**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, *et al* : R-2021-3024773

: C-2021-3025473

v. :C-2021-3025516

:

Pittsburgh Water and Sewer Authority - Water :

Pennsylvania Public Utility Commission, *et al* : R-2021-3024774

: C-2021-3025471

v. : C-2021-3025517 :

Pittsburgh Water and Sewer Authority - Wastewater :

Pennsylvania Public Utility Commission, *et al* : R-2021-3024779

: C-2021-3025474

v. :C-2021-3025521

:

Pittsburgh Water and Sewer Authority - Stormwater :

**PREHEARING ORDER**

On April 13, 2021, Pittsburgh Water and Sewer Authority (“PWSA”) filed with the Pennsylvania Public Utility Commission (“Commission”): (1) a water base rate case at Docket No. R-2021-3024773; (2) a wastewater base rate case at Docket No. R-2021-3024774; (3) a stormwater base rate case at Docket No. R-2021-3024779, (4) a Petition for Waiver of Statutory Definition of Fully Projected Future Test Year (“FPFTY Waiver Petition”); and (5) a Petition for Consolidation of Water, Wastewater, and Stormwater Rate Proceedings and For Authorization to Use Combined Water, Wastewater, and Stormwater Revenue Requirements (“Base Rate Consolidation Petition”).

By Orders entered May 20, 2021, the proposed Tariffs were suspended by operation of law until January 12, 2022. The Commission ordered an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed Tariffs. The Commission also ordered an investigation into the reasonableness of PWSA’s existing rates, rules, and regulations.

A Prehearing Notice was issued, and a Prehearing Conference Order was entered on May 25, 2021, scheduling a telephonic prehearing conference in this matter for today, June 1, 2021.

The prehearing conference was held as scheduled. This order memorializes certain procedural matters addressed at the prehearing conference.

THEREFORE,

IT IS ORDERED:

**Petitions**

1. That the Petition to Intervene filed by Pittsburgh United on April 26, 2021, is granted.
2. That thee Petition to Intervene filed by City of Pittsburgh on May 28, 2021, is granted.

3. That the Petition of PWSA for consolidation of water, wastewater, and stormwater rate proceedings and for authorization to use combined water, wastewater, and stormwater revenue requirements is granted.

4. That the Petition of PWSA for Waiver of Statutory Definition of Fully Projected Future Test Year is granted.

5. That the parties of record as of this date are PWSA, Office of Consumer Advocate (OCA), Office of Small Business Advocate (OSBA), the Commission’s Bureau of Investigation and Enforcement (I&E), Pittsburgh United and the City of Pittsburgh.

**Litigation Schedule**

6. That the following litigation schedule is adopted:

Prehearing Conference June 1, 2021

PWSA Supplemental Direct Testimony 6/14/2021

Public Input Hearings June 22, 23 and 24, 2021

*(1:00 p.m. and 6:00 p.m. each day)*

Direct testimony of other parties July 9, 2021

Rebuttal testimony August 9, 2021

Surrebuttal testimony August 20, 2021

Rejoinder Outline or Testimony August 26, 2021

Witness Matrix August 27, 2021

Evidentiary hearing August 31 – September 2, 2021

Main Briefs September 22, 2021

Reply Briefs October 4, 2021

Commission Public Meeting January 13, 2021

End of Suspension Period January 13, 2021

**Public Input Hearings**

7. That public input hearings shall be held on **June 22, 23 and 24, 2021, at 1:00 p.m. and 6:00 p.m. each day.**

8. That PWSA shall publish notice of the date, time and registration instructions for the public input hearings in at least one newspaper of general circulation in the PWSA’s service territory, weekly, for two consecutive weeks. PWSA is further ordered to file proof of publication with the Commission’s Secretary’s Bureau. PWSA is further ordered to publish notice of the public input hearings on its website, social media and through any other electronic means available.

