**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, *et al* : R-2020-3019612

: C-2020-3021049

 v. :

 :

Reynolds Disposal Company :

**INTERIM ORDER**

 Reynolds Disposal Company (RDC, Respondent, or the Company) serves approximately 685 customers (550 residential) in the Townships of Pymatuning, Delaware, and Hempfield in Mercer County.

 On June 30, 2020, RDC filed with the Pennsylvania Public Utility Commission (Commission) Supplement No. 5 to Tariff Sewage – Pa. P.U.C. No. 4, to become effective September 1, 2020. The Company, by filing this tariff supplement, seeks Commission approval to make 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 recover an estimated annual increase in base rate revenues of $215,646 from its customers. This represents an approximate overall 48% increase in the Company’s annual revenues at present rates. This amount includes a proposed $198,426 increase (55%) in base rates and a proposed increase in its Pennsylvania Infrastructure Investment Authority (PENNVEST) surcharge of $17,220 (20%). Under the Company’s proposal, the proposed rated (including base rates and the PENNVEST surcharge) for an average customer using 9.000 gallons per quarter would increase from $98.91 to $146.35, or by 48%. The Company also has a number of unmetered customers. Under the Company’s proposal, an unmetered residential customer’s bill would increase from $149.47 to $221.07 per quarter. The Company also has proposed a change from quarterly to monthly billing.

 On August 27, 2020, the Commission issued an Opinion and Order suspending the rate filing by operation of law until April 1, 2021 unless otherwise directed by the Commission and assigning this matter to my office for “Alternative Dispute Resolution, if possible, and for the prompt scheduling of such hearings as may be necessary.”

 On July 27, 2020, the Office of Consumer Advocate (OCA) filed a complaint docketed at Public Utility Commission Docket No. C-2020-3021049. On August 4, 2020, the Office of Small Business Advocate (OSBA) file a Notice of Appearance and a Notice of Intervention. On August 14, 2020, the Bureau of Investigation and Enforcement (BIE) filed a Notice of Appearance.

 There have also been several RDC customers who have filed formal complaints. As of the date of this Order, the Commission’s docket system shows the following formal complaints have been filed:

Stephanie Myers C-2020-3020950

Ryan Foust C-2020-3020951

Margaret Foust C-2020-3020952

Vickie Mabry C-2020-3020953

Bess Mowry C-2020-3020954

Michele Walter C-2020-3020955

Stephanie Probst C-2020-3020956

Dillon Sarcinella C-2020-3020957

James Vessella C-2020-3020958

Steve Bertolasio C-2020-3021165

Amanda Hughes C-2020-3021166

William And Janine Taylor C-2020-3021372

Roderick T Daugherty C-2020-3021373

Theresa Taranto C-2020-3021374

Sean DeCiancio C-2020-3021375

Carol Laverty C-2020-3021377

Natalie McCloskey C-2020-3021400

Wilma Brandt C-2020-3021404

Beth Erdman C-2020-3021405

Julie Griswold C-2020-3021515

Karen Nestor C-2020-3021636

Donna Vigus C-2020-3021779

Kevin Pierce C-2020-3021804

Sue Mathieson C-2020-3021805

Sean and Michele Belback C-2020-3021807

 On August 31, 2020, the Commission issued a Prehearing Conference Notice, scheduling a prehearing conference for September 11, 2020. On September 2, 2020, a Prehearing Conference Order was entered. The Notice and Prehearing Conference Order were e-served on the parties who had registered for e-service. The documents were emailed to all other parties for whom the Commission had an email address on file.[[1]](#footnote-1) The documents were sent via first-class mail to those parties from whom the Commission did not have an email address on file.[[2]](#footnote-2)

 Prehearing Memoranda were filed as directed by the Prehearing Conference Order by RDC, BIE, OCA, and OSBA.

A prehearing conference was held on September 11, 2020, as scheduled. Counsel for RDC, BIE, OCA, and OSBA appeared at the conference, additionally, complainants Ryan Foust and Margaret Foust appeared *pro se*.

This Interim Order memorializes the matters decided and agreed upon by the parties attending the conference and addresses some additional matters.

