

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

ORDER

September 15, 2025

**FORMAL CASE NO. 1179, IN THE MATTER OF THE INVESTIGATION INTO
WASHINGTON GAS LIGHT COMPANY’S STRATEGICALLY TARGETED PIPE
REPLACEMENT PLAN, Order No. 22716**

I. INTRODUCTION

1. The Public Service Commission of the District of Columbia (“Commission”) reviews the lists of material issues of fact in dispute filed by the Parties (“Issues Lists”) to this proceeding.¹ The Commission directs Washington Gas Light Company (“WGL”) to supplement its application with the information in paragraphs 20-21 of this Order. The Commission also grants the District of Columbia Government’s (“DCG”) Motion for Leave to File an Affidavit² but denies DCG’s and WGL’s Requests for Live Rejoinder³ as to the Affidavit. Because the Commission allows for further additional testimony, a revised Procedural Schedule is appended to this Order as Attachment A.

II. BACKGROUND

2. By Order No. 22003, the Commission, among other things, initiated this proceeding by adopting a procedural schedule for filing a revised application for WGL’s accelerated pipe replacement program.⁴ On July 26, 2024, by Order No. 22241,⁵ the Commission adopted a modified procedural schedule to adjudicate WGL’s revised application. On August 7, 2024, by Order No. 22257, the Commission denied WGL’s Application for Reconsideration of Order No.

¹ *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*”), Office of the People’s Counsel for the District of Columbia, the District of Columbia Government, and Sierra Club’s Joint List of Material Issues of Fact in Dispute (“Parties’ Joint List”), filed August 12, 2025; The District of Columbia Government’s Supplemental List of Material Issues of Fact in Dispute (“DCG’s Supplemental List”), filed August 12, 2025; and Washington Gas Light Company’s List of Material Issues of Fact in Dispute (“WGL’s Issues List”), filed May 30, 2025 (collectively, “Issues Lists”).

² *Formal Case No. 1179*, DCG’s Motion to File Affidavit, filed August 12, 2025.

³ *Formal Case No. 1179*, the District of Columbia Government’s Motion for Leave to Reply to WGL’s Response in Opposition to Motion for Leave to File Affidavit and Reply and Cross-Motion for Live Rejoinder, filed August 27, 2025 (“DCG’s Motion for Leave”); Washington Gas Light Company’s Response in Opposition to the DCG’s Motion for Leave to File Affidavit, n. 27, (“WGL Response”) filed August 21, 2025.

⁴ *Formal Case No. 1179*, Order No. 22003, rel. June 12, 2024 (“Order No. 22003”).

⁵ *Formal Case No. 1179*, Order No. 22241, rel. July 26, 2024 (“Order No. 22241”).

22003 and reemphasized that WGL's new plan should balance pipeline safety and climate safety and clarified that we do not prioritize electrification over safety.⁶ On September 27, 2024, WGL filed its District Strategic Accelerated Facility Enhancement Plan ("District SAFE Plan") and seeks authorization to undertake targeted replacement of certain vintage pipe materials and to recover the costs associated with the District SAFE Plan through the previously approved surcharge mechanism for WGL's accelerated pipe program.⁷

3. On January 2, 2025, WGL filed a Motion for Evidentiary Hearing.⁸ In the Motion, WGL argues that many of the issues presented for resolution are entirely fact-based, which requires the Commission to make findings of fact.⁹ On January 9, 2025, in response to WGL's Motion for Evidentiary Hearing, the Parties filed a Joint Response to WGL's Motion for Evidentiary Hearing and a Joint Motion to Dismiss the Application due to noncompliance with Order No. 22003.¹⁰ In this Joint Response/Motion, the Parties argue that WGL's failure to comply with Order No. 22003 is not the type of "issue of fact" that needs to be addressed through a formal hearing because even if all the facts were in favor of the company, it would not cure its application's deficiency.¹¹

4. On February 19, 2025, the Commission issued Order No. 22367 in response to these two Motions.¹² In the Order, the Commission denied WGL's Motion for an Evidentiary Hearing and amended the Procedural Schedule.¹³ The Commission also denied the Joint Movants' Motion to Dismiss this proceeding and determined that WGL had made a *prima facie* showing that the District SAFE Plan met the requirements set forth in Order No. 22023.¹⁴ However, in addition, the Commission directed the parties to file a Joint List of Material Issues of Fact in Dispute by

⁶ *Formal Case No. 1179*, Order No. 22257, ¶¶ 5 and 11, rel. August 7, 2024 ("Order No. 22257").

⁷ *Formal Case No. 1179*, Washington Gas Light Company's Revised Application for Approval of The District Strategic Accelerated Facility Enhancement Plan ("District SAFE Plan"), filed September 27, 2024.

⁸ *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 ("Motion for Evidentiary Hearing"), filed January 2, 2025.

⁹ Motion for Evidentiary Hearing at 8-9.

¹⁰ *Formal Case No. 1179*, the Office of the People's Counsel of the District of Columbia's, the District of Columbia Government, the Apartment and Office Building Association of Washington 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 ("Joint Response/Motion"), filed January 9, 2025.

¹¹ Joint Response/Motion at 4.

¹² *Formal Case No. 1179*, Order No. 22367, rel. February 19, 2025 ("Order No. 22367").

¹³ Order No. 22367 at 12.

¹⁴ Order No. 22367 at 20.

