



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

September 11, 2019

Secretary Rosemary Chiavetta  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v.  
Valley Energy, Inc.  
Supplement No. 49 to Tariff Electric – Pa. PUC No. 2  
Docket No. R-2019-3008209  
**I&E Prehearing Memorandum**

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement's (I&E) **Prehearing Memorandum** in the above-captioned proceeding.

Copies are being served on all active parties of record as evidenced in the attached Certificate of Service. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to be "John M. Coogan", written in a cursive style.

John M. Coogan  
Prosecutor  
Bureau of Investigation & Enforcement  
PA Attorney I.D. No. 313920  
(717) 783-6151  
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JMC/ac  
Enclosure

cc: Honorable Steven K. Haas (*ALJ, PUC Harrisburg*)  
Honorable Benjamin J. Myers (*ALJ, PUC Harrisburg*)  
Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :

v. :

Valley Energy, Inc. :

Docket No. R-2019-3008209

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**PREHEARING MEMORANDUM OF THE  
BUREAU OF INVESTIGATION AND ENFORCEMENT**

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**TO ADMINISTRATIVE LAW JUDGES STEVEN K. HAAS AND BENJAMIN J. MYERS**

In accordance with the Prehearing Conference Order dated September 5, 2019, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) hereby submits this Prehearing Memorandum in the above captioned docket. The I&E prosecutor assigned to this proceeding is John M. Coogan.

Mr. Coogan may be contacted as follows:

By mail: John M. Coogan  
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Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

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## I. BACKGROUND

On July 1, 2019, Valley Energy, Inc. (“Valley” or “Company”), filed Supplement No. 49 to Tariff Electric Pa. P.U.C. No. 2 which proposed an annual distribution revenue increase of \$1,034,186 (20.6%), to become effective August 30, 2019. On July 1, 2019, Valley filed a Petition for Waiver of Filing Requirements Under 52 Pa. Code § 53.53, requesting waiver of the informational requirements for general rate increase requests in excess of \$1,000,000 as set forth in 52 Pa. Code § 53.53 of the Commission’s regulations. The Commission’s Bureau of Investigation and Enforcement (“BIE”), the Pennsylvania Office of Consumer Advocate (“OCA”), and the Pennsylvania Office of Small Business Advocate (“OSBA”) filed both a Joint Answer in opposition to Valley’s Petition, as well as a Motion of the Joint Statutory Advocates to Reject the Base Rate Filing (“Joint Motion to Reject”) on July 22, 2019.<sup>1</sup> On July 29, 2019, Valley withdrew its Petition for Waiver of Filing Requirements Under 52 Pa. Code § 53.53. On July 29, 2019, Valley also filed replacement schedules and tariff pages that updated the annual distribution revenue increase to \$834,546 (16.6%).

On August 29, 2019, pursuant to 66 Pa. C.S. § 1308(d), the Commission ordered suspension of the proposed tariff changes until March 30, 2020, unless permitted by Commission Order to become effective at an earlier date. The Commission directed that the case be assigned to the Office of Administrative Law Judge for Alternative Dispute Resolution, if possible, and scheduling of hearings as may be necessary for the

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<sup>1</sup> I&E and OSBA entered their appearances in this proceeding on July 19, 2019 and July 22, 2019, respectively. OCA filed a Formal Complaint on August 5, 2019.

Administrative Law Judge to render a Recommended Decision. On September 9, 2019, the Company filed a tariff suspension, voluntarily suspending its proposed tariff to April 29, 2020.

A Prehearing Conference is scheduled for September 13, 2019 at 10:00 a.m., before Administrative Law Judges Steven K. Haas and Benjamin J. Myers (“ALJs”). I&E submits this Memorandum in compliance with the Prehearing Conference Order issued by the ALJs on September 5, 2019.

## II. ISSUES

The following list represents I&E’s preliminary determination of the potential issues in this proceeding:

- Cost Allocation
- Rate Structure
- Present Rate Revenue
- Proposed Rate Revenue
- Revenue Allocation
- Rate Base Issues
- Fully Projected Future Test Year Reporting Requirements
- Distribution Expenses
- Customer Accounting & Collection Expenses
- Outside Services
- Advertising
- Office Supplies & Expenses
- Charitable Contributions
- Salaries, Wages, Benefits, and related Taxes
- Taxes Other than Income
- Income Taxes
- Business Insurance
- Rate Case Expense
- Cash Working Capital
- Overall Rate of Return
- Cost of Debt
- Cost of Equity
- Capital Structure

The listing is as complete as can be made at this time. I&E is developing its position on each specific issue, but is generally evaluating whether the Company's proposed tariff is just, reasonable, and otherwise in compliance with the law. I&E specifically reserves the right to address other issues, as it deems appropriate if any such relevant issues arise.

