**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2022-3031704

Office of Small Business Advocate : C-2022-3031902

Richard Shorin : C-2022-3032690

:

v. :

:

Borough of Ambler – Water Department :

**SCHEDULING ORDER**

A prehearing conference in this matter was scheduled for June 6, 2022 at 10:00 a.m. In accordance with the provisions of 66 Pa.C.S. §333 and 52 Pa.Code §§5.221-5.224, a prehearing conference order was issued on May 18, 2022 outlining various procedures as well as matters to be addressed at the prehearing conference.

In response to the prehearing conference order, the parties submitted prehearing memoranda outlining their respective positions on procedural matters, modifications to the Commission’s rules relating to discovery as well as a proposed litigation schedule. The prehearing conference convened on June 6, 2022 as scheduled. The following counsel appeared on the behalf of the respective parties:

Adeolu Bakare….……..…... Borough of Ambler – Water Department

Christine Maloni Hoover……...….……….Office of Consumer Advocate (OCA)

Sharon Webb …………...….... Office of Small Business Advocate (OSBA)

Allison Kaster ……..………..... Bureau of Investigation & Enforcement (I&E)

During the conference, various procedural matters were discussed. The following procedural schedule was agreed upon:

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| --- | --- |
| Service of Company Direct Testimony | June 2, 2022 |
| Settlement Conference | June 20, 2022 |
| Service of Other Parties Direct Testimony | July 1, 2022 |
| Service of Written Rebuttal Testimony | July 15, 2022 |
| Service of Written Surrebuttal Testimony | July 27, 2022 |
| Service of Written Rejoinder Testimony and/or Outline of Rejoinder Testimony | July 29, 2022 |
| Telephonic Evidentiary Hearings | August 1-3, 2022, 10 a.m. each day |
| Filing and Service of Main Briefs | August 19, 2022 |
| Filing and Service of Reply Briefs or Submission of Joint Settlement Petition | September 2, 2022 |

The hearing will be held telephonically, and each day of evidentiary hearings will begin at 10:00 a.m.

During the prehearing conference, the parties did not indicate there is substantial public interest in a public input hearing. We also have no basis to find there is substantial public interest in a public input hearing. Therefore, a public input hearing is not being scheduled.

Additionally, there was an agreement among the parties for modifications to the Commission’s discovery rules for this case. Those modifications are:

a. Parties will make best efforts to serve answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes in-hand within ten (10) calendar days of service of the interrogatories or requests for production.

b. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) days of service; unresolved objections shall be served in writing to the propounding party within five (5) days of service of the interrogatories and/or requests for production.

c. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) days of service of the written objections.

d. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) days of service of such motions.

e. Requests for admissions will be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service.

f.        Discovery requests and discovery-related pleading (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 before a holiday shall be deemed to have been served on the following business day.

The parties have agreed to use their best efforts to comply with discovery and to promptly communicate if a discovery deadline cannot be met.

The parties also agreed that service via electronic mail shall constitute sufficient service to satisfy any “in hand” dates.

Finally, the parties are reminded that Commission policy promotes settlements. 52 Pa.Code § 5.231(a). The parties are encouraged to commence settlement discussions as early as possible. Even if the parties are unable to settle this case, they may still resolve some of the questions or issues during their discussions. If the parties reach an agreement on all issues, a formal hearing will not be necessary and the scheduled hearing will be cancelled. Any settlement, however, must be supported by substantial record evidence. 2 Pa.C.S. § 704.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the following schedule is adopted for this proceeding:

|  |  |
| --- | --- |
| Service of Company Direct Testimony | June 2, 2022 |
| Settlement Conference | June 20, 2022 |
| Service of Other Parties Direct Testimony | July 1, 2022 |
| Service of Written Rebuttal Testimony | July 15, 2022 |
| Service of Written Surrebuttal Testimony | July 27, 2022 |
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| Filing and Service of Main Briefs | August 19, 2022 |
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2. That the parties shall receive all documents and shall copy all other parties on documents they file with the Commission or serve on the undersigned. The parties are expected to conduct discovery, attend hearings, or present or cross-examine witnesses, as appropriate. The parties shall serve the documents listed above so that the documents are received in-hand by the parties and presiding officer no later than 4:30 p.m. on the dates listed, unless otherwise indicated. Parties may serve the documents listed above via e-mail to meet this requirement, as long as the electronic version is Microsoft Word compatible and no larger than 5 MB per email. The parties shall file a certificate of service and not testimony with the Commission.

