**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission (water) : R-2019-3008947

Office of Consumer Advocate : C-2019-3009591

:

v. :

:

Community Utilities of Pennsylvania, Inc. (water) :

and

Pennsylvania Public Utility Commission :

(wastewater) : R-2019-3008948

Office of Consumer Advocate : C-2019-3009592

:

v. :

:

Community Utilities of Pennsylvania, Inc. :

(wastewater) :

**PREHEARING ORDER No. 2**

On April 1, 2019, Community Utilities of Pennsylvania Inc. (CUPA), filed Supplement No. 5 to Tariff Water–Pa. P.U.C. No. 1 to become effective June 1, 2019. The subject tariff supplement would increase CUPA’s total annual operating revenues for water service by approximately $362,019, or 26.34%.

Also, on April 1, 2019, Community Utilities of Pennsylvania Inc. – Wastewater Division (CUPA-WD), filed Supplement No. 3 to Tariff Wastewater–Pa. P.U.C. No. 1 to become effective June 1, 2019. The subject tariff supplement would increase CUPA-WD’s total annual operating revenues for wastewater service by approximately $378,770, or 20.8%.

On May 1, 2019, the Office of Consumer Advocate (OCA) filed formal Complaints, Public Statements, Verifications, and Notices of Appearance on behalf of Christine Hoover, Esq. The Complaints were docketed at C-2019-3009591 and C-2019-3009592.

By Orders entered May 9, 2019, the Pennsylvania Public Utility Commission (Commission) instituted an investigation into the lawfulness, justness, and reasonableness of rates, rules, and regulations contained in CUPA’s proposed Supplement No. 5 to Tariff Water–Pa. P.U.C. No. 1 and CUPA-WD’s proposed Supplement No. 3 to Tariff Wastewater–Pa. P.U.C. No. 1. Pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S.A. § 1308(d), both Tariffs were suspended by operation of law until January 1, 2020, unless permitted by Commission Order to become effective at an earlier date. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness and reasonableness of the existing rates, rules, and regulations of CUPA and CUPA-WD. The matter was assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

In accordance with the Commission’s May 9, 2019 Order, the matter was assigned to Administrative Law Judge F. Joseph Brady.

On May 14, 2019, and May 15, 2019 a Notice and Prehearing Conference Order were issued, respectively, scheduling an initial prehearing conference for Tuesday, May 28, 2019, at 10:00 a.m.

On May 24, 2019, Prehearing Memoranda were filed by CUPA, the OCA, and the Bureau of Investigation and Enforcement (BIE).

A dual location Prehearing Conference was held on May 24, 2019. Counsel for CUPA, the OCA, and the BIE participated.

On May 28, 2019, Allison C. Kaster, Esquire, filed a Notice of Appearance on behalf of the BIE.

This Prehearing Order memorializes the matters decided and agreed upon by the parties attending the May 24, 2019, Prehearing Conference.

ORDER

THERERFORE,

IT IS ORDERED:

1. That the parties of record as of this date are CUPA, the OCA, and the BIE.
2. That the parties may arrange service amongst themselves as they agree.
3. That parties may serve documents electronically by 4:30 p.m. to meet any required due date, with hard copy to follow by regular first class mail by the next business day, with the provision that large documents not able to be transmitted electronically may be hand-delivered to the parties located in Harrisburg on the due date and received the next business day by parties located outside Harrisburg.
4. That discovery shall be conducted according to the Commission’s rules and regulations at 52 Pa. Code § 5.321 *et seq*, subject to the following modifications:
5. Answers to interrogatories shall be served in-hand within best efforts for seven (7) calendar days and no later than ten (10) calendar days unless otherwise agreed to by the parties. Interrogatories served after 12:00 p.m. on a Friday or the day before a Commission holiday shall be deemed served on the next business day.
6. Objections to interrogatories to be communicated orally within three (3) calendar days of service; unresolved objections shall be served on the propounding party in writing 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 shall be issued, if possible, within seven (7) calendar days of the filing of the motion.

F. Responses to requests for document production, entry for inspection, or other purposes to be served in-hand within ten (10) calendar days.

G. Requests for admission to be deemed admitted unless answered within seven (7) calendar days or objected to within five (five) calendar days of service.

