**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2019-3008208

Office of Consumer Advocate : C-2019-3011959

:

v. :

:

Wellsboro Electric Company :

Pennsylvania Public Utility Commission : R-2019-3008209

Office of Consumer Advocate : C-2019-3011850

Larry E. Cole : C-2019-3012219

Athens Borough : C-2019-3012397

South Waverly Borough : C-2019-3012396

:

v. :

:

Valley Energy, Inc. :

Pennsylvania Public Utility Commission : R-2019-3008212

Office of Consumer Advocate : C-2019-3011849

:

v. :

:

Citizens Electric Company of Lewisburg :

**SCHEDULING ORDER**

A prehearing conference in this matter was scheduled for September 13, 2019 at 10:00 a.m. 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 September 5, 2019 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 September 13, 2019 as scheduled. The following counsel appeared on the behalf of the respective parties:

Adeolu Bakare

Matthew Garber ….……..…... Citizens/Wellsboro Electric/Valley Energy

Christy Appleby

J.D. Moore ……...….……….. Office of Consumer Advocate (OCA)

Sharon Webb …………...….... Office of Small Business Advocate (OSBA)

Jonathan Foster ….……..….… South Waverly/Athens Borough

John Coogan ……..………..... Bureau of Investigation & Enforcement (I&E)

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

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| --- | --- |
| Other Parties Direct Testimony | October 15, 2019 |
| Settlement Conference | On/before November 1, 2019 |
| Rebuttal Testimony | November 14, 2019 |
| Surrebuttal Testimony | December 4, 2019 |
| Evidentiary Hearing | December 16 -17, 2019 |
| Main Briefs | January 6, 2020 |
| Reply Briefs | January 17, 2020 |

The hearing 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 a need for a public input hearing which will be scheduled as a Smart Hearing and conducted from Hearing Room 1 in the Commonwealth Keystone Building on November 4, 2019 at 1:00 p.m.

The parties have agreed to file tariffs supplements which will extend to the suspension period in all three of these matters until May 1, 2020.

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

a. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service. Discovery and discovery-related pleadings propounded after 12:00 noon on a Friday or after 12:00 noon on any business day immediately preceding a state holiday will be deemed served on the next business day for purposes of determining the due date of the responses and responsive pleadings.

b. Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served to the ALJ in writing within five (5) days of service of the interrogatories. Objections to interrogatories served on a Friday shall be communicated orally within four (4) calendar days, and unresolved objections shall be served to the ALJ in writing within six (6) days of service of the interrogatories.

c. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within five (5) calendar days of service of the written objections.

d. Answers to motions to dismiss objections and/or direct the answering of interrogatories shall be filed within five (5) calendar days of service of such motions.

e. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) calendar days.

f. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

g.        Any discovery-related pleading such as objections, motions, or answers served after 12:00 p.m. on a Friday or after 12:00 p.m. on the day before a holiday recognized by the Commission will be deemed to have been served on the following business day for purposes of tracking due dates.

The parties have agreed to use their best efforts to comply with discovery and to promptly communicate if a discover deadline cannot be met. Documents filed via e-service will be done so by 4:30 p.m. on the day of filing.

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:

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| --- | --- |
| Other Parties Direct Testimony | October 15, 2019 |
| Settlement Conference | On/before November 1, 2019 |
| Rebuttal Testimony | November 14, 2019 |
| Surrebuttal Testimony | December 4, 2019 |
| Evidentiary Hearing | December 16 -17, 2019 |
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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 4:30 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. The parties shall use their best efforts to comply with discovery and to promptly communicate if a discover deadline cannot be met.

6. That a public input hearing will be held in Hearing Room 1 in the Commonwealth Keystone Building on November 4, 2019 at 1:00 p.m. unless changed by the presiding officers.

7. That the evidentiary hearing will be held December 16 -17, 2019 and will commence at 10:00 a.m. unless changed by the presiding officers.

8. 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.

9. 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.

10. 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: September 16, 2019 /s/

Steven K. Haas Administrative Law Judge

Date: September 16, 2019 /s/

Benjamin J. Myers Administrative Law Judge

**R-2019-3008209, 3008212, 3008208 PA PUBLIC UTILITY COMMISSION V   
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