**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Pike County Light & Power for :

Approval of Its Default Service Plan and : P-2020-3022988

Waiver of Commission Regulations and :

*Nunc Pro Tunc* Treatment for the Period :

June 1, 2021 through May 31, 2024 :

**PREHEARING ORDER**

On November 23, 2020, Pike County Light & Power (Pike) filed a Petition for Approval of its Default Service Plan and Waiver of Commission Regulations and *Nunc Pro Tunc* treatment for the period from June 1, 2021 through May 31, 2024, at Docket No. P-2020-3022988. The Petition was filed pursuant to Section 2807(e) of the Public Utility Code and 52 Pa. Code §§ 54.181-54.190.

Notice of PECO’s Petition and Prehearing Conference was published in the *Pennsylvania Bulletin* on December 12, 2020. A deadline of December 29, 2020 was established for the filing of formal protests, petitions to intervene and answers. The Prehearing conference was set for January 5, 2021.

The prehearing conference was held as scheduled. This order memorializes certain procedural matters addressed at the prehearing conference.

THEREFORE,

IT IS ORDERED:

1. That the parties of record as of this date are Pike County Light & Power, Office of Consumer Advocate (OCA), and Office of Small Business Advocate (OSBA).

2. The following litigation schedule is adopted:

Pike Direct Testimony December 24, 2020

Prehearing Conference January 5, 2021

Direct Testimony of Other Parties January 25, 2021

Rebuttal Testimony February 1, 2021

Surrebuttal Testimony February 8, 2021

Rejoinder Outlines February 9, 2021

Evidentiary Hearing February 10, 2021

Main Briefs February 19, 2021

Reply Briefs February 26, 2021

Recommended Decision March 26, 2021

Commission Public Meeting May 20, 2021.

That pursuant to 52 Pa. Code § 1.55, each party shall be limited to one entry on the service list, although there can be more than one name listed. Service on Pike shall be made on Whitney E. Snyder, Esq. and Thomas J. Sniscak, Esq.; service on OCA shall be made on David T. Evrard, Esq. and Aron J. Beatty, Esq.; and service on OSBA shall be made on Sharon E. Webb, Esq.

3. That parties may serve documents electronically by 4:30 p.m. to meet any required due date. Since documents can be submitted to me and the participants by e-mail, e-mail addresses are included on the attached service list. Please check the list for omissions and errors and contact my office to make corrections.

4. That the e-mail distribution list is as follows. Any changes should be communicated to me, via e-mail ([evero@pa.gov](mailto:evero@pa.gov))as soon as possible. Please include my legal assistant, Pamela McNeal ([pmcneal@pa.gov](mailto:pmcneal@pa.gov)) on anything you send to me.

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| --- | --- | --- |
| **Party** | **Counsel** | **e-mail** |
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| Pike | Whitney E. Snyder | wesnyder@hmslegal.com |
| OCA | David T. Evrard | devrard@paoca.org |
| OCA | Aron J. Beatty | abeatty@paoca.org |
| OSBA | Sharon E. Webb | swebb@pa.gov |
| ALJ | Eranda Vero | evero@pa.gov |
| ALJ | Pamela McNeal | pmcneal@pa.gov |

5. That pursuant to 52 Pa. Code § 5.342(d), the Commission’s regulations relating to discovery are modified as follows:

1. The response period for replying to written interrogatories, requests for production and requests for admissions is four calendar days of receipt. Responses may be served electronically but hard copies must follow by first-class mail, unless otherwise agreed to by the parties.
2. Objections to interrogatories, requests for production and requests for admission are to be communicated orally to the party serving the interrogatory within three calendar days of receipt and in writing within four calendar days of receipt of the interrogatory. The parties are directed to confer, by telephone or e-mail, and attempt to resolve the objections.
3. Motions to dismiss objections and to compel response shall be filed with the Commission and served on the Administrative Law Judges and the other parties within one calendar day of receipt of the written objections. Answers to such motions shall be filed and served within three calendar days after filing of the motion.
4. If the objections are not resolved, counsel will alert the presiding officers by e-mail of the need for a ruling, and a conference call will be scheduled. The presiding officers will make a ruling over the telephone and not reduce it to writing unless requested to do so.
5. Interrogatories, requests for production and requests for admissions that are objected to but are not made the subject of a motion to compel will be deemed withdrawn.
6. Requests for admissions shall be deemed admitted unless objected to within five calendar days of receipt or answered within ten calendar days of receipt.
7. Any discovery-related pleading such as objections, motions or answers served on a Friday or the day before a holiday recognized by the Commission will be deemed to have been served on the following business day for purposes of tracking due dates.

