

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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June 7, 2016

Honorable Eranda Vero
PA Public Utility Commission
801 Market St., Suite 4063
Philadelphia, PA 19107-3168

Re: Pa. Public Utility Commission
Office of Consumer Advocate
v.
Community Utilities of Pennsylvania, Inc.
Docket Nos. R-2016-2538660
C-2016-2540738

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

/s/ Kristine E Marsilio

Kristine E Marsilio
Assistant Consumer Advocate
PA Attorney I.D. #316479
E-Mail: KMarsilio@paoca.org

Attachment

cc: Rosemary Chiavetta, Secretary
Certificate of Service

221974

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission :
Office of Consumer Advocate : Docket Nos. R-2016-2538660
v. : C-2016-2540738
Community Utilities of Pennsylvania, Inc. :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 7th day of June 2016.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Phillip Kirchner, Esquire
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

John Evans
Small Business Advocate
Office of Small Business Advocate
300 North Second Street
Harrisburg, P A 17101

Thomas J. Sniscak
William E. Lehman
Christopher M. Arfaa, Esquire
Hawke McKeon & Sniscak LLP
100 North 10th Street
Harrisburg, PA 17105

/s/ Kristine E. Marsilio

Kristine E Marsilio
Assistant Consumer Advocate
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Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50026
E-Mail: CHoover@paoca.org
*221966

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	Docket Nos. R-2016-2538660
Office of Consumer Advocate	:	C-2016-2540738
	:	
v.	:	
	:	
Community Utilities of Pennsylvania, Inc.	:	
(Water Division)	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and in response to the May 26, 2016 Prehearing Conference Order issued in the above-captioned proceedings, the Office of Consumer Advocate (OCA) provides the following information:

I. PROCEDURAL HISTORY

On April 6, 2016, Community Utilities of Pennsylvania, Inc. (Community Utilities or the Company) filed Supplement No. 1 to Tariff Water - Pa. P.U.C. No. 1 with the Pennsylvania Public Utility Commission (Commission), to become effective June 5, 2016. The Company, by filing this tariff supplement, seeks Commission approval to consolidate the rates of all customers in the service territories formerly known as Penn Estates Utilities, Inc. (Penn Estates) and Utilities, Inc.- Westgate (Utilities Westgate) and rate changes that would increase the level of rates that it charges for providing service to its customers.

If the proposed tariff supplement becomes effective, the Company will benefit from an opportunity to recover an estimated annual increase in base rate revenues of \$427,817 from its customers. This represents an approximate 39.96% increase in the Company's annual revenues at present rates. Under the Company's proposal, a customer in the service territory formerly known as Penn Estates, using 5,000 gallons of water per month, would experience a rate increase from \$34.96 to \$52.69, or by 50.7%. A customer in the service territory formerly known as Utilities Westgate, using 5,000 gallons of water per month, would experience a rate increase from \$43.33 to \$52.69 per month, or by 21.6%. The Company serves approximately 2,605 customers in Stroud Township and Pocono Township, Monroe County, and portions of Hanover Township, Northampton County, Pennsylvania.

On April 19, 2016, the OCA filed a Formal Complaint and Public Statement with the Commission (Docket No. C-2016-2540738). The Commission's Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance on April 19, 2016. On May 5, 2016, the Commission issued an Order initiating an investigation into the lawfulness, justness and reasonableness of the proposed rate increase in this tariff filing, and suspended the effective date of the proposed Supplement No. 1 to Tariff Water – Pa. P.U.C. No. 1 until January 5, 2017, by operation of law. The Commission assigned the case to Administrative Law Judge (ALJ) Eranda Vero. ALJ Vero scheduled a telephonic Prehearing Conference for June 8, 2016.

The OCA filed a Formal Complaint in this matter to protect the interests of the Company's customers. The OCA seeks to ensure that Community Utilities is permitted to implement only those rates that are fully justified and in accordance with sound ratemaking principles. The OCA will strive to prevent the Company from collecting all alleged costs that cannot be justified, or are unreasonable or unduly discriminatory, or otherwise violate the Public

Utility Code. The OCA submits that the Company's current rates and the rates sought by the Company may be unjustifiable and unlawful based upon information filed by Community Utilities in support of its claim.