**Consolidation**

 No party objected to the consolidation of the OCA Complaint docketed at C-2020-3021049 and the customer formal complaints with the rate case filed at R-2020-3019612.

**Mediation**

 Counsel for RDC, BIE, OCA, and OSBA have agreed to utilize mediation through the Mediation Unit of the Office of the Administrative Law Judge (OALJ). In Order to utilize the mediation process, however, the Company must agree to extend the suspension period for an additional 60 days pursuant to 52 Pa.Code § 69.392(d)(2). As of the time of the Prehearing Conference, RDC had not yet filed for the 60-day extension. Counsel for RDC shall make such a filing within ten days of the Prehearing Conference.

**Litigation Schedule**

 In their Prehearing Memoranda, RDC and OCA recommended that the parties delay setting a litigation schedule as they attempt to settle the matter though mediation. No party objected to this recommendation.

 The parties were advised that the reply brief/settlement deadline using an April 1, 2021 suspension date is **December 19, 2020**, and the reply brief/settlement deadline using a June 1, 2021 suspension date is **February 13, 2021**.

 Counsel for RDC agreed to submit a status report to the undersigned within 60 days of the Prehearing Conference advising of the status of the parties’ efforts toward settlement.

**Settlement and Stipulations**

 In the event the parties settle this matter, submission of a fully executed joint settlement petition, together with all parties’ statements in support of the settlement, must be filed with the Secretary for the Commission and served upon the presiding ALJ no later than the close of business on the applicable deadline identified above. Furthermore, any settlement shall include findings of fact and conclusions of law, and the parties shall provide the undersigned with Word versions of any settlement and statements in support.

 If settlement is not feasible, the parties are encouraged to stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all parties and conserve precious administrative hearing resources. 52 Pa.Code §§ 5.232 and 5.234. All stipulations entered into by the parties must be reduced to writing, signed by the parties to be bound thereby, and moved into the record during the hearings in this case. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.

**Service and Filing**

The undersigned agrees to accept service by email at edevoe@pa.gov. Until further notice, there is no requirement to follow electronic service upon the undersigned by sending a hard copy of the same material via first-class mail.

In accordance with the Commission’s Emergency Order at Docket No. M-2020-3019262 and updated at Secretarial Letter issued July 27, 2020, all filings made with the Commission’s Secretary’s Bureau must be e-filed. Instructions on how to e-file can be found at the Commission’s website at <https://www.puc.pa.gov/efiling/default.aspx>.

## Discovery

 In its Prehearing Memoranda, BIE proposed several modifications to the Commission’s discovery rules. There was no objection to adopting the modifications in the event mediation is not successful and the parties litigate this matter.

**Public Input Hearings**

 The parties have agreed that there is sufficient public interest to convene public input hearings. Due to the current status of Pennsylvania in regard to the Covid-19 pandemic, these hearing will be conducted by telephone. OCA agreed to coordinate with the parties and the undersigned’s office in scheduling the public input hearings and compiling a witness list for the proceeding. After the dates and times for the public input hearings have been approved and the logistics have been finalized, an interim order addressing public input hearings will be issued.

**Protective Order**

 On September 10, 2020, RDC filed a Petition for a Protective Order. In its petition, RDC advised that BIE, OCA, and OSBA did not object. No party objected to the Petition at the Prehearing Conference. The Protective Order will be issued forthwith.

## Issues

 In their respective prehearing memoranda, the parties identified various issues they may wish to pursue. The reader is directed to these documents to review a recitation of these issues. Additional issues may arise as the discovery process develops.

**Cross-Examination**

 Friendly cross-examination or cumulative cross-examination during hearings will not be permitted. 52 Pa.Code §§ 5.76; 5.243.

**Briefs and Reply Briefs**

 In the event mediation is not successful and the parties litigate this matter, the parties must comply with 52 Pa.Code §§ 5.501, et seq., regarding the preparation and filing of briefs. Briefs must include proposed conclusions of law and proposed ordering paragraphs. Page limitations on briefs will be discussed on or before the last day of any hearing. The parties shall submit a Word version of any brief filed to the presiding ALJ by email.

