**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Application of Pennsylvania-American Water :

Company and the Sewer Authority of the City of :

Scranton for Approval of (1) the transfer, by sale, of:

substantially all of the Sewer Authority of the City :

of Scranton’s Sewer System and Sewage Treatment :

Works assets, properties and rights related to its : A-2016-2537209

wastewater collection and treatment system to :

Pennsylvania American Water Company, and (2) :

rights of Pennsylvania American Water Company to:

begin to offer or furnish wastewater service to the :

public in the City of Scranton and the Borough of :

Dunmore, Lackawanna County, Pennsylvania :

**PREHEARING ORDER #2**

We conducted a telephonic prehearing conference in this case on May 10, 2016 10:00 a.m. in Harrisburg. Present were counsel for Pennsylvania-American Water Company (PAWC), Sewer Authority of the City of Scranton (Scranton), the Commission’s Bureau of Investigation and Enforcement (I&E), the Office of Consumer Advocate (OCA) and the Office of Small Business Advocate (OSBA). This order sets forth the procedural matters addressed at the prehearing conference.

ORDER

THEREFORE,

IT IS ORDERED:

1. That, pursuant to 52 Pa.Code §1.55, each party shall be limited to one entry on the service list. Any changes should be communicated to us, via e-mail ([dsalapa@pa.gov](mailto:dsalapa@pa.gov), [sthaas@pa.gov](mailto:sthaas@pa.gov)) or in writing as soon as possible. The service list is as follows:

|  |  |  |
| --- | --- | --- |
| **Party** | **Counsel** | **E-Mail** |
| I&E | Allison C. Kaster | [akaster@pa.gov](mailto:akaster@pa.gov) |
| PAWC | David P. Zambito | [dzambito@cozen.com](mailto:dzambito@cozen.com) |
| Scranton  OCA | John F. Povilaitis  Christine M. Hoover | [John.povilaitis@bipc.com](mailto:John.povilaitis@bipc.com) [choover@paoca.org](mailto:choover@paoca.org) |
| OSBA | Sharon E. Webb | [swebb@pa.gov](mailto:swebb@pa.gov) |
|  | ALJ Salapa | [dsalapa@pa.gov](mailto:dsalapa@pa.gov) |
|  | ALJ Haas | [sthaas@pa.gov](mailto:sthaas@pa.gov) |

2. That the above parties shall receive all documents and shall copy all other parties on documents they file with the Commission or serve on me. The above parties are expected to conduct discovery, attend hearings, or present or cross-examine witnesses.

3. That the following schedule is adopted:

Prehearing conference May 10, 2016

PAWC/Scranton prepared direct May 13, 2016 Other Parties’ prepared direct June 14, 2016

Prepared rebuttal June 24, 2016

Oral surrebuttal hearing July 6, 2016

Oral rejoinder hearing July 7, 2016

Cross examination hearing July 8, 2016

Main briefs July 19, 2016

Reply briefs July 27, 2016

4. That in accordance with the schedule set forth in paragraph 3 above and 52 Pa.Code § 5.412, the parties shall serve the documents listed above so that the documents are received in-hand by the parties no later than 4:30 p.m. on the dates listed. Parties may serve the documents listed above via e-mail to meet this requirement, with hard copy to follow by regular first class mail. Parties shall not file testimony with the Commission, but shall file a certificate of service.

5. That written testimony shall comply with the requirements of 52 Pa.Code § 5.412 and shall be marked with numerical, sequential statement numbers. Oral direct or rebuttal testimony or witnesses not identified in a party’s prehearing memorandum shall not be permitted, except by permission of the presiding officers for good cause.

6. That all parties shall comply with the provisions of 52 Pa.Code § 5.243(e) which prohibits the introduction of evidence during rebuttal which should have been included in the party’s case-in-chief or which substantially varies from the party’s case-in-chief, unless the party is introducing evidence in support of a proposed settlement.