9. That after consultation with the parties, PWSA shall provide the Administrative Law Judge (ALJ) with written registration instructions for witnesses who want to testify or observe the public input hearings for publication in the Commission’s hearing notice no later than **June 9, 2021.**  OCA shall provide witness lists for the hearings to the ALJ by noon on **Monday, June 21, 2021.**

## Discovery

10. That 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:

a. Answers to interrogatories shall be served in-hand within fifteen (15) calendar days of service of the interrogatories. All parties will make best efforts to provide responses within ten (10) calendar days of service. After service of the direct testimony of the non-Company parties’ testimony, the party’s answers to written interrogatories, served in-hand within ten (10) calendar days of service.

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

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

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

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

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

g. 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.

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

52 Pa.Code §§ 5.321, et seq.

11. That pursuant to 52 Pa. Code §5.341(b), the parties must not send the presiding ALJ discovery material or cover letters, unless attached to a motion to compel.

12. That 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 ALJ will contact the parties and direct them to pursue informal discovery.

**Pre-filed Written Testimony**

13. That the parties comply with the Commission’s requirements for the preparation and service of written testimony. 52 Pa. Code § 5.412. These include, but are not limited to, the requirement that written testimony must be accompanied by all exhibits to which it relates. Written testimony shall be marked with numerical, sequential statement numbers. Oral direct, rebuttal or surrebuttal testimony or witnesses not identified in a party’s prehearing memorandum shall not be permitted, except by permission for good cause.

14. That 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.**

15. That no written testimony will be admitted into evidence unless accompanied by a verification of affidavit of the witness.

16. That any motions with respect to, or objections to, written testimony must be presented in writing no later than three days prior to the day that the witness sponsoring that testimony is scheduled to testify. Answers to such motions or objections may be filed within three days or sooner if circumstances warrant. Oral motions, other than for good cause, shall not be accepted.

17. That the parties shall comply with the provisions of 52 Pa. Code § 5.243(e) which prohibit 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.

18. 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. All stipulations entered into by the parties shall 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.

19. That the evidentiary hearings in this matter constitute formal legal proceedings 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.

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

21. That parties serving pre-served testimony in proceedings pending before the Commission pursuant to 52 Pa. Code § 5.412(f) shall be required, within thirty (30) days after the final hearing in an adjudicatory proceeding 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.

**Briefs and Reply Briefs**

22. That the parties must comply with 52 Pa. Code §§5.501, et seq., regarding the preparation and filing of briefs. Service can be made electronically by no later than 4:30 p.m. on the dates listed. Parties are directed to e-mail me a copy of their as-filed briefs in ADOBE or other compatible PDF format in addition to a WORD-formatted document. The format of the briefs served electronically on the parties may be as requested by the parties.

23. That all briefs shall comply with the requirements of 52 Pa. Code §§ 5.50l 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 table of contents;

B. A history of the proceeding;

C. A discussion;

D. Proposed findings of facts (with record citations to transcript pages or exhibits where supporting evidence appears);

E. Proposed conclusions of law (with citations to supporting statutes, regulations or relevant case law); and

F. Proposed ordering paragraphs specifically identifying the relief sought.

52 Pa. Code § 5.501(e) requires that “Briefs shall be as concise as possible.” Page limitations on briefs will be discussed on or before the last day of hearing.

24. That if a party does not file a reply brief, it will be assumed 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.

25. 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.

**Settlement and Stipulations**

26. That the parties are to confer among themselves in an attempt to resolve all or some of the issues associated with these Complaints. 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. A joint settlement petition executed by representatives of all parties to be bound thereby, together with statements in support of settlement by all signatory parties, must be filed with the Secretary for the Commission and served on us.

**Modification**

27. 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).

Dated: June 8, 2021

/s/

Eranda Vero

Administrative Law Judge

**R-2021-3024773, et al. - PA PUBLIC UTILITY COMMISSION v. THE PITTSBURGH WATER AND SEWER AUTHORITY**

Updated 6-2-21

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