May 30, 2025, so that the Commission can decide whether to hold an evidentiary hearing to address material issues of fact if they are present.¹⁵

5. On February 27, 2025, DCG filed a Motion for Leave to File Comments challenging WGL's allegations that essentially attempt to blame the slow rate and high cost of pipe replacement on the District Department of Transportation ("DDOT") because of certain District policies.¹⁶ WGL filed a Response in opposition on March 7, 2025, claiming the lateness of submission of the comments was prejudicial.¹⁷ By Order No. 22393, the Commission granted DCG's Motion and accepted the Comments into the record.¹⁸

6. On May 30, 2025, WGL filed its Material Issues List.¹⁹ However, the Office of the Attorney General ("OAG") on behalf of DCG moved to modify the procedural schedule to allow the Parties to issue data requests on WGL's Surrebuttal and Witness Murphey's Supplemental Testimony.²⁰ On June 4, 2025, WGL filed an Answer in Opposition to DCG's Motion to Modify the Procedural Schedule.²¹ Additionally, on June 6, 2025, LiUNA Mid-Atlantic Regional Organizing Coalition ("LiUNA"), on behalf of the Philadelphia-Baltimore-Washington Laborers' District Council ("PBWLDC"), filed an Answer in Opposition to DCG's Motion to Modify the Procedural Schedule.²²

7. On June 6, 2025, the Commission issued Order No. 22434, granting DCG's Motion for Leave to File Data Requests limited to Witness Murphy's Supplemental Testimony.²³ To accommodate this discovery, the Commission modified the Procedural Schedule, setting July 14,

¹⁵ Order No. 22367 at 11.

¹⁶ *Formal Case No. 1179*, District of Columbia Government Motion for Leave to File Comments from the District Department of Transportation ("DDOT's Comments"), filed February 27, 2025.

¹⁷ *Formal Case No. 1179*, Washington Gas Light Company's Response in Opposition to the Motion for Leave ("WGL's Opposition"), filed March 7, 2025.

¹⁸ *Formal Case No. 1179*, Order No. 22393, rel. March 27, 2025 ("Order No. 22393").

¹⁹ *Formal Case No. 1179*, Washington Gas Light Company's List of Material Issues of Fact in Dispute ("WGL's Issues List"), filed May 30, 2025.

²⁰ *Formal Case No. 1179*, District of Columbia Government's Motion for Modification of the Procedural Schedule ("DCG's Modification Motion"), filed May 30, 2025.

²¹ *Formal Case No. 1179*, Washington Gas Light Company's Answer in Opposition to the Motion of the District of Columbia Government for Modification of the Procedural Schedule ("WGL's Answer to DCG's Modification Motion") filed June 4, 2025.

²² *Formal Case No. 1179*, LiUNA Mid-Atlantic Regional Organizing Coalition's Answer on behalf of the Philadelphia-Baltimore-Washington Laborers' District Council in Opposition to the District of Columbia Government's Motion for Modification of the Procedural Schedule ("PBWLDC's Answer to DCG Motion"), filed June 6, 2025.

²³ *Formal Case No. 1179*, Order No. 22434, rel. June 6, 2025 ("Order No. 22434").

2025, as the new deadline for submitting the Joint List of Material Issues of Fact.²⁴ On July 14, 2025, WGL filed a letter adopting the List it filed on May 30, 2025.²⁵

8. On July 15, 2025, DCG filed to hold the Procedural Schedule in Abeyance until WGL had fully responded to its data request related to WGL's Geographic Information System ("GIS") database.²⁶ On July 17, 2025, WGL filed its Answer in Opposition to DCG's Motion to hold the Procedural Schedule in Abeyance.²⁷ Additionally, on July 21, 2025, LiUNA, on behalf of PBWLDC, filed its Answer in Opposition to DCG's Motion to hold the Procedural Schedule in Abeyance.²⁸

9. On July 24, 2025, the Commission issued Order No. 22689, granting DCG's Motion to hold the Procedural Schedule in Abeyance to allow DCG to complete its review of discovery materials.²⁹ The Order extended the deadline to submit the Joint List of Material Issues of Facts in Dispute until August 4, 2025.³⁰ On August 4, 2025, WGL filed a letter adopting its May 30, 2025, List of material issues of fact in dispute³¹ and a Motion to Extend the Time to File its List of Material Issues of Fact in Dispute.³² On August 8, 2025, WGL filed a Report on Stipulations.³³ On August 8, 2025, the Commission issued Order No. 22700, granted DCG's

²⁴ Order No. 22434, ¶ 11.

²⁵ *Formal Case No. 1179*, Washington Gas Light's Letter Referencing and Adopting Prior Filed List ("WGL's July 14th Letter"), filed July 14, 2025.

²⁶ *Formal Case No. 1179*, The District of Columbia Government's Motion to Place the Procedural Schedule in Abeyance ("DCG's Abeyance Motion"), filed July 15, 2025.

²⁷ *Formal Case No. 1179*, Washington Gas Light Company's Answer in Opposition to the Motion of the District of Columbia Government to Place Procedural Schedule in Abeyance ("WGL's Answer to Abeyance Motion"), filed July 17, 2025.

