

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**DOCKETED**

APR 12 2002

Pennsylvania Public Utility Commission,  
Bureau of Transportation & Safety

Docket Number

**BTL**

v.

Fischer-Hughes of Allentown, Inc.

A-00110545C0201

**PREHEARING CONFERENCE/INITIAL HEARING ORDER**

**DOCUMENT  
FOI DE**

A Prehearing Conference into an Initial Hearing in this case is scheduled for Tuesday, April 30, 2002, at 10:00 a.m.. Accordingly, the participants are hereby directed to comply with the following requirements:

1. A request for a change of the scheduled Prehearing Conference and Initial Hearing date must state the agreement or opposition of other participants, and must be submitted in writing no later than five (5) days prior to the Prehearing Conference/Initial Hearing. 52 Pa.Code §1.15(b). Requests for changes of initial proceedings must be sent to me, with copies to all participants of record. The correct address is: Administrative Law Judge Wayne L. Weismandel, P.O. Box 3265, Harrisburg, PA 17105-3265. Such changes are granted only in rare situations where good cause exists.

2. In accordance with the foregoing, absent a continuance for good cause, all participants must be prepared to participate in the scheduled Prehearing Conference and Initial Hearing. Failure of a participant to participate in the Prehearing Conference, after being served with notice of the time thereof, without good cause shown, shall constitute a

waiver of all objections to the agreements reached, and an order or ruling with respect thereto. You may lose this case if you do not take part in the Hearing and present evidence on the issues raised. The Hearing is a formal proceeding and will be conducted in accordance with the Commission's Rules of Practice and Procedure.

3. If you intend to introduce any exhibits into evidence at the Hearing, you must supply an original and one copy for the court reporter, a copy for the presiding officer, and one copy for each other participant. Proposed exhibits should be properly pre-marked for identification purposes.

4. If you intend to subpoena witnesses for the Hearing, you should review the procedures established in 52 Pa.Code §5.421. You must submit your written application to me sufficiently in advance of the hearing date so that other participants will have the required ten (10) days' notice to answer or object, and so you will have enough time to receive the subpoena and serve it.

5. Participants should review the regulations relating to discovery, specifically 52 Pa.Code §5.331(b), which provides, *inter alia*, that "[p]articipants shall endeavor to initiate discovery as early in the proceedings as reasonably possible," and 52 Pa.Code §5.322, which encourages participants to exchange information on an informal basis. Participants are urged to cooperate in the discovery process. Such cooperation is preferable to numerous or protracted discovery disagreements, which require the presiding officer's participation for resolution. Be aware that there are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa.Code §§5.361, 5.371-5.372.

6. Pursuant to 52 Pa.Code §§1.21 & 1.22, you may represent yourself, if you are an individual, or you may have an attorney licensed to practice law in the

Commonwealth of Pennsylvania, or admitted *Pro Hac Vice*, represent you. However, if you are a partnership, corporation, trust, association, or governmental agency or subdivision, you must have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted *Pro Hac Vice*, represent you in this proceeding. Unless you are an attorney, you may not represent someone else. Attorneys shall insure that their appearance is entered in accordance with the provisions of 52 Pa.Code §1.24(b).

7. You must serve me directly with a copy of any document that you file in this proceeding. If you send me any correspondence or document, you must send a copy to all other participants. For your convenience, a copy of the Commission's current service list of the participants to this proceeding is enclosed with this Order.

8. Please review the regulation pertaining to prehearing conferences, 52 Pa.Code §5.222, and in particular, subsection (d) which provides, in part:

(d) Participants and counsel will be expected to attend the conference fully prepared for useful discussion of all problems involved in the proceeding, both procedural and substantive, and fully authorized to make commitments with respect thereto. The preparation should include, among other things, advance study of all relevant materials, and advance informal communication between the participants, including requests for additional data and information, to the extent it appears feasible and desirable. (Emphasis added.)

9. All of the following matters shall be considered at the Prehearing Conference:

(a) The possibilities for settlement of the proceeding, subject to the approval of the Commission.

(b) Other matters that may aid in expediting the orderly conduct and disposition of the proceeding and the furtherance of justice, including, but not limited to the following:

- (i) The simplification of the issues.
- (ii) The exchange and acceptance of service of exhibits proposed to be offered in evidence.
- (iii) The obtaining of admissions as to, or stipulations of, facts not remaining in dispute, or the authenticity of documents which might properly shorten the hearing.
- (iv) The limitation of the number of witnesses.
- (v) The discovery or production of data or other material.

10. Participants should be prepared to begin the Initial Hearing immediately upon the conclusion of the Prehearing Conference in this case.

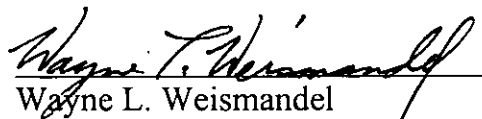
11. Commission policy is to encourage settlements. 52 Pa.Code §5.231(a). Therefore, you are urged to discuss informally between yourselves the possible settlement of this case at least one week before the Hearing. If you are unable to settle this case, you may still resolve as many questions or issues as possible during your informal discussion.

**THEREFORE,**

**IT IS ORDERED:**

1. That on or before Tuesday, April 23, 2002, the participants shall serve the presiding officer, and each other, with a Prehearing Conference Memorandum which sets forth the history of the proceeding, the issues you intend to present, a listing of your proposed witnesses and the subject of their testimony, and addressing each of the subjects included in Paragraph 9, sub-paragraphs a and b, above.

Date: MARCH 11, 2002

  
Wayne L. Weismandel  
Administrative Law Judge