

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2024-3047068
Office of Consumer Advocate	:	C-2024-3048327
Office of Small Business Advocate	:	C-2024-3048411
C. Annette Martin	:	C-2024-3048409
Met-Ed Industrial Users Group, et al	:	C-2024-3048673
Donald Ellenberger	:	C-2024-3048783
	:	
v.	:	
	:	
FirstEnergy Pennsylvania Electric Company	:	

**PREHEARING ORDER**

On April 2, 2024, FirstEnergy Pennsylvania Electric Company (FirstEnergy PA), filed Supplement No. 3 to Tariff Electric Pa. P.U.C. No. 1 (Initial Filing or Supplement No. 3) to become effective June 1, 2024, containing a proposed general increase in electric distribution rates of \$503,848,000, or 34%, in additional annual revenues for the four Rate Districts: Met-Ed; Penelec; Penn Power. The proposed base rate increase includes the following proposed increases:

1. For Met-Ed Rate District: a proposed increase of \$146,332,000 (or 31%), raising the monthly bills of the average residential customer using 1,000 kWh from \$187.70 to \$205.00, for a 9.2% increase.

2. For Penelec Rate District: a proposed increase of \$132,963,000 (or 28%), raising the monthly bills of the average residential customer using 1,000 kWh from \$200.96 to \$220.75, for a 9.8% increase.

3. For Penn Power Rate District: a proposed increase of \$54,764,000 (or 43%), raising the monthly bills of the average residential customer using 1,000 kWh from \$180.59 to \$201.88, for an 11.8% increase.

4. For West Penn Rate District: a proposed increase of \$169,789,000 (or 40%), raising the monthly bills of the average residential customer using 1,000 kWh from \$156.36 to \$172.98, for a 10.6% increase.

On April 9, 2024, the Bureau of Investigation & Enforcement (BIE) filed a Notice of Appearance. On April 10, 2024, the Office of Consumer Advocate (OCA) filed a public statement and formal complaint at Docket No. C-2024-3048327. In addition to the formal complaint filed by OCA, formal complaints have also been filed by: the Office of Small Business Advocate on April 11, 2024 at Docket No. C-2024-3048411; Annette Martin (Ms. Martin) on April 12, 2024 at Docket No. C-2024-3048409; the Met-Ed Industrial Users Group (MEIUG), the Penelec Industrial Customer Alliance (PICA) and the West Penn Power Industrial Intervenors (WPPII)(collectively, referred to as “Large Users Group” on April 24, 2024 at Docket No. C-2024-3048673 and Donald Ellenberger (Mr. Ellenberger) on April 30, 2024 at Docket No. C-2024-3048783.

Petitions to Intervene have been filed by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), the International Brotherhood of Electrical Workers Local 459 (IBEW-459) and the International Brotherhood of Electrical Workers Local 77 (IBEW-77).

By Order entered April 25, 2024, the Commission suspended the implementation of Supplement No. 174 to Tariff Electric Pa. P.U.C. No. 24 by operation of law, pursuant to 66 Pa.C.S. § 1308(d), until January 1, 2025, unless permitted by Commission Order to become effective at an earlier date, and instituted an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations proposed in Supplement No. 3. On April 25, 2024, the Office of Administrative Law Judge (OALJ) scheduled a prehearing conference to be conducted telephonically on May 2, 2024.

On May 2, 2024, Administrative Law Judge Katrina L. Dunderdale conducted a call-in telephonic prehearing conference with the parties in which various procedural matters

were discussed and a litigation schedule was established. Present during the call-in telephonic prehearing conference were counsel representing the following: FirstEnergy PA; BIE; OCA; OSBA; CAUSE-PA; Large Users Group, IBEW-459; and IBEW-777.

The parties addressed the following matters: the procedural schedule; service of documents; identification of witnesses and subject area of testimony; timing of motions with respect to prepared written testimony; location and start time of hearings; need for public input hearings including the location and dates for a public input hearing; discovery modifications; the official service list; consolidation of formal complaints filed against the base rate proceedings; and the three petitions to intervene. This prehearing order memorializes those matters discussed, decided and agreed to by the parties during the prehearing conference on May 2, 2024.

Also, on May 2, 2024, Walmart Inc. (Walmart) filed a Petition to Intervene with the Commission. On May 6, 2024, FirstEnergy filed the Letter of Non-Opposition with the Commission, indicating FirstEnergy did not oppose the Petition to Intervene filed by Walmart.

#### Consolidation

The following cases were docketed separately as complaints but arose from FirstEnergy PA's base rate filing. Therefore, they will be consolidated into the proceeding docketed at No. R-2024-3047068, pursuant to 52 Pa.Code § 5.81:

Office of Consumer Advocate at C-2024-3048327  
Office of Small Business Advocate at C-2024-3048411  
Annette Martin at C-2024-3048409  
Large Users Group at C-2024-3048673  
Donald Ellenberger at C-2024-3048783

#### Petitions to Intervene

To date, petitions to intervene have been filed by three entities: CAUSE-PA; IBEW-459 and IBEW-777. No party objected to the granting of the petitions. Accordingly, the petitions to intervene were granted and this judicial grant will be confirmed in the Ordering Paragraphs, herein.

