**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Office Partners XXIII Block G1, LLC : C-2022-3033251 (water)

: C-2022-3033266 (wastewater)

v. :

:

Pittsburgh Water and Sewer Authority :

**PREHEARING ORDER**

On June 17, 2022, Office Partners XIII Block G1, LLC (Complainant or Office Partners) filed two Formal Complaints (Complaints) against Pittsburgh Water and Sewer Authority (Respondent, Company, or PWSA), alleging PWSA was charging incorrect permit fees for Complainant’s new commercial property development. The Complaints are identical and were assigned two different docket numbers pursuant to “utility type” – water (municipal) and wastewater.

In its Answer, PWSA disputes it is charging incorrect fees, and in its New Matter and Preliminary Objection, PWSA argues Office Partners is not entitled to any relief as a matter of law.

On July 14, 2022, PWSA filed a Motion to consolidate the above-captioned Complaints.

On July 22, 2022, Office Partners filed an answer to the Preliminary Objection, essentially restating the arguments in its Complaint.

On August 1, 2022, Office Partners filed a reply to PWSA’s New Matter.

On August 9, 2022, the Commission issued a Hearing Notice, scheduling an evidentiary hearing for September 22, 2022. On September 11, 2022, I issued a Prehearing Order.

On August 23, 2022, I issued an Interim Order denying the Preliminary Objections, consolidating the complaints, and converting the hearing scheduled for September 22, 2022, to a prehearing conference.

A prehearing conference was held on September 22, 2022, as scheduled. Complainant and Respondent were both present and represented by counsel. Counsel discussed a litigation schedule and agreed to provide a proposed schedule to me by Friday, September 23, 2022.

Counsel submitted a joint proposal to me as directed on September 23, 2022. This Order adopts their proposal, adds a deadline for a status report, and provides additional information for the parties to consider as they move forward with litigation.

Litigation Schedule

The following litigation schedule is adopted:

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| --- | --- |
| Date | Event |
| January 10, 2023 | Written and deposition discovery shall be completed |
| January 31, 2023 | Dispositive motions, if any, shall be filed |
| February 21, 2023 | Responses to any dispositive motions shall be filed |
| March 14, 2023 | Status report(s) shall be filed |

The parties are reminded of the Commission’s requirements for the preparation and filing of written testimony. 52 Pa.Code §§ 5.412 and 5.412a. Written testimony must be accompanied by all exhibits to which it relates. Technical terms and concepts are to be clearly defined and explained in the testimonies and briefs. **No written testimony will be admitted into evidence unless accompanied by a verification or affidavit of the witness**.

Parties serving prepared 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, to e-file with the Secretary’s Bureau a copy of all testimony furnished to the court reporter during the proceeding consistent with 52 Pa.Code § 5.412a.

I may be served by email for all purposes throughout this proceeding, and my email address is edevoe@pa.gov. It is not necessary to follow with hard copy service.

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*. The parties must not send me discovery material or cover letters, unless attached to a motion to compel. **All motions to compel 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, I will contact the parties and direct them to pursue informal discovery.

Settlement

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.

I have consulted with the Office of Administrative Law Judge’s Mediation Unit. After reviewing this case, they have determined this matter **is not** appropriate for them to accept. If the parties are interested in utilizing the settlement judge process, I am willing to serve as a settlement judge. The parties should notify me by email if and when they believe a settlement conference is appropriate.

Stipulations

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 precious 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 in this case either orally at an evidentiary hearing or through a motion filed with the Secretary’s Bureau.

Briefs

The parties must comply with 52 Pa.Code §§ 5.501, *et* *seq*., regarding the preparation and filing of briefs. The deadline for the filing of briefs, if any, shall be discussed at the conclusion of the hearing. The parties shall submit an electronic copy of all briefs to me **in a *Microsoft Office Word*format.**

Modification

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

Date: September 27, 2022  /s/

Emily I. DeVoe

Administrative Law Judge

**C-2022-3033251 & C-2022-3033266 - OFFICE PARTNERS XXIII BLOCK G1 LLC v. PITTSBURGH WATER AND SEWER AUTHORITY**

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