**Additional Customer Complaints**

 It appears there may have been some additional customers who submitted formal complaints via first-class mail which were never received by the Secretary’s Bureau, or if they were, were not processed properly.

 On September 9, 2020, Nancy Morgart, contacted a staff member at my office by email advising that she believed she had filed a formal complaint in this matter, but had not received a Prehearing Conference Notice. After being made aware of Ms. Morgart’s email and the fact that no complaint for her appears in the Commission’s online docket system, I directed staff members from my office to get in contact with Ms. Morgart and the Secretary’s Bureau. On September 10, 2020, Ms. Morgart emailed my legal assistant, Dan Pallas, outlining her position on RDC’s rate request. This email was forwarded to Secretary’s Bureau staff who confirmed that they had not received any prior formal complaint or comment from Ms. Morgart in this matter and advised they would include Ms. Morgart’s September 10, 2020 email to Mr. Pallas in the R Docket as a comment. My office provided a copy of the Prehearing Conference Notice to Ms. Morgart by email as a courtesy.

 Ms. Morgart appeared at the September 11, 2020 prehearing conference, as did Mr. David Roeder. Mr. Roeder advised he also submitted a formal complaint in this matter, but, as of the date of this Order no complaint appears for him in the Commission’s docket system.

 Since no formal complaint for Ms. Morgart or Mr. Roeder has been filed by the Secretary’s Bureau, they are not, as this time, considered parties of record. They do not appear on the parties list or service list. Unless they file a new complaint with the Secretary’s

Bureau, they will not be served with any orders or decisions issued by the Commission, and they will not be able to participate in these proceedings in any way, other than testifying at a public input hearing. If Ms. Morgart or Mr. Roeder wish to become parties of record, they must file a new formal complaint with the Commission’s Secretary’s Bureau. They are being sent copies of this Order by email as a courtesy.

 Finally, pursuant to the Prehearing Conference Order, the customers who filed complainants and either appeared at the Prehearing Conference (Ryan Foust and Margaret Foust) or contacted the OCA prior to the Prehearing Conference (Sean and Michele Belback) will be considered “active parties” in this matter. All other customers who filed complaints will be placed on the limited service list as explained in the Prehearing Conference Order issued on September 2, 2020.

**Modification**

 Any of the provisions of this Interim Order may be modified by the undersigned or upon motion and good cause shown by any party in interest.

 THEREFORE,

 IT IS ORDERED:

1. That the Complaint filed by the Office of Consumer Advocate and docketed at C-2020-3021049, as well as the customer formal complaints filed at docket numbers C-2020-3020950, C-2020-3020951, C-2020-3020952, C-2020-3020953, C-2020-3020954, C-2020-3020955, C-2020-3020956, C-2020-3020957, C-2020-3020958, C-2020-3021165,C-2020-3021166, C-2020-3021372, C-2020-3021373, C-2020-3021374,C-2020-3021375, C-2020-3021377, C-2020-3021400, C-2020-3021404,C-2020-3021405, C-2020-3021515, C-2020-3021636, C-2020-3021779, C-2020-3021804, C-2020-3021805, and C-2020-3021807 shall be consolidated with and under R-2020-3019612.
2. That Reynolds Disposal Company shall, by September 21, 2020, make an appropriate filing to extend the suspension period for at least an additional 60 days pursuant to 52 Pa. Code § 69.392(d)(2).
3. That Reynolds Disposal Company shall, by November 10, 2020, submit a status report to the undersigned advising of the status of the parties’ efforts toward settlement.

­­­­­­­­­­­ Date: September 11, 2020 /s/

 Emily I. DeVoe

 Administrative Law Judge

**R-2020-3019612 PA PUBLIC UTILITY COMMISSION VS REYNOLDS DISPOSAL COMPANY**

*Revised 9/10/20*

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1. *See*, *Emergency Order re Suspension of Regulatory and Statutory Deadlines, Modification to Filing and Service Requirements*, Docket No. M-2020-3019262 (Order Entered March 20, 2020). [↑](#footnote-ref-1)
2. As of the date of this Order, there are only two parties for whom the Commission does not have am email address: Vickie Mabry and Theresa Taranto. [↑](#footnote-ref-2)