



March 6, 2014

**VIA E-FILE**

**David P. Zambito**

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Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Pennsylvania Public Utility Commission v. Veolia Energy Philadelphia, Inc.;**  
**Docket Nos. R-2013-2386293, C-2014-2402292, C-2014-2407095, and C-2014-**  
**2407105; PREHEARING MEMORANDUM OF THE PRESBYTERIAN MEDICAL**  
**CENTER OF THE UNIVERSITY OF PENNSYLVANIA HEALTH SYSTEM,**  
**PENNSYLVANIA HOSPITAL OF THE UNIVERSITY OF PENNSYLVANIA HEALTH**  
**SYSTEM, AND PENN MEDICINE AT RITTENHOUSE**

Dear Secretary Chiavetta:

Enclosed is the original Prehearing Memorandum of The Presbyterian Medical Center of the University of Pennsylvania Health System, Pennsylvania Hospital of the University of Pennsylvania Health System, and Penn Medicine at Rittenhouse in the above-referenced proceeding. Copies have been served per the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions regarding this filing, please direct them to me. Please date-stamp the extra copy and return it with our courier.

Sincerely,

COZEN O'CONNOR

By: David P. Zambito  
Counsel for *The Presbyterian Medical Center of the*  
*University of Pennsylvania Health System,*  
*Pennsylvania Hospital of the University of*  
*Pennsylvania Health System, and Penn Medicine*  
*at Rittenhouse*

DPZ/kmg  
Enclosure  
cc: Per Certificate of Service

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**CERTIFICATE OF SERVICE**  
**Docket Nos. R-2013-2386293, C-2014-2402292,**  
**C-2014-2407095, and C-2014-2407105**

I hereby certify that I have this day served a true copy of the Prehearing Memorandum of The Presbyterian Medical Center of the University of Pennsylvania Health System, Pennsylvania Hospital of the University of Pennsylvania Health System, and Penn Medicine at Rittenhouse, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**VIA ELECTRONIC MAIL and FIRST CLASS MAIL:**

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Counsel for *Philadelphia Large Steam Users Group*

DATED: March 6, 2014



David P. Zambito Esquire  
Counsel for *The Presbyterian Medical Center of the University of Pennsylvania Health System, Pennsylvania Hospital of the University of Pennsylvania Health System, and Penn Medicine at Rittenhouse*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Administrative Law Judge  
Angela T. Jones

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|---|---|----------------------------|
| Pennsylvania Public Utility Commission, <i>et al.</i> , | : |                            |
|   | : |                            |
| Complainants  | : | Docket Nos. R-2013-2386293 |
|   | : | C-2014-2402292             |
| v.  | : | C-2014-2407095             |
|   | : | C-2014-2407105             |
| Veolia Energy Philadelphia, Inc.,                       | : |                            |
|   | : |                            |
| Respondent  | : |                            |

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**PREHEARING MEMORANDUM OF  
THE PRESBYTERIAN MEDICAL CENTER OF THE UNIVERSITY OF  
PENNSYLVANIA HEALTH SYSTEM, PENNSYLVANIA HOSPITAL OF THE  
UNIVERSITY OF PENNSYLVANIA HEALTH SYSTEM, AND  
PENN MEDICINE AT RITTENHOUSE**

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The Presbyterian Medical Center of the University of Pennsylvania Health System, Pennsylvania Hospital of the University of Pennsylvania Health System, and Penn Medicine at Rittenhouse (collectively the “Hospital Entities”), by its counsel in this matter, Cozen O’Connor, hereby file this Prehearing Memorandum in the above-captioned matter in compliance with Ordering Paragraph No. 3 of the Prehearing Order of the Honorable Administrative Law Judge Angela T. Jones (“Presiding Officer”), dated February 27, 2014, and the regulations of the Pennsylvania Public Utility Commission (“Commission”) at 52 Pa. Code § 5.222(d), and state as follows:

## **I. OVERVIEW OF PROCEDURAL HISTORY**

1. On December 18, 2013, Veolia Energy Philadelphia, Inc. (“VEPI”) filed Supplement No. 14 to Tariff Heating and Cooling Pa. P.U.C. No. 4 (“Supplement No. 14”). Supplement No. 14 proposes *inter alia* an increase of 24.55% to VEPI’s non-fuel base distribution rates.

2. The Commission’s Bureau of Investigation & Enforcement (“I&E”) filed Notices of Appearance on January 10 and 23, 2014.

3. On January 16, 2014, Murano Condominium Association filed an informal comment opposing VEPI’s rate increase.

4. The Office of Small Business Advocate (“OSBA”) filed a Notice of Intervention, Public Statement, and Notice of Appearance on January 17, 2014.

5. Thomas Jefferson University and Thomas Jefferson University Hospital Inc. filed a petition to intervene on January 23, 2014.

6. On January 24, 2014, The Wellington filed a formal complaint against Supplement No. 14 which was subsequently assigned Docket No. C-2014-2402292. VEPI filed an answer on January 31, 2014.

7. By Order entered February 6, 2014, the Commission suspended Supplement No. 14 for investigation until October 1, 2014. Veolia filed Supplement No. 15 to Tariff Heating and Cooling Pa. P.U.C. No. 4 on February 11, 2014 to implement the suspension.

