

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission
v.
West Penn Power Company

Docket Number
R-2014-2428742

Pennsylvania Public Utility Commission
v.
Pennsylvania Electric Company

Docket Number
R-2014-2428743

Pennsylvania Public Utility Commission
v.
Pennsylvania Power Company

Docket Number
R-2014-2428744

Pennsylvania Public Utility Commission
v.
Metropolitan Edison Company

Docket Number
R-2014-2428745

West Penn Power Company

Docket Number
M-2013-2341991

Pennsylvania Electric Company

Docket Number
M-2013-2341994

Pennsylvania Power Company

Docket Number
M-2013-2341993

Metropolitan Edison Company

Docket Number
M-2013-2341990

FIRST INTERIM ORDER

Order Resolving Requests to Consolidate
and
the Conduct of Evidentiary Hearings

On August 4, 2014, four related First Energy Companies filed tariff supplements requesting increases to the base rates charged to ratepayers by the electric distribution companies. The four companies and the amount of the requested increase to its annual distribution revenue are:

1. West Penn Power Company – requesting \$115.5 million or 8.4% of total electric operating revenues;
2. Pennsylvania Electric Company – \$119.8 million or 8.6% of total electric operating revenues;
3. Pennsylvania Power Company – \$28.5 million or 8.7% of total electric operating revenues; and
4. Metropolitan Edison Company – \$151.9 million or 11.5% of total electric operating revenues.

By Order entered October 2, 2014, the Pennsylvania Public Utility Commission suspended the filings by operation of law until May 3, 2015, and instituted an investigation to determine the lawfulness, justness and reasonableness of the proposed rates, rules, and regulations.

In addition to the four filings, First Energy filed on behalf of all four utilities separate pro-forma tariff supplements on August 1, 2014 to implement the Smart Meter Technologies Charge (SMT-C) Rider pursuant to the Smart Meter Deployment Dockets for the Companies. These filings, referred to as “M Docket” proceedings, were made in compliance with a prior Commission Order where the Commission directed the electric distribution companies to file by August 1st of each year the SMT-C Rider Rates for the Residential, Commercial and Industrial Customer Classes for service rendered on or after January 1st and continuing through December 31st of each year.

The Commission directed the Office of Administrative Law Judge to hold appropriate evidentiary proceedings and to render a Recommended Decision in each proceeding. The Administrative Law Judges conducted a prehearing conference with the active parties on

October 8, 2014 and established a litigation schedule. As a result, six public input hearings have been scheduled around the state in order to obtain the input from customers and ratepayers about the proposed increases. The locations of those public input hearings will be in or near: Warren, New Castle, Erie, Uniontown, Washington, Reading and East Stroudsburg.

Furthermore, on August 1, 2014 all four utilities (“the Companies”) filed pro-forma tariff supplements to implement the Smart Meter Technologies Charge (“SMT-C”) Rider pursuant to the Smart Meter Deployment Dockets for the Companies¹. These filings were made in compliance with the Commission’s Order at Docket No. M-2009-2123950 entered on June 9, 2010, where the Commission directed the Companies to file by August 1st of each year the SMT-C Rider Rates for the Residential, Commercial and Industrial Customer Classes for service rendered on or after January 1st and continuing through December 31st of each year.

On October 22, 2014, the presiding officers issued the Second Prehearing Order in which, *inter alia*, the parties were ordered to provide the Administrative Law Judges with a written proposal outlining how the parties recommended evidence should be admitted into the hearing record in these four separate proceedings in a manner that would result in a clear hearing record and clearly demarcate which factual evidence related to which electric distribution company.

On October 31, 2014, the Companies submitted a proposal in which the Companies proposed written statements “will clearly demarcate the sections specifically pertaining to each Company (i.e., on a Company-by-Company basis) that is being addressed in that statement and will provide separate exhibits or schedules, as applicable, setting forth or addressing adjustments related to each such Company. The parties will endeavor to address common issues in a manner that avoids duplication and undue repetition.” In addition, the Companies proposed to submit only one main brief and one reply brief for all issues in all four base rate case dockets, and would follow a common table of contents delineating substantive

¹ The original deployment proceedings were at Docket Nos. M-2013-2341990; M-2013-2341991; M-2013-2341993; and M-2013-2341994, respectively. The supplements herein are docketed at the same docket numbers.

areas being addressed. The other active parties authorized the Companies to indicate there was an agreement amongst the parties to use this method of proceeding forward.