At the prehearing conference an attorney appeared, representing Walmart. The attorney, Steven W. Lee, indicated a Petition to Intervene would be filed soon on behalf of Walmart. Thereafter, on May 2, 2024, Walmart filed a Petition to Intervene with the Commission and, on May 6, 2024, FirstEnergy filed the Letter of Non-Opposition with the Commission, indicating FirstEnergy did not oppose the Petition to Intervene filed by Walmart. Accordingly, Walmart's Petition to Intervene will be granted in an Ordering Paragraph below.

#### Identification of Company Filing

The Company will identify its filing, including the marking of statements and exhibits, when it presents the filing at the start of the initial hearing. In the interim, the Company will provide a hard copy of the filing to the presiding officer, including a map of Pennsylvania that reflects the territory under each of the four Rate Districts.

#### Procedural Schedule

The parties discussed the litigation schedule at length and eventually agreed to the following schedule:

Other Party's Direct Testimony	June 25, 2024
Written Rebuttal Testimony	July 22, 2024
Public Input Hearings	TBD
Written Surrebuttal Testimony	August 8, 2024
Public Input Hearings	TBD
Written Rejoinder Outlines	August 12, 2024
Hearings – Harrisburg	August 15 and 16, 2024
	August 19, 2024
Close of Record	August 19, 2024
Main Briefs	September 4, 2024
Reply Briefs	September 13, 2024
Last Public Meeting before suspension date	December 19, 2024

All due dates in the litigation schedule are for service “in-hand” by 4:00 p.m. Electronic or e-mail service will satisfy the “in-hand” requirement if done by 4:00 p.m. Electronic or e-mail service should be followed by the service of a hard copy that may be served by first-class mail.

### Service of Documents

The parties are also directed to provide an e-version in Word format and hard copy of testimony and briefs to the presiding officer and any technical advisors in the Commission’s Bureau of Technical Utility Services - once informed by the presiding officer as to who the technical advisors are. This Commission’s requirements for the preparation and filing of written testimony and related exhibits are set forth in 52 Pa.Code § 5.412. In addition, the lines and pages are to be numbered.

### Evidentiary Hearings

The evidentiary hearings will commence at **9:00 a.m.** on Thursday, **August 15, 2024**, on Friday, **August 16, 2024** and, if needed, on Monday, **August 19, 2024**. The parties must inform the presiding officer before **12:00 p.m.** on Tuesday, **August 13, 2024** in the event the parties intend to submit little or no new testimony at the evidentiary hearing with no more than limited cross examination anticipated. In that event, the presiding officer will conduct the evidentiary hearing telephonically from the Commission’s offices in Piatt Place, 301 Fifth Avenue, Pittsburgh, Pennsylvania 15222.

## Witness Lists

The Company will coordinate an agreement amongst the parties as to the order of witnesses, with the understanding the utility's witnesses will go first. Counsel for the utility will provide that list to the presiding officer on or before Tuesday, **August 13, 2024**.

Any party which has not set forth its witness list, including the subject area of proposed testimony, in its prehearing memorandum must provide that information to the presiding officer and the other parties no later than two (2) weeks prior to the due date for direct testimony. Motions with respect to written testimony must be presented in writing no later than 24 hours prior to the day the witness is scheduled to testify.

## Public Input Hearings

The parties requested a public input hearing in the territory served by FirstEnergy PA and FirstEnergy PA concurred with the request. Commission policy provides at least one public input hearing should be held in a utility's service area if the Commission determines there is substantial public interest in a rate proceeding. 52 Pa.Code § 69.321(b). The presiding officer finds substantial public interest exists to warrant holding one afternoon and one evening public input hearing in-person in seven (7) locations within the four Rate Districts: East Stroudsburg, Reading, State College, Washington, Greensburg, Butler and Erie. The Office of Administrative Law Judge determined the public input hearings will take place on or around the dates of June 26 to June 28, 2024, and again on or around July 9, 2024 to July 12, 2024, with two additional days of public input hearings to be conducted (one in the afternoon and one in the evening) on July 16, 2024 and July 17, 2024. The specifics as to date, time, city and location will be announced once the OALJ confirms the specifics for each location.

FirstEnergy PA is to advertise the public input hearings in a timely fashion and to work with any interested parties in regard to the wording of the public input hearing announcements, and where and how the public input hearing announcements are to be published and/or broadcast. Prior to the initial public input hearing, FirstEnergy PA is to file with the

Secretary's Bureau, with a copy to the presiding officer, a document which provides the wording of the public input hearing announcement, where it appeared and on what dates.

