

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

The People of the State of Illinois,	)	
<i>ex rel.</i> Lisa Madigan, Attorney General	)	
of the State of Illinois and	)	
the Citizens Utility Board	)	
	)	Docket No. 15-XXXX
Petition to Investigate and Restructure	)	
The Peoples Gas Light & Coke Company’s	)	
Accelerated Main Replacement Program and to	)	
Ensure That Revenues Collected	)	
Through Rider QIP Are Consistent With	)	
Section 9-220.3 of the Public Utilities Act	)	

**VERIFIED PETITION OF THE PEOPLE OF THE STATE OF ILLINOIS  
AND THE CITIZENS UTILITY BOARD FOR AN EXPEDITED  
INVESTIGATION AND RESTRUCTURING OF  
THE PEOPLES GAS LIGHT & COKE COMPANY’S  
ACCELERATED MAIN REPLACEMENT PROGRAM AND OTHER RELIEF**

The People of the State of Illinois, *ex rel.* Lisa Madigan, Attorney General of the State of Illinois (“People” or “AG”) and the Citizens Utility Board (“CUB”), through its attorney, pursuant to Sections 5-202, 8-102, 9-101, 9-250 and 10-101<sup>1</sup> of the Illinois Public Utilities Act (“Act”) and Part 556 of the Commission’s Rules<sup>2</sup>, hereby petition the Illinois Commerce Commission (“Commission” or “ICC”) to open an expedited investigation into the restructuring of the Peoples Gas Light & Coke Company’s (“Peoples Gas” or “PGL”) accelerated main replacement program (“AMRP”), provide for a public hearing on the Commission’s ongoing audit of Peoples Gas’s AMRP, and reject recovery of and on future AMRP-related projects under PGL’s Rider Qualifying Infrastructure Project (“Rider QIP”) unless Peoples Gas can demonstrate that its proposed projects satisfy the statutory and regulatory requirements authorizing the rider.

---

<sup>1</sup> 220 ILCS 5/5-202, 8-102, 9-101, 9-250 and 10-101.

<sup>2</sup> 83 Ill.Admin.Code Part 556.

At the conclusion of the first phase of The Liberty Consulting Group’s (“Liberty”) audit in May 2015, Liberty concluded that “[i]t would be unreasonable and imprudent for Peoples Gas to continue the AMRP in the future largely as it has been and is doing now.” Liberty Final Phase One Report at B-3 (“Final Report”). Now, in its Phase Two first quarterly report (the “Quarterly Report”<sup>3</sup>), Liberty has made additional disturbing findings, concluding, among other things, that:

- There is a “need for a fundamental revisit of AMRP scope, cost, and schedule,” Quarterly Report at 10;
- “The circumstances do no less than question whether the AMRP as currently defined have substantial meaning anymore,” *Id.* at 4; and
- “[S]pending in the hundreds of millions of dollars per year under a plan recognized as out-of-date and out-of-touch with current knowledge is problematic.” *Id.* at 9.

Liberty concludes: “These circumstances make it appropriate to consider the need for a clear and firm short-term, interim plan, rather than continuing to make large expenditures in the framework of a long-term plan that has become a dead letter.” *Id.* at 10.

In short, the September 30, 2015 Liberty Quarterly Report is nothing less than a call to action for the Commission to address the safety, reliability, and affordability of essential Peoples Gas service in the near- and long-term. This Petition seeks just that – a Commission investigation into the AMRP that includes the needed re-examination of the “scope, cost and schedule” of the plan on both a short- and long-term basis to ensure that the most vulnerable mains are being prioritized and replaced at a cost that is fair, just and affordable to Peoples Gas customers.

In support of the relief requested in this Petition, the People and CUB state as follows:

---

<sup>3</sup> Liberty’s Quarterly Report is attached to this Petition as “Appendix A.”

## I. BACKGROUND

### A. The Peoples Gas AMRP and the Commission 2013 Order Initiating the Liberty Audit

1. Since its inception, the AMRP has been ineptly run. Liberty's Quarterly Report is the most recent report documenting the myriad and pervasive problems plaguing the program. To provide context for the Quarterly Report, the next sections of this petition describe the history of PGL's main replacement program.

2. In 1981, Peoples Gas began replacing its predominantly cast iron and ductile iron ("CI/DI") main system with cathodically-protected steel and plastic main. *See* ICC Docket No. 14-0225, PGL Ex. 8.0 at 10. In that year, cast iron and ductile iron main represented 3,450 miles out of the total of 4,031 miles of main in Peoples Gas' distribution system, or 86% of the distribution system. *Id.* By the end of 2009, the amount of CI/DI main in Peoples Gas' distribution system had been reduced from 3,450 miles to 1,870 miles. *Id.*

3. In ICC Docket Nos. 09-0166/0167 (cons.) ("2009 Rate Case"), the Commission approved Peoples Gas's request for rider recovery of a return of and on incremental costs of accelerating its CI/DI main replacement program. 2009 Rate Case Order at 195. The People appealed that decision, and in 2011, the Illinois Appellate Court reversed the portion of the 2009 Rate Case Order that allowed rider recovery of incremental AMRP investment. *People ex rel. Madigan v. Illinois Commerce Comm'n*, 2011 IL App (1<sup>st</sup>) 100654. Following the appellate court decision, Section 9-220.3 of the Act was added to allow rider recovery of qualifying infrastructure plant, which includes AMRP.

