

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

CASE 24-G-0447 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules, and Regulations of Corning Natural Gas Corporation for Gas Service.

SECOND RULING REVISING PROCEDURAL SCHEDULE

(Issued January 9, 2025)

MAUREEN F. LEARY and DAKIN D. LECAKES,  
Administrative Law Judges:

BACKGROUND

On October 3, 2024, the Administrative Law Judges (ALJs) issued a Ruling on Party Status, Procedural Schedule, and Other Matters (First Procedural Ruling) in this rate case filed by Corning Natural Gas Corporation (Corning) on July 31, 2024, including the dates by which the parties were required to file testimony/exhibits and the date for commencement of an evidentiary hearing on January 20, 2025. At Corning's request, on October 15, 2024, we issued a Ruling Revising the Procedural Schedule (Second Procedural Ruling) and minimally extended the dates that had been established in the First Procedural Ruling. The Second Procedural Ruling retained the January 20, 2025 evidentiary hearing date and scheduled a January 7, 2025 status conference with the parties.

On December 23, 2024, Corning filed and served a notice of impending settlement negotiations pursuant to 16 NYCRR § 3.9. The parties met for the first time to discuss settlement on January 6, 2025. At that first meeting, the parties did not schedule a follow up meeting to continue negotiations.

In a December 26, 2024 email, Corning requested an extension to the filing of pre-hearing submissions in

preparation for the January 20, 2025 hearing. Corning did not propose a new date for filing such submissions and did not otherwise request adjournment to the January 20, 2025 hearing. In a December 30, 2024 response, the ALJs directed the Company to confer with the parties and propose a revised procedural schedule at the January 7, 2025 status conference. The ALJs also reminded the parties that the maximum suspension period expires on June 30, 2025 and that the "Commission must have sufficient time to consider either a litigated record or a Joint Proposal resolving the case, both of which will require an evidentiary hearing." The ALJs advised that further adjournment of the procedural schedule is not likely to allow sufficient time for the Commission's consideration of the case, given the June 30, 2025 expiration date.

On January 7, 2025, the ALJs conducted a status conference at which Corning and the following parties appeared: Department of Public Service Staff (DPS Staff), Department of State Utility Intervention Unit (UIU), and Multiple Intervenors. At the conference, DPS Staff indicated that it had proposed to Corning a 60-day extension of the January 20, 2025 evidentiary hearing date and a commensurate 60-day extension of the June 30, 2025 maximum suspension period.<sup>1</sup>

At the conference, Corning proposed modification of the procedural schedule on two separate tracks: the first track proposed the filing of a Joint Proposal (JP) settling the case by February 28, 2025, the filing of statements in support on March 28, 2028 (without reply statements), and the evidentiary

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<sup>1</sup> At the status conference, Counsel for UIU indicated that it deferred to DPS Staff regarding scheduling, while mindful of the potential for bill impacts if the maximum suspension period was unreasonably extended. Multiple Intervenors indicated that it was continuing to confer about the schedule and other issues in the case.

hearing commencing on April 14, 2025; the second track envisioned a litigated case, with the evidentiary hearing commencing on March 17, 2025, with post-hearing briefing ending on April 25, 2025.<sup>2</sup> Corning requested that the ALJs issue a ruling that identified the foregoing dates for each of the two tracks.

Although it was proposing to extend the procedural schedule, Corning indicated during the status conference that it would not agree to extend the June 30, 2025 maximum suspension date by which the Commission is required by PSL §66 to act on the Company's request for rate relief absent Corning's consent to a later date. The ALJs expressed concerns that under Corning's proposed schedule for both tracks, the Commission would not have sufficient time to consider at the June 12, 2025 session either a JP or a litigated record, notwithstanding Corning's repeated assertions that the Commission would have "ample time" and therefore consent to extend the suspension period was not necessary or forthcoming at this time.

#### DISCUSSION

We find Corning's refusal to extend the maximum suspension period unreasonable insofar as it initiated settlement discussions through its filing of a notice of intent pursuant to Rule 3.9 and thereafter requested, for a second time, extension of the procedural schedule. In particular, we are troubled by Corning's failure to consider the proximity of its proposed mid- and late April 2025 dates as the close of the JP and litigated tracks and its assumption that the Commission would consider the result of either track at the June 12, 2025

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<sup>2</sup> Corning also discussed but did not propose its initial litigation scheduling offer presented to the parties, which included generous timeframes for post-hearing briefs (beyond those afforded under the Commission's regulations) and ended on April 14, 2025.

session.<sup>3</sup> Corning also fails to consider the likelihood that its proposed date for filing the JP on that track may slip, as evidenced in prior Corning matters before the Commission.

