

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition of Citizens' Electric Company	:	
of Lewisburg, PA and Wellsboro Electric Company	:	P-2024-3049357
for Approval of Default Service Plan and Waiver of	:	P-2024-3049359
Commission Regulations for the Period June 1, 2025	:	
Through May 31, 2029.	:	

PREHEARING ORDER

Procedural History

The Joint Petition

On May 31, 2024, Citizens' Electric Company of Lewisburg, PA (Citizens) and Wellsboro Electric Company (Wellsboro) (collectively the Companies or Joint Petitioners) filed a Joint Petition with the Pennsylvania Public Utility Commission (Commission or PUC) for approval of their Seventh Joint Default Service Program (DSP), pursuant to the Electric Generation Customer Choice and Competition Act, 66 Pa. C.S. § 2801 et seq. (Competition Act), as amended by Act 129 of 2008 (Act 129), the Commission's Default Service Regulations, 52 Pa. Code §§ 54.181 – 54.189,¹ and the Policy Statement on Default Service (Policy Statement), 52 Pa. Code §§ 69.1801 – 69.1817. Through the filing,² Citizens and Wellsboro propose to continue, in substantial part, the procurement structure and rate design that were approved in the existing Sixth Joint DSP, as amended.

¹ See Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa. C.S. § 2807(e)(2), Docket No. L-00040169 (Order entered May 10, 2007) (First Rulemaking Order); See Implementation of Act 129 of October 15, 2008; Default Service and Electric Markets, Docket No. L-2009-2095604 (Order entered Oct. 4, 2011) (Second Rulemaking Order).

² During the prehearing conference held in this proceeding on July 9, 2024, the filing, that is, the Joint Petition was marked for identification as CW Exhibit No. 1. Tr. 21-24.

The Companies propose to maintain the same Procurement and Implementation Plan that was approved by the Commission in the Sixth Joint DSP. Under the Procurement and Implementation Plan, the Companies propose to conduct a competitive bid process and enter into Load-Following Full Requirements (Load-Following FR) contracts with one or more wholesale suppliers to serve all default service customers. Each Company will independently select one wholesale supplier; the Companies may be served by the same supplier or different suppliers depending on the lowest qualifying bid for each territory. Wellsboro's supplier will serve all of Wellsboro's wholesale needs. Citizens' supplier will supply all Citizens' wholesale needs. The Companies request one change to the Procurement and Implementation Plan. Specifically, the Companies propose to allow same day triggers of the wholesale energy component of the fixed default service rate. Currently, Citizens and Wellsboro provide their wholesale suppliers with a day-ahead notice of the trigger date. According to the Companies, moving to the same day trigger will reduce the likelihood of wholesale energy market fluctuations between the time that the trigger notice is given and the lock-in of the wholesale energy price. The Companies assert that this change is discussed in more detail in the testimony of Mr. Byron (Barney) Farnsworth Jr, CW Statement No. 1.

The Joint Petitioners assert that Rate Design Plans will remain the same. The Joint Petitioners maintain that current Commission-approved Generation Supply Service Rate (GSSR) for each company will continue to calculate the price of default service supply, including the GSSR-1 fixed price option for residential and small commercial customers and the GSSR-2 hourly priced option for large customers. Finally, the Companies also propose to maintain their non-by passable Customer Choice Support (CCS) Riders that have been effective since 2014. For both companies, the CCS Riders will remain available for appropriate costs approved by the Commission for recovery by the Companies.

To implement the Seventh Joint DSP, the Companies request waivers as contemplated by Section 54.185(g) of the Commission's Regulations. The Companies claim that the proposed waivers are similar to waivers approved by the Commission in the Companies' Sixth Joint DSP. These proposed waivers, set forth in the Companies' Appendix D to the Petition, include requests to establish a four (4) year DSP for the period June 1, 2025, through

May 31, 2029, and to offer Hourly Priced Service (HPS) only to Large C&I customers with a registered peak demand at or above 400 kW. The Companies contend that approval of the waivers will enable the Companies to continue to offer market-based default service products in a manner appropriate for their current circumstances.

