**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, :

Bureau of Investigation and Enforcement :

: C-2022-3030251 v. : P-2021-3030002

:

:

Westover Property Management Company, L.P. :

**BRIEFING ORDER**

On December 13, 2021, Westover Property Management Company, L.P. d/b/a Westover Companies (Westover) filed a Petition for Declaratory Order pursuant to

66 Pa. C.S. § 331(f) and 52 Pa. Code § 5.42 to resolve an actual case and controversy regarding whether Westover is subject to the Gas and Hazardous Liquids Pipelines Act, 58 P.S. §§ 801.101 *et seq*. (Act 127).

On January 3, 2022, the Bureau of Investigation and Enforcement (I&E) filed a Formal Complaint against Westover Property Management Company, L.P. d/b/a Westover Companies alleging violations of Act 127, and Part 192 of the Federal pipeline safety regulations, 49 CFR §§ 192.1-192.1015. The Complaint was docketed at C-2022-3030251.

On May 16, 2022, Westover filed an Amended Petition of Westover Companies for Declaratory Order.

By Order entered on August 25, 2022, the Commission ordered that pursuant to 52 Pa.Code § 5.81, Westover’s Petition for Declaratory Order is consolidated with the Complaint proceeding at Docket No. C-2022-3030251, and that the matter be assigned to the Office of Administrative Law Judge (OALJ) for resolution of the disputed material facts and legal issues in the ongoing controversy at Docket No. C-2022-3030251, and issuance of a recommended decision.

By Initial Call-In Telephonic Prehearing Conference Notice dated August 29, 2022, an Initial Call-In Telephonic Prehearing Conference was scheduled for October 5, 2022, and the matters at Docket Nos. P-2021-3030002 and C-2022-3030251 were assigned to me.

On October 6, 2022, I issued Prehearing Order #1, establishing the litigation schedule for this proceeding.

The parties submitted testimony pursuant to the litigation scheduled established in Prehearing Order #1.[[1]](#footnote-1)

During a conference call on April 28, 2023, the parties informed me that they had reached a settlement of I&E’s Complaint but were unable to resolve Westover’s Petition for Declaratory Order. It was determined during this conference call that the May 3-4, 2023 evidentiary hearings were no longer necessary.[[2]](#footnote-2) Following additional discussions, it was decided that the parties would brief the Act 127 jurisdictional issues in accordance with the briefing schedule set out in Prehearing Order #1, and that the parties would also file their proposed joint petition for settlement and statements in support addressing I&E’s Complaint.

On May 4, 2023, the parties requested a modification to the briefing schedule as well as a waiver of the page limitations for briefs set out in 52 Pa.Code § 5.501(e). The parties requested: that Main Briefs with accompanying appendices, and the Joint Petition for Partial Settlement and accompanying Statements in Support, be due on July 3, 2023; that Reply Briefs be due on August 3, 2023; that the page limit for Main Briefs be extended to 80 pages; and that the page limit for Reply Briefs be extended to 40 pages. I advised the parties that their request to modify the briefing schedule was granted and that I would take their request to modify the page limitations into consideration.

This Order establishes the instructions the parties are to follow when drafting and submitting briefs in this matter.

THEREFORE,

IT IS ORDERED:

1. That the parties request to modify the briefing schedule established in Prehearing Order #1 is granted.
2. That Main Briefs shall be filed on or before **July 3, 2023**.
3. That Main Briefs shall contain:

A. A table of contents;

B. A history of the proceeding;

C. A discussion;

D. Proposed findings of facts (with record citations to transcript pages or exhibits where supporting evidence appears);

E. Proposed conclusions of law (with citations to supporting statutes, regulations, or relevant case law); and

F. Proposed ordering paragraphs specifically identifying the relief sought.

1. **That any proposed finding of fact that does not include record citations to admitted pre-served testimony or exhibits where the supporting evidence appears, will not be considered**.
2. That Reply Briefs shall be filed on or before **August 3, 2023**.
3. That Reply Briefs shall be concise and directly responsive to arguments made by opposing parties in main briefs.
4. That the parties request for a waiver of the page limitation set out at 52 Pa.Code § 5.501(e) is granted.
5. That the parties are permitted to file Main Briefs up to 80 pages in length.
6. That the parties are permitted to file Reply Briefs up to 40 pages in length.
7. **That the parties must use a common outline for both Main and Reply Briefs.**
8. That the parties are advised not to include any extra-record evidence in their briefs.
9. That if a brief contains a citation to an unreported decision which is not available on LEXIS or the Commission’s website, a copy of that unreported decision must be appended to the brief.
10. That in addition to filing briefs with the Commission’s Secretary’s Bureau, the parties shall provide a copy of all briefs by email prepared in *Microsoft Word*.
11. That any brief not filed and served on or before the date fixed therefore will not be accepted for filing, except by special permission of the Commission or the presiding Administrative Law Judge pursuant to 52 Pa.Code §5.502(c).

Date: May 15, 2023 /s/

Christopher P. Pell

Deputy Chief Administrative Law Judge

**C-2022-3030251 - BUREAU OF INVESTIGATION AND ENFORCEMENT V. WESTOVER PROPERTY MANAGEMENT COMPANY, L.P. D/B/A WESTOVER COMPANIES***Updated 05/05/23*

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1. Counsel for I&E contacted me on March 16, 2023 to advise that the parties were engaged in settlement discussions. As a result of the on-going settlement discussions, the parties requested to change the due date for the submission of Rebuttal Testimony from April 7, 2023 to April 17, 2023. I granted the parties’ request via email. [↑](#footnote-ref-1)
2. The parties informed me during this call of their intent to file a joint stipulation for admission of evidence. I will note that, as of the date of this order, the parties have not filed this joint stipulation. [↑](#footnote-ref-2)