*Via electronic service only due to Emergency Order at M-2020-3019262*

**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, et al. :

:

v. : R-2020-3022134

:

Pike County Light and Power Company - Gas :

Pennsylvania Public Utility Commission, et al. :

:

v. : R-2020-3022135

:

Pike County Light and Power Company - Electric :

**PREHEARING ORDER**

On October 26, 2020, Pike County Light & Power Company (PCLP), filed Supplement No. 110 to Tariff Gas - Pa. P.U.C. No. 6 to become effective December 28, 2020, and docketed at R-2020-3022134 (Gas Filing). Tariff 6 contains proposed changes in rates, rules, and regulations calculated to produce $262,000 (16%) in additional annualrevenues.

Also on October 26, 2020, Pike County Light & Power Company (PCLP), filed Supplement No. 82 to Tariff Electric - Pa. P.U.C. No. 8 (Tariff No. 8) to become effective December 28, 2020, and docketed at R-2020-3022135 (Electric Filing). Tariff No. 8 contains proposed changes in rates, rules, and regulations calculated to produce an increase of $1,933,600 (24.7%) in additional annualrevenues.

BIE filed entries of appearance in both cases. OCA and OSBA, each filed complaints to both filings. Additionally, several ratepayers filed formal complaints.

By order entered December 17, 2020, the Commission suspended the Gas and Electric Filings until July 28, 2021, and instituted an investigation to determine the lawfulness, justness and reasonableness of the rates rules and regulations contained in the proposed tariff supplements.

By hearing notice dated December 17, 2020, the filings were assigned to me and a prehearing conference was scheduled for January 11, 2021.

The prehearing conference convened as scheduled. Counsel for PCLP, BIE, OCA and OSBA appeared. Additionally, three of ratepayer complainants, Charles Gillinder, John Dalton and Shelly Saul appeared and participated. This prehearing order memorializes the matters decided and agreed upon by the parties attending the conferences, as well as agreements made among the parties regarding the litigation schedule following the conferences.

**Litigation Schedule**

The parties agree upon the following litigation schedule:

|  |  |
| --- | --- |
| Date | Event |
| February 2, 2021 | Service of written direct testimony of all other parties |
| February 8, 2021 | Telephonic public input hearings, 1:00 p.m. and 6:00 p.m. |
| February 22, 2021 | Service of written rebuttal testimony |
| March 4, 2021 | Service of written surrebuttal testimony |
| March 8, 2021 | Written rejoinder outline and witness matrix listing the parties intending to cross-examine each witness and the extent of any cross-examination |
| March 9-12, 2021 | Telephonic technical evidentiary hearings |
| March 30, 2021 | Filing and service of main briefs |
| April 9, 2021 | Filing and service of reply briefs or submission of joint settlement petition executed by representatives of parties thereto, together with all parties’ statements in support of joint petition/settlement |

The parties are reminded of the Commission’s requirements for the preparation and filing of written testimony. 52 Pa.Code § 5.412. Written testimony must be accompanied by all exhibits to which it relates. Technical terms and concepts are to be clearly defined and explained in the testimonies and briefs. **The parties are to agree on a list of common acronyms and use them consistently in all written testimony and briefs.**

The above-stated dates are in-hand dates for service on the parties and the presiding Administrative Law Judge (ALJ). The parties at the prehearing conference and the presiding ALJs agreed to accept electronic service of such material,[[1]](#footnote-1) so long as the subject email is received by the date due. **Until further notice, there is no requirement to follow electronic service by sending a hard copy of the same material via first-class mail postage prepaid to the parties designated on the Service List or by express mail service.** The email addresses of the presiding ALJ: [malong@pa.gov](mailto:malong@pa.gov)

Hearings will begin promptly each day. Although one procedural schedule has been adopted for both the Gas Filing and the Electric Filing, these filings have not been consolidated for hearing and decision. The presentation of evidence will begin with testimony related to the Gas Filing. When all the testimony related to the Gas Filing has been completed, testimony and evidence related to the Electric filing will be presented. The parties should keep the order of proceeding in mind when developing the rejoinder outlines and witness matrices set forth above.

The parties must confer before commencement of the hearings to schedule their witnesses so as to avoid “holes” or “dead time” during the hearings. In the event that a partial settlement is achieved the parties should be prepared to proceed on the first scheduled day of hearing to present evidence on the non-resolved issues.

**Service List**

A combined service list of the parties for the Gas Filing and Electric Filing is attached to this order.

All parties will receive copies of orders, hearing notices, the recommended decision and the Commission’s decision. The parties are permitted without further order to limit the service of documents to parties who indicate that they do not wish to be served with such documents, such as discovery, discovery responses and testimony. Any ratepayer-complainant who wishes to receive copies of discovery, discovery responses and written testimony shall notify counsel for PCLP of this election.

**Public Input Hearings**

The parties have agreed that there is sufficient public interest to convene public input hearings. Due to the current status of Pennsylvania in regard to the Covid-19 pandemic, these hearing will be conducted by telephone. OCA has agreed to be responsible to coordinate with the parties and obtain a witness list for the proceeding, which list shall be provided to the ALJ and all parties in advance of the scheduled hearings.

Public input hearings shall be held on **February 8, 2021, at 1:00 p.m. and 6:00 p.m.** PCLP is hereby ordered to publish notice of the date, time and registration instructions for the public input hearings in at least both newspapers of general circulation that were identified at the prehearing conference in PCLP’s service territory, weekly, for two consecutive weeks, beginning with **Sunday, January 24, 2021**. PCLPs further ordered to file proof of publication with the Commission’s Secretary’s Bureau. PCLP is further ordered to publish notice of the public input hearings on its website, social media and through any other electronic means available.

