



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

May 4, 2017

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: PECO Energy Company Pilot Plan for an Advance Payment Program and
Petition for Temporary Waiver of Portions of the Commission's
Regulations with Respect to that Plan
Docket No. P-2016-2573023

Dear Secretary Chiavetta:

Enclosed please find the Bureau of Investigation and Enforcement's (I&E)
**Expedited Motion to Extend the Litigation Schedule and to Request a Telephonic
Discovery Status Conference** in the above-captioned proceeding.

Copies are being served on parties as identified in the attached certificate of
service. If you have any questions, please contact me at (717) 787-8754.

Sincerely,

Gina L. Miller
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313863

GLL/sea
Enclosure

cc: Certificate of Service
ALJ Angela T. Jones

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PECO Energy Company Pilot Plan for an	:	
Advance Payment Program and Petition for	:	Docket No. P-2016-2573023
Temporary Waiver of Portions of the	:	
Commission's Regulations with Respect to	:	
that Plan	:	

CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Motion** dated May 4, 2017, in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party):

Served via First Class and Electronic Mail

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Gina L. Miller
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #313863

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PECO Energy Company Pilot Plan for an	:	
Advance Payments Program and Petition for	:	
Temporary Waiver of Portions of the	:	Docket No. P-2016-2573023
Commission's Regulations with respect to	:	
the Plan	:	

**EXPEDITED MOTION OF THE BUREAU OF INVESTIGATION AND
ENFORCEMENT TO EXTEND THE LITIGATION SCHEDULE AND TO
REQUEST A TELEPHONIC DISCOVERY STATUS CONFERENCE**

Pursuant to 52 Pa. Code § 1.15, the Bureau of Investigation and Enforcement ("I&E") moves for an extension of the litigation schedule that was established in this matter by Prehearing Conference Order No. 2 entered on January 24, 2017. Additionally, I&E respectfully requests that Administrative Law Judge Angela T. Jones ("ALJ Jones"), the presiding officer in the above-captioned proceeding, schedule a telephonic discovery status conference in this matter in order to facilitate a resolution of the discovery issues outlined below. Finally, I&E respectfully requests expedited consideration of its Motion. In support of this Motion, I&E respectfully avers the following:

Introduction

1. On October 26, 2016, PECO Energy Company ("PECO") filed a Petition for Approval of an Advance Payments Program and a corresponding Petition for Temporary Waiver of Commission Regulations (collectively the "Petition"). The Petition was filed at Docket No. P-2016-2573023.

2. PECO's Petition was assigned to the Office of Administrative Law Judge ("OALJ") for the development of an evidentiary record, including a Recommended Decision. The OALJ assigned the proceeding to ALJ Jones.
3. A Prehearing Conference in this matter took place on January 23, 2017, and ALJ Jones presided. Counsel for the following entities (collectively the "Parties") participated in the Prehearing Conference: PECO, I&E, the Office of the Consumer Advocate ("OCA"), the Coalition for Affordable Utility Service and Energy ("CAUSE-PA"), Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia ("TURN et al."), Direct Energy, and the Retail Energy Supply Association.
4. During the Prehearing Conference, a litigation schedule was set and the Parties agreed to the following discovery modification, which was memorialized in the Prehearing Conference Order No. 2 dated January 24, 2017:

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.¹

5. During the course of this proceeding, because of extenuating circumstances, PECO's counsel was unable to honor the 10-day discovery period outlined in Prehearing Conference Order No. 2.
6. As a result of PECO's inability to honor the above-referenced discovery commitment, the following discovery requests remain outstanding at this time:

¹ Prehearing Conference Order No. 2, p. 3 (p. 4 of the same Order also reflects the fact that counsel for PECO did not object to the discovery modification.

a. I&E propounded interrogatories identified as I&E 1 through I&E-55 upon PECO on April 10, 2017, and I&E propounded I&E-56 upon PECO on April 17, 2017. PECO's responses to the identified interrogatories were due on April 20, 2017, and April 27, 2017, respectively.

b. OCA propounded interrogatories identified as Set I and Set II upon PECO on March 20, 2017, and responses thereto were due on March 30, 2017. While partial responses to OCA Set I were received on May 3, 2017, the rest of OCA Set I and Set II are currently outstanding and, as of today, are 5 weeks late.

c. TURN et al. propounded interrogatories identified as Set I on March 23, 2017, which was due on April 3.