4. In its Order in the 2009 Rate Case, the Commission also approved Peoples Gas's proposal to accelerate (1) replacing CI/DI mains, (2) upgrading its distribution system from low-

to medium-pressure, and (3) relocating meters from inside to outside homes. The Commission concluded that given “the critical values of public safety and reliability and environmental good [accelerated infrastructure improvements would provide], there is simply nothing on record to counter [PGL’s] initiative to accelerate infrastructure improvements.” 2009 Rate Case Order at 172. The three components of the utility’s proposal to “accelerate infrastructure improvements” comprise the AMRP.

5. In the years since the issuance of that 2009 Rate Case Order and the start of the AMRP, Peoples Gas has filed rate cases, in 2011, 2012 and 2014, and received approval for increases in rates of \$57.8 million,<sup>4</sup> \$59.8 million<sup>5</sup> and \$71.1 million<sup>6</sup>, respectively. By far, the largest driver of these rate increases has been the capital investment and expenses tied to PGL’s AMRP.<sup>7</sup> Accordingly, how well or how poorly the AMRP is conducted by Peoples Gas not only significantly affects the safety and reliability of the PGL’s gas delivery service but also the rates Peoples Gas customers have paid and will continue to pay.

6. In PGL’s 2012 general rate case filing, ICC Docket Nos. 12-0511/0512 (cons.) (“2012 Rate Case”), the Commission noted its concern over the management of the AMRP. Despite having been in place for only two years, the Commission found that the AMRP was already foundering, stating, among other things, that “... part of the problem with the AMRP is the lack of detail,” including the lack of “discussion of resource requirements or project

---

<sup>4</sup> ICC Docket No. 11-0280/0281, Order of January 10, 2012 at 237.

<sup>5</sup> ICC Docket No. 12-0511/12-0512, Order on Rehearing of December 18, 2013 at 21.

<sup>6</sup> ICC Docket No. 14-0224/0225, Second Amendatory Order of February 11, 2015, Appendix B.

<sup>7</sup> ICC Docket No. 11-0281, PGL Ex. 1.0 at 10-11; ICC Docket No. 12-0512, PGL Ex. 1.0 at 3. (“The largest cause of the increase is Peoples Gas’ capital investments to improve the reliability of its gas distribution system and the quality of its services. The largest capital investments currently being made by Peoples Gas are for main replacement, in particular the replacement of cast iron and ductile iron gas main in the City of Chicago.”); ICC Docket No. 14-0225, PGL Ex. 1.0 at 5. (“The costs that Peoples Gas incurs in order to serve its customers have increased significantly in recent years, due primarily to main replacement and other increased plant investment costs, and increased operating expenses, such as increased costs of pipeline safety and other compliance work.”)

management.” 2012 Rate Case Order at 61. In light of the problems with the program, the ICC ordered an audit of the AMRP. 2012 Rate Case Order at 61, citing Staff Ex. 20.0 at 3-4.

7. Section 8-102 of the Act grants the authority to the Commission to conduct audits, providing, among other things, that:

The audit or investigation may examine the reasonableness, prudence, or efficiency of any aspect of the utility's operations, costs, management, decisions or functions that may affect the adequacy, safety, efficiency or reliability of utility service or the reasonableness or prudence of the costs underlying rates or charges for utility service.

220 ILCS 5/8-102.

8. In the 2012 Rate Case Order, the Commission adopted Staff’s recommendation for an audit to be conducted in two phases. Phase One would be the investigation of the AMRP. Phase Two would be “a two-year verification period . . . to verify that Peoples has implemented the recommendations from the Phase [One] investigation.” 2012 Rate Case, Staff Ex. 20.0 at 3-4. Following entry of the Commission 2012 Rate Case Order, Liberty was retained by the Commission to audit Peoples Gas’s AMRP program.

**B. The Liberty Phase One Final Audit Report on PGL’s AMRP**

9. Even before its final report on Phase One of the audit was complete, Liberty expressed concern about problems it had uncovered with the AMRP. In an unscheduled “Interim Report” dated January 15, 2015, the Commission’s auditor found major deficiencies with Peoples Gas’s AMRP management. Interim Report -- An Investigation of Peoples Gas Light and Coke Company’s AMRP at S-1.

10. On May 5, 2015, Liberty issued its Final Phase One Report. According to the Commission, “[t]he report provides the ICC with an independent analysis of the problems with

the AMRP and outlines much-needed reforms to correct the course of this program.” ICC Press Release of May 20, 2015.<sup>8</sup>

11. The auditor’s Final Report states that “[t]he scope of Liberty’s AMRP investigation included an assessment of reasonableness, and prudence, and whether the (AMRP) installations made are used and useful.” Final Report at B-3. Their report makes clear that today’s AMRP is in stunning disarray, and that going forward, significant change is critical for prudent management of the AMRP.

12. The Final Report is highly critical of Peoples Gas’s and its then-parent company’s, Integrys Energy Group, Inc.’s (“Integrys”), management of the AMRP, finding serious problems with almost all aspects of the program. *See, e.g.*, Final Report at E-1 – E-3. The auditors documented the following deficiencies in PGL/Integrys AMRP management:

- **A lack of cost control and management oversight**

Peoples Gas has confirmed that it does not have current data or analysis addressing operations and maintenance cost changes as a function of investment in work covered by the Qualifying Infrastructure Plant Surcharge. *Id.* at F-22.

Managers cannot manage what they do not monitor, and cannot monitor what they do not measure. Cost tracking needs to provide information at a significantly enhanced level of detail. *Id.* at G-6.