### III. WITNESSES

It is currently expected that I&E may call the following witnesses without being limited thereto:

<i>Ethan Cline</i>	<u>Fixed Utility Valuation Engineer</u>
<i>Christopher Henkel</i>	<u>Fixed Utility Financial Analyst</u>
<i>Brent Grab</i>	<u>Fixed Utility Financial Analyst</u>

The I&E witnesses may be contacted through the contact information listed above for Mr. Coogan. I&E reserves the right to substitute witnesses or call additional witnesses if warranted.<sup>2</sup> All active parties will be notified of any amendments to the I&E witness list.

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<sup>2</sup>The above listing is provided without analysis of the positions of all parties to this proceeding and without the benefit of completed discovery.

#### **IV. EVIDENCE**

I&E expects to present all pre-served written direct, rebuttal and surrebuttal testimony and accompanying exhibits at the evidentiary hearing. Moreover, I&E intends to rely on the Company's filing, testimony, answers to data requests and interrogatories, annual reports and other documents submitted to the Commission, other relevant Commission filings, any other relevant Commonwealth agency letters or reports, general financial market information sources and other public documents and reports. However, there may be issues of Commission policy or legal representation that are not properly the subject of testimony or factual issues that are clear on the record and need not be supported by testimony. I&E reserves the right to dispense with testimony when, in its opinion, an issue can be adequately addressed through briefing.

#### **V. DISCOVERY**

Due to the time limitations in the proceedings, I&E requests that the Commission's Rules of Practice and Procedure for the conduct of discovery be modified as follows:

1. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service.
2. Objections to interrogatories shall be communicated orally within three (3) calendar days of service; unresolved objections be served to the ALJ in writing within seven (7) calendar days of service of interrogatories.

3. Motion to dismiss objections and/or direct the answering of interrogatories shall be filed within five (5) calendar days of service of written objections.
4. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within five (5) calendar days of service of such motions.
5. Discovery served after 12:00 noon on a Friday or after 12:00 p.m. on any business day preceding a state holiday will be deemed to be served on the next business day.

## **VI. SCHEDULE**

I&E is working with the Parties to develop a mutually agreeable procedural schedule regarding testimony for this proceeding. In the ALJs' September 5, 2019 Prehearing Conference Order, the reply brief date was set as December 16, 2019. However, I&E notes on September 9, 2019, the Company filed a tariff suspension, suspending its proposed tariff until April 29, 2020, an additional 30 days than as ordered by the Commission.<sup>3</sup> Because of this changed circumstance, I&E supports and respectfully requests the ALJs allow parties additional time for testimony than would be possible with a reply brief due date of December 16, 2019. However, in the event December 16, 2019 remains the reply brief due date, to aid parties' efforts to complete

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<sup>3</sup> The Commission's August 29, 2019 Order to suspend and investigate the Company's rate filing suspended the proposed tariff until March 30, 2020.

discovery and otherwise fully review the Company's filing, other parties' direct testimony should be due no earlier than October 2, 2019.

## **VII. CONSOLIDATION**

I&E supports consolidation of the proceedings at Docket Nos. R-2019-3008208, R-2019-3008209, and R-2019-3008212 for purposes of a common procedural schedule and hearings only. I&E intends to submit separate testimony for each proceeding, and because different issues will likely arise in each proceeding, separate briefing of issues should be retained.

## **VIII. SERVICE OF DOCUMENTS**

For purposes of satisfying in-hand requirements for discovery responses, prepared testimony and briefs, I&E will accept electronic delivery of documents with a follow-up hard copy provided by regular first-class mail.

## **IX. PUBLIC INPUT HEARINGS**

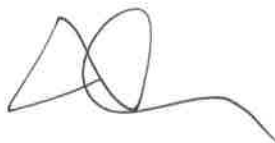
To the extent that public input hearings are deemed necessary in this proceeding, I&E advocates for the use of Smart Hearings where possible.



## X. SETTLEMENT

I&E intends to participate in any settlement discussions and is willing to work with the parties to reach a resolution of any or all issues.

Respectfully submitted,



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Bureau of Investigation and Enforcement  
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	:	
Valley Energy, Inc.	:	
Supplement No. 49 to Tariff Electric –	:	
Pa. PUC No. 2	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Prehearing Memorandum** dated September 11, 2019, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

**Served via First Class and Electronic Mail**

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