8. On February 11, 2014, the Philadelphia Large Steam Users Group (“PLSUG”), an unincorporated *ad hoc* group of VEPI customers consisting of Academic Properties, Inc., Building Owners & Managers Association of Philadelphia, Drexel University, City of

Philadelphia, and The Barnes Foundation, filed a Petition to Intervene. On February 19, 2014, VEPI filed a letter indicating that it does not oppose PLSUG's intervention.

9. The Trustees of the University of Pennsylvania and The Hospital at the University of Pennsylvania filed a formal complaint on February 14, 2014 which was subsequently assigned Docket No. C-2014-2407105. VEPI filed an answer on February 26, 2014.

10. The Hospital Entities filed a formal complaint on February 14, 2014 which was subsequently assigned Docket No. C-2014-2407095. VEPI filed an answer on February 26, 2014.

11. The parties agreed to attempt mediation with the assistance of the Commission's Mediation Division. On February 26, 2014, VEPI filed Supplement No. 16 to Tariff Heating and Cooling Pa. P.U.C. No. 4 -- which extended the effective date of Supplement No. 14 until December 1, 2014 in order to accommodate mediation.

12. By Prehearing Conference Order dated February 27, 2014, the Presiding Officer set an Initial Prehearing Conference for March 10, 2014 in Philadelphia, Pennsylvania. The Prehearing Conference is to be followed by an initial mediation session conducted by the Commission's Mediation Division.

## **II. HOSPITAL ENTITIES' COUNSEL**

13. The Hospital Entities are represented in this matter by the following counsel:

David P. Zambito, Esquire  
Joshua L. Belcher, Esquire  
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### **III. SERVICE OF DOCUMENTS**

14. The Hospital Entities' attorneys are authorized to accept service on behalf of the Hospital Entities in this proceeding. The Hospital Entities agree to receive service of documents electronically. Electronic service of documents should be made upon Messrs. Petyk, Zambito, and Belcher. The Hospital Entities request that, to the extent that hard copies of documents are served, they be served upon Mr. Zambito in Harrisburg, Pennsylvania.

### **IV. ISSUES**

15. The Hospital Entities have identified the following issues in this proceeding:

(a) Are the rates proposed by VEPI in Supplement No. 14 just, reasonable, and otherwise in compliance with the Pennsylvania Public Utility Code ("Code")? *Suggested Answer: No. The rates proposed in Supplement No. 14 are unjust, unreasonable, and would produce an excessive return on VEPI's investment in violation of the Code.*

(b) Does VEPI's proposed allocation of its revenue increase produce rates that are unlawfully discriminatory? *Suggested Answer: Yes. VEPI has failed to conduct a cost of*

*service study and, accordingly, failed to demonstrate that the rates attributed to specific groups of customers are appropriately cost-based.*

(c) Has VEPI rendered safe, adequate, reliable, and efficient service in compliance with the Code? *Suggested Answer: No. VEPI has provided unreliable service that has resulted in significant financial and operational challenges for critical care facilities such as the Hospital Entities. VEPI has failed to manage its fuel procurement in a prudent manner, resulting in significant fuel cost spikes in the steam rates of its customers.*

**V. WITNESSES**

16. As this proceeding is in its nascent stage, the Hospital Entities have not yet identified specific witnesses. However, it is currently the intent of the Hospital Entities to call a witness from each of the involved hospitals to testify as to specific reliability problems that they have encountered with VEPI's service and the effects thereof and as to VEPI's failure to manage effectively the fuel cost component of VEPI's steam rates. The Hospital Entities have also engaged members of GDS Associates, a professional consulting firm, as experts in anticipation of litigation to assist with the ratemaking, service reliability, and fuel procurement aspects of the case. When specific witnesses from GDS Associates are identified, the Hospital Entities will provide timely notice to the Presiding Officer and the other parties.

17. The Hospital Entities reserve the right to call additional witnesses and present testimony depending on the course of the proceeding. The Hospital Entities will timely identify specific witnesses that they intend to call.

**VI. DISCOVERY**

18. The Hospital Entities propose that the parties adhere to the Commission's standard rules of discovery as contained in 52 Pa. Code § 5.321 *et seq.*, with one exception: Discovery requests served after noon on a Friday or the day before a state-recognized holiday shall be deemed served on the next following business day. The Hospital Entities are amenable to other reasonable modifications of the Commission's discovery rules as proposed by other parties.

**VII. PROCEDURAL SCHEDULE**

19. The procedural schedule presented by VEPI in its Prehearing Conference Memorandum is acceptable to the Hospital Entities. The Hospital Entities do not believe that a public input hearing is necessary in this proceeding because VEPI has a very limited number of residential customers.

**VIII. PROTECTION OF CONFIDENTIAL INFORMATION**

20. The parties are in the process of negotiating the terms and conditions of an acceptable protective order. The Hospital Entities anticipate that VEPI will submit a motion for protective order for consideration by the Presiding Officer.

**IX. SETTLEMENT DISCUSSIONS**

21. The Hospital Entities have agreed to participate in mediation of this matter with the assistance of the Commission's Mediation Division and are open to the resolution of the matter

through settlement.

Respectfully submitted,



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Dated: March 6, 2014

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Pennsylvania Hospital of the University of  
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