**Before the**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

John Kerr Musgrave IV :

: C-2020-3020714

v. :

:

Pittsburgh Water and Sewer Authority :

**INTERIM ORDER**

**CANCELLING EVIDENTIARY HEARING**

**AND ESTABLISHING LITIGATION SCHEDULE**

Introduction

A Prehearing Conference was held on April 7, 2022, at 10:00 a.m., in the above-captioned matter. Mr. John Musgrave IV (Complainant or Mr. Musgrave) was present and represented himself. Lauren M. Burge, Esquire, appeared on behalf of the Company. After discussion of the evidentiary hearing procedure, the parties’ potential witnesses and exhibits, and the parties’ interest in discovery, the undersigned deems it appropriate to cancel the evidentiary hearing scheduled for May 25, 2022, at 10:00 a.m., and establish the following litigation schedule.

Under the circumstances, the Parties are hereby directed to comply with the following terms.

Litigation Schedule

The Parties shall comply with the following initial litigation schedule:

a. ***ON OR BEFORE May 13, 2022***, any Party wishing to present factual or expert testimony of any person other than Complainant must provide to the other Party in writing, the name and business address of that person (if an expert), and a written summary of the expected testimony of that person. The Parties shall also identify whether each witness will testify as a fact/lay witness or an expert witness. If the proposed witness is going to be offered as an expert witness, the Party shall provide the expert report the expert will be sponsoring, if any.

1. ***ON OR BEFORE July 8, 2022***,the Parties shall conclude discovery in this proceeding.
2. ***ON OR BEFORE July 15, 2022,*** the Parties shall file any dispositive motions and motions in limine. .
3. ***ON OR BEFORE July 27, 2022,*** the Parties shall file any responses to dispositive motions or motions in limine filed by the opposing Party. .
4. ***ON OR BEFORE August 10, 2022***, the Parties shall file a status report in this proceeding and serve the opposing Party and the undersigned Presiding Officer. The parties may file a joint status report. Regardless of whether filed separately or individually, the Parties shall identify their availability for an evidentiary hearing to be held in August/September of 2022, as well as any outstanding issues.

Commission Rules and Procedures

This matter is a formal proceeding and will be conducted in accordance with the Commission’s Rules of Practice and Procedure.

Complainant bears the burden of proof and must demonstrate by a preponderance of the evidence that Respondent violated its tariff, the Public Utility Code or a Commission order or regulation, and that he is entitled to the relief requested in the Complaint.

**If anyone you plan to call as a witness on your behalf has a limited ability to speak or understand English or are deaf or hearing-impaired, a qualified interpreter can be provided upon your request. If you want an interpreter, please contact the Scheduling Office at least twenty (20) days before the scheduled hearing to make your request**. Scheduling Office: (717) 787-1399. AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

Service

Service of documents and pleadings shall be made in accordance with the Commission’s Rules of Practice and Procedure. Service between the parties shall be service by email, unless the parties otherwise indicate to the other Party.

The undersigned Presiding Officer agrees to be served by email at [edevoe@pa.gov](mailto:edevoe@pa.gov).

Discovery

The Parties shall engage in informal discovery whenever and wherever possible and 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 undersigned Presiding Officer any discovery requests, responses or material or cover letters, unless attached to a motion to compel. All motions to compel must contain a certification of the Party, or from counsel if represented, regarding 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 Officer will contact the Parties and direct them to pursue informal discovery.

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. The Settlement Judge Procedure is also available upon consent of the Parties.

If settlement is not feasible, the Parties are encouraged to stipulate to any matters they reasonably can in order 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. All stipulations entered into by the Parties must be reduced to writing, signed by the Parties to be bound thereby, and accepted into the record during the hearings in this case or prior to the hearing by interim order. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation may be permissible, if accepted and as directed by the Presiding Officer.

Request For Protective Order

The Commission’s regulations (52 Pa.Code § 5.423) specifically provide for the protection of “confidential” information in order to ensure that adequate procedural safeguards are put in place to make certain that sensitive information is not improperly disclosed to the

public. In the event that any Party is desirous of entering into an agreement with regard to a

protective order or wishes that a protective order be entered by the undersigned Presiding Officer, the Parties shall confer and discuss a possible agreement or protective order to address the disclosure and use of the discovery materials and other sensitive information in this proceeding. In the event the Parties are unable to reach an agreement, any Party may request the entry of a protective order consistent with the Commission’s rules and regulations.

Subpoenas

Any Party intending to file an application for issuance of a subpoena, is directed to review the Commission’s procedures established in 52 Pa.Code § 5.421. Such Party shall submit its written application to the Presiding Officer sufficiently in advance of the hearing date so that: (1) the other party and/or third party subject of the subpoena will have the required ten (10) days’ notice to answer or object; (2) the requesting party will have sufficient time to receive and serve the subpoena, if issued; and (3) the requesting party will have sufficient time to receive the subpoenaed materials, if any, and prepare them for use at the evidentiary hearing.

Motions

Motions shall be filed in accordance with the Commission’s rules at 52 Pa. Code §§ 5.102, 5.103, as applicable.

Prehearing Conference

Any Party may request a prehearing conference or settlement conference, in writing, after conferring with the opposing Party and requesting the scheduling of such a conference in writing to the Presiding Officer.

Modification

Any of the provisions of this Order may be modified by an interim order entered into the record upon motion and good cause shown by a Party in interest.

Date: May 5, 2022

Emily I. DeVoe

Administrative Law Judge

**C-2020-3020714 - JOHN KERR MUSGRAVE IV v. THE PITTSBURGH WATER AND SEWER AUTHORITY**JOHN KERR MUSGRAVE IV 6059 BUNKERHILL STREETPITTSBURGH PA 15206-1155**412.661.2374**jmusky@earthlink.netAccepts eServiceSHANNON BARKLEY ESQUIREPWSAPENN LIBERTY PLAZA I1200 PENN AVENUE 2ND FLOORPITTSBURGH PA 15222**412.676.6685**sbarkley@pgh2o.comAccepts eServiceLAUREN M BURGE ESQUIREECKERT SEAMANS CHERIN & MELLOTT LLC600 GRANT STREET 44TH FLOORPITTSBURGH PA 15219**412.566.2146**lburge@eckertseamans.comAccepts eService  
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