Discussion

When parsed to its essence, the parties propose to talk about substantive issues as if true for all four electric distribution companies and, if a fact or issue is unique to one company, then the written statement or filing will “demarcate” or state simply the different fact. No provision has been made to index where a reader or regulator might locate that fact without re-reading the statement again in its totality. No provision has been made to highlight information, facts or evidence unique to only one electric distribution company. No provision has been made to assist the regulators, who are the entity empowered by the Legislature to determine if a proposed base rate is in the public interest, in knowing the particular facts which illustrate the reasonableness of the facts underlying the base rate request.

In short – the parties have made no provision to ensure the hearing record will clearly indicate the facts as the facts relate to one company. Each of the four companies is a separate entity. Each company has separate tariffs, separate costs, separate need requirements and, therefore, separate rates of return and returns on equity. However, even though all four electric distribution companies are supposed to be treated as four separate entities, the Companies and parties herein insist the facts concerning the four electric distribution companies should be treated as identical.

The parties’ proposal is unworkable and will result in a hearing record that is jumbled, not easily accessible for comprehension and is more likely to hide facts in the midst of volumes of prose instead of illuminating facts.

Pursuant to 52 Pa. Code § 5.483, the presiding officer has the authority to, *inter alia*, exclude irrelevant, immaterial and unduly repetitive evidence, and to regulate the course of the proceeding. Furthermore, pursuant to 52 Pa. Code § 5.485(a), the presiding officer must

conduct a fair and impartial hearing and maintain order in the admission of evidence and in the conduct of the hearing.

Lastly, pursuant to 52 Pa. Code § 5.403(a), the presiding officer has “all necessary authority to control the receipt of evidence, including ... [c]onfining the evidence to the issues in the proceeding and impose, where appropriate: ... (ii) Limitations of time and scope for direct and cross examinations.... (iv) other necessary limitations.” The over-arching purpose to these powers in the presiding officer is to use the authority to “direct and focus the proceedings consistent with due process.” (52 Pa. Code § 5.405(c).)

In order to keep the hearing records and evidentiary records clear in all four base rate proceedings, as well as in the related proceedings concerning the Smart Meter Charge, the evidentiary hearings will proceed as four separate hearings in the following order:

- a. West Penn on January 12, 2015,
- b. Penn Power on January 13, 2015,
- c. Penelec on January 14, 2015, and
- d. Met Ed on January 15, 2015.

If additional testimony or evidence must be taken, a fifth day may be granted to the parties provided the parties notify the presiding officers on or before Friday, January 9, 2015.

The parties will submit all appropriate and necessary documentation and testimony concerning the Smart Meter Charge for each company during the evidentiary hearing concerning the base rate proceeding for that company.

The parties will submit a separate main brief and reply brief for each company which will include both the base rate issue and the Smart Meter Charge issue for that company.


Therefore, the undersigned Administrative Law Judges enter the following Order and provisions:

1. That the base rate requests filed by the four companies listed above are not consolidated and the Motion to Consolidate is denied.


2. That the base rate requests filed by the four companies listed above will be litigated side-by-side but will result in four separate hearing records including separate statements, exhibits, main briefs and reply briefs.

3. That the petitions filed by the four companies listed above concerning the Smart Meter Charge will not be consolidated with any other proceeding but will be heard alongside the corresponding base rate proceeding.

4. That the petitions filed by the four companies listed above concerning the Smart Meter Charge will be litigated at the same time as the corresponding base rate request for each company but will be result in a separate decision.


Dennis J. Buckley
Administrative Law Judge

Date: November 18, 2014


Katrina L. Dunderdale
Administrative Law Judge

PENNSYLVANIA PUBLIC UTILITY CORPORATION

v.

R-2014-2428742 - WEST PENN POWER

R-2014-2428743 - PENNSYLVANIA ELECTRIC COMPANY

R-2014-2428744 - PENNSYLVANIA POWER COMPANY

R-2014-2428745 - METROPOLITAN EDISON COMPANY

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