Peoples Gas does not place a high priority on developing and maintaining a strong cost management culture. This lack of priority inevitably causes cost management capabilities to fall short. . . . Management has not provided proper tools and has left the cost management group understaffed and improperly organized. *Id.* at L-10.

- **A failure to reduce leak rates – a key objective of Rider QIP projects currently authorized by the Commission**

---

<sup>8</sup> The Commission’s press release can be found at <http://www.icc.illinois.gov/downloads/public/ICC%20Releases%20Final%20Investigation%20of%20Peoples%20Gas%20AMRP.docx>.

Examining changes in leak rates comprises a principal means for assessing the effectiveness of efforts to replace high-risk, leak-prone pipe. *Acceleration of pipe replacement should reduce leak rates, but it has not. Instead, leak rates have risen in recent years ...* Even accepting the validity of the Company's adjustments, its analysis shows only a marginal reduction in leak rates. *Id.* at B-3 (emphasis added).

Neighborhoods with the highest leak rates may fail selection for the first five-year window simply because they are physically small, do not contain a large percentage of pre-1920 cast iron mains, or do not have much small diameter main. *Id.* at F-16.

It is time for Peoples Gas to engage in a structured, comprehensive, and analytically-driven review of other weighting, parameters, and additional inputs to its Main Ranking Index and its neighborhood rankings." *Id.* at F-23.

- **A failure to monitor the overall performance of the AMRP**

Liberty's work through early fall 2014 did not find top leadership highly conversant with performance issues. *We did find attention to information about the program, but not under a structured and well-defined set of oversight, monitoring, and decision authority guidelines, information requirements, and points of control. Top-level oversight did not appear to operate under a regular, consistent schedule, or require or use key performance metrics.* *Id.* at B-14 (emphasis added).

- **A failure to maintain essential data collection for monitoring progress**

It has proven very challenging to gather statistics that profile main replacement progress over the years on a sufficiently comprehensive, detailed basis. Liberty asked for these statistics in repeated data requests, and discussed replacement progress during many interviews. However, data that Peoples Gas provided to date has been incomplete and difficult to reconcile. *Id.* at D-3.

Liberty found no clear indications that quality and completeness of data used for risk modeling and replacement prioritization are fundamentally unsound. A structured assessment of gaps and potential consequences is nevertheless warranted to assure that risk models continue to operate effectively. However, Peoples Gas does not operate a structured program for validating data after its entry into the systems that feed the prioritizing models. *Id.* at F-15.

13. Indeed, the auditors made clear that the current AMRP is being imprudently run.

In the Final Report, the auditors ask the following question:

*Were Peoples Gas to determine to continue the AMRP in the future largely as it has been and is doing now, could one conclude that the program is being performed reasonably and prudently, in the absence of at least substantial changes along the lines recommended to improve future performance? Id. at B-3 (emphasis in original).*

Liberty answered its question as follows:

*It would be unreasonable and imprudent for Peoples Gas to continue the AMRP in the future largely as it has been and is doing now. The program requires substantial compliance with the recommendations of this report to bring it into sufficient conformity with good utility practice and to incorporate best practices appropriate to the program's scope, duration, and public importance. Id. at B-4 (emphasis in original).*

14. Overall, Liberty's findings describe a dysfunctional construction program. The auditors made 95 recommendations to be implemented by PGL and Integrys to put the AMRP on the right managerial track. *Id.* at App. B. As part of that audit process, Liberty will verify implementation of those recommendations in Phase Two.

**C. Wisconsin Energy Corporation's Acquisition of Peoples Gas and its Parent Company, Integrys**

15. On August 6, 2014, Wisconsin Energy Corporation ("WEC"), Integrys, Peoples Energy, LLC, Peoples Gas, North Shore Gas Company, ATC Management Inc., and American Transmission Company LLC (the "Joint Applicants") jointly filed a petition for reorganization with the Commission under Section 7-204 of the Act in Docket No. 14-0496 (the "Merger Docket").

16. The impact that the proposed transaction would have on AMRP was the most highly-contested issue in the Merger Docket. The AG, CUB, and other parties raised concerns



about the lack of a transition plan to assure efficient operation of the AMRP.<sup>9</sup> Similarly, the Commission issued data requests to the Joint Applicants in the merger case asking that they produce their plans to ensure a smooth transition in AMRP management if the merger were approved. Merger Docket, Notice of Commissioners' Data Request, March 11, 2015. In their responses, the Joint Applicants conceded that they had no transition plans in place. Docket 14-0496, Joint Applicants' Responses to Commissioners' Data Requests, March 18, 2015. Perhaps because of that troubling failure, the Commission, in addition to ordering implementation of each recommendation in Liberty's Final Report as a condition of merger approval, required Peoples Gas to submit four plans with the ICC regarding future AMRP scheduling and projected costs within 75 days of the issuance of its Order (or by September 7, 2015). Merger Order, Appendix A at 1 (Condition #5).

17. In particular, Condition #5 required:

5. Wisconsin Energy and Peoples Gas shall provide the Commission and its Staff with the following Improvement Plans within 75 days of this Final Order [by September 4, 2015]: 1) an implementation plan for each of Liberty's recommendations, 2) an AMRP scheduling master plan, 3) an AMRP cost plan model, and 4) an AMRP transition plan that provides detailed changes to the AMRP needed as a result of the Reorganization in order to ensure a seamless transition that avoids a diminishment in service.

Merger Docket, June 24, 2015 Final Order, Appendix A at 1.

