

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
800-684-6560

FAX (717) 783-7152  
consumer@paoca.org

October 6, 2014

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

RE: Pennsylvania Public Utility Commission v.  
Pennsylvania Power Company  
Docket No. R-2014-2428744

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Prehearing Memorandum, in the above-referenced proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Brandon J. Pierce".

Brandon J. Pierce  
Assistant Consumer Advocate  
PA Attorney I.D. # 307665

Enclosures

cc: Honorable Dennis Buckley, ALJ  
Honorable Katrina Dunderdale, ALJ  
Certificate of Service

188566

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2014-2428744
	:	
Pennsylvania Power Company	:	

---

PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

---

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. Section 333, and in response to the Prehearing Conference Order issued by Administrative Law Judge (ALJ) Dennis Buckley in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

**I. INTRODUCTION**

On August 4, 2014, the Pennsylvania Power Company (Penn Power or the Company) filed Tariff Electric – Pa. P.U.C. No. 36, at Docket No. R-2014-2428744. The Company is seeking a total revenue increase of \$28.5 million, or an overall increase of 8.7%. The Company proposes that the rate increase become effective on October 3, 2014. Penn Power serves approximately 162,000 residential, commercial, and industrial customers in all or portions of six counties in western Pennsylvania. The OCA filed a Complaint against the proposed revenue increase on September 5, 2014. On October 2, 2014, the Commission issued an Order initiating an investigation into the lawfulness, justness and reasonableness of the proposed rate increase in

this filing, and suspended the effective date of Tariff Electric – Pa. P.U.C. No. 36 until May 3, 2015, by operation of law. The case was assigned to Administrative Law Judge Dennis J. Buckley. A Prehearing Conference is scheduled for October 8, 2014.

## **II. ISSUES AND SUB-ISSUES**

Based upon a preliminary analysis of Penn Power's base rate increase filing, the OCA has compiled a list of issues which it anticipates will be included in its investigation of this rate request. It is anticipated that other issues may arise and may be pursued once the answers to all of the OCA's interrogatories have been received and analyzed.

The OCA has served eight sets of interrogatories to date. Upon receipt of the answers to those interrogatories, the OCA may then be able to narrow the scope of additional information requests. Once the discovery process has been completed, the OCA will file direct testimony which will set forth the specific issues that the OCA will address in this proceeding. At that time, the OCA will also be able to make and to quantify its specific recommendations.

The following list sets forth the issues, that at this time, the OCA anticipates it may raise:

### **A. Rate of Return**

- **Cost of Common Equity:** The OCA will perform a detailed analysis of the cost of common equity claimed by Penn Power. Also, the OCA will carefully examine the Company's methodologies and supporting data used to develop its final cost of common equity claim.
- **Capital Structure:** The OCA will examine whether the capital structure claimed by Penn Power is representative of the period in which rates will be in effect and is otherwise appropriate for ratemaking purposes.

- After Tax Weighted Average Cost of Capital (ATWACC): The OCA will examine the methodologies used by the Company to derive its cost of capital.
- Embedded Cost of Debt and Preferred Stock: The OCA will examine the embedded cost of debt and preferred stock.

B. Rate Base/Measure of Value

The OCA will examine the reasonableness of the Company's filing as it relates to rate base/measures of values, including the following areas:

- The Company's plant in service claims in order to determine whether the plant claimed is used and useful in providing utility service;
- The Company's application of the Fully Projected Future Test Year (FPFTY) in this proceeding; and
- The Company's claim for cash working capital.

C. Revenue and Expenses

The OCA will examine the reasonableness of the Company's filing as it relates to revenues and expenses, including the following areas:

- The sales forecast utilized by the Company in order to project future test year sales and revenues;
- Penn Power's proposed depreciation expense;
- The Company's rate case expense, labor expense, and advertising expense;
- Inter-company charges;
- Penn Power's affiliate charges;
- Consolidated tax savings; and
- Salaries of Penn Power's employees, including executive compensation.

D. Rate Structure/Cost of Service/Rate Design

- The OCA will examine the cost of service study, including the methodology used and the reasonableness of the allocations.
- The OCA will examine the Company's proposed customer charge.
- The OCA will examine whether the rate design proposed by the Company is reasonable and appropriate.
- The OCA will examine the Company's proposed distribution of the revenue increase among customer classes.
- The OCA will fully review and examine the reasonableness and appropriateness of the Company's proposed all new tariff.
- The OCA will examine the Company's proposed new riders and changes to existing riders.
- The OCA will examine the Company's proposed Storm Damage Rider for issues of single-issue ratemaking, among other issues.