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

1. That the parties are required to attempt to resolve discovery disputes among themselves prior to seeking a resolution from the Administrative Law Judge.
2. That discovery disputes may be resolved via telephone conference with the Administrative Law Judge without the need for filing a motion to compel, although the propounding party may choose to file a formal motion to compel.
3. That the following schedule is adopted:

**Subject Date**

Rate Filing April 1, 2019

Prehearing Conference May 28, 2019

Company Direct Testimony June 14, 2019

Public Input Hearings July 15, 2019

Other Parties Direct Testimony July 17, 2019

Rebuttal Testimony August 2, 2019

Surrebuttal Testimony August 15, 2019

Oral Rejoinder Outline August 20, 2019 (noon)

Evidentiary Hearings August 22-23, 2019

Close of Record August 16, 2019

Main Briefs September 6, 2019

Reply Briefs September 16, 2019

End of Suspension January 1, 2020

1. That the August 22-23, 2019 hearings will be held in Harrisburg and commence at 9:00 a.m. Parties will complete the daily witness listing and cross-examination grid as directed.
2. That any motions with respect to, or objections to, written testimony must be presented in writing no later than three days prior to the day that the witness sponsoring that testimony is scheduled to testify. Answers to such motions or objections may be filed within three days or sooner if circumstances warrant. Oral motions, other than for good cause, shall not be accepted.
3. In accordance with the schedule set forth above, main briefs must be filed with the Secretary of the Commission and received in-hand by all parties no later than 4:30 p.m. on the date listed; reply briefs must be filed with the Secretary and received in-hand by all parties no later than 12:00 p.m. on the date listed.
4. That an original copy of all briefs must be filed with the Secretary, in accordance with 52 Pa. Code § 5.502(b), and one copy served on the presiding officer and the other parties no later than 4:30 p.m. on the dates listed. Service can be made electronically, with a hard-copy received in hand on the next business day.[[1]](#footnote-1) 52 Pa. Code § 5.501(e) requires that “[b]riefs shall be as concise as possible.”
5. 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:
6. A table of contents;
7. A history of the proceeding;
8. A discussion;
9. Proposed findings of fact (with record citations to transcript pages or exhibits where supporting evidence appears);
10. Proposed conclusions of law (with citations to supporting statutes, regulations or relevant case law); and
11. Proposed ordering paragraphs specifically identifying the relief sought.
12. That all briefs are to comply with the “Special Instructions for Briefs and Exceptions in Major General Rate Increase Proceedings” attached as Appendix A to this Order.
13. **That Rate Case Tables will be electronically provided to the parties. These Tables must be used by CUPA, the OCA, and the BIE.**
14. That the parties are to confer amongst themselves in an attempt to resolve all or some of the issues associated with this proceeding. The parties are reminded it is the Commission’s policy to encourage settlements. 52 Pa. Code §5.231(a). The parties are strongly urged to seriously explore this possibility. If a settlement is reached, a joint settlement petition executed by representatives of all parties to be bound thereby, together with statements in support of settlement by all signatory parties, must be filed with the Secretary for the Commission and served on the presiding officer.
15. That the parties shall comply with the procedural rules and regulations discussed herein.
16. That any of the provisions of this Prehearing Order may be modified upon motion and good cause shown by any party in interest.

Date: June 4, 2019 /s/

F. Joseph Brady

Administrative Law Judge

**Pa.P.U.C. v. Community Utilities of PA**

**Docket Nos. R-2019-3008947, -3008948**

**SERVICE LIST**

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***ACCEPTS E-SERVICE***

APPENDIX A

**APPENDIX A**

**INSTRUCTIONS FOR BRIEFS**

Each brief shall follow the general organization shown herein.

Adjustments contained in each brief shall:

1. Be based on a specific test year, to be selected before the close of record;
2. be complete and self-contained;
3. include accurate reference to the appropriate record sources;
4. be on a before-income-tax basis;
5. be detailed to demonstrate the step-by-step calculation of that adjustment together with appropriate accurate record references;
6. include concomitant rate base, revenue, expense, depreciation expense, and tax adjustments set forth, together with the details of their calculation;
7. include with the brief those calculations which are the basis for proposed adjustments, but which are incomplete on the record.

Tables showing all proposed rate base and income adjustments shall be submitted with each brief which includes such adjustment.

STANDARD FORMAT

1. Introduction
2. Summary of Argument
3. Rate Base
4. Fair Value
5. Plant in Service
6. Depreciation Reserve
7. Additions to Rate Base
8. Conclusion
9. Revenues
10. Expenses
11. Taxes
12. Rate of Return
13. Miscellaneous Issue(s)
14. Rate Structure
15. Cost of Service
16. Revenue Allocation
17. Tariff Structure
18. Summary and Alternatives
19. Conclusion

1. Parties are directed to e-mail me a copy of their as-filed briefs in a WORD-formatted document in addition to ADOBE or other compatible PDF format. The format of the briefs served electronically on the parties may be as requested by the parties. [↑](#footnote-ref-1)