18. Peoples Gas and its new owners, however, have been unable to comply with Condition No. 5. In a letter dated July 27, 2015, new Peoples Gas President Charles R. Matthews advised the Commission that the utility would not be able to meet the 75-day deadline for two of the requisite plans - a master plan detailing AMRP scheduling and a plan providing an AMRP cost model. The letter explains that, in the little more than one month after acquisition

---

<sup>9</sup> See, e.g., ICC Docket No. 14-0496, Initial Brief of the People of the State of Illinois at 9-11, 27-28; Reply Brief of the People of the State of Illinois at 15-23.

completion, “WEC Energy Group’s management [was] provided, for the first time ... with a preliminary cost estimate” of AMRP that exceeds \$8 billion, the new management team had terminated the contractor it had retained for project management services, and that the company planned to engage a new engineering firm to now create a cost plan model and scheduling plan. Matthews Letter at 1-2. In light of these developments, Peoples Gas stated that it would not meet the September 7, 2015 deadline for submitting an AMRP scheduling plan and an AMRP cost model. *Id.* at 2-3. Peoples Gas asked that it be given until November 30, 2015 to submit the Commission-ordered plans. *Id.* at 3.

**D. The Liberty Phase Two September 30, 2015 Report**

19. On September 30, 2015, the Liberty auditors issued their first Phase Two quarterly report, which is designed to keep the Commission informed of progress to date in PGL’s achievement of Phase One audit recommendations. In its Quarterly Report, the Commission-appointed auditors describe the AMRP as being in a state of extreme crisis. Liberty’s warnings about the state of the program could hardly be more stark. In the auditor’s words, there is a “*need for a fundamental revisit of AMRP scope, cost, and schedule.*” Quarterly Report at 10 (emphasis in original). The Commission’s auditors describe failure and dysfunction on many fronts:

- Despite its assurances in the reorganization proceeding and despite a Commission order to develop a scheduling plan, Peoples Gas has been unable to do so. *Id.* at 2.
- Similarly, Peoples Gas has been unable to develop an AMRP cost plan as also required by the Commission’s Merger Order. *Id.*
- The Company has promised to submit a cost model and scheduling plan by November 30, 2015, but the Liberty auditors have already concluded – based on their work with the Company to date – that any November filing PGL could produce will almost certainly be inadequate for the Commission’s purposes. *Id.* at 10.

- From PGL’s starting cost estimate of around \$2 billion, the estimated cost doubled to the \$4.6 billion price tag in the merger case, and it has now re-doubled to a jaw-dropping \$8 billion estimate. Liberty’s Quarterly Report notes that the \$8 billion estimate had been “in existence” since January, 2015 (during the pendency of the merger proceeding). In fact, Liberty concludes that continuing cost estimating work “is more likely to produce a higher amount.” *Id.* at 4.

- The specter of an accelerated main replacement program that will cost at least \$8 billion raises serious questions of whether large numbers of PGL’s Chicago customers will be able to afford essential gas utility service. *Id.*

20. These serious problems with the AMRP are a clarion call for Commission action. During any Company or Commission effort to reconfigure and redesign PGL’s AMRP implementation plan, as Liberty prescribes, the need for safe and reliable utility service must be paramount. Program implementation under existing plans, any transition plans, and any reconfigured long-term plan must improve safety and modernize gas main infrastructure in a way that ensures that Peoples Gas customers can still afford natural gas delivery service.

21. Although Peoples failed to meet the Commission’s September 7, 2015 deadline for its cost and scheduling plans, it did file its response to the Commission’s requirement that it submit an implementation plan for each of Liberty’s 95 recommendations and an AMRP transition plan. After reviewing the September 4th filing, the auditors state that, with a few exceptions, Peoples Gas’s plans for implementing the recommendations fail “to provide a monitorable course of action.” More importantly, the Company’s plans failed

...to give a clear sense that the Company:

- Understands the recommendation[s]
- Has a clear sense of how implementation would change current circumstances

- Has outlined a clear and logically sequenced set of actions that would, when completed, demonstrate effective implementation.

*Id.* at 5-6. Even with respect to the highest priority recommendations, Liberty concludes that by the end of October, 2015 (nearly two months after the Commission’s deadline), effective implementation plans will exist for fewer than a third of its Phase One audit recommendations.

*Id.* at 1.

22. Of the concerns raised by Liberty’s assessment of PGL’s understanding of the requirements for successful program implementation, its second point is especially disconcerting. Liberty states that “PGL is reluctant to explain what will be different after [audit recommendation] implementation and how resulting differences will fulfill the recommendation’s purpose.” *Id.* at 8. Liberty goes on to say that “[d]ialogue with the Company makes clear that the potential for Phase 2 documentation to be used in examining questions about the prudence of past company performance plays a significant role in what it is now willing to document.” *Id.* In other words, incredibly, Peoples Gas is unwilling to cooperate fully with the Commission’s auditors to improve its dysfunctional program for fear that clear documentation of the changes required for efficient AMRP management might support prudence disallowances in some future Rider QIP reconciliation case. The utility’s posture raises the disturbing possibility that Peoples Gas will withhold information in such reconciliation cases to avoid potential disallowances.

23. As Liberty notes, it is impossible for Peoples Gas to learn from past mistakes in the AMRP if it is unwilling to examine and understand its prior missteps. Unless the Commission steps in and requires Peoples Gas’s new managers to identify past mistakes as the

auditor recommends, there can be no assurance that unidentified missteps will not continue in the future, at ratepayers' expense.