²⁸ *Formal Case No. 1179*, LiUNA Mid-Atlantic Regional Organizing Coalition's Answer on behalf of the Philadelphia-Baltimore-Washington Laborers' District Council in Opposition to the District of Columbia Government's Motion to Hold the Procedural Schedule in Abeyance ("PBWLDC's Answer to Abeyance Motion"), filed July 21, 2025.

²⁹ *Formal Case No. 1179*, Order No. 22689, rel. July 24, 2025 ("Order No. 22689").

³⁰ Order No. 22689, ¶ 7.

³¹ *Formal Case No. 1179*, Washington Gas Light Company's Letter Adopting its May 30, 2025, List of Material Issues of Fact in Dispute ("WGL's Letter"), filed May 30, 2025.

³² *Formal Case No. 1179*, The District of Columbia Government's Motion for Enlargement of Time to File Material Issues of Fact in Dispute ("DCG's MIFID Enlargement Motion"), filed August 5, 2025.

³³ *Formal Case No. 1179*, Washington Gas Light Company's Report on Stipulations ("WGL Stipulation Report"), filed August 8, 2025.

Motion, setting a new due date of August 12, 2025, for the Joint List of Material Issues of Fact in Dispute.³⁴

10. On August 12, 2025, the Office of the People's Counsel for the District of Columbia ("OPC"), DCG, and the Sierra Club filed their Joint List of Material Facts in Dispute.³⁵ In addition, DCG filed a Supplemental List of Material Issues of Fact in Dispute.³⁶ Also on August 12, 2025, DCG filed a Motion for Leave to File an Affidavit.³⁷ On August 21, 2025, WGL filed a Response to DCG's Motion for Leave,³⁸ and Recommendation on Issues List, noting that the Commission should give no consideration or weight to the Parties' Issues List because the record remains unchanged since the submission of WGL's April 11, 2025, Supplemental Testimony.³⁹ On August 27, 2025, DCG filed a Motion for Leave to Reply to WGL's Response in Opposition to the Motion for Leave to File an Affidavit and Reply and Cross-Motion for Live Rejoinder.⁴⁰

III. DISCUSSION AND DECISION

A. Material Issues of Fact in Dispute

11. The Commission applies established legal precedent to determine when evidentiary hearings are required, ensuring consistent application of due process protections while promoting regulatory efficiency. Although there is a statutory requirement that an Order affecting rates cannot be entered by the Commission 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.⁴¹ Genuine factual issues for trial are those that "properly can be resolved only by a finder of fact because they may reasonably be resolved in favor of either

³⁴ *Formal Case No. 1179*, Order No. 22700, rel. August 8, 2025 ("Order No. 22700").

³⁵ *Formal Case No. 1179*, Office of the People's Counsel for the District of Columbia, the District of Columbia Government, and Sierra Club's List of Material Issues of Fact in Dispute ("Parties' Joint List"), filed August 12, 2025.

³⁶ *Formal Case No. 1179*, The District of Columbia Government's Supplemental List of Material Issues of Fact in Dispute ("DCG's Supplemental List"), filed August 12, 2025.

³⁷ *Formal Case No. 1179*, the District of Columbia Government's Motion for Leave to File Affidavit ("Motion for Leave"), filed August 12, 2025.

³⁸ *Formal Case No. 1179*, Washington Gas Light Company's Response in Opposition to the Motion for Leave to File Affidavit ("WGL Response"), filed August 21, 2025.

³⁹ *Formal Case No. 1179*, Washington Gas Light Company's Recommendation Regarding the Parties' Joint List of Issues of Material Fact in Dispute and the District of Columbia Government's Supplemental List of Material Issues of Fact in Dispute ("WGL Recommendation"), filed August 21, 2025.

⁴⁰ *Formal Case No. 1179*, District of Columbia Government's Motion for Leave to Reply Washington Gas Light Company's Response in Opposition to Motion for Leave to File Affidavit and Reply and Cross-Motion for Live Rejoinder ("DCG's Reply"), filed August 27, 2025.

⁴¹ *Watergate East v. Public Service Comm'n of Dist. Of Columbia*, 662 A.2d 881, 290 (D.C. Ct. App. 1985).

party.”⁴² As Order No. 22366 stated, 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.⁴³

12. Generally, a “genuine issue of material fact” is a term of art often used as the basis for a motion for summary judgment. Summary judgment is proper if there is no genuine issue of material fact and the movant is entitled to a judgment as a matter of law. Such a motion will be granted if the party making the motion proves there is no genuine issue of material fact to be decided. When the moving party makes a *prima facie* showing that no genuine issue of material fact exists, the burden shifts to the nonmoving party to rebut the showing by presenting substantial evidence creating a genuine issue of material fact.⁴⁴

13. The Commission has stated that application of this standard must be consistent across proceedings to avoid arbitrary and capricious decision-making subject to judicial review. Material facts require objective evidence that can be examined through documentary review, witness testimony, and cross-examination. Pure policy preferences, legal interpretations, or expert opinions without a factual foundation do not constitute material facts requiring evidentiary resolution. The Commission has carefully distinguished between verifiable factual disputes and matters of regulatory judgment or legal construction in previous Orders and here.