II. ISSUES AND SUB-ISSUES

Based upon a preliminary analysis of the Company's filing, the OCA has compiled a list of issues that it anticipates will be included in its investigation of the rate increase request. While the OCA has been as thorough as possible, the OCA anticipates that additional issues may arise after Community Utilities has responded to all discovery requests, the OCA has had the opportunity to review those responses, and the Company has filed its direct testimony.

The OCA submits that all aspects of the Company's proposal must be justified, reasonable, and in accordance with sound ratemaking principles in order to protect the interests of the Company's customers. As such, the OCA will examine the reasonableness of the Company's proposal and ensure that the Company is seeking to recover through customer charges only those charges appropriately recovered through a monthly service charge. Furthermore, the OCA will investigate the Company's proposal to consolidate the customer rates and determine whether consolidation is more appropriately accomplished gradually, over several proceedings.

Additionally, the OCA will consider the following issues:

A. Rate of Return

1. **Capital Structure:** The OCA will examine whether the capital structure claimed by the Company is representative of the period in which rates will be in effect and is otherwise appropriate for ratemaking purposes.

2. Embedded Cost of Debt: The OCA will examine the embedded cost of debt claimed by the Company.

3. Cost of Common Equity: The OCA will analyze the cost of common equity claimed by Community Utilities. Also, the OCA will carefully examine the Company's methodologies and supporting data used to develop its final cost of common equity claim.

4. Utility Specific Adjustments: The OCA will examine whether any adjustments proposed by Community Utilities are justified.

B. Rate Base/Measures of Value

1. The OCA will examine the reasonableness and accuracy of the projections of the Company related to the water utility plant in service at the time relevant to this proceeding.

2. The OCA will review the appropriateness, reasonableness, and accuracy of the Company's claims for plant additions for the future test years ended December 31, 2016 and December 31, 2017.

3. The OCA will investigate whether the Company's adjustment to rate base for depreciation reserve is appropriate.

4. The OCA will examine the Company's calculation and amount of cash working capital.

C. Revenues and Expenses

1. The OCA will examine whether the number of customers projected on the Company's system at the time periods relevant to this proceeding is reasonable and accurate.

2. The OCA will examine whether the Company's estimates of the volume of water to be sold during future periods is reasonable and accurate.

3. The OCA will examine whether the Company's projections of revenues in the future test year and fully forecasted test year are reasonable and accurate.

4. The OCA will examine whether the salary and wage annualizations and increases included by the Company in the pro forma future test year and fully forecasted future test year are reasonable and accurate.

5. The OCA will examine the appropriateness of the Company's pro forma claims for professional services.

6. The OCA will examine the reasonableness of the Company's pro forma claims for purchased power.

7. The OCA will examine the reasonableness of the Company's pro forma claim for chemical expense.

8. The OCA will examine the reasonableness of the Company's pro forma claims for Contractual Services.

D. Rate Design

1. The OCA will consider the impact of the Company's proposed consolidation of rates between the former Penn Estates and Westgate tariffs.

2. The OCA will examine the reasonableness and appropriateness of Company's proposed tariff changes, as well as other terms and conditions of Company's tariff.

III. WITNESSES

The OCA intends to present the direct, rebuttal and surrebuttal testimonies, as may be necessary, of the below witnesses in this proceeding. The witnesses will present testimony in written format and may also attach various exhibits, documents and explanatory information, as

necessary to assist in the presentation of the OCA's case. The OCA's witnesses in this proceeding are as follows:

Revenue Requirement: Stacy L. Sherwood
Exeter Associates, Inc.
Suite 300
10480 Little Patuxent Parkway
Columbia, MD 21044
E-mail: ssherwood@exeterassociates.com

Rate of Return: Matthew I. Kahal
Exeter Associates, Inc.
Suite 300
10480 Little Patuxent Parkway
Columbia, MD 21044
E-mail: mkahal@exeterassociates.com

Rate Design: Jerome D. Mierzwa
Exeter Associates, Inc.
Suite 300
10480 Little Patuxent Parkway
Columbia, MD 21044
E-mail: jmierzwa@exeterassociates.com

The OCA reserves the right to call additional witnesses. The OCA will inform the ALJ and the parties if it determines that additional witnesses are necessary.