24. The potential impact of continued program dysfunction on ratepayers' pocketbooks is highlighted by another disturbing finding in the Quarterly Report – the spiraling cost projections for the AMRP. When Peoples Gas proposed its accelerated program in its 2009 Rate Case, its expert witness estimated that it would cost \$2.47 billion to complete the project in 20 years. 2009 Rate Case, PGL Exhibit SDM-1.0 Rev. at 55-56. During the merger case, based on information provided in discovery, AG witness Sebastian Coppola testified that the expected cost of the main replacement program had approximately doubled to \$4.6 billion. Merger Docket, AG Ex. 2.0 at 19. Apparently, even Mr. Coppola's estimate was an understatement. The auditors state that Peoples Gas was informed in January 2015 that AMRP would cost **\$8 billion**. Quarterly Report at 4. Although the utility knew of this estimate during the pendency of the Merger Docket, the Joint Applicants did not share this information with the Commission and the parties to the case. The auditor's report states that "continuing cost estimating work is not likely to generate an amount under \$8 billion, but **is more likely to produce a higher amount.**" *Id.* at 4 (emphasis added). This staggering amount raises dire questions as to whether customers will be able to afford essential natural gas service if the program goes forward under its current scope and in the same haphazard, poorly-managed manner. *Id.*

25. Further, it is not clear what the \$8 billion includes. If it represents Peoples Gas's out-of-pocket costs to finish the program, then the dollar impact on customers would be significantly higher because the \$8 billion figure would not include the utility's carrying costs or a return it might earn on its capital investments. In any event, even if Peoples Gas passes on

*only* \$8 billion to customers, given that Peoples Gas has approximately 800,000 customers, an \$8 billion-plus program can be expected to cost each residential heating customer \$7,681.

## II. RECOVERY OF AMRP EXPENSES UNDER RIDER QIP

26. Under Section 9-220.3 of the Act, gas utilities are authorized to assess a monthly surcharge for certain qualifying infrastructure investments. 220 ILCS 5/9-220.3. However, the charges collected under riders authorized by Section 9-220.3 are specifically rooted in the Commission's authority under Section 9-201 of the Act and, therefore, must be "just and reasonable," like all other rates and charges authorized by the Commission. Section 9-220.3 provides:

(a) Tariff.

(1) *Pursuant to Section 9-201 of this Act*, a natural gas utility serving more than 700,000 customers may file a tariff for a surcharge which adjusts rates and charges to provide for recovery of costs associated with investments in qualifying infrastructure plant, independent of any other matters related to the utility's revenue requirement.

220 ILCS 5/9-220.3(a)(1) (emphasis added). In permitting these rider surcharges "[p]ursuant to Section 9-201 of (the) Act," the General Assembly made clear that the rate being charged under these riders must be just and reasonable.

27. Section 9-220.3 also explicitly requires that costs recovered under any approved Rider QIP must be prudently incurred. Section 9-220.3(e)(2), which controls the Commission's evaluation of Rider QIP costs, provides:

For each calendar year in which a surcharge tariff is in effect, the natural gas utility shall file a petition with the Commission to initiate hearings to reconcile amounts billed under each surcharge authorized pursuant to this Section *with the actual prudently incurred costs recoverable under this tariff in the preceding year. The petition filed by the natural gas utility shall include testimony*

*and schedules that support the accuracy and the prudence of the qualifying infrastructure investment for the calendar year being reconciled.*

220 ILCS 5/9-220.3(e)(2) (emphasis added).

28. In addition to the requirement that rates collected under Rider QIP are just, reasonable and prudently incurred, the Commission is also obligated to ensure that the utility has identified QIP projects that “are selected and prioritized taking into account improved public safety and reliability” before approving the rider. 220 ILCS 5/9-220.3(d). That provision provides:

(d) Gas utility commitments. A natural gas utility that has in effect a natural gas surcharge tariff pursuant to this Section shall:

(1) recognize that the General Assembly identifies improved public safety and reliability of natural gas facilities as the cornerstone upon which this Section is designed, and qualifying projects should be encouraged, selected, and prioritized based on these factors; and

(2) *provide information to the Commission as requested to demonstrate that* (i) the projects included in the tariff are indeed qualifying projects and (ii) *the projects are selected and prioritized taking into account improved public safety and reliability.*

220 ILCS 5/9-220.3(d) (emphasis added). In short, Section 9-220.3 establishes the right of a gas utility to seek a revenue flow from ratepayers, over and above what is collected through traditional delivery service rates, for projects qualifying under the Rider QIP statutory criteria. Revenue recovery for projects under the rider, however, is contingent upon the Commission’s continued finding that the rate being charged is just and reasonable (and does not exceed 4% of revenues, on average) *and that information has been provided by the utility, as requested by the Commission, that shows that the projects are selected and prioritized by the utility “taking into account improved public safety and reliability.”* 220 ILCS 5/9-220.3(d)(2) (emphasis added).

29. Beginning in 2015, the Company is required to file by April 1 of each year a “Rider QIP Plan Update.” 83 Ill.Admin.Code § 556.130. Section 556.130 provides that the annual QIP plan update shall provide the specific plan for that calendar year's qualified infrastructure investment, including planned replacements of underground natural gas facilities during the year. *Id.* The annual QIP plan update must include the following information for projects for which costs are anticipated to be incurred during the calendar year:

- a) A schedule showing each QIP project included in the update by the classification of the project as defined in Section 556.40(a), with the following information:
  - 1) The project title;
  - 2) The priority of the project;
  - 3) The accumulated cost of the project at the beginning of the calendar year;
  - 4) The projected cost to be incurred during the calendar year;
  - 5) The anticipated total cost of the project to have been incurred by the end of the calendar year; and
- b) A listing of each QIP project included in the update by priority, with the following information:
  - 1) An explanation and justification for the prioritization of the project;
  - 2) A brief description of the project;
  - 3) An indication of whether the project was ranked within the highest risk categories in the utility's most recent Distribution Integrity Management Program; and
  - 4) The rationale for the investment to be included as QIP, which may include a history of leaks, or incidents of damage by location.



