**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Commonwealth of Pennsylvania, *et al.* :

:

v. : C-2014-2427659

:

Respond Power LLC :

**PROCEDURAL ORDER**

A Prehearing Conference was held in this case on Monday, August 25, 2014, at 10:00 a.m. in Harrisburg, PA. All parties participated and presented prehearing memoranda in advance of the conference. We noted the appearances of Candis A. Tunilo, Esquire and Kristine E. Robinson, Esquire on behalf of the Office of Consumer Advocate (“OCA”); John M. Abel, Esquire and Nicole R. Beck, Esquire on behalf of the Office of Attorney General (“OAG”); Sharon E. Webb, Esquire, on behalf of the Office of Small Business Advocate (“OSBA”); Karen O. Moury, Esquire, on behalf of Respond Power LLC (Respond Power); and Adam Young, Esquire, on behalf of the Bureau of Investigation and Enforcement (“I&E).

The following matters were addressed, although not necessarily in this order: (1) the need for preliminary evidentiary hearing(s) regarding testimony of OCA and OAG witnesses (other than expert witnesses); (2) procedural schedule; (3) settlement conference; (4) service requirements and parties list; (5) discovery modifications; and (6) a protective order.

Procedural Schedule

The parties have not yet agreed to a procedural schedule in this matter. Therefore, the parties are given until **Friday, August 29, 2014**, to negotiate and submit a joint proposed schedule regarding the following dates:

1) A deadline date for the OCA/OAG to serve written direct testimony or affidavits of the approximately 90 consumer witnesses;

2) Proposed date(s) for a telephonic evidentiary hearing wherein written direct testimony or affidavits of the consumer witnesses will be admitted into the record subject to cross examination and/or objections; and

3) A date for a further prehearing conference to schedule the remaining deadlines and evidentiary hearing(s).

If the parties do not submit a joint filing regarding proposed dates on or before Friday, August 29, 2014, then we will issue a further Procedural Order setting the dates, taking into consideration the concerns expressed by the parties at today’s prehearing conference.

Service of documents/parties’ list

For purposes of this proceeding, the parties of record are those entities which appeared at the Prehearing Conference. A service list is attached for the convenience of the parties. The parties can request that electronic service be provided to multiple persons, and these requests, as stated at the Prehearing Conference, will be honored.

E-mail distribution list

The following is the e-mail distribution list and is subject to change.

[ctunilo@paoca.org](mailto:ctunilo@paoca.org)

krobinson@paoca.org

[karen.moury@bipc.com](mailto:karen.moury@bipc.com)

[jabel@attorneygeneral.gov](mailto:jabel@attorneygeneral.gov)

[nbeck@attorneygeneral.gov](mailto:nbeck@attorneygeneral.gov)

[adyoung@pa.gov](mailto:adyoung@pa.gov)

[mswindler@pa.gov](mailto:mswindler@pa.gov)

wascott@pa.gov

[swebb@pa.gov](mailto:swebb@pa.gov)

Discovery modifications

At this time, none of the parties have requested discovery rule modifications.

Protective Order

Respond Power indicated it intends to file a Motion for Protective Order.

Settlement

The parties indicated they have engaged in settlement negotiations and plan to hold a settlement conference on September 15, 2014. The parties are reminded that if a settlement is reached, they should file a petition for settlement as well as individual party’s statements in support of the settlement petition. Additionally, it may be necessary to enter written testimony and other evidence into the record with a settlement petition, in order to provide the presiding officers with enough evidence to support findings that the proposed settlement is in the public’s interest and that any proposed civil penalty is reasonable and just. Any settlement petitions are to be filed in hard copy as well as in a CD in searchable PDF format. In addition, any settlement petitions are to be delivered to the presiding officers in hard copy as well as electronically in Word format.

Electronic filing of admitted testimony

In the event there is no settlement, and an evidentiary hearing is held, admitted testimony shall be electronically filed with the Commission within 30 days after the hearing date(s). If there is a settlement, and there is no cross-examination regarding pre-served and admitted testimony, then there is no need to file an electronic copy of the testimony.

THEREFORE,

IT IS ORDERED:

1. That the parties are given leave to submit a joint proposed procedural schedule on or before Friday, August 29, 2014, regarding the following dates:

1) A deadline date for the OCA/OAG to serve written direct testimony or affidavits of the approximately 90 consumer witnesses;

2) Proposed date(s) for a telephonic evidentiary hearing wherein written direct testimony or affidavits of the consumer witnesses will be admitted into the record subject to cross examination and/or objections; and

3) A date for a further prehearing conference to schedule the remaining deadlines and evidentiary hearing(s).

2. That in the event the parties do not submit a joint filing regarding proposed dates on or before Friday, August 29, 2014, then a further Procedural Order will be issued setting the dates, taking into consideration the concerns expressed by the parties.

3. That in the event that an evidentiary hearing is held, admitted testimony shall be electronically filed with the Commission within 30 days after the hearing date(s).

Date: August 25, 2014 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Elizabeth H. Barnes

Administrative Law Judge

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Joel H. Cheskis

Administrative Law Judge

**C-2014-2427659 - ATTORNEY GENERAL PA & OFFICE OF CONSUMER ADVOCATE v. RESPOND POWER LLC**

***REVISED 8/26/14***

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