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People's Counsel

August 12, 2025

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

**Re: Formal Case No. 1179, In the Matter of the Investigation into Washington Gas
Light Company's Strategically Targeted Pipe Replacement Plan**

Dear Ms. Westbrook-Sedgwick:

Enclosed for filing in the above-referenced proceeding, please find the *Office of the People's Counsel, the District of Columbia Government, and the Sierra Club's Joint List of Issues of Material Fact in Dispute*.

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

Sincerely,

/s/ Ade Adeniyi
Ade Adeniyi
Assistant People's Counsel

Enclosure

cc: Parties of record

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

IN THE MATTER OF)	
THE INVESTIGATION INTO)	
WASHINGTON GAS LIGHT COMPANY’S)	
STRATEGICALLY TARGETED PIPE)	Formal Case No. 1179
REPLACEMENT PLAN)	

**THE OFFICE OF THE PEOPLE’S COUNSEL, THE DISTRICT OF COLUMBIA
GOVERNMENT, AND THE SIERRA CLUB’S JOINT LIST OF ISSUES OF
MATERIAL FACT IN DISPUTE**

Pursuant to the Public Service Commission of the District of Columbia’s (the “Commission”) Order No. 22434,¹ the Office of the People’s Counsel for the District of Columbia (“OPC” or the “Office”), the District of Columbia Government, and Sierra Club (collectively referred to herein as the “Parties”), hereby submit the following List of Material Issues of Facts in Dispute in the above-captioned proceeding, concerning the investigation into Washington Gas Light Company’s (“WGL” or “Company”) Strategically Targeted Pipe Replacement Plan (“PROJECTpipes”), later revised as the District Strategic Accelerated Facility Enhancement Plan (“District SAFE”).²

The Parties respectfully submit that each of the issues identified in the attached *List of Material Issues of Fact* constitutes a *material* factual dispute warranting formal adjudication

¹ Formal Case No. 1179, *In the Matter of the Investigation of Washington Gas Light Company’s Strategically Targeted Pipe Replacement Plan* (“FC 1179” or “Formal Case No. 1179”), Order No. 22434, at ¶ 23, rel. June 6, 2025 (“Order No. 22434”).

² OPC has reviewed WGL’s “Report on Stipulation” filed in this proceeding on August 8, 2025. OPC’s preliminary assessment is that certain of the proposals are not appropriate and the Office will respond to WGL’s proposed stipulations on August 20th as directed by Order No. 22700. In the interim, the Office will meet with the Company as directed by the Commission in Order No. 22700, which may help to ultimately narrow the issues identified in the Office’s August 20 submission.

under the standards set forth in Commission Order Nos. 21602 and 22366. A factual issue is deemed material when its resolution may affect the outcome of the proceeding—particularly, the Commission’s determination as to whether the pipe replacement plan proposed by WGL is just, reasonable, and consistent with the public interest, as required by District law.

The disputed issues raised herein cannot be conclusively resolved through reference to undisputed facts or disposed of by policy argument alone. Rather, they involve complex and conflicting factual assertions—grounded in expert testimony, financial modeling, and system performance data—that must be tested through the evidentiary process. These factual disputes go to the heart of the Company’s requested pipe replacement plan and ratepayer costs.

Because each issue bears directly on the Commission’s core statutory obligation to safeguard ratepayers from unjust and unreasonable charges, the issues are not only material but essential to a lawful and evidence-based resolution of this case. Consistent with long-standing administrative law principles and the Commission’s precedent, the Parties submits that the existence of these genuine and outcome-determinative factual disputes necessitates a formal evidentiary hearing.

In Order No. 22366, the Commission explains that formal, evidentiary hearings are “unnecessary when there is no dispute over material facts and if the only disputes involve law or policy.”³ The Commission explains that facts “can be proven true or false through objective evidence”, whereas “interpretation[s] of law or the establishment of a policy usually rest[] on an opinion.”⁴ The Commission also notes that “[w]ords like ‘should,’ ‘must,’ ‘good,’ and ‘worst’ usually signal an opinion rather than a fact” and indicate issues not ripe for a formal evidentiary

³ *Formal Case No. 1180*, Order No. 22366 ¶ 3.

