no information about the material or age of the pipes it plans to replace over the 3-year period.
- “Explain how JANA Lighthouse will aid in a project prioritization that aligns with the District’s climate goals, including projections on GHG emission reductions and preventing leaks each year. This should include details on how JANA produces risk scores and risk rankings”<sup>47</sup>
  - WGL did not explain how JANA provides projections of GHG emission reduction or leaks per year. Instead, the Company argues that JANA’s risk profiles are essentially the same as GHG emissions because risk of failure is essentially a risk of leaks, which create methane emissions. There is no explanation of how GHG emissions would be quantified or if JANA is capable of doing so.<sup>48</sup>
- “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 replaced pipes are not expected to be decommissioned within 10 years of installation”<sup>49</sup>
  - WGL did not provide any of this in its application. Instead, the Company states: “further extensive discussion with stakeholders is needed to better understand

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<sup>45</sup> Order No. 22003, ¶ 51

<sup>46</sup> District SAFE Application, Testimony of Witness Stuber at 17.

<sup>47</sup> Order No. 22003, ¶ 51

<sup>48</sup> District SAFE Application, Testimony of Witness Oliphant at 16.

<sup>49</sup> Order No. 22003, ¶ 51



what role Washington Gas can and should play in this process, what the cost impacts to its customers would be from any participation, and how that would ultimately be addressed through the Commission's ratemaking process."<sup>50</sup> WGL says that DOEE provided a list of policy issues at the coordination meetings, which WGL lists and explains why almost every topic should be siloed into other formal cases.<sup>51</sup>

- "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"<sup>52</sup>
  - There is nothing about this in the application. Instead, the Company says through its customer choice program that any service lines serving nonexistent or terminated customers will be abandoned (which should already be the case).<sup>53</sup> Additionally, WGL said it has "identified approximately 15 miles of cast iron main segments throughout the District without any active services that are being evaluated for potential abandonment."<sup>54</sup> It is unclear what this has to do with future electrification or why the Company hasn't already abandoned these mains if they are not in use.
- "Explain how 'normal' replacements will be differentiated from targeted 'accelerated' replacements under the new program. Identify criteria beyond material type(s) and potential program qualification that will be used by WGL when categorizing whether a replacement is 'normal' or 'accelerated' "<sup>55</sup>
  - In response to the Commission directive, WGL defines "normal" replacement work as: "non-vintage main relocations/replacement; pressure improvements for reliability; service replacement/relocation; and emergency main replacements," and potentially other types of replacement not listed.<sup>56</sup>
- "Explain and demonstrate the need for a surcharge recovery mechanism for the new restructured pipe replacement program"<sup>57</sup>

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<sup>50</sup> District SAFE Application, Testimony of Witness Rogers at 12.

<sup>51</sup> District SAFE Application, Testimony of Witness Rogers at 13 and Exhibit (A)-3.

<sup>52</sup> Order No. 22003, ¶ 51

<sup>53</sup> District SAFE Application, Exhibit (A)-1 at 38.

<sup>54</sup> District SAFE Application, Testimony of Witness Jacas at 19.

<sup>55</sup> Order No. 22003, ¶ 51

<sup>56</sup> District SAFE Application, Testimony of Witness Jacas at 25.

<sup>57</sup> Order No. 22003, ¶ 51

- WGL’s application argues: “Commission approval of the District SAFE Plan and a surcharge recovery mechanism will provide the Company with the regulatory and financial certainty necessary to accelerate the replacement of the high-risk pipe in the distribution system.”<sup>58</sup> This appears to suggest that without the surcharge, WGL would not be able to “accelerate” the replacement of high-risk pipe; despite the fact that WGL’s proposal does not propose any level of acceleration.
- Witness Jacas argues: “Other companies in the United States are remediating cast iron at a faster rate than Washington Gas, which highlights the necessity for the District SAFE program. The Company is executing the accelerated replacement of cast iron and other aging materials at a rate limited by the Commission-approved surcharge mechanism.”<sup>59</sup> This again suggests that the Company’s poor performance replacing vintage materials is the fault of the Commission. The application does not provide any information about how much cast iron the Company will replace under the proposed surcharge.
- The Commission asked the Company to demonstrate the need for the surcharge, and the Company has not provided any evidence or workpapers to demonstrate the need.
- WGL also argues that “The only other cost recovery option currently available to the Company in the District is through the normal base rate case process.”<sup>60</sup> WGL ignores the fact that the surcharge as currently designed is not the only form of alternative ratemaking available to the Commission.
- WGL also argues: “Without ongoing accelerated cost recovery, the Company will have no reasonable opportunity to earn a fair rate of return on its investment” and argues that it is unclear how the Company would fund pipe replacement without the surcharge.<sup>61</sup>
- “Other than pipe replacements, identify techniques, technologies, strategies, or other options the Company considered to reduce the leak rates and risk of the aging leak-prone pipes in the distribution system”<sup>62</sup>
  - The Application does not discuss alternatives to replacement, despite the Commission directive as well as PHMSA’s Call to Action specifically calling to “replace, repair, and rehabilitate” leak-prone pipe.