7. On April 19, 2017, I&E's counsel contacted PECO's counsel by email regarding the status of I&E's discovery responses and to inquire whether PECO would like a mutually agreeable extension of time in which to provide responses to I&E's interrogatories. I&E indicated that its agreement to an extension of time would be contingent on PECO providing a date certain for providing outstanding discovery responses to I&E. Counsel for PECO did not respond.²
8. At a Public Input Hearing that took place in this matter on April 24, 2017, PECO's counsel assured I&E's counsel that PECO would soon provide answers to the outstanding discovery responses.

² I&E understands that OCA and TURN et al. have made inquiries into their outstanding discovery responses as well, but I&E will defer to those parties to describe any such efforts.

8. To date, I&E, OCA, and TURN et al. have not received responses to the discovery requests identified above. On May 2, 2017, in an attempt to resolve discovery issues, counsel for I&E, OCA, and TURN et al. conducted a teleconference with PECO's counsel. During the call, counsel for I&E, OCA, and TURN et al. expressed their concerns that they have been unable to obtain necessary information about PECO's filing in time to honor the direct testimony deadline that exists in the current litigation schedule.

A. Request for Extension of the Litigation Schedule

9. During the May 2, 2017 teleconference, PECO's counsel agreed to respond to all outstanding discovery requests as soon as possible,³ and he also agreed to an extension of the litigation schedule established in this case ("Extended Schedule"), as more fully set forth below

	Current Litigation Schedule	Extended Schedule
Direct	May 16	June 6
Rebuttal	June 27	July 18
Surrebuttal	July 25	Aug. 15
Hearings	Aug. 29-30	Aug. 29-30
Main Brief	Oct. 17	Oct. 17
Reply Brief	Nov. 8	Nov. 8

10. All Parties have authorized I&E to represent that they agree with the adoption of the Extended Schedule, above, which will not alter the hearing dates in this case.

³ PECO estimated that all outstanding responses were "95%" complete and that they would likely be available within 24-48 hours.

However, OCA, I&E, and TURN et al.'s agreement to this revised schedule is contingent upon receipt of significantly overdue discovery responses from PECO and assurance that future discovery will be answered consistent with the 10-day discovery period agreed to by PECO at the prehearing conference and adopted in Prehearing Conference Order No. 2. If discovery deadlines cannot be adhered to, then I&E, OCA, and TURN et al. reserve the right to request additional changes to the litigation schedule in the future.

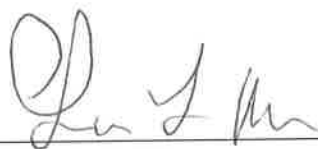
B. Request for a Telephonic Discovery Status Conference

11. Without the benefit of the outstanding discovery responses, I&E, and other impacted parties, are unable to thoroughly review PECO's Petition. Without the benefit of a thorough review, the Commission will not have a full and complete record upon which to base its ultimate decision.
12. I&E notes that the existing litigation schedule contemplates the filing of direct testimony on May 16, 2017, and I&E avers that the discovery issues outlined in this Motion have frustrated its ability to comply with the direct testimony deadline.
13. To facilitate the resolution of the discovery issues outlined in this Motion and to ensure that the Parties' ability to litigate this proceeding is preserved, I&E respectfully requests that Your Honor issue an Order setting a date for a telephonic status conference regarding discovery matters as soon as practicable.

WHEREFORE

The Bureau of Investigation and Enforcement respectfully requests that Administrative Law Judge Angela T. Jones (1) issue an Order scheduling a telephonic status conference with all Parties to facilitate a global resolution of any remaining discovery disputes and (2), issue an Order that replaces the existing litigation schedule in this proceeding with the Extended Schedule , as set forth herein.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Gina L. Miller", is written over a horizontal line.

Gina L. Miller

Prosecutor

PA Attorney ID # 313863

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Dated: May 4, 2017