**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2022-3032764

:

v. :

:

Leatherstocking Gas Company, LLC :

# **PREHEARING ORDER**

# **SETTING LITIGATION SCHEDULE AND CONSOLIDATING COMPLAINTS**

On July 1, 2022, Leatherstocking Gas Company LLC (Leatherstocking or Company), filed Supplement No. 17 to Tariff Gas - Pa. P.U.C. No. 1 to become effective September 1, 2022, containing proposed changes in rates, rules, and regulations calculated to produce $701,200 (32.35%) in additional annualrevenues. The total bill for a typical residential customer using 79 Ccf would increase from $169.82 to $226.19 per month or about 33.20%. Leatherstocking stated that the requested increase is necessary to provide sufficient operating revenues to meet operating expenses (including depreciation), taxes and fixed charges, and provide a reasonable rate of return on investments in gas property. Additionally, Leatherstocking stated the proposed rates would enable them to maintain its creditworthiness at a level sufficient to raise capital necessary to properly perform its obligations to provide safe, adequate, and proper services to its customers

On July 22, 2022, the Office of Small Business Advocate (OSBA) filed a Complaint at Docket Number C-2022-3033978.

On August 2, 2022, the Office of Consumer Advocate filed a Complaint at Docket Number C-2022-3034235.

On August 4, 2022, the Company’s tariff filings were suspended by operation of law until April 1, 2023, unless otherwise ordered by the Commission

By Prehearing Conference Order dated August 4, 2022, Leatherstocking, OCA, OSBA and I&E were notified that the proceeding was assigned to the undersigned Administrative Law Judge (ALJ or Presiding Officer) for a telephonic Prehearing Conference on August 16, 2022 at 10:00 a.m. In accordance with the regulations pertaining to prehearing conferences, 52 Pa. Code §§5.221-5.224, the parties were directed to file there prehearing memorandums on or before August 12, 2022. On August 4, 2022, a notice was issued advising the Parties of the date and time of the prehearing conference. The Parties timely filed prehearing memoranda. The Prehearing Conference proceeded as scheduled on August 16, 2016. Counsel for the Company and the statutory parties participated in the Prehearing Conference, which resulted in the establishment of a litigation schedule and an agreement regarding various scheduling and procedural matters.

This Order sets forth the litigation schedule and consolidates the formal complainants in this proceeding.

**Litigation Schedule**

The litigation schedule will be as follows:

|  |  |
| --- | --- |
| Date | Event |
|  |  |
| August 16, 2022  September 13, 2022 | Prehearing Conference  Other Parties Written Direct Testimony |
| September 19, 2022 | Telephonic Public Input Hearing |
| October 5, 2022 | Written Rebuttal Testimony of All Parties |
| October 18, 2022  October 24, 2022 | Written Surrebuttal Testimony of All Parties  Written Rejoinder |
| October 26-27, 2022 | Evidentiary Hearings Beginning at 10:00 a.m. |
| November 18, 2022 | Main Briefs Due |
| December 1, 2022 | Reply Briefs Due or Submission of Joint Settlement Petition Executed By Representatives of All Parties, Together With All Parties’ Statements In Support of Settlement |

All parties have agreed to accept electronic service, and the documents described in the litigation schedule referenced above shall be served electronically on the date indicated, by 4:30 P.M. unless otherwise indicated. Hard copies will not be required.

The parties are reminded of the Commission’s requirements for the preparation and filing of written testimony. 52 Pa. Code §5.412. Written testimony must be accompanied by all exhibits to which it relates. The above-stated dates are in-hand dates for service on the parties and the Presiding ALJ. The parties and the Presiding ALJ agree to accept email transmission of such material, so long as the subject email is received by 4:30 p.m. on the date due. Parties must serve the undersigned presiding officer directly (electronically at [jeffwatson@pa.gov](mailto:jeffwatson@pa.gov) and to my Legal Assistant Nick Miskanic at [nmiskanic@pa.gov](mailto:nmiskanic@pa.gov) with any document you file in this proceeding**.** If you send any document or correspondence, you must send a copy to all other parties in the case. The current service list is attached to this order. My correct mailing address is:

Administrative Law Judge Jeffrey A. Watson

Pennsylvania Public Utility Commission

301 Fifth Avenue, Suite 220, Pittsburgh, PA 15222

The Presiding ALJ will not accept facsimile transmissions greater than ten pages in length without prior authorization. If the parties have any questions, they may call the office of the Presiding ALJ at (412) 565-3550.

Any party, wishing to submit written testimony, pursuant to 52 Pa. Code §5.412(f), is advised to comply with the Commission’s requirement concerning the electronic filing of written testimony as specified in the Commission’s implementation Order, dated January 10, 2013, at Docket No. M-2012-2331973. Furthermore, the parties are reminded 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 (unless such time period is otherwise modified by the presiding officer), 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. In addition to the testimony that is electronically submitted to the Commission either by eFiling or by the submission of a CD to the Secretary’s Bureau, parties must continue to submit two copies of such testimony to the court reporter at the hearing of this matter.

The hearings scheduled in this proceeding will be scheduled as a telephonic hearing and shall begin promptly at 10:00 a.m. each day. In the event any party is requesting that the hearing be scheduled in person, such request shall be presented in writing promptly, but not later than September 2, 2022. The parties must confer before commencement of the hearing to schedule their witnesses so as to avoid “holes” or “dead time” during the hearing. In addition, the Parties identified a potential issue which may require flexibility in the order of calling witnesses at the evidentiary hearing. The Parties shall confer to resolve any such issues prior to the date of the hearing.