OCA shall provide witness lists for the hearings to the ALJ by 1:00 p.m. on **Friday, February 5, 2021.**

**Issues**

In their respective prehearing memoranda, the parties identified various issues they may wish to pursue. The reader is directed to these documents to review a recitation of these issues. Additional issues may arise as the discovery process develops.

## Discovery

The parties shall engage in informal discovery whenever and wherever possible in an attempt to resolve any discovery disputes amicably. 52 Pa.Code § 5.322. If this process fails, the parties have recourse to the Commission’s procedures for formal discovery, as herein modified. 52 Pa.Code §§ 5.321, *et* *seq*. The parties must not send the presiding ALJ, discovery material or cover letters, unless attached to a motion to compel. All motions to compel must contain a certification of counsel of the informal discovery undertaken and their efforts to resolve their discovery disputes informally. If a motion to compel fails to contain such certification, the presiding ALJs will contact the parties and direct them to pursue informal discovery.

PCLP and BIE proposed modification of the Commission’s procedures for formal discovery. The following modified discovery procedure applies to this case:

1. Answers to interrogatories shall be served in-hand within seven (7) calendar days of service of the interrogatories.

2. Objections to interrogatories shall be communicated orally within three (3) calendar days of service; unresolved objections shall be served to the presiding ALJs in writing within seven (7) calendar days of service of interrogatories.

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

4. 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.

5. Any discovery or discovery-related pleadings 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 tracking due dates.

All discovery due dates shall be “in-hand” and electronic or fax service on the due date will satisfy the “in-hand” requirement.

**Pre-Served Testimony and Exhibits**

Confidential Security Information (CSI) as defined by 35 P.S. § 2141 *et seq.* should not be transmitted by email or other electronic means. The parties are to avoid introducing CSI into the record and should develop alternative means, such as joint stipulations or redaction when proposing testimony or exhibits. If there is no other alternative to establish a material fact other than by CSI, the parties are to contact the presiding ALJ immediately and in advance of the evidentiary hearing.

No written testimony will be admitted into evidence unless accompanied by a verification or affidavit of the witness.

**Settlement and Stipulations**

The parties are reminded it is the Commission’s policy to encourage settlements. 52 Pa.Code § 5.231(a). The parties are strongly urged to seriously explore this possibility. Submission of a fully executed joint settlement petition, together with all parties’ statements in support of the joint petition/settlement, must be filed with the Secretary for the Commission and received in-hand by the presiding ALJ no later than the close of business on **April 9, 2021**.

If settlement is not feasible, the parties are encouraged to 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. All stipulations entered into by the parties must be reduced to writing, signed by the parties to be bound thereby, and moved into the record during the hearings in this case. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.

**Cross-Examination**

Friendly cross-examination or cumulative cross-examination during hearings will not be permitted. 52 Pa.Code §§ 5.76; 5.243.

**Briefs and Reply Briefs**

The parties shall file separate briefs for the Gas Filing and the Electric Filing. The parties must comply with 52 Pa.Code §§ 5.501, et seq., regarding the preparation and filing of briefs. Briefs must include proposed conclusions of law and proposed ordering paragraphs. Page limitations on briefs will be discussed on or before the last day of hearing. The parties shall submit to the presiding ALJ one hard copy of their briefs and one copy by email. The electronic version of a brief must be prepared in Microsoft Office Word format. If in doubt, please email the presiding ALJ for clarification.

IMPORTANT NOTICE: All briefs must conform to the “Instructions for Briefs” attached hereto as Appendix A and made a part of this order. Also, Rate Case Tables will be electronically provided to the parties. These Tables must be used by PCLP and all parties in this proceeding. If any party fails to follow these instructions in the smallest detail that party’s position will not be considered, regardless of where the record may support it or the position of any other party to this proceeding. Your anticipated cooperation will be appreciated.

**Modification**

Any of the provisions of this Prehearing Order may be modified upon motion and good cause shown by any party in interest.

Date: January 14, 2021  /s/

Mary D. Long

Administrative Law Judge

**APPENDIX A**

**INSTRUCTIONS FOR BRIEFS**

Each brief shall follow the general organization shown herein.

Adjustments contained in each brief shall:

1. Be based on a specific test year, to be selected before the close of record;
2. be complete and self-contained;
3. include accurate reference to the appropriate record sources;
4. be on a before-income-tax basis;
5. be detailed to demonstrate the step-by-step calculation of that adjustment together with appropriate accurate record references;
6. include concomitant rate base, revenue, expense, depreciation expense, and tax adjustments set forth, together with the details of their calculation;
7. include with the brief those calculations which are the basis for proposed adjustments but which are incomplete on the record.

Tables showing all proposed rate base and income adjustments shall be submitted with each brief which includes such adjustment.

STANDARD FORMAT

1. Introduction
2. Summary of Argument
3. Rate Base
4. Fair Value
5. Plant in Service
6. Depreciation Reserve
7. Additions to Rate Base
8. Conclusion
9. Revenues
10. Expenses
11. Taxes
12. Rate of Return
13. Miscellaneous Issue(s)
14. Rate Structure
15. Cost of Service
16. Revenue Allocation
17. Tariff Structure
18. Summary and Alternatives
19. Conclusion

**R-2020-3022134 - PA PUBLIC UTILITY COMMISSION v. PIKE COUNTY LIGHT & POWER COMPANY – GAS**

**&**

**R-2020-3022135 - PA PUBLIC UTILITY COMMISSION v. PIKE COUNTY LIGHT & POWER COMPANY – ELECTRIC**

*Revised 1/12/21*

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1. For parties accepting electronic service, the documents are to be served electronically on the date indicated, by 4:00 p.m. unless otherwise indicated. For parties not accepting electronic service and not located in Harrisburg, documents are due in hand the following business day. [↑](#footnote-ref-1)