83 Ill.Admin.Code § 556.130(a)(b).

30. Peoples Gas’s April, 2015 filing, consisting of a single-page, makes clear that Peoples Gas relies heavily on AMRP for its selection of projects for rate recovery under Rider QIP. *See* ICC Docket No. 13-0534, Peoples Gas’s April, 2015 Rider QIP Plan Update. The findings of the Liberty reports call into question Peoples Gas’s selection criteria used to identify projects for Rider QIP revenue recovery.

### III. REQUESTED RELIEF

#### A. Open a Docket to Investigate and Restructure AMRP

31. In its Quarterly Report, Liberty makes clear that a fundamental restructuring of the AMRP is imperative. Liberty states that the \$8 billion-plus cost estimate, when taken together with other recent developments, underscores

... the need for re-examining and re-baselining fundamental AMRP parameters. Awaiting the November 2015 filing by Peoples Gas may put greater definition around the alternatives that a vastly increased estimate will bring into play. Nevertheless, the fundamental questions are already clear today. Any number in the current “ballpark” moots key defining elements of the AMRP. *The circumstances do no less than question whether the AMRP as currently defined has substantial meaning anymore.*

Quarterly Report at 4 (emphasis added).

32. Moreover, with respect to Peoples Gas’s planned November 30, 2015 filing, Liberty states:

Discussions with the Company indicate that its anticipated November 2015 filing will not present cost and schedule “plans” as Liberty contemplated them in making its Phase 1 recommendations.

*Id.* at 2.

33. Liberty goes on to say these circumstances require that fundamental questions about the “scopes, cost estimates, and schedules” of the AMRP must be addressed in the coming months. According to Liberty, the alarming state of the main replacement program raises profound questions about:

- Ability to sustain a level of progress that will meet 20-year completion.
- Financeability.
- Customer affordability.
- How much time it will realistically take to eliminate high-risk pipe from the system.
- The value proposition of continuing to address pressure improvements and meter relocations after a reasonably sound reflection of their true costs becomes known, sometime down the road.
- The commitment of Peoples Gas to continue such high-cost work under current rate recovery methods and limits.

*Id.* at 4. Finally, adequate resolution of these questions should be required before going forward with undefined plans for projects under the AMRP, and alternatives to the currently-structured AMRP must be considered. Alternatives identified by Liberty for Commission consideration include:

- ***A significantly longer schedule, in order to produce a more realistic annual spend*** (a 20-year completion schedule will require near-term annual spends to approach \$600 million per year - - double what Peoples Gas has struggled to manage to date).
- ***A significant reduction in the scope of the work to be performed, in order to reduce expenditures to a level more consistent with considerations of customer “affordability” and rate path “sustainability.”***
- A change in current recovery methods or limits to support what management described to Liberty as the need for reasonable

assurances of “appropriate” rate treatment of significantly expanding costs.

*Id.* at 4-5 (emphasis added).

34. The Commission-appointed auditor’s unmistakable admonition that there is an immediate “*need for a fundamental revisit of AMRP scope, cost, and schedule*” (Quarterly Report at 10 (emphasis in original)) requires that the Commission initiate an expedited investigation of the main replacement program. The Commission has the authority under Section 10-101 of the Act “to hold investigations, inquiries and hearings concerning any matters covered by the provisions of (the) Act.” 220 ILCS 5/10-101. In light of the disturbing conclusions and critical recommendations highlighted in the Quarterly Report, the People and CUB request that the Commission open a docket to examine the current conception of PGL’s AMRP to formalize implementation of the Liberty auditors’ recommendations, and to focus during this reassessment on safety-related main replacements, replacing high-leak rate and high-risk mains as the highest priority. As Liberty stated:

Continuing high expenditure rates should be accompanied by assurances of an adequate ability to manage them effectively. At the same time, whatever level of confidence exists in that ability, large volumes of high-risk pipe continue to threaten public safety. This threat requires that a substantial level of work continue, and that it focus on the highest-risk pipe.

Quarterly Report at 10. The Commission, as Liberty recommends, should examine whether the AMRP should undergo a fundamental revision to ensure both the safety of the PGL delivery system and the affordability of PGL rates. The other components of the currently-constructed AMRP – converting Peoples Gas’s distribution system to medium pressure and meter relocation – should be re-evaluated. As Liberty states, the “value proposition” of those components and their “true costs” must be assessed “sometime down the road.” *Id.* at 4.

