**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2018-3000834

:

Office of Consumer Advocate : C-2018-3001786

:

Office of Small Business Advocate : C-2018-3002132

:

v. :

:

Suez Water Pennsylvania, Inc. :

**PREHEARING ORDER #2**

I conducted a prehearing conference in this case on May 25, 2018 at 10:00 a.m. in Harrisburg. Present were counsel for the Commission’s Bureau of Investigation and Enforcement (I&E), the Office of Consumer Advocate (OCA), Office of Small Business Advocate (OSBA) and Suez Water Pennsylvania, Inc. (Suez). 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) or in writing as soon as possible. The service list is as follows:

|  |  |  |
| --- | --- | --- |
| **Party** | **Counsel** | **E-Mail** |
| I&E | Scott B. Granger | [sgranger@pa.gov](mailto:sgranger@pa.gov) |
| Suez | David P. Zambito | [dzambito@cozen.com](mailto:dzambito@cozen.com) |
| OCA  OSBA | Erin L. Gannon  Sharon E. Webb | [egannon@paoca.org](mailto:egannon@paoca.org)  [swebb@pa.gov](mailto:swebb@pa.gov) |
|  | ALJ Salapa | [dsalapa@pa.gov](mailto:dsalapa@pa.gov) |

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 May 25, 2018 Other Parties’ prepared direct July 20, 2018

Prepared rebuttal August 17, 2018

Prepared surrebuttal August 31, 2018

Rejoinder outline September 5, 2018

Evidentiary hearings in Harrisburg September 10-12, 2018

Main briefs September 27, 2018

Reply briefs October 10, 2018

Close of Evidentiary Record October 10, 2018

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 officer 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. That the parties have agreed to modify the Commission’s normal discovery timelines as follows:

A. Answers to interrogatories shall be served in-hand within ten (10) calendar days of service of the interrogatories.

B. Objections to interrogatories to be communicated orally within three (3) days of service; unresolved objections shall be served to the ALJ in writing within five (5) days of service of interrogatories.

C. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of written objections.

D. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.

E. Rulings on such motions shall be issued, if possible, within seven (7) calendar days of the filing of the motion.

F. Requests for admission are deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

G. Answers to on-the-record data requests shall be served in-hand within seven (7) calendar days of the requests.

H. Any discovery served after 12:00 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of tacking due dates.

I. All discovery due dates shall be “in-hand” and electronic or fax service on the due date will satisfy the “in-hand” requirement, where such service is immediately followed by a hard copy sent by first-class mail.

8. That except as set forth in paragraph 7 above, the parties shall conduct discovery pursuant to 52 Pa.Code §§ 5.321-5.373. I encourage the parties to 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.

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

10. 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

11. That the evidentiary hearings in this matter constitute formal legal proceedings and I 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. That the complaints filed by the Office of Consumer Advocate at Docket No. C-2018-3001786 and the Office of Small Business Advocate at Docket No. C-2018-3002132 are consolidated with the proceeding at R-2018-3000834, pursuant to 52 Pa.Code § 5.81, for purposes of hearing and decision since they involve common questions of law and fact.

18. 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: May 25, 2018 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

David A. Salapa

Administrative Law Judge

**R-2018-3000834 & C-2018-3001786- PENNSYLVANIA PUBLIC UTILITY COMMISSION & OFFICE OF CONSUMER ADVOCATE v. SUEZ WATER PENNSYLVANIA, INC.**DAVID P ZAMBITO ESQUIRECOZEN O'CONNOR17 NORTH SECOND ST SUITE 1410HARRISBURG PA 17101**717.703.5892**  
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