⁴ *Formal Case No. 1180*, Order No. 22366 ¶ 3.

hearing.⁵ Pursuant to the Commission’s guidance, the below List of Material Issues of Fact in Dispute identifies specific, narrow factual issues that are in dispute as reflected in the parties’ filed testimony⁶ and data responses. Given the below list identifies specific disputed material issues of fact, the Parties submit that the below list meets the Commission’s standard for holding evidentiary hearings. In addition, due to the significant financial impact of pipe replacement on customers posed by WGL’s application and the various factual issues described below relating to ratepayer harm, the Parties respectfully submit that evidentiary hearings are necessary to fully examine the below material factual issues in dispute.

In Order No. 22367, the Commission explained that “a fact is something that can be proven true or false through objective evidence” and that “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.”⁷ The Commission further stated that “[a]lthough 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.”⁸ Pursuant to the Commission’s guidance, the following List of Material Issues of Fact in Dispute identifies specific, narrow factual issues that are in dispute as reflected in the parties’ filed testimony and data responses. The Parties submit that the following list of material issues of disputed facts meets the Commission’s standard for holding evidentiary hearings. In addition, due to the significant financial impact of the proposed District SAFE spending and associated rate rider on District ratepayers, the Parties respectfully submit that

⁵ *Formal Case No. 1180*, Order No. 22366 ¶ 3.

⁶ All references are to the as-corrected versions of testimony.

⁷ Order No. 22367 at ¶ 27.

⁸ *Id.* citing *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)).

evidentiary hearings are necessary to fully examine the following material factual issues in dispute. Finally, without evidentiary hearings, the Parties and the intervenors in this proceeding will not have the opportunity to provide record evidence in response to WGL's Surrebuttal testimony.

Accordingly, the Parties urge the Commission to grant such hearings to ensure the development of a full and complete record upon which to base its final decision, consistent with due process, administrative fairness, and the public interest.

THE PARTIES' LIST OF MATERIAL ISSUES OF FACT IN DISPUTE

In Order No. 22003,⁹ the Commission established the framework by which the Company's District SAFE plan would be assessed and directed the Company to "file an updated and restructured Strategically Targeted Pipe Replacement Plan Application in accordance with the directives prescribed in this Order."¹⁰ ***Thus, the central factual issue in this proceeding is whether the Company's District SAFE Plan complies with the directives in Order No. 22003.*** For example, in Order No. 22003, the Commission found that the District SAFE plan "must balance the need to replace leak-prone, highest-risk pipe segments to prevent dangerous cascading and potentially hidden 'super emitter' leaks before they happen while minimizing the stranded assets as the District continues to undergo the energy transition."¹¹ Similarly, the Commission found that the restructured pipe replacement plan should reflect "targeted replacement as opposed to the complete replacement of over 400 miles of aging, high risk pipelines...."¹² In each instance, the Parties submit that these directives give rise to a material issue of fact, e.g.: Does the District

⁹ *Formal Case No. 1179*, Order No 22003, rel. June 12, 2024 ("Order No. "22003").

¹⁰ Order No. 22003 at ¶ 61.

¹¹ Order No. 22003 at ¶ 48.

¹² Order No. 22003 at ¶ 49.

SAFE plan balance the need to replace the highest-risk pipe segment while minimizing the stranded assets? Does the District SAFE plan provide for targeted replacement as opposed to the complete replacement of over 400 miles of aging, high risk pipelines?