35. The People and CUB request that the Commission take action to open this docket now, rather than waiting for all of PGL’s late-filed reports. The Liberty auditors have made clear that the AMRP cost model and scheduling plan Peoples Gas plans to file in November are likely to be wanting in necessary detail. With respect to the November filing, Liberty says:

It would require **extraordinary optimism** to anticipate full resolution of these uncertainties in the few weeks remaining until the expected November 2015 filing by Peoples Gas. Nor would a full solution to them avoid what is already “on the table” and what will become even more clear with the November filing -- ***the need for a fundamental revisit of AMRP scope, cost, and schedule.***

It may take an extended length of time to develop long-range plans that adequately address safety risk, quantity, cost, and schedule factors. ***These circumstances make it appropriate to consider the need for a clear and firm short-term, interim plan, rather than continuing to make large expenditures in the framework of a long-term plan that has become a dead letter.***

*Id.* at 10 (emphasis added). These statements make clear that the Commission can no longer assume that Peoples Gas and its new owners will be able to comply with the AMRP-related merger conditions, including providing a plan to address the 95 recommendations in the Liberty Phase One Report, any time soon – or at all – without Commission intervention and direction.

36. The Commission’s auditors warn that these issues and questions need to be addressed soon. Otherwise, in the near term

...management will be operating under an estimate that understates work (measured by costs) by half or more. During this time, the key planning drivers of work for the next construction season will need to be executed by AMRP management. The need to continue eliminating high-risk pipe remains both a short- and long-term priority. Nevertheless, spending in the hundreds of millions of dollars per year under a plan recognized as out-of-date and out-of-touch with current knowledge is problematic.

*Id.* at 9. The Quarterly Report concludes that “the need for the AMRP to proceed under a realistic set of parameters (scope, cost, schedule, rate of risk reduction, and customer rate

impacts, for example) call into question what level of AMRP work should continue over the next 12 to 24 months.” *Id.* at 10.

37. Taken together, Liberty’s statements are an unmistakable warning that it would be foolish – and imprudent – to permit Peoples Gas to continue to spend enormous sums of money on a program so thoroughly dysfunctional that it is no longer viable. Accordingly, the People and CUB request that the Commission enter an initiating order to conduct an expedited investigation of the redesign and reconfiguration of the AMRP in a public proceeding, consistent with the contested case provisions of Section 10-101 of the Act. At a minimum, this investigation should examine and resolve, consistent with the recommendations of the Liberty auditors, the following issues:

- The development of a new, short- and long-term main replacement program plan;
- The development of a main replacement cost model;
- The identification of impact that a cost estimate likely to double the current one will have on realistically achievable program scope, schedule, and customer rates;
- The pace at which high-risk pipe replacement should be authorized to proceed during the next one or two construction seasons;
- What scope (*e.g.*, pipe replacement, meter moves, and pressure increases) the work should encompass;
- Whether PGL’s current Main Ranking Index used to prioritize main replacement appropriately identifies the most vulnerable main in the City of Chicago (“the City”);
- What mains in the City should be targeted first, in conjunction and coordination with the public works activity of the City’s Department of Transportation;
- What timeline main replacement activities should encompass to both ensure the safety and reliability of the

Peoples Gas delivery system and the affordability of customer rates;

- As discussed in more detail below, when main replacement and other work that currently fall under the umbrella of the existing AMRP should be permitted to be recovered under PGL's Rider QIP tariff going forward; and
- The establishment of hard deadlines, with associated penalties for failure to achieve set deadlines and Commission-designated main replacement benchmarks, pursuant to Section 5-202 of the Act.

38. According to the Commission's Order in the 2012 Rate Case, Liberty is to provide testimony "in a future rate case" regarding its Phase One Final Report. 2012 Rate Case Order at 61, citing Staff Ex. 20.0 at 8:148-149. Liberty's Quarterly Report makes clear that the Commission cannot wait until some "future rate case" to consider the auditor's investigation in a formal proceeding.

39. As part of the expedited investigation described above, the People and CUB request that the Commission amend its current contract with Liberty to include the provision of testimony regarding its Final Report, its Quarterly Report, as well as its recommendations as to how the AMRP's "scope, cost, and schedule" should be reconfigured to ameliorate the many problems the auditors have identified.

40. In addition, the People and CUB ask that Liberty be required to verify that the projects Peoples Gas proposes to recover through Rider QIP "are selected and prioritized taking into account improved public safety and reliability." 220 ILCS 5/9-220.3(d).

**B. Require Peoples Gas to Publicly Report Its Compliance with the Liberty Audit**

41. Given the serious safety and reliability issues and tremendous projected cost increases that permeate the AMRP, the People and CUB request that the Commission, as part of

the investigation described above, ensure that Peoples Gas is complying with, and appropriately implementing, Liberty's recommendations to improve AMRP performance. No such public forum or docket currently exists. Given the disarray that is the AMRP, PGL's ratepayers require transparent public discourse and public accountability to have any measure of comfort that the utility is making real efforts to improve program performance and to limit program costs. A public forum is also warranted by the auditor's observations that Peoples Gas has been unwilling to provide information needed to resolve the current dysfunction in program management. The public should have faith that public utility regulation operates as the General Assembly intended. The Commission should ensure that Peoples Gas is cooperating fully with the auditor's recommendations in all respects.

42. Likewise, the need to investigate the affordability of any revised main replacement program must permit public participation in that process by the People, CUB, the City of Chicago and other interested stakeholders. On all of these issues, the Commission must require testimony from both Peoples Gas and the Liberty auditors. Neither ratepayers nor the Commission can afford to wait indefinitely for an undefined, future proceeding to hear from these parties, to be assured that the utility is providing safe and reliable service at an affordable cost.

