BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission : R-2022-3031113

Office of Consumer Advocate : C-2022-3031737

Office of Small Business Advocate : C-2022-3031858

Byron L. Goldstein : C-2022-3032005

:

v. :

:

PECO Energy Company – Gas Division :

# **PREHEARING CONFERENCE ORDER**

On March 31, 2022, PECO Energy Company – Gas Division (PECO), filed Tariff Gas – Pa. P.U.C. No. 5 (Tariff No. 5) to become effective May 30, 2022. PECO is proposing an annual increase of approximately $81.2 million (9.1%) in additional distribution revenue.

On April 4, 2022, the Office of Consumer Advocate (OCA) filed a formal Complaint, Public Statement, Verification, and a Notice of Appearance on behalf of Laura J. Antinucci, Esq., et. al. The Complaint was docketed at C-2022-3031737.

On April 4, 2022, Scott B. Granger, Esq., entered a Notice of Appearance on behalf of the Bureau of Investigation and Enforcement (I&E).

On April 8, 2022, the Office of Small Business Advocate (OSBA) filed a formal Complaint, Public Statement, Verification, and a Notice of Appearance on behalf of Steven C. Gray, Esq. The Complaint was docketed at C-2022-3031858.

On April 13, 2022, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene in this proceeding.

By Order entered April 14, 2022, the Pennsylvania Public Utility Commission (Commission) instituted an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase. Pursuant to Section 1308(d) of the Public Utility Code, 66 Pa.C.S. § 1308(d), the filing was suspended by operation of law until December 30, 2022, unless permitted by Commission Order to become effective at an earlier date. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness and reasonableness of PECO’s existing rates, rules, and regulations. The matter was assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

On April 18, 2022, Byron L. Goldstein filed a *pro se* formal Complaint. The Complaint was docketed at C-2022-3032005.

In accordance with the Commission’s April 14, 2022, Suspension Order, the matter was assigned to me.

A Prehearing Conference is scheduled in this case for **Wednesday, April 27, 2022, at 10:00 a.m.**

The parties are hereby directed to comply with the following requirements:

1. That a request for a change of the scheduled Prehearing Conference date must state the agreement or opposition of other participants and must be submitted in writing no later than five (5) days prior to the Prehearing Conference. 52 Pa.Code § 1.15(b). Requests for changes of the Prehearing Conference date must be sent to me and all participants of record.
2. That absent a continuance for good cause, all parties must be prepared to participate in the scheduled Prehearing Conference. Failure of a party to participate in the conference, after being served with notice of the date, time, and location thereof, without good cause shown, shall constitute a waiver of all objections to the agreements reached, and an order or ruling with respect thereto.
3. That the Commission’s regulation concerning prehearing conferences in rate proceedings is located at 52 Pa.Code § 5.224. Accordingly, we will discuss the following:
4. A proposed plan and schedule of discovery;
5. Possibility of settlement;
6. Issues;
7. Amount of hearing time needed;
8. Witnesses;
9. Schedule for submission of testimony, hearings and briefs;
10. Public Input hearings;
11. The Borough’s DSIC petition at Docket # P-2021-3026854; and
12. Any other appropriate matter.
13. That each active participant must file and serve, on or before 12:00 p.m., Tuesday, April 26, 2022, a prehearing conference memorandum which sets forth the history of these proceedings and addresses the agenda items listed above. **If more than one attorney represents a party, your prehearing memorandum should identify one attorney who will speak as the lead attorney for the purposes of the prehearing conference.** The following is my proposed schedule for hearings and briefs:

Hearings for cross-examination of all Week of Aug. 15, 2022

witnesses, oral rebuttal/surrebuttal

Close of Record Friday, Aug. 19, 2022

Main Briefs Due Wednesday, Sept. 7, 2022

**Reply Briefs Due Monday, Sept. 19, 2022 (by 12:00 p.m.)\***

Public Meeting Thursday, Dec. 22, 2022

End of Suspension Friday, Dec. 30, 2022

**\* This Date is Non-negotiable.**

1. That the parties shall review the regulations relating to discovery, specifically 52 Pa.Code § 5.331(b), which provides, inter alia, that “[a] party shall initiate discovery as early in the proceeding as reasonably possible,” and 52 Pa.Code § 5.322, which encourages participants to exchange information on an informal basis. All participants are urged to cooperate in discovery. There are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa.Code §§ 5.361, 5.371-372.
2. That pursuant to 52 Pa.Code §§ 1.21-1.23, you may represent yourself, if you are an individual, or you may have an attorney licensed to practice law in the Commonwealth of Pennsylvania, or admitted pro hac vice, represent you. However, if you are a partnership, corporation, trust, association, joint venture, other business organization, trust, trustee, legal representative, receiver, agency, governmental entity, municipality, or other political subdivision, you must have an attorney licensed to practice law in the Commonwealth of Pennsylvania or admitted pro hac vice represent you in this proceeding. Unless you are an attorney, you may not represent someone else. Attorneys shall ensure that their appearance is entered in accordance with the provisions of 52 Pa.Code § 1.24(b).
3. That the parties must serve me directly with a copy of any document that they file in this proceeding. Also, if a party sends me any correspondence or document, that party must send a copy to all other parties that have declared they are actively participating in these proceedings. Parties may serve documents electronically by 4:30 p.m. to meet any required due date. Since documents can be submitted to me and the participants by e-mail, e-mail addresses are included on the attached service list. Please check the list for omissions and errors and contact my office to make corrections.
4. That the parties shall stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expense 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 warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.
5. That the parties are to confer amongst themselves in an attempt to resolve all or some of the issues associated with this filing. 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.

Date: April 20, 2022 /s/

F. Joseph Brady

Administrative Law Judge

**R-2022-3031113 - PENNSYLVANIA PUBLIC UTILITY COMMISSION v. PECO ENERGY COMPANY – GAS DIVISION**

***Revised April 20, 2022***

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