**Parties**

Leatherstocking, I&E, OCA, and OSBA are parties to this proceeding. A Service List of these parties is appended to this Order. The parties are directed to monitor filings with the Commission’s Secretary’s Bureau and advise the undersigned of any additional formal complaints or petitions are filed after the date of this Order.

**Consolidation of Formal Complaints**

The Formal Complaint of OCA at Docket No. C‑2022-3034235 and OSBA at Docket No. C‑2022‑3033978 are consolidated with the Leatherstocking filing at R-2022-3032764.

**Intervention**

No Petitions to Intervene have been filed to date in this matter.

**Public Input Hearing**

At the prehearing conference, the parties have identified a need to conduct a telephone public input hearing, which will be conducted by telephone on Monday September 19, 2022 at 6 p.m. Leatherstocking and OCA shall promptly confer and propose the form, manner and content of public notice for the public input hearing and provide their proposal to the Parties and the undersigned presiding officer not later than Monday August 22, 2022. Leatherstocking and OCA shall then promptly cause notice of the Public Input Hearing consistent with the agreement proposed by the Parties, subject to modifications by the undersigned presiding officer, to be provided to the public.

**Issues**

In their respective prehearing memoranda, the Company and statutory parties identified various issues they may wish to pursue. The reader is directed to these documents to review a recitation of these issues. Additional issues may arise as the discovery process unfolds.

**Discovery**

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. 52 Pa. Code §§5.321, *et* *seq*. Except as herein allowed, the parties must not send the Presiding ALJ discovery material or cover letters, unless attached to a motion to compel or a motion for sanctions. All such motions 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.

Leatherstocking requested modification of the Commission’s procedures for formal discovery. All parties agreed to the proposed modifications, therefore that request is hereby granted. Therefore, the following modified discovery procedure applies to this case:

1. Answers to written interrogatories shall be served in-hand within ten (10) calendar days of service.
2. Objections to interrogatories shall be communicated orally within three (3) calendar days of service of the interrogatories; unresolved objections shall be served upon the ALJ within five (5) calendar days of service of the interrogatories.
3. Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
4. Answers to motions to dismiss objections and/or answering of interrogatories shall be filed within three (3) calendar days of service of such motions.
5. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) calendar days of service.
6. Requests for admission will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
7. Answers to on-the-record data requests shall be served in-hand within seven (7) calendar days of the requests.
8. Discovery and all discovery-related pleadings, such as objections, motions, or answers, served after 12:00 noon on a Friday or after 12:00 noon the day before a holiday recognized by the Commission will be deemed to have been served on the following business day for purposes of tracking due dates.

The parties must, in good faith and on an informal basis, attempt to resolve any discovery dispute amicably among themselves, before contacting the Presiding ALJ for resolution.[[1]](#footnote-1)

**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. Submission of a Joint Settlement Petition executed by representatives of all parties, together with all parties’ Statements In Support of Settlement, must be filed with the Secretary for the Commission and received in-hand by the Presiding ALJ not later than the close of business on December 1, 2022. In addition to service of a hard copy, the Secretary must receive these documents on a CD ROM in searchable PDF format. Where possible, the parties must submit to the Presiding ALJ one hard copy of these documents and one copy by email. The electronic version of the documents served on the Presiding ALJ’s must be prepared on an IBM compatible system in Microsoft Office Word 2010 format or in an earlier version of this software application.

If settlement is not feasible, the parties are encouraged to 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. All stipulations entered into by the parties must 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.

**Cross-Examination**

Friendly cross-examination or cumulative cross-examination will not be permitted. 52 Pa. Code §§5.76 & 5.243.

**Briefs and Pleadings**

The parties must comply with 52 Pa. Code §§5.501, *et* *seq*., regarding the preparation and filing of briefs. Page limitations on briefs will be discussed at the hearing. Where possible, the parties shall submit to the Presiding ALJ one hard copy of their briefs and one copy by email. If a party cannot provide a copy by email or on computer disc, it must submit two hard copies of briefs. **The electronic version of a brief and all pleadings must be prepared on an IBM compatible system in Microsoft Office Word 2010 format or in an earlier version of this software application.** If any questions arise, please call the office of the Presiding ALJ for clarification.

The Parties shall also confer in order to agree upon a list of common issues which the Parties shall utilize in the organization and for use as section/topic headings for each issue and subject contained in all briefs, settlement petitions and statements in support of settlement in these proceedings.

**Modification**

Any of the provisions of this Prehearing Order may be modified upon motion and good cause shown by any party in interest.

**Service**

The Parties have agreed to serve copies of all filings electronically to the witnesses identified in the respective prehearing memoranda submitted by the Parties, as well as to additional witnesses to be identified by the Parties.

Dated: August 17, 2022 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Jeffrey A. Watson

Administrative Law Judge

**R-2022-3032764 – PENNSYLVANIA PUBLIC UTILITY COMMISSION v. LEATHERSTOCKING GAS COMPANY, LLC**WHITNEY E SNYDER ESQUIRE  
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1. If the parties cannot resolve their discovery dispute informally, they may request to confer informally with the Presiding ALJ to resolve any outstanding discovery disputes. [↑](#footnote-ref-1)