**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2017-2618332

Office of Consumer Advocate : C-2017-2629498

:

v. :

:

Pine-Roe Natural Gas Company, Inc. :

**FIRST INTERIM ORDER**

**GRANTING THE PARTIES’ JOINT REQUEST TO HOLD PREHEARING CONFERENCE IN ABEYANCE PENDING MEDIATION AND SUBJECT TO RESPONDENT FILING A SUPPLEMENTAL TARIFF EXTENDING THE TARIFF SUSPENSION DATE BY AT LEAST SIXTY DAYS**

Procedural History and Abeyance Request

On August 4, 2017, Pine-Roe Natural Gas Company, Inc. (Pine-Roe) filed Supplement No. 40 to Tariff Gas Pa. P.U.C. No. 1 proposing an annual increase in overall revenue of $50,000 by increasing the customer charge from $6.61/month to $31.86/month (382%) to become effective November 1, 2017. On October 12, 2017, Supplement No. 40 was voluntarily postponed to December 8, 2017 via Supplement No. 42.

On October 17, 2017, at Docket No. C-2017-2629498, the Pennsylvania Office of Consumer Advocate (OCA) filed a formal complaint against Pine-Roe challenging the rate increase. On October 19, 2017, the Commission’s Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance in this proceeding. To date, the Pennsylvania Office of Small Advocate (OSBA) has not entered an appearance in this proceeding.

Pursuant to 66 Pa.C.S. § 1308(d), Pine-Roe’s proposed tariff filing was suspended

by operation of law on November 8, 2017, until July 8, 2018 unless permitted by Commission

Order to become effective at an earlier date.

By Order entered, November 8, 2017, the Commission instituted an investigation and analysis to determine the lawfulness, justness and reasonableness of Pine-Roe’s existing and proposed rates and regulations. The Order directed assignment of the case to the Office of Administrative Law Judge for prompt scheduling of such hearings as may be necessary culminating in the issuance of a Recommended Decision. The proceeding was assigned to me as the presiding Administrative Law Judge (ALJ).

On November 9, 2017, a Prehearing Conference Order (PHCO) was issued to the Parties informing them that a prehearing conference would be conducted telephonically on Monday, November 20, 2017 at 1:00 P.M, by the ALJ sitting in Pittsburgh. The Parties were directed to call-in to the conference by dialing the toll-free bridge number and PIN provided in the PHCO. The PHCO also directed the Parties to file prehearing memorandums in accordance with the Commission’s regulations, 52 Pa.Code §§ 5.221 to 5.224, by Friday, November 17, 2017.

On November 9, 2017, the Commission’s Mediation Unit’s Mediator, Tiffany A. Hunt, issued a Notice to the Parties informing them the matter could be processed by mediation between or among them upon consent of all Parties.

On November 13, 2017, a Prehearing Conference Notice was issued to the Parties reminding them of the date, time and manner or the telephonic prehearing conference.

On November 15, 2017, via electronic mail, counsel for OCA, Darryl A. Lawrence, Esquire, sent the ALJ a letter requesting that the prehearing conference be held in abeyance pending mediation. Notably, Attorney Lawrence’s letter was filed with the Commission’s Secretary’s Bureau on the same date together with a Certificate of Service. In his letter, Attorney Lawrence represented that the Parties were presently working with Mediator Hunt to schedule an initial mediation session in late November. “The OCA submits that resolution of this matter through mediation is likely.” Attorney Lawrence further represented that Pine-Roe and I&E supported OCA’s request.

Ruling

The Commission’s procedure for requesting a continuance of a proceeding or to

hold the proceeding in abeyance is set forth in its Rules of Administrative Practice and Procedure in Chapter 1 of Title 52 of the Pennsylvania Code. 52 Pa.Code § 1.1, et seq. More specifically, pursuant to 52 Pa. Code § 1.15(b), a request for a change of the scheduled hearing date shall be submitted by motion in writing, filed no later than five (5) days prior to the hearing with the Commission. The motion must state the facts upon which the request rests. Only for good cause shown will requests for continuance be considered. 52 Pa.Code §1.15(b).

Although Attorney Lawrence’s letter requesting that the prehearing conference be held in abeyance pending mediation is not in accordance with the Commission’s rules, waiver of this requirement is permitted. Under 52 Pa.Code § 1.2, a presiding officer at any stage of an action or proceeding may waive a requirement of a rule when necessary or appropriate, if waiver does not adversely affect a substantive right of a party. Such are the circumstances in this case since all Parties support the request. Therefore, Attorney Lawrence’s letter for the purposes of the within Order will be treated as a joint motion of the Parties.

The undersigned finds the joint motion states good cause, i.e., the Parties wish to engage in mediation to attempt resolution of this matter. Accordingly, the prehearing conference scheduled for Monday, November 20, 2017, will be cancelled and held in abeyance pending the outcome of mediation, **provided that within ten days of this Order, Pine-Roe files and serves a tariff supplement extending the proposed tariff suspension date to September 8, 2018.[[1]](#footnote-1)**

THEREFORE,

IT IS ORDERED:

1. That the joint motion of Pine-Roe Natural Gas Company, Inc., the Office of

Consumer Advocate and the Commission’s Bureau of Investigation and Enforcement to hold the November 20, 2017 Call-In Prehearing Conference in abeyance pending mediation is granted.

2. That the filing of Parties’ Prehearing Conference Memorandums due in this proceeding by Friday, November 17, 2017, is hereby suspended pending the outcome of mediation in this matter.

3. That the Call-In Prehearing Conference scheduled in this proceeding for Monday, November 20, 2017, at 1:00 P.M. is hereby cancelled and held in abeyance pending the outcome of mediation in this matter.

4. **That Respondent Pine-Roe Natural Gas Company, Inc.’s shall file and serve within ten days of the date of this Order a tariff supplement extending the proposed tariff suspension date to September 8, 2018.**

5. That this matter is referred to the Commission’s Mediation unit for mediation review.

6. That the Office of Consumer Advocate shall provide the presiding Administrative Law Judge with a status report of the mediation process on or before **January 19, 2018.**



Date: November 16, 2017

**R-2017-2618332; C-2017-2629498 - Pennsylvania Public Utility Commission; OFFICE OF CONSUMER ADVOCATE v. pine-roe natural gas company, inc.**

*Revised 11-9-17*

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1. The Commission’s regulations provide that when a party with the burden of proof consents to mediation in proceedings subject to a statutory deadline for adjudication, that party must also agree, in writing, to extend the statutory deadline by, at least, 60 days. 52 Pa.Code § 69.392(2). In this instance, Pine-Roe has the burden of proof. [↑](#footnote-ref-1)