14. The presumption is that there is a disagreement between opposing parties on facts legally relevant to a claim. For purposes of adjudicating a dispute among parties, “[a]djudicatory facts answer the questions of who did what, where, when, how, why, and with what motive or intent, and are the type of facts that go to a jury in a case tried before a jury.”⁴⁵ Additionally, a factual issue is “genuine” if it is not capable of being conclusively foreclosed by reference to undisputed facts. Although there may be genuine disputes over certain facts, a fact is “material” when its existence facilitates the resolution of an issue in the case. Material facts tend to prove or disprove a disputed fact that is relevant to the outcome in a case. The presumption is that there is a disagreement between opposing parties on facts legally relevant to a claim. The disagreement must be “genuine” in the sense that it must be plausible (e.g., one cannot logically dispute a contract date without also alleging that a copy of a contract with that date inaccurately reflects the

⁴² *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986).

⁴³ Order No. 22366, ¶ 4.

⁴⁴ *Formal Case No. 1156, In the Matter of the Application of Potomac Elec. Power Co. for Auth. to Implement A Multiyear Rate Plan for Elec. Distribution Serv. in the D.C.*, (“*Formal Case No. 1156*”) Order No. 20368, ¶¶ 10-11, rel. June 18, 2020 (“*Order No. 20368*”); *Formal Case No. 1126, In the Matter of the Office of the Peoples Counsel's Complaint Against Washington Gas Light Co. Regarding the Unlawful Comp. of Competitive Serv. Providers in Violation of Its Rate Schedule No. 5*, (“*Formal Case No. 1126*”) Order No. 18008, ¶¶ 36-37, rel. October 27, 2015 (“*Order No. 18008*”); *Formal Case No. 1116, In the Matter of the Application for Approval of Triennial Underground Infrastructure Improvement Projects Plan*, (“*Formal Case No. 1116*”) Order No. 17627, ¶ 71, rel. September 9, 2014 (“*Order No. 17627*”).

⁴⁵ *Formal Case No. 1102, In the Matter of the Investigation into the Continued Use of Verizon Washington, DC. Inc.'s Copper Infrastructure to Provide Telecommunications Services*, (“*Formal Case No. 1102*”) Order No. 17314, ¶15, rel. December 9, 2013 (“*Order No. 17314*”).

agreement). A genuine issue of material fact, which, as stated above, involves a dispute over a material fact upon which the outcome of a legal case may rely and which, therefore, must be decided by a judge or jury and precludes summary judgment.

15. As mentioned, a hearing is not necessary where no material facts are in dispute or where the disposition of claims does not turn on the determination of facts but on inferences and legal conclusions to be derived from facts already established.⁴⁶ There is little need for an evidentiary hearing, so that each party can cross-examine a witness's opinion. The Commission can decide, based on the written testimony, which opinion to credit. If, however, there is a dispute as to whether a matter is true or false and it is material to the Commission's decision, it may rise to a genuine issue of material fact in dispute.⁴⁷

B. Discussion

16. After reviewing the Issues Lists, the Commission determines that the Parties' submitted material issues of fact in dispute are inappropriate for an evidentiary hearing at the moment. Rather than factual disputes requiring witness testimony, the issues primarily involve legal interpretations, policy determinations, prudence, reasonableness, fairness, justification, impact, or alignment with Commission or District policy goals, which requires the Commission to exercise its judgment. Those issues include compliance with Order No. 22003, labor matters, the funding level for the District SAFE Plan, and cost-effectiveness concerns (*i.e.*, the perceived pace of electrification). Other issues seek to determine whether there is compliance with the directives in *Formal Case Nos. 1154, 1175, and 1179*, which involves both policy and legal questions for the Commission to determine.⁴⁸ We have determined that the issues that require policy determinations do not raise material issues of fact in dispute.⁴⁹ In exercising our judgment, the Commission is required to balance interests and consider policy preferences, which can be resolved through written submissions on the record.⁵⁰ Policy and legal decisions do not present material issues of fact in dispute. The legal issues can be resolved similarly to the policy issues through written submissions submitted on the record; therefore, there is no need for an evidentiary hearing merely to admit responses to data requests.⁵¹ The Commission discusses the issues presented by the Parties in turn below.

⁴⁶ *Potomac Elec. Power Co. v. Public Service Comm'n of Dist. Of Columbia*, 457 A.2d 776, 789 (D.C Ct. App. 1983).

⁴⁷ *Formal Case No. 1154, In the Matter of Washington Gas Light Company's Application for Approval of PROJECTpipes 2 Plan*, ("Formal Case No. 1154"), Order 20615, ¶ 5-6, rel. August 20, 2020 ("Order 20615").

⁴⁸ Parties' Joint List at 5-6.

⁴⁹ *Formal Case No. 1169, In the Matter of the Application of Washington Gas Light Company for Authority to Increase Existing Rates and Charges for Gas Service* ("Formal Case No. 1169"), Order No. 21582, ¶ 14, rel. March 14, 2023 ("Order No. 21582").

⁵⁰ See Parties' Joint List, 1, 2, 3, 3a, 5, 6, 12 - 16; DCG's Supplemental Issues List, 1, 1 Sub Issue A, 1 Sub Issue B, 1 Sub Issue C, 2 - 8.; and WGL's Issues List, 2.

⁵¹ Order No. 21582, ¶ 86.

1. From the Parties' Joint List (internal citations omitted):

Joint Parties 1-6 (Compliance with Order No. 22003)

Joint Parties 1. Does the consolidation of multiple PROJECT*pipes* programs into a single program improve the focus of the District SAFE plan?⁵²

Joint Parties 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?⁵³

Joint Parties 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?⁵⁴

Sub-Issue 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 that segment.