E. Universal Service Programs

- The OCA will review the Company's Customer Assistance Program to ensure that the budget amount is reasonable and that costs are recovered appropriately.
- The OCA will review the Company's Low-Income Usage Reduction Program to ensure that the budget amount is reasonable and that costs are recovered appropriately.
- The OCA will review the cost recovery mechanism to ensure that the Company recovers only those costs permitted to be recovered.

F. Quality of Service and Customer Service

- The OCA will review Penn Power's service quality, including, but not limited to, frequency and duration of outages, power surges, and plant/equipment failures.
- The OCA will review the Company's customer service record and metrics.

**III. WITNESSES**

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding. The witnesses will present testimony in written form and will also 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 witnesses responsible for the area of the case, as well as mailing a copy to counsel for the OCA.

A. Rate Base, Revenues, Expenses, and General Accounting

Ralph Smith  
Larkin and Associates, PLLC  
15728 Farmington Road  
Livonia, Michigan 48154

Telephone: 734-522-3420  
E-mail: [rsmithla@aol.com](mailto:rsmithla@aol.com)

B. Rate Structure and Cost Allocation

Clarence Johnson  
CJ Energy Consulting  
3707 Robinson Avenue  
Austin, TX 78722

Telephone: 512-506-1896  
E-mail: [cjenergyconsult@att.net](mailto:cjenergyconsult@att.net)

C. Rate of Return

Marlon Griffing  
Snavelly, King, Majoros & Associates  
Suite 306  
8100 Professional Place  
Landover, MD 20785

Telephone: 651-641-1667  
E-mail: [mgriffing@Snavelly-king.com](mailto:mgriffing@Snavelly-king.com)

D. Universal Service/CAP

Roger Colton  
Fisher, Sheehan and Colton  
34 Warwick Road  
Belmont, MA 02478

Telephone: 617-484-0597  
E-mail: [roger@fsconline.com](mailto:roger@fsconline.com)

E. Quality of Service

Barbara Alexander  
83 Wedgewood Drive  
Winthrop, ME 04364

Telephone: 207-395-4143  
Email: [barbalex@ctel.net](mailto:barbalex@ctel.net)

The OCA specifically reserves the right to call additional witnesses, 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 promptly notify ALJ Buckley and all parties of record.

**IV. SERVICE ON THE OCA**

The OCA will be represented in this case by Senior Assistant Consumer Advocates Darryl Lawrence and Aron J. Beatty and Assistant Consumer Advocates Brandon J. Pierce, Lauren M. Burge, and Kristine E. Robinson. Two copies of all documents should be served on the OCA as follows:

Darryl Lawrence  
Office of Consumer Advocate  
555 Walnut Street  
5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Telephone: (717) 783-5048  
Fax: (717) 783-7152  
E-mail: [DLawrence@paoca.org](mailto:DLawrence@paoca.org)

## V. DISCOVERY

The OCA has served eight sets of discovery to date. On September 18, 2014, the Companies filed Objections to the entirety of OCA Set II. On September 19, 2014, the Companies filed Objections to OCA Set III, Nos. 17 and 22. On September 29, 2014, the Companies filed Objections to the entirety of OCA Set V. Also on September 29, 2014, the OCA filed a Motion to Dismiss Objections and Compel the Companies to Answer Interrogatories to Set II.

The OCA expects that the Company's responses will trigger follow-up discovery due to the nature and complexity of the myriad issues involved. Because the time period for discovery and preparation of testimony is limited, the OCA supports a shortened discovery response time in this proceeding. The OCA, therefore, requests the following modifications:

a. Answers to written interrogatories propounded in preparation of direct and rebuttal testimony shall be served in-hand within ten (10) calendar days of service. Discovery propounded after 12:00 noon on a Friday will be deemed served on the next business day for purposes of determining the due date of the responses. Answers to written interrogatories propounded in preparation of surrebuttal testimony shall be served in-hand within five (5) calendar days of service. Discovery propounded after 12:00 noon on a Friday will be deemed served on the next business day for purposes of determining the due date of the responses.

b. Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served to the ALJ in writing within five (5) days of service of the interrogatories. Objections to interrogatories served on a Friday shall be communicated orally within four (4) calendar days, and unresolved objections

shall be served to the ALJ in writing within six (6) days of service of the interrogatories.

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

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

e. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) calendar days.

f. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

In addition to the preceding modifications to the Commission's Discovery Regulations, the OCA has one further request as to the exchange of information for this proceeding. The OCA requests that parties providing Direct and Rebuttal testimony, either include with such testimony electronic workpapers, cited studies and other documents relied on, or, provide same in workable electronic format within two (2) business days of the testimony submission date to all parties. In the OCA's experience, following the submission of these rounds of testimony parties routinely request the information just described through the normal discovery channels. The OCA submits that much time and effort could be saved by agreeing to streamline the process through an informal discovery modification as the OCA proposes here.