The Companies assert that with a similar market-based procurement approach, rate design, and requested waivers, they believe that the Seventh Joint DSP satisfies the directives from the End State Order and remains consistent with the Competition Act, Act 129, and the Commission's Default Service Regulations.

The Parties, Prehearing Conference and *Pennsylvania Bulletin* Publication

On June 5, 2024, the Joint Petition was assigned to me as the presiding Administrative Law Judge (ALJ) for investigation and the scheduling of hearings. On the same date, I directed counsel for the Joint Petitioners to consult with the statutory parties to decide upon a mutually convenient date and time to participate in a prehearing conference. On June 7, 2024, counsel for the Commission's Bureau of Investigation and Enforcement (BIE), via email, informed me and the other parties, that BIE did not intend to participate in this proceeding.

On June 13, 2024, the Office of Small Business Advocate (OSBA) filed a Notice of Appearance in this proceeding, and on June 20, 2024, the OSBA filed a Notice of Intervention. On June 20, 2024, the Office of Consumer Advocate (OCA) filed a Notice of Appearance and an Answer to the Companies Petition.

By Notice dated June 20, 2024, the Parties were informed a Call-In Telephonic Prehearing Conference was scheduled before me for July 9, 2024, at 10:00 a.m. The Notice outlined the procedure to follow to participate in the prehearing conference.

On June 20, 2024, I issued a Prehearing Conference Order concerning regulations pertaining to prehearing conferences, 52 Pa.Code §§ 5.221-5.224, and I directed the Parties to submit their respective Prehearing Memorandums by July 5, 2024. The Prehearing Order also

informed the Parties that failure to participate in the prehearing conference would result in dismissal of their case and removal from the Service List, which was attached to the order.³

Notice of the Companies' Default Service Plan Petition was duly published in the *Pennsylvania Bulletin*, informing the public that formal protests, petitions to intervene and answers must be filed in accordance with Title 52 of the Pennsylvania Code, on or before July 8, 2024. *See* 54 Pa.B. 3604 (June 22, 2024). The Notice also set forth the date, time and a procedure to follow to participate in the prehearing conference.

On July 3, 2024, Joint Petitioners and OCA filed their respective Prehearing Memorandum. On July 5, 2024, OSBA filed its Prehearing Memorandum.

The prehearing conference proceeded as scheduled. Respective counsel for the Companies, OCA, and OSBA participated in the prehearing conference, which resulted in the establishment of a litigation schedule.

Litigation Schedule

This Order confirms the litigation schedule as follows:

<u>Date</u>	<u>Event</u>
June 28, 2024	Citizens and Wellsboro Supplemental Direct Testimony
July 9, 2024	Prehearing Conference
August 6, 2024	Written Direct Testimony of All Non-Company Parties
September 9, 2024	Written Rebuttal Testimony of All Parties
September 20, 2024	Written Surrebuttal Testimony of All Parties
September 25-26, 2024	Telephonic Evidentiary Hearings starting at 10:00 a.m. each day (Joint Petitioners Oral Rejoinder, if necessary)
October 16, 2024	Main Briefs Due

³ Although, BIE had indicated that it did not intend to participate in this proceeding, BIE was included as a Party on the Service List and served with a copy of the Prehearing Order.

October 31, 2024

Reply Briefs Due or Submission of Joint Settlement Petition
Executed by Representatives of All Parties, Together with All
Parties' Statements in Support of Settlement

The Parties agree to accept electronic service. The documents described in the litigation schedule referenced above shall be served electronically on the date indicated, by 4:00 p.m. unless otherwise indicated.