**C. Reject Non-Compliant Requests for Recovery of Future Funds Under the Rider QIP Tariff**

43. As noted above, the Company continues to collect ratepayer dollars through the Rider QIP surcharge on customer bills each month for AMRP projects – charges that the Commission can no longer be assured are just and reasonable in light of the auditor's most recent findings, including that "... spending in the hundreds of millions of dollars per year under a plan recognized as out-of-date and out-of-touch with current knowledge is problematic." Quarterly

Report at 9. Moreover, Section 9-220.3 requires that the most vulnerable mains are being prioritized for replacement. The Quarterly Report makes clear that the Commission cannot be assured that the Rider QIP “projects are selected and prioritized taking into account improved public safety and reliability.” 220 ILCS 5/9-220.3(d)(2).

44. Given what the Commission knows today, ratepayers are currently paying a return of and on AMRP investment that is guided by a plan that the auditors characterize as “a dead letter.” The Commission should order Peoples Gas to testify under oath in Rider QIP infrastructure rate adjustment update proceedings (the next is scheduled to be filed in April, 2016) that its proposed AMRP-related projects satisfy these statutory directives. The Commission should also require that the Liberty auditors verify that the utility’s proposed projects included in the annual updates satisfy the statutory and regulatory directives of Section 9-220.3 of the Act and Part 556 of the Commission’s rules.<sup>10</sup> 220 ILCS 5/9-220.3(d)(2); 83 Ill.Admin.Code Part 556. This verification from both the Company and the Liberty auditors of AMRP-related projects proposed to be financed through Rider QIP should continue indefinitely until the “*fundamental revisit of AMRP scope, cost, and schedule*” recommended by the Liberty auditors is completed. This public verification process should address all aspects of the current AMRP including but not limited to service installations, main retirement, medium pressure conversion work, high pressure installations, and restoration of streets and parkway, to ensure that proposed projects satisfy the statutory and regulatory criteria to be eligible for cost recovery under Rider QIP.

45. Increased scrutiny of AMRP cost recovery under Rider QIP will not prevent the utility from replacing vulnerable mains. It will compel the increased attention to the program

---

<sup>10</sup> If necessary, the Commission should amend its current contract with Liberty to allow for such testimony. Alternatively, the Commission could use its subpoena authority under Section 10-101 of the Act to require such testimony.



that the Commission-appointed auditors have insisted is sorely needed. In addition to Rider QIP, infrastructure investment is also funded through an allotment in the Company's base delivery service revenues for depreciation and amortization of existing plant. Current rates now collect \$112 million for this expense amount. Further, the Company collects through base rates cash flow from deferred income taxes of \$13.8 million. *See* ICC Docket Nos. 14-0224/0225 (cons.), Second Amendatory Order of February 11, 2015, Appendix B. Also, cash available from earnings retained in the business – an additional \$25 million, assuming a 1/3 retention ratio – supplements the infrastructure investment funds available to the Company for infrastructure improvements and replacements. In all, the Company has some \$150 million to spend replacing the most vulnerable main in the PGL system through base rates annually. For comparison purposes, in its April 1, 2015 Rider QIP Plan Update filing in Docket No. 13-0534, PGL forecasted that it would spend approximately \$156,288,000 on AMRP projects during the 2015 calendar year. ICC Docket No. 13-0534, 2015 QIP Plan Update, filed April 1, 2015. Accordingly, just as the Company financed infrastructure replacements prior to the advent of Rider QIP, Peoples Gas for the near term has sufficient funds and access to financing to replace the system's most vulnerable mains even without full access to rider recovery.

#### **IV. CONCLUSION**

**WHEREFORE**, the People of the State of Illinois and the Citizens Utility Board, consistent with the recommendations made in this Verified Petition, respectfully request that the Illinois Commerce Commission open an expedited investigation into the restructuring of The Peoples Gas Light & Coke Company's accelerated main replacement program that includes a fundamental revisit of AMRP scope, cost, and schedule; require The Liberty Consulting Group

to testify regarding their findings and recommendation related to the ICC-ordered audit of the program; provide for a public hearing on the Commission's ongoing audit of the AMRP; and reject future recovery of and on investment for 2016 AMRP-related projects under PGL's Rider Qualifying Infrastructure Project unless Peoples Gas can demonstrate that its proposed projects satisfy the statutory and regulatory requirements authorizing the rider.

Respectfully submitted,

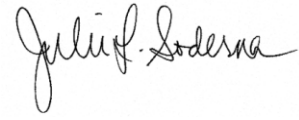
**The People of the State of Illinois**

**By LISA MADIGAN, Attorney General**



Janice A. Dale, Bureau Chief  
Karen L. Lusson, Assistant Bureau Chief  
Ronald D. Jolly, Assistant Attorney General  
Sameer H. Doshi, Assistant Attorney General  
Public Utilities Bureau  
Illinois Attorney General's Office  
100 West Randolph Street, 11th Floor  
Chicago, Illinois 60601  
Telephone: (312) 814-3736 (Dale)  
(312) 814-1136 (Lusson)  
(312) 814-7203 (Jolly)  
(312) 814-8496 (Doshi)  
Email: [jdale@atg.state.il.us](mailto:jdale@atg.state.il.us)  
[klusson@atg.state.il.us](mailto:klusson@atg.state.il.us)  
[rjolly@atg.state.il.us](mailto:rjolly@atg.state.il.us)  
[sdoshi@atg.state.il.us](mailto:sdoshi@atg.state.il.us)

**Citizens Utility Board**



---

Julie L. Soderna  
Director of Litigation  
CITIZENS UTILITY BOARD  
309 W. Washington, Ste. 800  
Chicago, IL 60606  
(312) 263-4282 x112  
(312) 263-4329 fax  
[jsoderna@citizensutilityboard.org](mailto:jsoderna@citizensutilityboard.org)