IV. EVIDENCE

The OCA will rely on the direct, rebuttal and surrebuttal testimony of its expert witnesses as well as the testimony of the other parties to the proceeding. The OCA will present relevant exhibits to support its own testimony, including but not limited to, materials obtained from the Company through discovery and cross-examination.

V. PROPOSED SCHEDULE

The OCA's proposed litigation schedule is attached hereto as Appendix A.

VI. DISCOVERY

The OCA has served four sets of discovery to date (OCA Sets I, II, III, and IV). The OCA is awaiting responses to its discovery, which are past due. Specifically, the OCA is still awaiting responses to OCA Set I, questions 1 through 3, which were due on May 11, 2016. The OCA is also awaiting responses to all questions in OCA Set II, questions 1 through 25, and OCA Set III, questions 1 through 8, which were both due on May 27, 2016. Finally, the OCA is awaiting responses to all questions in OCA Set IV, questions 1 through 8, which were due on May 31, 2016. Because the time-period for discovery and preparation of testimony is limited, the OCA supports a shortened discovery response time in this proceeding. The OCA, therefore, requests the following modifications to the discovery regulations:

A. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service of the interrogatories;

B. Objections to interrogatories shall be communicated orally within three (3) calendar days of service; written objections will be served within five (5) calendar days of service of interrogatories;

C. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of written objections.

D. 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;

E. Rulings over such motions will be issued, if possible, within seven (7) days of filing of the motion.

F. Requests for admission shall be deemed admitted unless answered within ten (10) calendar days of service.

G. Answers to on-the-record data requests will be served in-hand within three (3) calendar days of the request.

H. 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.

VII. SERVICE ON THE OCA

The OCA will be represented in this case by Christine Maloni Hoover and Kristine E. Marsilio. Two copies of all documents should be served on the OCA as follows:

Christine Maloni Hoover
Senior Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Telephone: (717) 783-5048
Fax: (717) 783-7152
E-mail: CHoover@paoca.org
KMarsilio@paoca.org
VHironymous@paoca.org

VIII. SETTLEMENT

The OCA is willing to participate in settlement discussions.

IX. PUBLIC INPUT HEARINGS

The OCA requests that Public Input Hearings be held in Hanover Township, Northampton County, and the Penn Estates service territory in Monroe County to receive comment from customers affected by the rate increase proposed by the Company. The OCA believes there is sufficient consumer interest, along with the size of the proposed increase, particularly for customers in the service territory formally known as Penn Estates, to justify its request.

Senator Mario Scavello contacted the OCA and specifically requested public input hearings to be held in the service territories identified above. Furthermore, at least seven consumers contacted the Office of Consumer Advocate also specifically requesting a public input hearing in this proceeding. Additionally, several other consumers contacted the OCA inquiring generally about the proposed increase. The OCA is also aware of at least five informal complaints that have been filed with the Commission to date relating to this proceeding. As such, the OCA submits that there is sufficient consumer interest, along with the size of the proposed increase, to justify its request.

The OCA also requests that the Company, at a minimum, place advertisements within its service territory and publications in the newspaper and on the Company's website to make its consumers aware of these hearings. The OCA will work with the Parties to coordinate a public input hearing date and location acceptable to all participants and the Presiding Officer.

Respectfully Submitted,

Kristine E Marsilio

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PA Attorney I.D. #316479
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Phone: (717) 783-5048
Fax: (717) 783-7152

Dated: June 7, 2016
221712

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	Docket Nos. R-2016-2538660
Office of Consumer Advocate	:	C-2016-2540738
	:	
v.	:	
	:	
Community Utilities of Pennsylvania, Inc.	:	
(Water Division)	:	

OFFICE OF CONSUMER ADVOCATE'S
PROPOSED LITIGATION SCHEDULE

Prehearing Conference	June 8, 2016
Company Testimony	June 16, 2016
Other Parties' Direct Testimony	July 19, 2016
Rebuttal Testimony	August 4, 2016
Surrebuttal Testimony	August 18, 2016
Outline of Expected Oral Rejoinder	August 22, 2016
Evidentiary Hearings	August 23-24, 2016
Main Briefs	September 8, 2016
Reply Briefs	September 19, 2016