**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2019-3010955

Office of Consumer Advocate : C-2019-3011834

Office of Small Business Advocate : C-2019-3012096

:

v. :

:

City of Lancaster -- Wastewater :

**PREHEARING CONFERENCE ORDER**

On July 19, 2019, City of Lancaster – Wastewater (Lancaster) filed Supplement No. 39 Sewer – PA P.U.C. No. 7 to become effective September 17, 2019 seeking an increase in total annual operating revenues for wastewater service by approximately $646,727, or 46.7%, for wastewater customers who reside outside of the City. If the company’s entire request is approved, the proposed metered usage rates would increase from $52.25 to $75.66 per quarter, or by 44.8% for the average residential customer using 12,000 gallons of wastewater per quarter.

On July 29, 2019, the Office of Consumer Advocate (OCA) filed a formal complaint and public statement against the tariff filing, docket number C-2019-3011834, averring, among other things, that a preliminary examination of Lancaster’s rate increase request indicates that the present rates and proposed charges, increases and changes in rates, rules and regulations contained within the request are or maybe unjust, unreasonable and in violation of law or will or may allow Lancaster an opportunity to recover an excessive rate of return on its utility property investment, in violation of the Public Utility Code. The OCA asked that the Commission suspend and investigate the operation of the proposed tariff supplement pursuant to Section 1308(d) of the Public Utility Code and hold full evidentiary hearings to examine the reasonableness of Lancaster’s current rates and its proposed increases in rates. The OCA also asked that public input hearings be held in the affected service territory.

On August 5, 2019, the Commission’s Bureau of Investigation and Enforcement (I&E) intervened into this case.

On August 8, 2019, the Office of Small Business Advocate (OSBA) filed a formal complaint against the tariff filing, docket number C-2019-3012096, averring, among other things, that upon review of the materials filed by Lancaster, those materials maybe insufficient to justify the rate increase requested and that Lancaster’s present and proposed rates, rules and conditions of service may be unjust, unreasonable, unduly discriminatory and otherwise contrary to law, particularly as they pertain to small business customers. The OSBA further averred that the present and proposed rates, rate design and cost and revenue allocation are or maybe unjust, unreasonable and unlawfully discriminatory in violation of the Public Utility Code. The OSBA also requested that the filing be suspended and investigated and that the proposed new rates and other tariff changes be rejected to the extent they are found to be unlawful, unjust, unreasonable and unduly discriminatory to any class of customers, including small business customers.

On August 29, 2019, the Commission suspended the filing by operation of law until April 17, 2020 pursuant to Section 1308(d) of the Public Utility Code, unless permitted by the Commission to become effective at an earlier date. The Commission added that investigation and analysis of the proposed tariff filings and the supporting data indicate that the proposed changes in rates, rules and regulations may be unlawful, unjust, unreasonable and contrary to the public interest. The Commission determined that consideration should be given to the reasonableness of Lancaster’s existing rates, rules and regulations. The Commission assigned the case to the Office of Administrative Law Judge for the prompt scheduling of hearings as may be necessary culminating in the issuance of a Recommended Decision.

As a result, on September 3, 2019, a hearing notice was issued establishing a prehearing conference for this matter for Monday, September 9, 2019 at 10:00 a.m. in Hearing Room 5 of the Commonwealth Keystone Building in Harrisburg and assigning me as the presiding officer.

In accordance with Section 333 of the Public Utility Code, 66 Pa.C.S. § 333, and Sections 5.221-5.224 of the Commission’s regulations, 52 Pa.Code §§ 5.221-5.224, this prehearing conference order is being issued.