Joint Parties 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?⁵⁵

Sub-Issue 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? Would these same segments have been identified by the Optimain model?

Joint Parties 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?⁵⁶

⁵² Parties' Joint List at 5.

⁵³ Parties' Joint List at 5.

⁵⁴ Parties' Joint List at 5.

⁵⁵ Parties' Joint List at 5.

⁵⁶ Parties' Joint List at 6.

Joint Parties 6. Has the Company adopted the audit findings as part of its pipe replacement programs? 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?⁵⁷

Joint Parties 7-11 (Impact of the DDOT's Policies on Project Costs and Productivity)

Joint Parties 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?⁵⁸

Joint Parties 8. When did the DDOT policies cited by the Company go into effect?⁵⁹

Joint Parties 9. When did DDOT start enforcing the policies that the Company claims elevated costs of the Company's pipe replacement activity?⁶⁰

Joint Parties 10. Does (or has) DDOT selectively applied the policies on the Company as opposed to other utilities operating in the District?⁶¹

Joint Parties 11. Has the Company coordinated with DDOT to limit the impact of these policies? 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)?⁶²

Joint Parties 12-14 (Labor and the Use of Internal and External Crews):

⁵⁷ Parties' Joint List at 6.

⁵⁸ Parties' Joint List at 6.

⁵⁹ Parties' Joint List at 6.

⁶⁰ Parties' Joint List at 6.

⁶¹ Parties' Joint List at 7.

⁶² Parties' Joint List at 7.

Joint Parties 12. Is the Company's commitment to conduct an assessment after approval of its proposed District SAFE plan compliant with Order No. 22003?⁶³

Joint Parties 13. Is the Company overly reliant on external work crews in performing pipe replacement activities?⁶⁴

Joint Parties 14. Has there been a discernible trend of increasing WGL labor costs over the past five years of pipe replacement activity?⁶⁵

Joint Parties 15-16 (District Safe Plan Funding Levels):

Joint Parties 15. Has the Company's accelerated pipe replacement activity been chronically underfunded as Witness Rogers claims?⁶⁶

Joint Parties 16. Has the Commission not approved \$910.3 million of requested PROJECT*pipes* funding as claimed by Company Witness Rogers? How much of the requested PROJECT*pipes* funding has the Commission not approved?⁶⁷

17. **Decision.** The Commission determines that the Joint Parties' issues are inappropriate for an evidentiary hearing because they primarily involve legal interpretations, policy determinations, improper discovery requests, determinations on compliance with directives in Order No. 22003, or labor related issues, and the District SAFE Plan's funding issues, rather than genuine factual disputes requiring witness testimony and cross-examination. These issues primarily concern whether a single program improves the focus of the plan, how the plan prioritizes projects, how GHG emissions should be calculated, whether a project list should accompany the plan, whether WGL has adopted the audit findings, and raise labor-related issues regarding the use of external or internal crews. The Commission does not believe that these issues rise to genuine factual disputes requiring witness testimony and cross-examination because they fundamentally involve policy determinations and make speculative assessments, rather than genuine factual disputes requiring witness testimony and cross-examination. As to the issue of compliance with the directives in Order No. 22003, analysis will involve the Commission's legal interpretations, judgment, and policy determinations, which do not present a factual dispute.⁶⁸ While there may be underlying facts core to that determination, the issues noted by the Joint Parties in this section are policy determinations, not factual evaluations. In addition, review of the labor issues and the

⁶³ Parties' Joint List at 7.

⁶⁴ Parties' Joint List at 7.

⁶⁵ Parties' Joint List at 7.

⁶⁶ Parties' Joint List at 8.

⁶⁷ Parties' Joint List at 8.

⁶⁸ Order No. 22367, ¶ 9.

District SAFE Plan's funding level issues center on regulatory policy questions because they ask WGL to demonstrate the sufficiency of the labor force and the reasonableness of the proposed funding level for the District SAFE Plan. The Commission also issued Order No. 22367, which already addressed internal versus external crew usage matters and did not require WGL to provide further testimony on that issue.⁶⁹ We find that these matters are best handled through legal briefing based on the extensive record already developed in this proceeding.

2. From DCG's Supplemental List:

DCG 1-5 (Cost Effectiveness and Risk Reduced per Dollar Spent)

DCG 1. Will WGL's proposed District SAFE plan achieve its purported goal of obtaining the highest risk reduction per dollar spent? Put another way, to what extent does the distribution of risk reduction cost-effectiveness extend across projects on WGL's system?⁷⁰

Sub-Issue A: Based on WGL's metric of risk-reduced-per-\$10K of project cost, do the projects selected by WGL rank among the most cost-effective?

Sub-Issue B: Are the locations proposed by WGL for replacement projects in District SAFE the most cost-effective locations?

Sub-Issue C: Does WGL's grouping of service projects together in geographical areas (a/k/a quads) achieve the greatest risk reduction-per-dollar spent as represented by WGL?

DCG 2. Is WGL currently replacing higher risk pipes through its regular replacement program than pipes with lower risk for which it is seeking accelerated surcharge funding? If so, what does this fact reveal about WGL's need for surcharge funding of pipe replacements?⁷¹

DCG 3. Does WGL's focusing on service only replacements reflect the most cost-effective option for removing risk from WGL's District system as represented by WGL?⁷²

⁶⁹ Order No. 22367, ¶ 51(q).