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<sup>58</sup> District SAFE Application, Testimony of Witness Jacas at 11.

<sup>59</sup> District SAFE Application, Testimony of Witness Jacas at 39.

<sup>60</sup> District SAFE Application, Testimony of Witness Lawson (no page numbers).

<sup>61</sup> District SAFE Application, Testimony of Witness Lawson (no page numbers).

<sup>62</sup> Order No. 22003, ¶ 51

- “Provide the results of the formal assessment on internal versus external crew usage”<sup>63</sup>
  - This is not provided with the application. Instead, WGL states it has not yet begun the study: “The Company will conduct a formal assessment for the use of internal versus external crews to be submitted within 18 months of the approval of “DC SAFE” in Formal Case No. 1179.”<sup>64</sup> WGL appears to make these study results contingent on approval of District SAFE.
- “Provide any results from WGL’s industry peer review on construction execution best practices begun in 2023, including explaining the impacts on cost and schedule of any unique construction conditions in the District”<sup>65</sup>
  - WGL states that the study was never completed and cannot be shared: “Washington Gas participated in a peer review of construction best practices in 2023, however, the supporting Company did not complete the study, therefore, this evaluation is not available to be submitted.”<sup>66</sup>
- “the new restructured pipes replacement plan shall incorporate the Commission’s directives based on Continuum’s Audit as outlined in the summary below”<sup>67</sup>
  - The Company, instead of implementing the Commission’s directives on the audit recommendations, provides “reply comments” to each of the Commission’s decisions, as if the directives can be opposed or delayed in their implementation. Therefore, the Company’s posture of how it responds to the Commission’s decision on the audit recommendations is generally noncompliant with the directive. In almost every case, the Company’s application does not reflect the changes the Commission directed. Each one will be discussed below.
  - Recommendation 1.1 – Variance Analysis (Commission Accepted): WGL says it will continue to undertake the 5% cost variance analysis reports but does not include any language suggesting it commits to using the analysis to improve its cost estimates, as required.<sup>68</sup>
  - Recommendation 1.2 – Additional Flexibility in Projects (Commission Rejected): WGL is asking the Commission to reconsider its decision;<sup>69</sup> however WGL did not file a Motion for Reconsideration of the Commission’s decision. The

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<sup>63</sup> Order No. 22003, ¶ 51

<sup>64</sup> District SAFE Application, Exhibit (C)-1 at 16.

<sup>65</sup> Order No. 22003, ¶ 51

<sup>66</sup> District SAFE Application, Exhibit (C)-1 at 17.

<sup>67</sup> Order No. 22003, ¶ 52

<sup>68</sup> District SAFE Application, Exhibit (C)-1 at 1.

<sup>69</sup> District SAFE Application, Exhibit (C)-1 at 2.

- Company wants to “be allowed to add projects without limitations.”<sup>70</sup>
- Recommendation 2.1 – Retain Program 1 as separate program but remove emergency scattered replacements (Commission approved). WGL agrees to comply but has not retained Program 1 as a separate program because the Company has eliminated all programs.<sup>71</sup>
  - Recommendation 2.2 – Program 1 Replacement Pace (Commission accepted). WGL states that it will provide an updated forecasted timeline for completion in this case but it has not done so.<sup>72</sup>
  - Recommendation 2.3 – Small Diameter Main (Commission partial acceptance): WGL indicates that for pipes with the same risk per dollar score, the smaller main will be prioritized.<sup>73</sup>
  - Recommendation 2.4 – EVA techniques (Commission Accepted): WGL states that it will provide an update in 2026 instead of directly implementing the requirement to the entire main replacement program.<sup>74</sup>
  - Recommendation 2.5 – Resource loaded schedule (Commission Accepted): WGL says it will not provide the schedule until 2026.<sup>75</sup>
  - Recommendation 2.6 – Cost Estimate Accountability (Commission Accepted): WGL says it will implement this in the second quarter of 2025 when it submits its project implementation plan.<sup>76</sup> It is unclear how the Commission can review and approve District SAFE if the Company’s implementation plan will not be delivered before the second quarter of 2025.
  - Recommendation 2.7 – Strategic Planning (Commission Accepted): WGL says it will implement this recommendation but has not provided any documentation or updated planning documents with the application.<sup>77</sup>
  - Recommendation 2.8 – EVA Techniques (Commission Accepted): WGL refers to its responses to 2.4 and 2.5 and does not provide any documentation of adopting

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<sup>70</sup> District SAFE Application, Exhibit (C)-1 at 2.

