**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Commonwealth of Pennsylvania, *et al.* :

:

v. : C-2014-2427659

:

Respond Power LLC :

Pennsylvania Public Utility Commission, :

Bureau of Investigation and Enforcement : C-2014-2438640

:

v. :

:

Respond Power LLC :

**BRIEFING ORDER**

On October 15, 2015, a Further Evidentiary Hearing was held in this matter pursuant to Procedural Order #6. The hearing was held for the purposes of addressing a settlement petition that was previously submitted by Respond Power, LLC and the Public Utility Commission’s Bureau of Investigation and Enforcement, as well as additional “housekeeping matters” related to prior evidentiary hearings held on August 26 and 27, 2015. At the conclusion of the hearing on October 15, 2015, the Presiding Officers and the parties discussed the submission of Main and Reply Briefs regarding all issues, including those pertaining to the settlement and those that remain unsettled. The parties were informed that a Briefing Order would be forthcoming establishing additional specific requirements for the submission of briefs.

Of note, the parties were directed at the conclusion of the October 15, 2015 hearing to submit a uniform briefing outline by October 26, 2015 to maintain consistency and efficiency in briefing. In the event the parties could not agree to a uniform briefing outline, the parties were further directed to submit their own proposed briefing outline. The parties submitted their positions on a uniform briefing outline on October 26, 2015. In response, we determined that, in light of the inability to agree on a uniform briefing outline and in an effort to allow the parties greater flexibility in advancing their positions, we would dispose of that requirement and allow the parties to submit their briefs organized in a manner of their own choosing.

Additionally, at the conclusion of the hearing held on October 15, 2015, a request was made for a waiver of the Commission regulation limiting briefs to 60 pages. That request was granted during the hearing, at which time the parties were also reminded that quantity does not always equal quality. This Order affirms that waiver and subsequent caveat.

Finally, the parties are encouraged to reduce or eliminate the use of proprietary material to the extent possible. While there is a Protective Order in place governing the use of material alleged to be proprietary, and much of the record has already been treated as confidential upon request of the parties, the public importance of this proceeding warrants a Decision be issued that is free from extensive, or any, redacted materials. To the extent a party wishes to use material that has been alleged to be proprietary, the party is directed to first consult with opposing counsel to determine whether such proprietary designation can be removed.

Therefore, the following Briefing Order is being issued:

ORDER

THEREFORE,

IT IS ORDERED:

1. That the parties shall file and serve Main Briefs on or before December 3, 2015, and Reply Briefs on or before December 23, 2015 in conformance with the Commission’s regulations at 52 Pa.Code §§ 5.501, *et seq*. unless otherwise modified by the Presiding Officers.

2. That the briefs must contain: (a) a concise statement or counter-statement of the case; (b) an argument, with sufficient citations to record evidence, preceded by a summary; (c) a conclusion with requested relief; (d) proposed Findings of Fact, together with page references to statements of testimony, the hearing transcript and exhibits; (e) proposed Conclusions of Law, together with legal citations and (f) proposed Ordering Paragraphs.

3. That the parties shall file the original copies of the Main Brief and Reply Brief with the Commission no later than 4:30 p.m. on the date due, addressed as follows:

Rosemary Chiavetta, Secretary

Pennsylvania Public Utility Commission

P.O. Box 3265

Harrisburg, Pa. 17105-3265

4. That, consistent with 52 Pa. Code §1.54, the parties shall serve one copy of the Main Brief and Reply Brief on each other and the Presiding Officers in–hand no later than 4:30 p.m. on the date due. Parties may serve the brief via e-mail to meet this requirement, with hard copy to follow, sent to the addresses set forth on the attached service list and as follows:

Elizabeth H. Barnes

Joel H. Cheskis

Administrative Law Judges

Pennsylvania Public Utility Commission

P.O. Box 3265

Harrisburg, Pa. 17105-3265

Email: [ebarnes@pa.gov](mailto:ebarnes@pa.gov)

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

5. That any brief not filed and served on or before the date set forth above will not be accepted except by special permission.

6. That the parties are required, within thirty (30) days after the final hearing, to either eFile with or provide to the Secretary’s Bureau a Compact Disc (CD) containing all testimony furnished to the court reporter during the proceeding, consistent with the Commission’s Implementation Order, dated January 10, 2013, at Docket No. M-2012-2331973.

7. That the parties are advised not to include any extra-record evidence in their briefs.

8. That a party shall not introduce evidence in the Reply Brief that is repetitive, should have been included in the Main Brief or substantially varies from the party’s case-in-chief.

9. That if a brief contains a citation to an unreported decision which is not available on LEXIS or the Commission’s website, a copy of that unreported decision must be appended to the brief.

10. That all briefs, testimony and other documents submitted in this proceeding are to be provided in Microsoft Word format.

Date: October 28, 2015

Elizabeth Barnes

Administrative Law Judge

Joel H. Cheskis

Administrative Law Judge

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

***REVISED 10/5/15***

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