## **VI. PUBLIC INPUT HEARINGS**

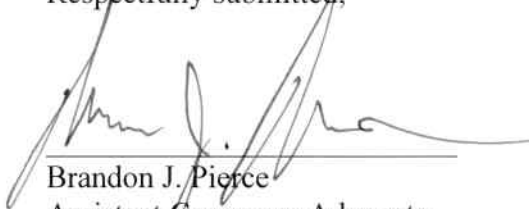
The OCA requests that at least two public input hearings be held in the Company's service territory in or near major population centers. The OCA has received a request for public input hearings through its Customer Call Center for hearings throughout the Penn Power service territory. The OCA reserves the right to request additional locations for public input hearings in

response to future requests from ratepayers and/or legislators, and will promptly advise ALJ Buckley and the parties of any further requests.

## VII. PROPOSED SCHEDULE

The OCA is prepared to accept ALJ Buckley's schedule as proposed in his Prehearing Conference Order with a minor revision. The OCA proposes to start Hearings on Tuesday, December 16, 2014, rather than Monday, December 15, 2014. The OCA also notes that January 19, 2015, the due date for Reply Briefs, is Martin Luther King, Jr. Day and January 20, 2014 is the gubernatorial inauguration.

Respectfully submitted,



Brandon J. Pierce  
Assistant Consumer Advocate  
PA Attorney I.D. #307665  
E-Mail: [BPierce@paoca.org](mailto:BPierce@paoca.org)

Darryl Lawrence  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 93682  
E-mail: [DLawrence@paoca.org](mailto:DLawrence@paoca.org)

Aron J. Beatty  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 86625  
E-Mail: [ABeatty@paoca.org](mailto:ABeatty@paoca.org)

Lauren M. Burge  
Assistant Consumer Advocate  
PA Attorney I.D. # 311570  
E-Mail: [LBurge@paoca.org](mailto:LBurge@paoca.org)

Kristine E Robinson  
Assistant Consumer Advocate  
PA Attorney I.D. #316479

E-Mail: [KRobinson@paoca.org](mailto:KRobinson@paoca.org)

Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

Office of Consumer Advocate  
5th Floor, Forum Place  
555 Walnut Street  
Harrisburg, PA 17101-1923  
Telephone: 717-783-5048  
Fax: 717-783-7152

October 6, 2014

00192232

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :  
v. : Docket No. R-2014-2428744  
Pennsylvania Power Company :  
:

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Prehearing Memorandum, 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 6th day of October 2014.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Allison C. Kaster, Esq.  
Carrie B. Wright, Esq.  
Scott B. Granger, Esq.  
Bureau of Investigation and Enforcement  
Pa. Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105

SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

Thomas P. Gadsden, Esq.  
Anthony DeCusatis, Esq.  
Catherine G. Vasudevan, Esq.  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103-2921

Tori L. Giesler, Esq.  
Lauren M. Lepkoski, Esq.  
First Energy Service Company  
2800 Pottsville Pike  
P.O. Box 16001  
Reading, PA 19612-6001

Daniel G. Asmus, Esq.  
Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101

Scott J. Rubin, Esq.  
333 Oak Lane  
Bloomsburg, PA 17815-2036

Thomas T. Niesen, Esq.  
Charles E. Thomas, III, Esq.  
Thomas, Niesen & Thomas, LLC  
212 Locust Street, Suite 600  
Harrisburg, PA 17101

David J. Dulick, Esq.  
Allegheny Electric Cooperative, Inc.  
212 Locust Street  
P.O. Box 1266  
Harrisburg, PA 17108-1266

SERVICE BY FIRST CLASS MAIL POSTAGE PREPAID

James F. Mrozek  
1199 Cleland Mill Road  
New Castle, PA 16102



Darryl A. Lawrence  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 93682

Email: [DLawrence@paoca.org](mailto:DLawrence@paoca.org)

Kristine E. Robinson  
Assistant Consumer Advocate  
PA Attorney I.D. # 316479

Email: [KRobinson@paoca.org](mailto:KRobinson@paoca.org)

Brandon J. Pierce  
Assistant Consumer Advocate  
PA Attorney I.D. # 307665

Email: [BPierce@paoca.org](mailto:BPierce@paoca.org)

Lauren M. Burge  
Assistant Consumer Advocate  
PA Attorney I.D. # 311570

Email: [LBurge@paoca.org](mailto:LBurge@paoca.org)

Counsel for  
Office of Consumer Advocate  
555 Walnut Street 5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152  
188547