The Parties are reminded of the Commission's requirements for the preparation and filing of written testimony. 52 Pa.Code §§ 5.412-5.412a. 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 ALJ. The Parties and the ALJ agree to accept email transmission of such material, so long as the subject email is received by 4:00 p.m., unless otherwise indicated, on the date due. The email address of the ALJ is cojohnson@pa.gov. The 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 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 telephonic hearings will begin promptly at 10:00 a.m. each day. The Parties must confer before commencement of the hearing to schedule their witnesses to avoid "holes" or

“dead time” during the hearing. Counsel for the Companies must provide the presiding ALJ a Witness Matrix no later than the close of business on **September 23, 2024**.

Parties

Citizens’ Electric Company of Lewisburg, PA, Wellsboro Electric Company, 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 PUC’s Secretary’s Bureau and advise the ALJ of any formal protests or petitions to intervene filed after the date of this Order.

Consolidation

At the prehearing conference, the above-captioned dockets, P-2024-3049357 and P-2024-3049359 were consolidated under Docket Number P-2024-3049357.

Public Input Hearing

At present, no Party has identified a need to conduct a public input hearing in the Companies’ service territory. If consumer interest arises, however, the Parties are hereby directed to give this matter their prompt attention and notify the ALJ immediately of the change in circumstances.

Protective Order

The Parties must comply with 52 Pa.Code § 5.362 regarding the preparation and filing of a motion for a protective order. If a Party files a motion for a protective order, it must submit a copy of the proposed protective order to the presiding ALJ by email in a *Microsoft Office Word* format.

Issues

In their respective Prehearing Memorandums, the 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 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 ALJ will contact the Parties and direct them to pursue informal discovery.

OCA requested modification of the Commission's procedures for formal discovery to apply to all future discovery requests served as of the day of the prehearing conference. All Parties agreed to the proposed modifications, therefore, that request is hereby granted. The following discovery procedure, as modified, applies to this case.

- 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) business days of service of the interrogatories; unresolved objections shall be served in writing to the propounding party within five (5) business 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) business 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) business days of service of such motions.
- E. Requests for admissions 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 12:00 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 testimony is served, the following deadlines are 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) business 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) business days of service; unresolved objections shall be served on the propounding party in writing within three (3) business 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) business 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) business days of service of such motions.
- E. Requests for admission shall be deemed admitted unless answered or objected to within three (3) business 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 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.

The Parties must in good faith and on an informal basis attempt to resolve any discovery dispute amicably among themselves, before contacting the ALJ for resolution.⁴

Service of Documents

Service of documents must comply with the Commission's regulations at 52 Pa.Code §§ 1.54-1.57. The electronic version of the documents served on the ALJ must be prepared on an IBM compatible system in Microsoft Office Word 365 format or in an earlier version of this software application.

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 ALJ no later than the close of business on **October 31, 2024**

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 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

⁴ If the parties cannot resolve their discovery dispute informally, they may confer informally with the ALJ to resolve any outstanding discovery disputes.

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.

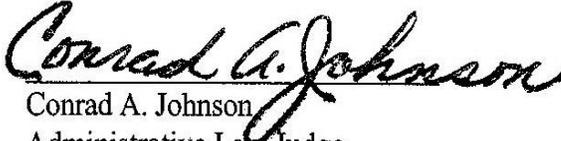
Briefs

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 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 must be prepared on an IBM compatible system in Microsoft Office Word 325 format or in an earlier version of this software application.** If any questions arise, please call the office of the ALJ for clarification.

Modification

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

Dated: July 16, 2024


Conrad A. Johnson
Administrative Law Judge

P-2024-3049357, P-2024-3049359 JOINT PETITION OF CITIZENS' ELECTRIC COMPANY OF LEWISBURG, PA AND WELLSBORO ELECTRIC COMPANY FOR APPROVAL OF DEFAULT SERVICE PLAN AND WAIVER OF COMMISSION REGULATIONS FOR THE PERIOD JUNE 1, 2025, THROUGH MAY 31, 2029

(SERVICE LIST REVISED 7/16/24)

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