**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :

:

v. : R-2018-3000019

:

The York Water Company :

Office of Consumer Advocate :

:

v. : C-2018-3002564

:

The York Water Company :

Office of Small Business Advocate :

:

v. : C-2018-3002811

:

The York Water Company :

**SCHEDULING ORDER**

A prehearing conference in this matter was scheduled for Tuesday, June 26, 2018 at 1:00 p.m. in Hearing Room 2of the Commonwealth Keystone Building. In accordance with the provisions of 66 Pa.C.S. §333 and 52 Pa.Code §§5.221-5.224, a prehearing conference order was issued on June 15, 2018 outlining various procedures as well as matters to be addressed at the prehearing conference.

In response to the prehearing conference order, the parties submitted prehearing memoranda outlining their respective positions on procedural matters, modifications to the Commission’s rules relating to discovery as well as a proposed litigation schedule. The prehearing conference convened on June 26, 2018 as scheduled. The following counsel appeared on the behalf of the respective parties:

Devin Ryan ………….……………... York Water Company

Michael Hassell……………………... York Water Company

Steven Gray ………………………… Office of Small Business Advocate

Harrison Breitman …………..……… Office of Consumer Advocate

Erin Gannon ………...……………… Office of Consumer Advocate

Allison Kaster ………………………. Bureau of Investigation & Enforcement

During the conference, various procedural matters were discussed. The following procedural schedule was agreed upon:

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| --- | --- |
| Supplemental Direct Testimony | July 10, 2018 |
| Other Parties Direct Testimony | August 23, 2018 |
| Rebuttal Testimony | September 20, 2018 |
| Surrebuttal Testimony | October 4, 2018 |
| Rejoinder Outlines | October 10, 2018 |
| Evidentiary Hearing | October 15 - 17, 2018 |
| Main Briefs | November 7, 2018 |
| Reply Briefs | November 21, 2018 |

The hearings will be held in Harrisburg in a hearing room in the Commonwealth Keystone Building and will begin at 10:00 a.m.

The parties have indicated that there is no present need for a public input hearing at this time.

York Water indicated that it intends to file a motion for issuance of a protective order in this matter.

Additionally, there was an agreement among the parties for modifications to the Commission’s discovery rules for this case. Those modifications are:

1. Answers to written interrogatories are to be served in-hand within ten (10) calendar days of service.

2. Objections to interrogatories are to be communicational orally within three (3) days of service of the interrogatories; unresolved objections are to be served on the Administrative Law Judge in writing within five (5) days of service of the interrogatories.

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

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

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

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

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

8. Any discovery served after 12:00 noon on a Friday or the day before a holiday will be deemed to have been served on the following business day for purposes of tracking due dates.

9. 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.

There are three related docket numbers in this matter as indicated in the above caption. Consolidation of these docket numbers was also discussed during the prehearing conference. All of the parties agreed to the consolidation of these docket numbers. A separate consolidation order has been issued memorializing the consolidation.

Finally, the parties are reminded that Commission policy promotes settlements. 52 Pa.Code § 5.231(a). The parties are encouraged to commence settlement discussions as early as possible. Even if the parties are unable to settle this case, they may still resolve some of the questions or issues during their discussions. If the parties reach an agreement on all issues, a formal hearing will not be necessary and the scheduled hearing will be cancelled. Any settlement, however, must be supported by substantial record evidence. 2 Pa.C.S. § 704.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the following schedule is adopted for this proceeding:

|  |  |
| --- | --- |
| Supplemental Direct Testimony | July 10, 2018 |
| Other Parties Direct Testimony | August 23, 2018 |
| Rebuttal Testimony | September 20, 2018 |
| Surrebuttal Testimony | October 4, 2018 |
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2. That the parties shall receive all documents and shall copy all other parties on documents they file with the Commission or serve on the undersigned. The parties are expected to conduct discovery, attend hearings, or present or cross-examine witnesses, as appropriate. The parties shall serve the documents listed above so that the documents are received in-hand by the parties and presiding officer no later than 4:00 p.m. on the dates listed, unless otherwise indicated. Parties may serve the documents listed above via e-mail or facsimile to meet this requirement, with hard copy to follow by regular first-class mail, as long as the electronic version is Microsoft Word compatible and no larger than 5 MB per email. The parties shall file a certificate of service and not testimony with the Commission.

3. That written testimony shall comply with the requirements of 52 Pa.Code § 5.412 and shall be marked with numerical, sequential statement numbers. Parties serving pre-served testimony pursuant to 52 Pa.Code § 5.412(f) are required, within thirty (30) days after the final hearing, to either eFile with or provide to the Secretary’s Bureau a Compact Disc (CD) containing all testimony furnished to the court reporter during the proceeding, consistent with the Commission’s Implementation Order, dated January 10, 2013, at Docket No. M-2012-2331973.

4. 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.

5. That the parties shall conduct discovery pursuant to 52 Pa.Code §§5.321-5.373 as modified consistent with the discussion above. The parties are encouraged to cooperate and exchange information on an informal basis. The parties shall cooperate rather than engage in numerous or protracted discovery disagreements that require formal resolution. There are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa.Code §§ 5.361, 5.371-5.372.

6. That the evidentiary hearing will be held in Harrisburg and will commence at 10:00 a.m. on October 15 - 17, 2018, unless changed by the presiding officer.

7. 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 administrative hearing resources. 52 Pa.Code §§ 5.232 and 5.234.

8. That the evidentiary hearing in this matter constitutes a formal legal proceeding and will be conducted in accordance with the Commission’s Rules of Administrative Practice and Procedure, as well as the rules of evidence as applied to administrative hearings.

9. That any provision of this 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: June 28, 2018

Benjamin J. Myers Administrative Law Judge

**R-2018-3000019 - C-2018-3002564 - C-2018-3002811 - PA PUBLIC UTILITY COMMISSION v. THE YORK WATER COMPANY**

**REVISED 6/27/18**

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