7. That the parties have agreed to modify the Commission’s normal discovery timelines as follows:

1. Prior to submission of rebuttal testimony, answers to written interrogatories shall be served in-hand within seven (7) calendar days of service. After submission of rebuttal testimony, answers to written interrogatories shall be served in-hand within five (5) calendar days.  Discovery and discovery-related pleadings propounded after 12:00 noon on a Friday or after 12:00 noon on any business day immediately preceding a state holiday will be deemed served on the next business day for purposes of determining the due date of the responses and responsive pleadings.
2. Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served to the ALJ in writing within five (5) days of service of the interrogatories.  Objections to interrogatories served on a Friday shall be communicated orally within four (4) calendar days, and unresolved objections shall be served to the ALJ in writing within six (6) days of service of the interrogatories.
3. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.
4. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
5. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) calendar days.
6. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
7. Any discovery-related pleading such as objections, motions, or answers served on a Friday or the day before a holiday recognized by the Commission will be deemed to have been served on the following business day for purposes of tracking due dates.

8. That except as set forth in paragraph 7 above, the parties shall conduct discovery pursuant to 52 Pa.Code §§ 5.321-5.373. The parties should cooperate and exchange information on an informal basis. The parties shall cooperate rather than engage in numerous or protracted discovery disagreements that require our participation to resolve. All motions to compel shall contain a certification by counsel setting forth the specific actions the parties have undertaken to resolve their discovery disputes informally. If a motion to compel does not contain this certification, we shall contact the parties and direct them to resolve the matter informally and provide the certification if they are unsuccessful. There are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa.Code §§ 5.361, 5.371-5.372.

9. That the evidentiary hearings will be held in Harrisburg and will commence at 10:00 a.m. unless changed by us.

10. That the parties shall stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all parties and conserve precious administrative hearing resources. 52 Pa.Code §§ 5.232 and 5.234.

11. That the evidentiary hearings in this matter constitute formal legal proceedings and we will conduct them in accordance with the Commission’s Rules of Administrative Practice and Procedure, as well as the rules of evidence as applied to administrative hearings.

12. That parties intending to subpoena witnesses for the evidentiary hearings shall review the procedures established in 52 Pa.Code § 5.421 and shall submit any written application to us sufficiently in advance of the evidentiary hearing dates so that the other parties will have the required ten (10) days’ notice to answer or object, and so that the party requesting the subpoena shall have enough time to receive the subpoena and serve it.

13. That each party shall file copies of its briefs with the Secretary, in accordance with 52 Pa.Code § 5.502, and shall serve one copy, in-hand, on us and all other parties no later than 4:30 p.m. on the dates listed. In addition, each party shall e-mail its briefs in Microsoft Word 2010 or equivalent to us.

14. That all briefs shall comply with the requirements of 52 Pa.Code §§ 5.501 and 5.502, and in addition to the mandatory contents set forth in 52 Pa.Code § 5.501(a), all main briefs, regardless of length, must contain:

A. A history of the proceeding;

B. A discussion;

C. Proposed findings of facts (with record citations to transcript pages or exhibits where supporting evidence appears);

D. Proposed conclusions of law (with citations to supporting statutes, regulations or relevant case law); and

E. Proposed ordering paragraphs specifically identifying the relief sought.

15. That if a party does not file a reply brief, we will assume that the party does not dispute the assertions, contentions or arguments made by the other parties in their main briefs. While it is not necessary in a reply brief to repeat a particular argument or discussion contained in the main brief, the reply brief should note where the responsive argument is located in the main brief and how it responds to the other parties’ assertions, contentions or arguments.

16. That any brief not filed and served on or before the date fixed therefore will not be accepted for filing, except by permission for good cause.

17. That the notices of intervention or petitions to intervene of the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and Office of Small Business Advocate, being unopposed, are granted.

18. That the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and Office of Small Business Advocate, are admitted as intervenors in the above-captioned case, pursuant to 52 Pa. Code §5.75.

19. That admission of the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate and the Office of Small Business Advocate as intervenors will not be construed as recognition by the Pennsylvania Public Utility Commission that they have a direct interest in the proceeding or might be aggrieved by an order of the Commission in the proceeding, pursuant to 52 Pa. Code §5.75(c).

20. That the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate and the Office of Small Business Advocate be added as intervenors to the service list in the above-captioned proceedings.

21. That any provision of this prehearing order may be modified upon motion and good cause shown by any party in interest in accordance with 52 Pa.Code § 5.223(a).

Date: May 10, 2016 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

David A. Salapa

Administrative Law Judge

Steven K. Haas

Administrative Law Judge

**A-2016-2537209 – JOINT APPLICATION OF PENNSYLVANIA AMERICAN WATER COMPANY**

*(Revised 4/26/16)*

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