ORDER

THEREFORE,

IT IS ORDERED:

1. That a Prehearing Conference shall be held on **Monday, September 9, 2019** beginning at 10:00 a.m. in person in Hearing Room 5 of the Commonwealth Keystone Building in Harrisburg.
2. That absent a continuance for good cause, all parties must be prepared to participate in the scheduled prehearing conference. Failure of a party to participate in the conference, after being served with notice of the time thereof, without good case shown, shall constitute a waiver of all objections to the agreements reached and an order or ruling with respect thereto. **The parties list will be established at the initial prehearing conference that will be used for the remainder of the case**. If a party does not appear at, or file a petition to intervene by, the prehearing conference, or otherwise express an interest in being on the parties list, that party may be excluded from this case.
3. That all parties shall review the regulations relating to discovery, specifically 52 Pa.Code § 5.331(b), which provides, among other things, that “a party shall initiate discovery as early in the proceedings as reasonably possible,” and 52 Pa.Code § 5.322, which encourages parties to exchange information on an informal basis. All parties are urged to cooperate in discovery. There are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa.Code §§ 5.361, 5.371 – 5.372.
4. That pursuant to 52 Pa.Code §§ 1.21 – 1.23, you may represent yourself, if you are an individual, or you may have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *pro hac vice*, represent you. **However, if you are a partnership, corporation, trust, association, or governmental agency or subdivision, you must have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *pro hac vice*, represent you in this proceeding**. Unless you are an attorney, you may not represent someone else. Attorneys shall insure that their appearance is entered in accordance with the provisions of 52 Pa.Code § 1.24(b).
5. That you must serve me directly with a copy of any document that you file in this proceeding. If you send me any correspondence or document, you must send a copy to all other parties. My address is:

Joel H. Cheskis

Deputy Chief Administrative Law Judge

Pennsylvania Public Utility Commission

Commonwealth Keystone Building

400 North Street

Harrisburg, PA 17120

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A copy of the Commission’s current service list of the parties to this proceeding is enclosed with this order.

1. That parties shall review the regulations pertaining to prehearing conferences, in particular 52 Pa.Code §5.222(d), which provides that parties and counsel will be expected to attend the conference fully prepared for useful discussion of all problems involved in the proceeding, both procedural and substantive, and fully authorized to make commitments with respect thereto. The preparation should include, among other things, advance study of all relevant materials, and advance informal communication between the participants, including requests for additional data and information, to the extent it appears feasible and desirable.

1. That pursuant to 52 Pa.Code §1.55, each party shall be limited to one entry on the service list. Parties shall provide the name, business address, business telephone number and business e-mail address of the person they wish to have listed on the service list.
2. That on or before **Friday, September 6, 2019**, the parties shall serve me and each other with a Prehearing Conference Memorandum addressing:

a.) The information described in Paragraph 7, above.

b.) A statement regarding possible settlement of the case, subject to approval of the Pennsylvania Public Utility Commission.

c.) Any proposed modifications to the Commission’s discovery regulations.

d.) A proposed schedule for litigation which provides for reply briefs to be filed no later than **January 13, 2020**.

e.) Names, business addresses, and telephone numbers of witnesses the party expects to call and the subject matter of each witnesses’ testimony.

f.) A list of the issues and sub-issues of this proceeding which the party intends to address and a statement of the party’s position on each of the issues and sub-issues listed.

g.) The need for any public input hearings to be held in the service territory.

1. That the parties are directed to confer to identify specific dates, times and locations of any public input hearings, if any, with site information, including telephone numbers and persons to contact, and to confer and attempt to reach a consensus regarding the content of the notice, newspaper advertisement of the public input hearings and other forms of notifying the public in the service territory.
2. That parties serving pre-served testimony pursuant to 52 Pa.Code § 5.412(f) shall be 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.
3. That a request for a change of the scheduled Prehearing Conference date shall state the agreement or opposition of other parties and shall be submitted in writing no later than five (5) days prior to the initial prehearing conference. 52 Pa.Code §1.15(b). Requests for change must be sent to me with copies to all parties of record.

Date: September 3, 2019 /s/

Joel H. Cheskis

Deputy Chief Administrative Law Judge

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