**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 ORDER NO. 2**

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 to which no parties objected.

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.

By Hearing Notice dated April 15, 2022, a Telephonic Prehearing Conference was scheduled for April 27, 2022, at 10:00 a.m. and the matter was assigned to me.

A Prehearing Order was issued on April 20, 2022, advising the parties of the date and time of the scheduled Prehearing Conference, and informing them of the procedures applicable to this proceeding.

On April 25-26, 2022, Prehearing Memoranda were filed by PECO, OCA, OSBA, I&E, PAIEUG, and CAUSE-PA.

A Telephonic Prehearing Conference was held on April 27, 2022. Counsel for PECO, OCA, OSBA, I&E, PAIEUG, and CAUSE-PA participated. Consumer Complainant Byron L. Goldstein also appeared *pro se*.[[1]](#footnote-1)

This Prehearing Order memorializes the matters decided and agreed upon by the parties attending the April 27, 2022, Prehearing Conference.

**ORDER**

THERERFORE,

IT IS ORDERED:

1. That the Petition to Intervene filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania is granted.
2. That the active parties of record as of this date are PECO, OCA, OSBA, I&E, PAIEUG, and CAUSE-PA.
3. That the motion for admission *pro hac vice* filed on April 26, 2022, by Charis Mincavage, Esquire, on behalf of Diamond U. Wade, Esquire is granted. Diamond U. Wade, Esquire is admitted *pro hac vice* to represent PAIEUG in this proceeding. Charis Mincavage, Esquire remains counsel of record for PAIEUG in accordance with Pa. B.A.R. 301(a).
4. That the parties may arrange service amongst themselves as they agree.
5. That parties may serve documents electronically by 4:30 p.m. to meet any required due date, with the provision that large documents not able to be transmitted electronically may be hand-delivered to the parties located in Harrisburg on the due date and received the next business day by parties located outside Harrisburg.
6. That discovery shall be conducted according to the Commission’s rules and regulations at 52 Pa. Code § 5.321 *et seq*, subject to the following modifications:
7. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service of the interrogatories or requests for production.
8. Objections to interrogatories and/or requests for production shall be communicated orally within three (3) calendar days of service; unresolved objections shall be served in writing within five (5) calendar days of service of the interrogatories and/or requests for production.
9. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of written objections.
10. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.
11. Requests for admission be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
12. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.
13. On the Record Data requests will be provided within five (5) calendar days.
14. That the parties are required to attempt to resolve discovery disputes among themselves prior to seeking a resolution from the Administrative Law Judge.
15. That discovery disputes may be resolved via telephone conference with the Administrative Law Judge without the need for filing a motion to compel, although the propounding party may choose to file a formal motion to compel.
16. That the following schedule is adopted:

**Subject Date**

Rate Case Filing March 31, 2022

Prehearing Conference April 27, 2022

Public Input Hearings June 1, 2022, 1:00 pm and 6:00 pm

Non-Company Direct Testimony June 22, 2022

Rebuttal Testimony July 21, 2022

Surrebuttal Testimony August 4, 2022

Oral Rejoinder Outline August 9, 2022

Oral Rejoinder Testimony and Hearings August 11-12, 2022

Close of Record August 12, 2022

Main Briefs Due September 7, 2022

Reply Briefs Due September 19, 2022 (by 12:00 p.m.)

Public Meeting December 8, 2022

End of Suspension December 30, 2022

1. That the August 11-12, 2022, hearings will be held telephonically and commence at 9:00 a.m. Parties will complete the daily witness listing and cross-examination grid as directed.
2. 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.
3. In accordance with the schedule set forth above, main briefs must be filed with the Secretary of the Commission and received by all parties no later than 4:30 p.m. on the date listed; reply briefs must be filed with the Secretary and received by all parties no later than 12:00 p.m. on the date listed.
4. That an original copy of all briefs must be filed with the Secretary, in accordance with 52 Pa. Code § 5.502(b), and one copy served on the presiding officer and the other parties no later than 4:30 p.m. on the dates listed. Service can be made electronically.[[2]](#footnote-2)
5. That all briefs shall comply with the requirements of 52 Pa. Code §§ 5.501 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:
6. A table of contents;
7. A history of the proceeding;
8. A discussion;
9. Proposed findings of fact (with record citations to transcript pages or exhibits where supporting evidence appears);

1. Proposed conclusions of law (with citations to supporting statutes, regulations or relevant case law); and
2. Proposed ordering paragraphs specifically identifying the relief sought.

**Please note 52 Pa. Code § 5.501(e) requires that “[b]riefs shall be as concise as possible.”**

1. That the parties are to confer amongst themselves to resolve all, or as many as possible, of the issues associated with this proceeding. 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. If a settlement is reached, 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 the presiding officer.
2. That the parties shall comply with the procedural rules and regulations discussed herein.
3. That any of the provisions of this Prehearing Order may be modified upon motion and good cause shown by any party in interest.

Date: May 11, 2022 /s/

F. Joseph Brady

Administrative Law Judge

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

***Revised May 10, 2022***

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1. Mr. Goldstein stated that he would like to be an inactive participant. [↑](#footnote-ref-1)
2. Parties are directed to e-mail me a copy of their as-filed briefs in a WORD-formatted document in addition to ADOBE or other compatible PDF format. The format of the briefs served electronically on the parties may be as requested by the parties. [↑](#footnote-ref-2)