In addition to these overarching questions, the Parties submit the following list of specific issues of fact based on the record evidence in this proceeding:

Compliance with Order No. 22003

As noted above, Order No. 22003 established the framework for assessing the Company's proposed District SAFE plan. Material issues of disputed facts related to this issue include the following:

1. Does the consolidation of multiple PROJECT*pipes* programs into a single program improve the focus of the District SAFE plan?¹³
2. Does the District SAFE Plan prioritize projects on a risk reduced per dollar basis and is it limited to only leak-prone vintage materials?¹⁴
3. Does the Company have the capability to identify actual GHG emissions reductions without the completion of further industry research on how to calculate GHG reductions as directed by the Commission in Order No. 22003?¹⁵
 - a. Could the Company calculate GHG emissions reductions using an analytical approach that takes into account (i) the mains and services being replaced during the District SAFE Plan, (ii) the likelihood of leak development based on the type and vintage of pipe, and (iii) the probability of the expected GHG emissions from that segment type?¹⁶
4. Will JANA Lighthouse aid in a project prioritization that aligns with the District's climate goals, including projections on GHG emission reductions and preventing leaks each year?¹⁷
 - a. Does a demonstration that the JANA risk model can identify more leaks than the Optimain model correlate to an identification of higher-risk pipe segments?¹⁸
Would these same segments have been identified by the Optimain model?¹⁹

¹³ See Exhibit WG (A)-1, at 29; Exhibit OPC (2A) at 3:6-15.

¹⁴ See Exhibit WG (2A) (Rogers) at 6:21-24; Exhibit OPC (2A) at 4:10-5:2.

¹⁵ Order No. 22003 at ¶ 51; Exhibit WG (2A) (Rogers), at 9, Figure 1; See Exhibit OPC (2A) (Fitzhenry) at 7:1-12.

¹⁶ See Exhibit OPC (2A) (Fitzhenry) at 7:3-12.

¹⁷ Order No. 22003 at ¶ 51 (k); Exhibit OPC (2A) (Fitzhenry) at 3:16-4:9.

¹⁸ Exhibit WG (2D) (Stuber) at 9, Figure 1; Exhibit OPC (2A) (Fitzhenry) at 4:1-9.

¹⁹ Exhibit OPC (2A) (Fitzhenry) at 4:1-9.

5. Is it necessary for the Company to submit with its plan, a list of projects to be completed under the District SAFE plan in order to demonstrate improved project selection and more focused spending?²⁰
6. Has the Company adopted the audit findings as part of its pipe replacement programs?²¹ Do those findings demonstrate that the Company has continuously evaluated its program for efficiencies and adopted proposed efficiencies where recommended as alleged by WGL Witness Rogers?²²

Cost Effectiveness and District Department of Transportation (“DDOT”) Regulations

In Order No. 22033, the Commission found that WGL’s new PIPES plan must demonstrate greater cost effectiveness than the \$7.8 million per mile of main replacement reported for 2022.²³ WGL contends that recent changes in District Department of Transportation (“DDOT”) policies are the Company’s largest cost driver in recent years.²⁴ DDOT has filed comments in this proceeding identifying what it considers to be a mischaracterization of certain District policies that the Company claims adversely impact the cost and pace of WGL’s replacement activities.²⁵ Material issues of fact related to this issue include:

7. What was the cost per mile for pipe replacement activity conducted by Consolidated Edison in 2022? What was the cost per mile for replacement activity performed by BG&E?²⁶
8. When did the DDOT policies cited by the Company go into effect?²⁷
9. When did DDOT start enforcing the policies that the Company claims elevated costs of the Company’s pipe replacement activity?²⁸

²⁰ See Exhibit WG (2A) (Rogers) at 5, 8; Exhibit OPC (2A) at 6:3-16.

²¹ Exhibit WG (2A) (Rogers) at 19:2-5.

²² *Id.*

²³ Order No. 22003 at ¶ 50.

²⁴ Exhibit WG (2A) (Rogers), at 17:5-11.

²⁵ *Formal Case No. 1179*, Comments of the District Department of Transportation on Washington Gas Light Company’s District SAFE Plan (“DDOT Comments”) (Feb. 26, 2025).

²⁶ See Exhibit OPC (A) (Fitzhenry) at 4:13-16; Exhibit (WG)(2C) (Jacas) at 32:5-16.

²⁷ DDOT Comments at 1-2 (claiming that the Company has misidentified the start date (in some instances by decades) of certain regulations, which undermines the Company’s claim that these policies are drivers of recent cost increases in the Company’s pipe replacement activity); See also Exhibit WG (I) (Murphy) at 40:16-20 (Witness Murphy draws a distinction between when certain DDOT policies were adopted as opposed to when they were implemented or enforced).