Corning fundamentally lacks an understanding of the extent of review necessary in preparation for full Commission briefing prior to the Commission's issuance of an order in a rate proceeding. Despite the ALJs emphasis at the status conference that the Commission requires sufficient time to consider either a JP or a litigated record, Corning held firm that it would not agree to extend the June 30, 2025 suspension period, thereby forcing Commission action at the June 12, 2025 session in order to avoid Corning's tariff filings becoming effective by operation of law and without Commission review.

Consequently, we must adhere, as closely as possible, to the existing schedule.<sup>4</sup> In the interests of the efficient administration of this proceeding and to assure that the Commission has sufficient time to consider this rate proceeding, regardless of whether it is litigated or settled, the evidentiary hearing will go forward on **Monday, January 27, 2025** unless either we receive Corning's consent to extend the maximum suspension period or an executed JP is filed by no later than **Friday, January 17, 2025.**<sup>5</sup>

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<sup>3</sup> As we explicitly noted in our December 30, 2024 email and clearly stated at the January 7, 2025 status conference, the Commission must have sufficient time to consider either a litigated record or a JP.

<sup>4</sup> Because our last ruling did not consider that January 20, 2025 was a federal and State holiday, we provide the parties here with one additional week for commencement of the evidentiary hearing.

<sup>5</sup> If a JP is filed by January 17, 2025, the ALJs will issue a separate ruling establishing a schedule for filing statements in support/opposition and reply statements and a new date for commencing the evidentiary hearing.

We hereby amend our October 15, 2024 Second Procedural Ruling and establish the following schedule for pre-hearing filings on a litigated track:

Milestone	Date
Statements of Contested Material Facts	Friday, January 17, 2025
Proposed Consensus Exhibit List (explained below)	Tuesday, January 21, 2025
List of Witnesses to be Cross-Examined, Summary of Subject Areas to be Covered, and Witness Sequence and Availability	Wednesday, January 22, 2025
Commencement of Evidentiary Hearing <sup>6</sup>	Monday, January 27, 2025, 11 AM

By no later than **Friday, January 17, 2025**, Corning shall circulate to all parties a proposed consensus exhibit list in Excel spreadsheet format, which contains all testimony, exhibits, and other documentary evidence that may be proffered by any party at the hearing.<sup>7</sup> By **Tuesday, January 21, 2025**, all parties shall provide a response to Corning in writing either approving the proposed list or providing revisions or additions.

In issuing this ruling, we are not foreclosing the parties' ability to engage in settlement negotiations, but Corning's position forces us to require that the litigated track and any potential settlement track must be undertaken

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<sup>6</sup> The Secretary will separately notice the January 27, 2025 evidentiary hearing. The evidentiary hearing will continue day to day after January 27, 2025 until completed, as confirmed by the ALJs at the close of each hearing day.

<sup>7</sup> The proposed consensus exhibit list shall conform to the exhibit lists filed in other rate cases, shall separate each party's sequential filings, and shall include the following identifying columns: Exhibit Number; DMM Number; Date of Filing; Sponsoring Party; Description of the Testimony or Exhibit; Notation of Confidentiality; and Notes.

contemporaneously, to the extent that parties agree to engage in such negotiations.

Pre-Hearing Conference

The ALJs will conduct a pre-hearing conference with the parties on **Thursday, January 23, 2025 at 2:00 P.M.** for the purposes of discussing the required pre-hearing filings noted above, planning for the January 27, 2025 evidentiary hearing, and otherwise addressing any pending issues.

Future Requests for Extension of Procedural Schedule

Any future request to adjourn the January 27, 2025 evidentiary hearing date shall be made by letter motion, on notice to all parties, and shall be accompanied by Corning's written agreement to extend the maximum suspension period by no less than 60 days. The request shall be accompanied by a proposed schedule that includes: the date by which a JP will be filed and the date for an evidentiary hearing either to consider the JP or to fully litigate the case. The proposed schedule shall provide the Commission with no less than 60 days to consider a JP or a litigated record after the close of the administrative record, including the filing of any post-hearing briefs and replies.

If a future extension request is granted, the ALJs will issue a ruling establishing a revised procedural schedule, including an evidentiary hearing date. If a JP is not timely filed by the date established in that ruling, and in the absence of further requests for an extension under the above criteria, the matter will commence and be fully litigated on the

evidentiary hearing date established in the ruling. The parties will be required to file pre-hearing submissions, which may be on an abbreviated timeframe established by the ALJs.

(Signed)

MAUREEN F. LEARY

(Signed)

DAKIN D. LECAKES