

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement	:	
	:	
v.	:	C-2015-2514773
	:	
PECO Energy Company	:	

**PREHEARING ORDER #2**

I conducted a prehearing conference in this case on November 29, 2016 at 10:00 a.m. in Harrisburg. Present were counsel for PECO Energy Company (PECO) and the Commission's Bureau of Investigation and Enforcement (I&E). This order sets forth the procedural matters addressed at the prehearing conference.

THEREFORE,

IT IS ORDERED:

1. That, pursuant to 52 Pa.Code §1.55, each party shall be limited to one entry on the service list. Any changes should be communicated to me, via e-mail ([dsalapa@pa.gov](mailto:dsalapa@pa.gov)) or in writing as soon as possible. The service list is as follows:

<b>Party</b>	<b>Counsel</b>	<b>E-Mail</b>
PECO	Michael S. Swerling	<a href="mailto:Michael.swerling@exeloncorp.com">Michael.swerling@exeloncorp.com</a>
I&E	Heidi L. Wushinske	<a href="mailto:hwushinske@pa.gov">hwushinske@pa.gov</a>
	ALJ Salapa	<a href="mailto:dsalapa@pa.gov">dsalapa@pa.gov</a>

2. That the above parties shall receive all documents and shall copy all other parties on documents they file with the Commission or serve on me. The above parties are expected to conduct discovery, attend hearings, or present or cross-examine witnesses.

3. That the following schedule is adopted:

Prehearing conference	November 29, 2016
I&E prepared direct	March 24, 2017
PECO prepared direct	April 14, 2017
I&E Prepared rebuttal	May 5, 2017
Oral rejoinder outlines	June 1, 2017
Hearings	June 7&8, 2017
Main briefs	July 14, 2017
Reply briefs	July 28, 2017

4. That in accordance with the schedule set forth in paragraph 3 above and 52 Pa.Code § 5.412, the parties shall serve the documents listed above so that the documents are received in-hand by the parties no later than 4:30 p.m. on the dates listed. Parties may serve the documents listed above via e-mail to meet this requirement, with hard copy to follow by regular first class mail. Parties shall not file testimony with the Commission, but shall file a certificate of service.

5. That written testimony shall comply with the requirements of 52 Pa.Code § 5.412 and shall be marked with numerical, sequential statement numbers. Oral direct or rebuttal testimony or witnesses not identified in a party's prehearing memorandum shall not be permitted, except by permission of the presiding officers for good cause.

6. That all parties shall comply with the provisions of 52 Pa.Code § 5.243(e) which prohibits the introduction of evidence during rebuttal which should have been included in the party's case-in-chief or which substantially varies from the party's case-in-chief, unless the party is introducing evidence in support of a proposed settlement.

7. The parties shall conduct discovery pursuant to 52 Pa.Code §§ 5.321-5.373. The parties should cooperate and exchange information on an informal basis. The parties shall cooperate rather than engage in numerous or protracted discovery disagreements that

require my participation to resolve. All motions to compel shall contain a certification by counsel setting forth the specific actions the parties have undertaken to resolve their discovery disputes informally. If a motion to compel does not contain this certification, I shall contact the parties and direct them to resolve the matter informally and provide the certification if they are unsuccessful. There are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa.Code §§ 5.361, 5.371-5.372.

8. That the evidentiary hearings will be held in Harrisburg and will commence at 10:00 a.m. unless changed by me.

9. That the parties shall stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all parties and conserve precious administrative hearing resources. 52 Pa.Code §§ 5.232 and 5.234.

10. That the evidentiary hearings in this matter constitute formal legal proceedings and we will conduct them in accordance with the Commission's Rules of Administrative Practice and Procedure, as well as the rules of evidence as applied to administrative hearings.

11. That parties intending to subpoena witnesses for the evidentiary hearings shall review the procedures established in 52 Pa.Code § 5.421 and shall submit any written application to me sufficiently in advance of the evidentiary hearing dates so that the other parties will have the required ten (10) days' notice to answer or object, and so that the party requesting the subpoena shall have enough time to receive the subpoena and serve it.

12. That each party shall file copies of its briefs with the Secretary, in accordance with 52 Pa.Code § 5.502, and shall serve one copy, in-hand, on me and all other parties no later than 4:30 p.m. on the dates listed. In addition, each party shall e-mail its briefs in Microsoft Word 2010 or equivalent to me.

13. That 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:

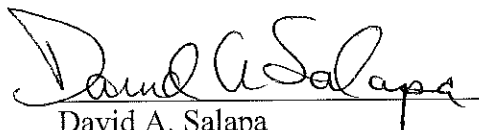
- A. A history of the proceeding;
- B. A discussion;
- C. Proposed findings of facts (with record citations to transcript pages or exhibits where supporting evidence appears);
- D. Proposed conclusions of law (with citations to supporting statutes, regulations or relevant case law); and
- E. Proposed ordering paragraphs specifically identifying the relief sought.

14. That if a party does not file a reply brief, I will assume that the party does not dispute the assertions, contentions or arguments 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 or arguments.

15. That any brief not filed and served on or before the date fixed therefore will not be accepted for filing, except by permission for good cause.

16. That any provision of this prehearing order may be modified upon motion and good cause shown by any party in interest in accordance with 52 Pa.Code § 5.223(a).

Date: November 30, 2016

  
David A. Salapa  
Administrative Law Judge

C-2015-2514773 – PUBLIC UTILITIES COMMISSION BUREUA OF INVESTIGATION  
AND ENFORCEMENT v. PECO

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