3. That written testimony shall comply with the requirements of 52 Pa.Code § 5.412 and shall be marked with numerical, sequential statement numbers. Parties serving pre-served testimony pursuant to 52 Pa.Code § 5.412(f) are required, within thirty (30) days after the final hearing, 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, consistent with the Commission’s Implementation Order, dated January 10, 2013, at Docket No. M-2012-2331973.

4. That all parties shall comply with the provisions of 52 Pa.Code §5.243(e) which prohibits 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.

5. That the parties shall conduct discovery pursuant to 52 Pa.Code §§5.321-5.373 as modified consistent with the discussion above. The parties are encouraged to cooperate and exchange information on an informal basis. The parties shall cooperate rather than engage in numerous or protracted discovery disagreements that require formal resolution. There are limitations on discovery and sanctions for abuse of the discovery process. 52 Pa.Code §§ 5.361, 5.371-5.372. The parties shall use their best efforts to comply with discovery and to promptly communicate if a discovery deadline cannot be met.

7. That the evidentiary hearing will be held telephonically August 1-3, 2022 and will commence at 10:00 a.m. unless changed by the presiding officers.

8. 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 administrative hearing resources. 52 Pa.Code §§ 5.232 and 5.234.

9. That the evidentiary hearing in this matter constitutes a formal legal proceeding 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.

10. That any provision of this Order may be modified upon motion and good cause shown by any party in interest in accordance with 52 Pa.Code § 5.223(a).

Date: June 7, 2022 /s/

Steven K. Haas Administrative Law Judge

Date: June 7, 2022 /s/

John M. Coogan Administrative Law Judge

**R-2022-3031704; C-2022-3031902 - PENNSYLVANIA PUBLIC UTILITY COMMISSION v. BOROUGH OF AMBLER – WATER DEPARTMENT**

*Revised: June 2, 2022*  
ADEOLU A BAKARE ESQUIREMCNEES WALLACE & NURICK LLC100 PINE STREETPO BOX 1166HARRISBURG PA 17108-1166**717.237.5290**[abakare@mwn.com](mailto:abakare@mwn.com)  
Accepts eService  
*(Representing the Borough of Ambler)*SHARON E WEBB ESQUIREOFFICE OF SMALL BUSINESS ADVOCATEFORUM PLACE555 WALNUT STREET 1ST FLOORHARRISBURG PA 17101**717.783.2525**[swebb@pa.gov](mailto:swebb@pa.gov)  
ALLISON C KASTER ESQUIREPA PUC BUREAU OF INVESTIGATION &   
ENFORCEMENT LEGAL TECHNICALSECOND FLOOR WEST400 NORTH STREETHARRISBURG PA 17120**717.783.7998**[akaster@pa.gov](mailto:akaster@pa.gov)  
Accepts eService  
  
CHRISTINE M HOOVER ESQUIRE   
OFFICE OF CONSUMER ADVOCATE   
5TH FLOOR FORUM PLACE   
555 WALNUT STREET   
HARRISBURG PA 17101   
**717.783.5048**   
[choover@paoca.org](mailto:choover@paoca.org)  
Accepts eService

RICHARD SHORIN

255 RIDINGS WAY

AMBLER PA 19002

**267.475.4247**

[Rickshorin@Verizon.net](mailto:Rickshorin@Verizon.net)

Accepts eService