**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Office of Consumer Advocate :

Office of Small Business Advocate :

: C-2023-3037574

v. :

:

Commonwealth Telephone Company, LLC :

d/b/a Frontier Communications Telephone Company :

**SCHEDULING ORDER**

A prehearing conference in this matter was scheduled for April 11, 2023 at 10:00 a.m. In accordance with the provisions of 66 Pa.C.S. §333 and 52 Pa.Code §§5.221-5.223, a prehearing conference order was issued on March 9, 2023 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 April 11, 2023 as scheduled. The following counsel appeared on the behalf of the respective parties:

Norman Kennard….……..…... Frontier Communications Telephone Company

Barrett Sheridan, Aron Beatty..….……….Office of Consumer Advocate (OCA)

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

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

|  |  |
| --- | --- |
| In-Person Public Input Hearings | June 6, 7, 8, 2023 |
| OCA/OSBA Direct Testimony | July 19, 2023 |
| Frontier Commonwealth Rebuttal Testimony | September 7, 2023 |
| OCA/OSBA Surrebuttal Testimony | October 5, 2023 |
| In-Person Evidentiary Hearings | October 24 & 25, 2023 |

Parties agreed to four public input hearing sessions. Parties also agreed that the public input hearings will take place at the following times and locations:

* June 6 – Wellsboro, PA at 6 p.m.
* June 7 – Wysox, PA at 2 p.m. and 6 p.m.
* June 8 – Tunkhannock, PA at 2 p.m.

After the prehearing conference, OALJ reserved the following venues for the public input hearings:

* Wellsboro: Wellsboro Fireman’s Annex, 21 Pearl Street, Wellsboro, PA 16901
* Towanda: Towanda Fire Department, 101 Elm Street, Towanda, PA 18848
* Tunkhannock: Triton Fire Hall, 116 W Tioga Street, Tunkhannock, PA 18657

The evidentiary hearings will be held in-person in Harrisburg, and each day of evidentiary hearings will begin at 10:00 a.m.

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

1. After service of the OCA and OSBA’s direct testimony on July 19, 2023:
   * 1. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served in-hand within fifteen (15) calendar days of service of the interrogatories or requests for production.
     2. 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.
     3. 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.
     4. 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.

* + 1. Requests for admission be deemed admitted unless answered within ten (10) days or objected to within ten (10) days of service.
    2. 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.
    3. On the Record Data requests will be provided within five (5) calendar days.

1. After service of the OCA and OSBA’s surrebuttal testimony on October 5, 2023:
   * 1. 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.
     2. 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.
     3. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within two (2) business days of service of written objections.
     4. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within one (1) business days of service of such motions.
     5. Requests for admission be deemed admitted unless answered within seven (7) days or objected to within three (3) days of service.
     6. 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.
     7. On the Record Data requests will be provided within five (5) calendar days.

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:

|  |  |
| --- | --- |
| In-Person Public Input Hearings | June 6, 7, 8, 2023 |
| OCA/OSBA Direct Testimony | July 19, 2023 |
| Frontier Commonwealth Rebuttal Testimony | September 7, 2023 |
| OCA/OSBA Surrebuttal Testimony | October 5, 2023 |
| In-Person Evidentiary Hearings | October 24 & 25, 2023 |

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.

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 hearings will be held in-person in Harrisburg on October 24 and 25, 2023 and will commence each day 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: April 27, 2023 /s/

Steven K. Haas Administrative Law Judge

/s/

John M. Coogan Administrative Law Judge

**C-2023-3037574 - OFFICE OF CONSUMER ADVOCATE AND OFFICE OF SMALL BUSINESS ADVOCATE v. COMMONWEALTH TELEPHONE CO TA FRONTIER COMMUNICATIONS COMMONWEALTH TEL CO LLC**

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