The parties are directed to cooperate and exchange information on an informal basis. The parties are expected to resolve discovery issues among themselves; motions to compel should be filed only after such efforts have failed. All motions to compel must contain a certification of counsel of the informal discovery undertaken and their efforts to resolve their discovery disputes informally. If a motion to compel fails to contain such certification, we shall contact the parties and direct them to pursue informal discovery. In addition, the parties are urged to use alternative means of discovery such as discovery conferences or depositions. There are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa. Code

§§ 5.361, 5.371-5.372.

6. That the parties comply with the Commission’s requirements for the preparation and service of written testimony. 52 Pa. Code § 5.412. These include, but are not limited to, the requirement that written testimony must be accompanied by all exhibits to which it relates. Written testimony shall be marked with numerical, sequential statement numbers. Oral direct, rebuttal or surrebuttal testimony or witnesses not identified in a party’s prehearing memorandum shall not be permitted, except by permission for good cause.

7. 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.

8. That the parties shall comply with the provisions of 52 Pa. Code

§ 5.243(e)which prohibit the introduction of evidence during rebuttal which should have been included in the party’s case-in-chief or which substantially varies from the party’s case-in-chief, unless the party is introducing evidence in support of a proposed settlement.

9. That the hearing will be held telephonically. Parties will complete the daily witness listing and cross-examination grid as directed.

10. That the parties shall 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 shall 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.

11. That the evidentiary hearing in this matter constitute formal legal proceedings and will be conducted in accordance with the Commission’s Rules of Administrative Practice and Procedure, as well as the rules of evidence as applied to administrative hearings.

12. That parties serving pre-served testimony in proceedings pending before the Commission pursuant to 52 Pa. Code § 5.412(f) shall be required, within thirty (30) days after the final hearing in an adjudicatory proceeding 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.

13. That the parties must comply with 52 Pa. Code §§5.501, *et* *seq*., regarding the preparation and filing of briefs. Service can be made electronically by no later than 4:30 p.m. on the dates listed. Parties are directed to e-mail me a copy of their as-filed briefs in ADOBE or other compatible PDF format in addition to a WORD-formatted document. The format of the briefs served electronically on the parties may be as requested by the parties.

14.That all briefs shall comply with the requirements of 52 Pa. Code §§ 5.50l 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:

A. A table of contents;[[1]](#footnote-1)

B. A history of the proceeding;

C. A discussion;

D. Proposed findings of facts (with record citations to transcript pages or exhibits where supporting evidence appears);

E. Proposed conclusions of law (with citations to supporting statutes, regulations or relevant case law); and

F. Proposed ordering paragraphs specifically identifying the relief sought.

52 Pa. Code § 5.501(e) requires that “Briefs shall be as concise as possible.” Page limitations on briefs will be discussed on or before the last day of hearing.

15. That if a party does not file a reply brief, it will be assumed that the party does not dispute the assertions, contentions or arguments made by the other parties in their main briefs. While it is not necessary in a reply brief to repeat a particular argument or discussion contained in the main brief, the reply brief should note where the responsive argument is located in the main brief and how it responds to the other parties’ assertions, contentions or arguments.

16. That any brief not filed and served on or before the date fixed therefore will not be accepted for filing, except by permission for good cause.

17. That the parties are to confer among themselves in an attempt to resolve all or some of the issues associated with these Complaints. 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. 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 me.

18. That any provision of this prehearing order may be modified upon motion and good cause shown by any party in interest in accordance with 52 Pa. Code § 5.223(a).

19. Answers to written interrogatories are to be served in-hand within ten (10) calendar days of service of the interrogatories.

20. Objections to interrogatories are to be communicated orally within three (3) days of service; unresolved objections are to be served on the Administrative Law Judge in writing within five (5) days of service of the interrogatories.

21. Motions to dismiss objections and/or direct the answering of interrogatories are to be filed within three (3) calendar days of service of written objections.

22. Answers to motions to dismiss objections and/or directing the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.

23. Responses to requests for documents production, entry for inspection, or other purposes are to be served in-hand within ten (10) calendar days of service.

24. Requests for admission are deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

25. When an interrogatory, request for production, request for admission or motion is served after 12:00 p.m. on a Friday or the day before a holiday, the appropriate response period is deemed to start on the next business day.

26. Interrogatories, requests for production and requests for admissions that are objected to, but which are not made the subject of a motion to compel will be deemed withdrawn.

27. Pursuant to 52 Pa. Code §5.341(b), neither discovery requests nor responses thereto are to be served on the Commission or the Administrative Law Judge, although a certificate of service may be filed with the Commission’s Secretary.

28. Discovery requests, motions to compel and responses are to be served electronically and will only be served on paper upon request.

Dated: January 8, 2021 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Eranda Vero

Administrative Law Judge

**P-2020-3022988 - PETITION OF PIKE COUNTY POWER AND LIGHT FOR APPROVAL OF DEFAULT SERVICE PLAN AND WAIVER OF COMMISSION REGULATIONS AND NUNC PRO TUNC TREATMENT**

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1. In addition, each reply brief must contain a table of contents. [↑](#footnote-ref-1)