

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCUMENT
FOLDER

Petition of PECO Energy Company for Approval :
of (1) A Process to Procure Alternative Energy :
Credits During the AEPS Banking Period and :
(2) A Section 1307 Surcharge and Tariff to :
Recover AEPS Costs :

P-00072260

PREHEARING ORDER #2

A prehearing conference was held on May 4, 2007. Present through counsel either telephonically or in person were PECO Energy Company (PECO or petitioner), the Office of Trial Staff (OTS), the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), the Philadelphia Area Industrial Energy Users Group (PAIEUG) and Citizens for Pennsylvania's Future (PennFuture).

In accordance with Prehearing Conference Order, dated April 19, 2007, I received Prehearing Memoranda from: PECO, OSBA, OCA, OTS, PAIEUG and PennFuture.

This Order discusses the procedural matters addressed at the prehearing conference.

1. The Petition to Intervene filed by PAIEUG on April 5, 2007, being unopposed, was granted.

2. The Petition to Intervene filed by PennFuture on April 19, 2007, being unopposed, was granted.

3. Petitions to intervene and motions for admission pro hac vice, if not defective on their face, shall be deemed granted if not objected to within three business days after filing. If objected to, such pleadings will be addressed by order.

4. 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. Each party, if it has not yet done so, is directed to provide the name, e-mail address, fax number, telephone number and address of the person or persons they wish to have listed on the service list within five days of the date of this Order.

5. Parties shall be limited to those persons or entities who attended the prehearing conference on May 4, 2007 and any persons or entities granted intervention in accordance with the provisions of 52 Pa.Code §§5.73 - 5.75. Parties will receive all documents and must serve all other parties with all documents filed in the case or submitted to the presiding administrative law judge. Parties may participate by conducting discovery, attending hearing sessions, may sponsor and present witnesses, be allowed to examine other parties' witnesses, and be permitted to file and serve main and reply briefs.

6. My informal e-mail distribution list is as follows. Any changes should be communicated to me, via e-mail (machestnut@state.pa.us) as soon as possible. Please include my legal assistant, Ms. Kathy Niesborella (kniesborel@state.pa.us), on anything you send to me.

Party	Counsel	e-mail
OTS	Robert Eckenrod	roeckenrod@state.pa.us
PECO	Adrian Newall	Adrian.Newall@exeloncorp.com
PECO	Thomas Gadsden	tgadsden@morganlewis.com
PECO	Kenneth Kulak	kkulak@morganlewis.com
OCA	Tanya McCloskey	tmccloskey@paoca.org
OCA	Christy Appleby	cappleby@paoca.org
OSBA	Sharon Webb	swebb@state.pa.us
OSBA	Lauren Lepkoski	llepkoski@state.pa.us
PAIEUG	Charis Mincavage	cmincavage@mwn.com
PAIEUG	Barry Naum	bnaum@mwn.com
PennFuture	George Jugovic	jugovic@pennfuture.org

7. Pursuant to 52 Pa. Code §5.342(d), the Commission's regulations relating to discovery are modified as follows. It should be noted that when an interrogatory 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.

- a) The response period for replying to written interrogatories is ten calendar days.
- b) Objections to interrogatories are to be communicated orally to the propounder of the interrogatory within three calendar days of receipt and in writing within five calendar days of receipt of the interrogatory. The parties are directed to confer, by telephone or e-mail, and attempt to resolve the objections.
- c) Motions to dismiss objections and to compel response shall be filed with the Commission and served on me and the other parties within three calendar days of receipt of the objections. Answers to such motions shall be filed and served within three calendar days after filing of the motion.
- d) If the objections are not resolved, counsel will alert the presiding officer by e-mail or telephone of the need for a ruling, and a conference call will be scheduled. The presiding officer will make a ruling over the telephone and not reduce it to writing unless requested to do so.
- e) Interrogatories which are objected to but which are not made the subject of a motion to compel will be deemed withdrawn.
- f) Pursuant to 52 Pa. Code §5.341(b), neither interrogatories nor responses are to be served on the Commission or the presiding officer, although a certificate of service may be filed with the Commission's Secretary.
- g) Interrogatories and responses are to be served electronically as well as on paper.

- h) Responses to requests for document production, entry for inspection, or other purposes shall be served in-hand within ten calendar days; and
- i) Requests for admission shall be deemed admitted unless answered within ten calendar days or objected to within five calendar days of service of the requests.

8. The parties are expected to resolve discovery issues among themselves; motions to compel should be filed only after such efforts have failed. In addition, the parties are urged to use alternative means of discovery such as discovery conferences or depositions.

9. The following schedule was adopted:

PECO direct testimony	March 19, 2007
Other parties' direct testimony	June 4, 2007
All parties' rebuttal testimony	June 22, 2007
Hearings	July 10-11, 2007
Main briefs	July 25, 2007
Reply briefs	August 6, 2007

10. In accordance with the schedule listed above, testimony is to be served on the parties no later than 4:30 p.m. on the dates listed. Service may be made electronically, as long as a hard copy is received by the next business day. Do not file your testimony with the Commission, although you may file a certificate of service.

11. Testimony should be premarked with numerical, sequential statement numbers. All statements must list on the cover sheet the issues addressed in that statement. On or before June 12, 2007, all parties must serve on the presiding officer and parties the names, business addresses, and telephone numbers of witnesses the participant expects to call and the subject matter of each witness' testimony, if not already provided. Witnesses not identified in a party's prehearing memorandum or not listed in the June 12, 2007 notice will not be permitted to testify, except by special permission of the presiding Administrative Law Judge for good cause.

12. 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. Oral motions, other than for good cause, shall not be accepted.

13. All participants are directed to comply with the provisions of 52 Pa.Code §5.243(e) which prohibits the introduction of evidence during rebuttal or surrebuttal which should have been included in the active participant's case-in-chief or which substantially varies from the active participant's case-in-chief, unless the evidence is introduced in support of a proposed settlement.

14. All hearings will be held in Philadelphia. The initial day will commence at 10:00 a.m.; subsequent days may or may not start at 9:00 a.m. Parties will complete the daily witness listing and cross-examination grid as directed.

15. An original and nine copies of all briefs must be filed with the Secretary, in accordance with 52 Pa. Code §5.502(a), and one copy served on me and the other parties no later than 4:30 p.m. on the dates listed. Service can be made electronically, with a hard-copy received in hand on the next business day.¹ In addition, each party is directed to include a copy on disk with the briefs filed with the Secretary. If you do not e-mail your briefs to me, please include a copy on disk.

16. All briefs shall comply with the requirements of 52 Pa. Code §§5.501 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;²
- B. A history of the proceeding;
- C. A discussion;

¹ 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.

² In addition, each reply brief must contain a table of contents.

- 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; and

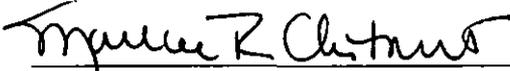
17. If a reply brief is not filed, it will be assumed that the party does not dispute the assertions, contentions, arguments, etc. made by the other parties in their main briefs. While it is not necessary in a reply brief to repeat a particular argument or discussion contained in the main brief, the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

18. Any brief not filed and served on or before the date fixed therefore will not be accepted for filing, except by special permission of the presiding Administrative Law Judge for good cause.

19. The parties are to confer among themselves in an attempt to resolve all or some of the issues associated with the company's filing.

20. All documents filed with the Secretary must be served directly on me and the other parties.

Date: May 4, 2007


MARLANE R. CHESTNUT
Administrative Law Judge