⁷⁰ DCG's Supplemental List at 1-2.

⁷¹ DCG's Supplemental List at 2.

⁷² DCG's Supplemental List at 2.

DCG 4. To what extent do locations exist on WGL’s District system that would be suitable for either abandonment or electrification?⁷³

DCG 5. Is WGL’s proposed Customer Choice pilot program designed in a manner that is likely to facilitate increased electrification?⁷⁴

DCG 6-8 (Labor)

DCG 6. How many workers are employed at WGL specifically to perform work on its accelerated pipe replacement program, or “system betterment activities”?⁷⁵

DCG 7. How many workers were laid off or otherwise let go (internal or contractor) as a result of interruptions in WGL’s pipeline replacement work, or due to perceived loss of surcharge funding for pipeline replacement work?⁷⁶

DCG 8. How many workers employed with WGL specifically to perform work on its accelerated pipe replacement program are members of the union labor workforce?⁷⁷

18. **Decision.** The Commission determines that the DCG’s eight (8) issues and three (3) sub-issues are inappropriate for an evidentiary hearing because they primarily involve legal interpretations, policy determinations, or are improper discovery requests. Issues 1 through 3 are inappropriate for an evidentiary hearing because consideration of project selection and identification processes are matters of policy. Issues 4 and 5, which concern the extent of locations suitable for abandonment or electrification and the design of WGL’s Customer Choice Pilot Program, are speculative inquiries that do not directly challenge the fundamental cost-effectiveness or safety justifications of the District SAFE Plan. Similarly, Issues 6, 7, and 8 seek quantitative data regarding WGL’s workforce composition, layoffs, and union membership in relation to the accelerated pipe replacement program and present straightforward factual questions that can be adequately tested through written discovery responses. They do not require the adversarial testing of witness credibility or complex technical testimony that would justify the time and expense of an evidentiary hearing. These issues are more appropriately addressed through legal briefing and policy arguments based on the written record.

⁷³ DCG’s Supplemental List at 2.

⁷⁴ DCG’s Supplemental List at 2.

⁷⁵ DCG’s Supplemental List at 2.

⁷⁶ DCG’s Supplemental List at 3.

⁷⁷ DCG’s Supplemental List at 3.

3. Washington Gas Light's List of Material Facts in Dispute⁷⁸

WGL 1 (Increased Cost)

WGL 1. Has Washington Gas demonstrated that it has experienced and will continue to experience increases in costs associated with pipeline replacement activities due to the selective enforcement of permit conditions and restrictions by DDOT?⁷⁹

WGL 2 (Electrification).

WGL 2. Is there evidence of Washington Gas customers electrifying in the District and, if so, at what pace?

19. **Decision.** WGL's questions about DDOT's role in the cost of its plan and about electrification issues do not present issues of fact that require a hearing for resolution. Regarding DDOT, whether and to what extent DDOT's regulations impact WGL's costs is not an issue of fact, and the Commission does not regulate DDOT, which is entitled to selective enforcement, as all agencies are. Customer electrification patterns are merely background information that would not affect the legal determination of whether the District SAFE Plan should be approved or whether the rates thereof should be recovered through surcharge funding. This issue is also largely uncontested by the Parties who only discuss the electrification policies of the District and offer a negligible amount of information on the electrification policies of other jurisdictions. In any event, this issue could have been adjudicated through discovery or interrogatories.

C. Supplemental Testimony to be Provided by WGL

20. While we have determined that none of the above issues contain issues of material fact in dispute, some of the questions the Parties asked raise questions that we think should be answered by requiring the Company to supplement its application.⁸⁰ Once WGL has provided additional information, the Commission will make another determination in an Order about whether any material issues of fact are present.

21. The Parties' questions about WGL's risk methodology also require us to request additional information about the Company's use of JANA. The Commission has not yet approved

⁷⁸ WGL's Issues List at 9. WGL claims that the majority of its rebuttal testimony is undisputed; therefore, WGL asserts that outside of the facts in dispute that it listed, there are no other material issues of fact that warrant an evidentiary hearing. *Id.* at 10. WGL should raise this as stipulations or admissions at the Prehearing/Status Conference.

⁷⁹ WGL's Issues List at 4-7. WGL's issues are not numbered and are referenced in the order of presentation.

⁸⁰ The majority acknowledges that the partial concurrence raises many valid concerns. However, the majority believes many of these questions should be addressed in any final order this Commission issues. Additionally, questions regarding prudence of costs incurred during Pipes 2 should be addressed in that case.

WGL's use of JANA.⁸¹ WGL's assertion regarding its proposed JANA risk model predicting risk and prioritizing project selection cannot be credibly validated without detailing its correlation with actual leaks on WGL's system. While WGL has provided some information regarding the proposed JANA risk model, the information lacks the necessary granularity and detail to fully understand and verify its claims. Accordingly, WGL is directed to provide the following information regarding the JANA model as supplemental testimony within ten (10) days of the date of this Order:

- The detailed inputs and underlying data used in the model's calibration.
- The specific correlation analysis used to validate its predictions against actual leak data on WGL's system.
- A full accounting of the model's ongoing modifications, backtesting, or heuristics.

