

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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Consumer Advocate

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December 12, 2011

Honorable Kandace F. Melillo
Honorable Joel H. Cheskis
Office of Administrative Law Judge
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17101

Re: Pa. PUC, et al. v. Penn Estates Utilities, Inc.
Docket Nos. R-2011-2255159
C-2011-2268982
C-2011-2271703

Dear Judges Melillo and Cheskis:

Enclosed for please find copies of the Prehearing Memorandum of the Office of Consumer Advocate in the above-referenced proceeding.

The original has been filed with the Secretary's Office and copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely yours,

A handwritten signature in cursive script that reads "Christine Maloni Hoover".

Christine Maloni Hoover
Senior Assistant Consumer Advocate
PA Attorney I.D. #50026

Enclosures

cc: Secretary's Office of the PUC
Cynthia Lehman, Mediator
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY COMMISSION	:	R-2011-2255159
OFFICE OF CONSUMER ADVOCATE	:	C-2011-2268982
RICHARD ENNIS	:	C-2011-2271703
	:	
v.	:	
	:	
PENN ESTATES UTILITIES, INC. -	:	
WATER DIVISION	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. §333 and in response to the Prehearing Conference Order issued by presiding Administrative Law Judges (ALJs) Kandace F. Melillo and Joel H. Cheskis on November 28, 2011 in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. HISTORY OF THE PROCEEDING

On September 30, 2011, Penn Estates Utilities, Inc., Water Division. (Penn Estates or Company) filed Supplement No. 7 to Tariff Water-Pa. P.U.C. No. 3 to become effective November 29, 2011, containing proposed changes in rates, rules, and regulations calculated to produce \$157,511, or 29.2%, in additional annual revenues. A typical residential customer using 4,134 gallons of water per month would see an increase from \$27.23 to \$35.20 or approximately 29.2% per month. A typical commercial customer using 5,013 gallons of water per month would see an increase from a rate of \$30.25 to \$39.10 or approximately 29.2% per month. The Company serves approximately 1,612 metered customers and 54 availability customers in Stroud and Pocono Townships, Monroe County, Pennsylvania.

On October 25, 2011, the OCA filed a formal Complaint against the proposed increase in rates. On October 28, 2011, the Office of Trial Staff (OTS) filed a Notice of Appearance. One Formal Complaint and 3 protests were filed by customers. On November 10, 2011, the Commission issued an Order initiating an investigation into the lawfulness, justness and reasonableness of the proposed rates in Supplement No. 7 to Tariff Water-Pa. P.U.C. No. 3, and suspending the effective date until June 29, 2012, by operation of law. The Company voluntarily extended the suspension date for 60 days or until August 29, 2012 in order to participate in the PUC's mediation process.

The Commission assigned the case to Administrative Law Judges Kandace F. Melillo and Joel H. Cheskis and notified the parties that a Prehearing Conference and mediation session are scheduled for December 16, 2011.

II. ISSUES

After completing discovery and after receiving the Company's testimony in support of its filing, the OCA will file direct testimony that will set forth the specific issues to be addressed in this proceeding. At that time, the OCA will also be able to make and to quantify its specific recommendations. Generally, the OCA is reviewing issues related to rate of return, including capital structure, cost of debt, and cost of equity, accounting, including rate base and expense claims, rate design and quality of service.

III. WITNESSES

The OCA intends to present the direct, rebuttal and surrebuttal testimony, as may be necessary, of the following witness in this proceeding. Each witness will present testimony in written form and will attach various exhibits, documents, and explanatory information, which will assist in the presentation of the OCA's case. In order to expedite the resolution of this

proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be mailed directly to the expert witness responsible for that area of the case, as well as mailing a copy to counsel for the OCA.

General Accounting, Financial and Ratemaking Issues

Marilyn Kraus
Senior Regulatory Analyst
Office of Consumer Advocate
555 Walnut Street, Forum Place 5th Floor
Harrisburg PA 17101-1923

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The OCA specifically reserves the right to call additional witnesses and expand the scope of its witnesses' testimony, as necessary. As soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, the OCA will notify all parties of record.

IV. SERVICE ON THE OCA

Senior Assistant Consumer Advocate Christine Maloni Hoover will represent the OCA in this case. Two copies of all documents should be served on the OCA as follows:

Christine Maloni Hoover
Senior Assistant Consumer Advocate
Office of Consumer Advocate
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5th Floor, Forum Place
Harrisburg, PA 17101-1923
Telephone: (717) 783-5048
Facsimile: (717) 783-7152
Email: CHoover@paoca.org

V. PUBLIC INPUT HEARINGS

The OCA is aware of 3 informal protests filed at the PUC and contacts at the OCA

regarding the proposed rate increase, in addition to a customer's formal complaint. At this time, the OCA is not requesting a public input hearing. If the OCA becomes aware of customer interest in a public input hearing, the OCA will advise the ALJs and the parties.

VI. PROPOSED LITIGATION SCHEDULE

The OCA will work with the Company and I&E to reach an agreement on a schedule if the parties are unable to reach a full settlement. Any proposed schedule will include a reply brief due date no later than May 26, 2012.

VII. DISCOVERY

To date, the OCA has served 2 sets of interrogatories on the Company and is reviewing the responses that have been provided. As soon as the OCA determines whether additional discovery, including informal discovery, is needed, the OCA will issue the discovery.

Respectfully submitted,



Christine Maloni Hoover
Senior Assistant Consumer Advocate

For:
Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048

DATED: December 12, 2011
151015

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission, et al.
v.
Penn Estates Utilities, Inc., Water Division
Docket Nos. R-2011-2255159
C-2011-2268982
C-2011-2271703

I hereby certify that I have this day served a true copy of the foregoing Prehearing Memorandum of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code §1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 12th day of December 2011.

SERVICE BY EMAIL AND IN PERSON

Allison C. Kaster, Esquire
Bureau of Investigation & Enforcement
Pa. Public Utility Commission
400 North Street
Harrisburg, PA 17101

SERVICE BY EMAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

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