<sup>71</sup> District SAFE Application, Exhibit (C)-1 at 3.

<sup>72</sup> District SAFE Application, Exhibit (C)-1 at 4.

<sup>73</sup> District SAFE Application, Exhibit (C)-1 at 5.

<sup>74</sup> District SAFE Application, Exhibit (C)-1 at 5.

<sup>75</sup> District SAFE Application, Exhibit (C)-1 at 7.

<sup>76</sup> District SAFE Application, Exhibit (C)-1 at 8.

<sup>77</sup> District SAFE Application, Exhibit (C)-1 at 9.

- the required techniques.<sup>78</sup>
- Recommendation 2.9 – Reconciliation Reporting (Commission Partial Acceptance): WGL says it will provide the information in future annual reports but did not submit with its application as required.<sup>79</sup>
  - Recommendation 2.10 – Augment the Dashboard (Commission Accepted): WGL says it will make changes to internal reporting and provide this with its implementation plan.<sup>80</sup>
  - Recommendation 2.11 – Updated Reporting Requirements (Commission Accepted): WGL agrees to make some of the updates to its annual reporting requirements but defers some implementation of the Commission’s decision to discussion with “the ARP Executive Governance Committee.”<sup>81</sup>
  - Recommendation 2.12 – Additional information in Performance Plan (Commission Accepted): WGL only agrees to implement the executive summary, and ignores the rest of the Commission’s specific requirements.<sup>82</sup>
  - Recommendation 2.13 – Technical Conference Recommendations (Commission Partial Acceptance): WGL is awaiting Commission facilitation of additional technical conferences with DDOT.<sup>83</sup>
  - Recommendation 2.14 – Internal Crew Use (Commission Accepted): WGL did not comply with the directive to include the modifications or the suggested evaluations in its Application. The Company also did not provide the results of the 2023 benchmarking study as required.<sup>84</sup>
  - Recommendation 2.15 – Benchmark and Best Practice Comparison (Commission Accepted): WGL says it cannot provide the study results because they were not completed.<sup>85</sup> It is unclear why the Company cannot provide interim results or at least some level of documentation of the study.
  - Recommendation 2.16 – GIS Mapping System (Commission Rejects)
  - Recommendation 2.17 – Continuous Process Improvement (Commission Accepts): WGL simply says it will provide narrative descriptions in annual

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<sup>78</sup> District SAFE Application, Exhibit (C)-1 at 9.

<sup>79</sup> District SAFE Application, Exhibit (C)-1 at 10.

<sup>80</sup> District SAFE Application, Exhibit (C)-1 at 11.

<sup>81</sup> District SAFE Application, Exhibit (C)-1 at 13.

<sup>82</sup> District SAFE Application, Exhibit (C)-1 at 14.

<sup>83</sup> District SAFE Application, Exhibit (C)-1 at 15.

<sup>84</sup> District SAFE Application, Exhibit (C)-1 at 16.

<sup>85</sup> District SAFE Application, Exhibit (C)-1 at 17-18.

reconciliation reports but has not updated its application to reflect any change in process.<sup>86</sup>

- Recommendation 3.1 – Document Review (Commission Accepted): WGL says its processes will be updated, but does not appear to have completed this update at the time of application.<sup>87</sup>
- Recommendation 3.2 – File Nomenclature (Commission Accepted): Again, WGL says it will implement the process change (although it has not yet at the time of application).<sup>88</sup>

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<sup>86</sup> District SAFE Application, Exhibit (C)-1 at 19-20.

<sup>87</sup> District SAFE Application, Exhibit (C)-1 at 20.

<sup>88</sup> District SAFE Application, Exhibit (C)-1 at 21.

COMMISSION ACTION

FORMAL CASE NO. 1154, IN THE MATTER OF WASHINGTON GAS LIGHT COMPANY'S APPLICATION FOR APPROVAL OF PROJECT PIPES 2 PLAN,

and

FORMAL CASE NO. 1179, IN THE MATTER OF THE INVESTIGATION INTO WASHINGTON GAS LIGHT COMPANY'S STRATEGICALLY TARGETED PIPE REPLACEMENT PLAN,

Date 2/19/25 Formal Case Nos. 1154 & 1179 Tariff No. \_\_\_\_\_ Order No. 22367

	Approve Initial & Date	Dissent Initial & Date	Abstain Initial & Date
Chairman Emile Thompson	<u>ET/CL 2/19/25</u>	_____	_____
Commissioner Richard A. Beverly	_____	<u>RB/CL 2/19/25</u>	_____
Commissioner Ted Trabue	<u>TT/CL 2/19/25</u>	_____	_____

Certification of Action

*C. Lipscombe*  
General/Deputy General Counsel

Kimberly Lincoln-Stewart  
OGC Counsel/Staff