Because Optimain is no longer supported and adds no value to a comparative analysis, the focus must remain on the JANA model's independent merits. A decision on a methodology that will drive significant future investment requires a record with sufficient transparency and detail to meet the substantial evidence standard of this proceeding.

D. DCG's Motion for Leave to File Affidavit, WGL's Response, DCG's Motion for Leave to Reply, Reply, and Cross-Motion for Live Rejoinder

1. DCG's Motion for Leave to File Affidavit

22. DCG requests that the Commission accept Witness Dr. Asa S. Hopkins's Affidavit into the record. According to DCG, WGL's dilatory discovery tactics in providing access to GIS data prevented DCG from incorporating the information into its testimony.⁸² DCG argues that the Motion should be granted because Dr. Hopkins's conclusion that there is little evidence to support that the Company's District SAFE Plan will achieve the highest risk reduction per dollar spent is highly relevant and contradicts various assertions made by WGL witnesses.⁸³

23. DCG also argues that the Motion should be granted because including the Affidavit will provide the Commission with a more "complete and fulsome record" upon which to base its decision.⁸⁴ DCG contends that denying the Motion would allow utilities to delay discovery

⁸¹ *Formal Case 1154*, Order No. 22294, FN 23 ("Order No. 22294").

⁸² DCG's Motion at 1-2.

⁸³ DCG's Motion at 3. Dr. Hopkins concludes that: (1) the SAFE Plan is structured around a new prioritization methodology, based on a risk reduction per dollar spent metric using the new JANA risk modeling tool; (2) the metric and manner in which the methodology is applied are central to the overarching issue of the reasonableness of WGL's proposed SAFE Plan; and (3) there are a number of pipe segments on WGL's distribution system that could be safely and cost-effectively abandoned. *Id.*

⁸⁴ DCG's Motion at 3-4.

responses, which would run counter to the Commission's goal of allowing Parties an opportunity to develop a fulsome record and prejudice parties like DCG.⁸⁵ DCG requests that the Commission grant the Motion and accept the Affidavit into the record.

2. WGL's Response

24. WGL begins by discussing the Joint Parties' and DCG's Supplemental Issues List and urging the Commission to give no consideration or weight to those Issues Lists. In support of its assertion, WGL claims that the record remains unchanged since the submission of WGL's April 11, 2025, Supplemental Testimony.⁸⁶

25. As for the Affidavit, WGL asserts that the Commission should reject it because it is untimely (submitted months after the last round of testimony). WGL avers that DCG had several opportunities to supplement the evidentiary record but did not.⁸⁷ The Company argues that the Commission did not authorize DCG to provide any additional written submissions or reserve the right to do so.⁸⁸ According to WGL, DCG's Affidavit uses the GIS data to revisit how WGL's 2025 PIPES 2 Extension Project List was selected and is an attempt to sidestep *Formal Case No. 1154's* Order No. 22697's approval of the 2025 Extension Project List based upon the Commission's independent review.⁸⁹ WGL states that the Updated 2025 Extension Project List uses the evaluation criteria for PIPES 2 and not the District SAFE Plan, and that the conclusions in the Affidavit, if admitted, would only confuse the record.⁹⁰

26. Lastly, WGL states that to the extent the Commission allows the Affidavit into the record, the Company must be given the opportunity to provide live rejoinder testimony at an evidentiary hearing to address the purported errors in the Affidavit and dispel the ostensible confusion DCG seeks to create by referencing the PIPES 2 approach, which is irrelevant to the District SAFE Plan.⁹¹

3. DCG's Motion for Leave to Reply, Reply, and Cross-Motion for Live Rejoinder

⁸⁵ DCG's Motion at 4.

⁸⁶ *Formal Case No. 1179*, Washington Gas Light Company's Recommendation Regarding the Parties' Joint List of Issues of Material Fact in Dispute and the District of Columbia Government's Supplemental List of Material Issues of Fact in Dispute, filed August 21, 2025 ("WGL Recommendation").

⁸⁷ WGL's Response at 6 and 9.

⁸⁸ WGL's Response at 8.

⁸⁹ WGL's Response at 9.

⁹⁰ WGL's Response at 8-9.

⁹¹ WGL's Response at 10 n. 27.

27. DCG's Motion for Leave to Reply states that there is good cause to grant the Motion because the Reply will help clarify an issue and assist the Commission in the decision-making process.⁹² DCG states that their Motion to File the Affidavit was necessary due to the procedural circumstances of WGL's delay and dilatory discovery tactics in providing DCG with access to the GIS database.⁹³ DCG claims that Dr. Hopkins' affidavit provides relevant information that the Commission would want to consider regarding an important aspect of the case (i.e., whether WGL's revised pipe replacement program is strategically targeted to achieve the most value for its replacement projects).⁹⁴ DCG argues, contrary to WGL's position, that Dr. Hopkins' affidavit is not a collateral attack on the PIPES 2 Extension List but is in response to WGL's witnesses Jacas and Stuber's discussions regarding specific aspects of the methodology used to select projects for PIPES 2 that are proposed to be used for pipe selection in the District SAFE Plan. The affidavit also discusses other directives in Order No. 22003 regarding abandonment and electrification, which are relevant to whether the District SAFE Plan should be approved.⁹⁵

28. With respect to the request for live rejoinder testimony, DCG states that allowing live rejoinder would provide the District with the opportunity to put its evidentiary testimony into the evidentiary record regarding the subject matter of the affidavit. In addition, it would give WGL an opportunity to cross-examine Dr. Hopkins to test the weight and relevance of the subject matter of the affidavit.⁹⁶

29. **Decision.** The Commission has broad authority in managing its docket. The Commission finds that Dr. Hopkins's Affidavit contains relevant information regarding WGL's project selection methodology and risk assessment practices that *may* inform our evaluation of the District SAFE Plan's strategic targeting claims. Therefore, the Commission grants DCG's Motion for Leave to File Affidavit, and will allow WGL to provide written Rebuttal testimony. If DCG wishes to file Rejoinder testimony after WGL files its Rebuttal testimony, it can do so according to the schedule below.