### Discovery

The parties agreed to modify discovery rules. Those modifications are included here as if set out in full. Furthermore, all parties are urged to engage in informal discovery whenever possible and to the extent necessary in this remanded proceeding. This Commission's procedures for discovery are set forth in 52 Pa.Code §§ 5.321 *et seq.* The presiding officer will rule on objections to discovery in an expeditious manner and may do so as part of an informal telephone conference. The parties **should not** send discovery material **or cover letters** to the presiding officer unless attached to a motion to compel. All motions to compel **must** contain a certification from counsel setting forth the informal steps taken to resolve the dispute including dates and times. The modifications to the discovery rules are:

- A. Answers to written interrogatories and requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service.
- B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories; unresolved objections shall be served in writing to the propounding party within five (5) calendar 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) calendar days of service of written objections.
- D. Answers to motions to dismiss objections and/or answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.
- E. Requests for admission will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
- F. Answers to on-the-record data requests shall be served in-hand within five (5) calendar days of the requests.
- G. Any discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after served after 4:30 p.m. Monday through

Thursday or after 1:30 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of calculating the due date for any responsive filing.

After rebuttal is served, the deadlines will be reduced as follows:

- A. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served within five (5) 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 two (2) calendar days of service; unresolved objections shall be served on the propounding party in writing within three (3) calendar 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 two (2) calendar days of service of 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 two (2) calendar days of service of such motions.
- E. Requests for admission shall be deemed admitted unless answered or objected to within three (3) calendar days of service.
- F. 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 1:30 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

### Stipulations and Settlements

The parties are to engage in discussions with each other prior to the date of the evidentiary hearings and be prepared to submit to the record all stipulations as to facts. The stipulations must be in writing and signed by the respective counsel for the parties. The Commission encourages settlements. 52 Pa.Code § 5.231(a). If all or some of the parties reach a settlement, the joint settlement petition must be served on the presiding officer on or before the date set for filing reply briefs (*i.e.*, September 13, 2024).

## Briefs

The parties should comply with the briefing requirements set forth in 52 Pa.Code § 5.501 *et seq.* and as further specified in Attachment A (“Special Instructions for Briefs and Exceptions in Major General Rate Increase Proceedings”). Please provide the Administrative Law Judge and the Fixed Utility Services’ advisors with one printed copy and one electronic copy of each brief and reply brief in a format compatible with the Word format. Page limitations and the use of a common brief outline will be discussed with the parties on the last day of hearings or, in the event of a settlement, by separate interim order.

## Official Service List

The official service list will include those parties in attendance at the prehearing conference on May 2, 2024, and any additional parties filing a future formal complaint or petition to intervene if the formal complaint or petition to intervene is consolidated herein by separate order. Each party will be limited to one address on the service list. A complete service list is attached hereto.

THEREFORE,

IT IS ORDERED:

1. That the procedural schedule and other matters set forth herein are adopted for this proceeding.
2. That, except for requests reasonably made during a hearing, any requests for a change to the scheduled date must be submitted to the Administrative Law Judge in writing no later than five (5) business days prior to the scheduled date. 52 Pa.Code § 1.15(b). Requests for changes must establish good cause, must state the agreement or opposition of other parties, and must be sent to the presiding officer and all parties of record.

3. That the Petitions to Intervene of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, the International Brotherhood of Electrical Workers Local 459, and the International Brotherhood of Electrical Workers Local 777 are granted.

4. That the unopposed Petition to Intervene of Walmart Inc., filed on May 2, 2024, is granted.

5. That evidentiary hearings will be scheduled in this proceeding to be conducted starting at **9:00 a.m. on August 15, 2024; August 16, 2024 and August 19, 2024**, in Harrisburg, Pennsylvania. The presiding officer may change the location and start times of the evidentiary hearings, if appropriate, to accommodate judicial convenience.

6. That in-person public input hearings shall be conducted in seven (7) locations (to be determined), with the preferred sites being in: Washington, Pennsylvania; Greensburg, Pennsylvania; Butler, Pennsylvania; Erie, Pennsylvania; Reading, Pennsylvania; East Stroudsburg, Pennsylvania; and State College, Pennsylvania. A scheduling notice will be issued by the Office of Administrative Law Judge which specifies the date, time, city and site for each public input hearing.

7. That FirstEnergy PA will advertise the public input hearings in a timely fashion and provide the presiding officer and parties with the final draft of the advertisement prior to advertisement. FirstEnergy PA will work with any interested party in the wording of the public input hearing announcements, plus where and how the public input hearing announcements will be published and/or broadcast. Prior to the initial public input hearing, FirstEnergy PA will file with the Secretary's Bureau a document which provides the wording of the public input hearing announcements, where it appeared and on what dates.

8. That the rate proceeding docketed at No. R-2024-3047068 is consolidated with the formal complaints docketed below:

Office of Small Business Advocate at Docket No. C-2024-3048411  
Office of Consumer Advocate at Docket No. C-2024-3048327  
C. Annette Martin at Docket No. C-2024-3048409  
Large Users Group at Docket No. C-2024-3048673  
Donald Ellenberger at Docket No. C-2024-3048783

Date: May 7, 2024

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/s/  
Katrina L. Dunderdale  
Administrative Law Judge

**R-2024-3047068 et al – PENNSYLVANIA PUBLIC UTILITY COMMISSION v.  
FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY**

*Revised: June 3, 2024*

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