²⁸ See also Exhibit WG (I) (Murphy) at 40:16-20.

10. Does (or has) DDOT selectively applied the policies on the Company as opposed to other utilities operating in the District?²⁹
11. Has the Company coordinated with DDOT to limit the impact of these policies?³⁰ What are the results of coordination (if any) between WGL and DDOT? How do the results of any such coordination impact WGL's projected costs? Are there misunderstandings between DDOT and WGL that need to be resolved in order to improve coordination between those entities? Who is best suited to facilitate such resolutions (if needed)?³¹

Use of Internal and External Crews

In Order No. 22003 the Company was directed to “[p]rovide the results of the formal assessment on internal versus external crew usage.”³² In response, the Company did not submit an analysis with its proposed District SAFE Plan but instead stated that it would “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.”³³ Material issues of fact related to this issue include:

12. Is the Company's commitment to conduct an assessment after approval of its proposed District SAFE plan compliant with Order No. 22003?
13. Is the Company overly reliant on external work crews in performing pipe replacement activities?³⁴
14. Has there been a discernible trend of increasing WGL labor costs over the past five years of pipe replacement activity?³⁵

District Safe Funding Levels

The Company contends, in support of its request for increased accelerated pipe replacement spending budgets, that its system performance issues are largely driven by underfunding pipe replacement activity. Material issues of fact related to this issue include the following:

²⁹ Exhibit WG (I) (Murphy) at 7:11-17(claiming that DDOT policies have been selectively enforced on it resulting in conflicting permits, shorter productive hours, project delays, and additional work outside of the typical replacements completed by it in any other jurisdiction).

³⁰ Exhibit WG (2C) (Jacas) at 16.

³¹ Exhibit OPC (2A) (Fitzhenry) at 13:15-16.

³² *Formal Case No. 1154, Washington Gas Light Company's Application for Approval of PROJECTpipes 2 Plan* (“*Formal Case No. 1154*”), and Order No. 22003 at ¶ 51.

³³ Exhibit WG (C)-1 at 16.

³⁴ See Exhibit WG (2C) (Jacas) at 49-52; Exhibit OPC (2A) (Fitzhenry) at 12:5-10.

³⁵ Exhibit OPC (2A) (Fitzhenry) at 12.

15. Has the Company's accelerated pipe replacement activity been chronically underfunded as Witness Rogers claims?³⁶
16. Has the Commission not approved \$910.3 million of requested PROJECT*pipes* funding as claimed by Company Witness Rogers?³⁷ How much of the requested project pipes funding has the Commission not approved?³⁸

CONCLUSION

Accordingly, for the foregoing reasons, the Parties respectfully submit this Joint List of Material Issues of Fact in Dispute, identifying material issues of fact in dispute in this proceeding that warrant an evidentiary hearing.

³⁶ Exhibit WG (2A) (Rogers) at 13:11-17.

³⁷ Exhibit OPC (2A) (Fitzhenry) at 9-10, Table 1 (the Commission has approved the majority of the funding requested by the Company (\$349.8 million of the \$588.3 million requested, or approximately 60%)).

³⁸ Exhibit WG (2A) (Rogers) at 13:11-17 (Witness Rogers claims that the Commission has not approved \$910.3 million of Project PIPES funding request); Exhibit OPC (2A) (Fitzhenry) at 9 (Witness Fitzhenry claims that the actual PROJECT*pipes* funding not approved by the Commission is approximately \$238.5 million (excluding the PIPES 3 funding request)).

CERTIFICATE OF SERVICE

Formal Case No. 1179, In the Matter of the Investigation into Washington Gas Light Company's Strategically Targeted Pipe Replacement Plan

I certify that on August 12, 2025, a copy of the *Office of the People's Counsel, the District of Columbia Government, and the Sierra Club's Joint List of Issues of Material Fact in Dispute* was served on the following parties of record by hand delivery, first class mail, postage prepaid or electronic mail:

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