E. Procedural Schedule

30. The Commission has adopted a revised procedural schedule in Attachment A of this Order based on its decision-making in this Order.

THEREFORE, IT IS ORDERED THAT:

31. The Commission **DIRECTS** the Washington Gas Light Company to file supplemental testimony in accordance with paragraphs 20-21 of this Order;

⁹² DCG's Reply at 1.

⁹³ DCG's Reply at 3-4.

⁹⁴ DCG's Reply at 4.

⁹⁵ DCG's Reply at 5.

⁹⁶ DCG's Reply at 5.

32. The Commission **GRANTS** the District of Columbia Government's Motion for Leave to File an Affidavit;

33. The Commission **GRANTS** the Washington Gas Light Company's Request and the District of Columbia Government's Motion to allow both Parties to conduct written testimony regarding the District of Columbia Government's Witness Dr. Asa Hopkins;

34. The hearing scheduled for September 30, 2025, has been **RESCHEDULED** for November 18, 2025; and

35. The Procedural Schedule is further **AMENDED** as provided in Attachment A.

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 District SAFE Plan's Revised Procedural Schedule

Attachment A

1	WGL Supplemental Testimony Regarding JANA	Wednesday, September 24, 2025
2	WGL Rebuttal to the Testimony of Dr. Hopkins	Wednesday, September 24, 2025
3	Discovery on WGL's Supplemental Information on JANA	Wednesday, October 1, 2025
4	WGL's Responses to Discovery Requests	Monday, October 6, 2025
5	Parties' Testimony on WGL's Supplemental Testimony on JANA and DCG Rejoinder Testimony from Dr. Hopkins	Monday, October 13, 2025
6	WGL Rejoinder to the Parties' Supplemental Testimony and DCG Rejoinder Testimony of Dr. Hopkins	Monday, October 20, 2025
7	Material Issues of Fact in Dispute (limited to issues not previously raised) Due	Monday, October 27, 2025
8	Settlement and Stipulation Conference	Monday, November 3, 2025
9	Parties' Report on Joint Stipulation	Wednesday, November 5, 2025
10	Hearing (Legislative or Evidentiary)	Tuesday, November 18, 2025

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

September 15, 2025

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

PARTIAL CONCURRENCE OF COMMISSIONER BEVERLY TO ORDER NO. 22716

Although I agree with the decision rejecting the parties' current proposed material issues of fact, and accepting DCG's affidavit into the record, we need to go farther than this, especially with regard to supplemental information. DCG has raised significant issues with WGL's project lists in PIPES 2, stemming from a lack of clarity as to what the Company is doing and whether it comports with the Commission's directives. To avoid continued confusion, I think the Commission should require WGL to provide the outputs of the JANA model, including risk rankings for each pipe in its system. Without the outputs from the JANA model, it is not clear to me how the Commission can meaningfully review the risk methodology based only on inputs. In my opinion, to properly assess any Plan, the Commission and the parties also need a project list to compare to the outputs of the JANA model. Furthermore, I think the Commission should require WGL to supplement its application with the following information to review its costs: a detailed accounting of its PIPES 2 expenses (including receipts, salaries/timesheets, and invoices), along with a cost or impact study that explains which costs were related to DDOT and were reasonably incurred. Otherwise, it is not clear to me how we could compare WGL's skeletal budget to its actual recent expenditures. Without this additional data, we are left reviewing the Company's threadbare application, which lacks pipe age, material, location, leak rates, and a budget. We need to be mindful that if the Commission approves this Plan, the costs associated with this Plan will be rolled into the next rate case, and we have not explained whether and to what extent our approval of this Plan constitutes a prudence review. Approving this Plan without detailed information strikes me like a type of blank check, where we approve a surcharge in advance and WGL fills in the details later. It is not clear to me what remedy the parties have if there are problems with the Plan after the Commission approves it. I also think we need to refocus this Plan to put much more effort into eliminating cast iron and bare steel with annual targets for mains and services. As it stands, we have made no significant progress on eliminating these materials and the Company's current proposal doesn't do enough to change that.

COMMISSION ACTION

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

Date 9/15/25 Formal Case No. 1179 Tariff No. _____ Order No. 22716

	Approve Initial & Date	Partially Concurs Initial & Date	Abstain Initial & Date
Chairman Emile Thompson	<u>ET/JP 9/15/25</u>	_____	_____
Commissioner Richard A. Beverly	_____	<u>RB/JP 9/15/25</u>	_____
Commissioner Ted Trabue	<u>TT/JP 9/15/25</u>	_____	_____

Certification of Action

Jamond D. Perry
General/Deputy General Counsel

Kimberly Lincoln-Stewart
OGC Counsel/Staff