

# COMMONWEALTH OF PENNSYLVANIA



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October 28, 2024

## Via Electronic Mail

The Honorable Mary D. Long  
Office of Administrative Law Judge  
Pennsylvania Public Utility Commission  
Piatt Place  
301 Fifth Avenue, Suite 220  
Pittsburgh, PA 15222  
[malong@pa.gov](mailto:malong@pa.gov)

Re: Petition of the Boroughs of Camp Hill, Carlisle, Hatboro, Lansdowne, Media, Narberth, State College, and Swarthmore for a Declaratory Order regarding the Implementation of Community Choice Aggregation Docket No. P-2024-3049623

Judge Long:

Pursuant to the Prehearing Order Scheduling a Further Prehearing Conference issued on September 16, 2024, the Office of Consumer Advocate (OCA) submits the below proposals regarding further proceedings. In accordance with Your Honor's instructions, the parties to this proceeding met to attempt to reach a consensus regarding how best to proceed in this matter. No consensus on a path forward was achieved.

The OCA submits that to conserve the resources of all parties in this proceeding, the commencement of discovery should be tolled. This would permit parties to file and respond to dispositive motions and seek resolution from Your Honor on the issues which are ripe for summary disposition prior to commencing a full factual investigation. Rather than set the full procedural schedule, once a ruling has been made on all dispositive motions, the OCA requests that another prehearing conference be held to develop the litigation schedule for the investigation of any remaining factual and legal issues.

To support this request, the OCA recommends that all dispositive motions be filed by December 16, 2024, and that all responses to those dispositive motions be filed by January 15, 2025. In the OCA's view, it is imperative to provide an answer period longer than the 20 days provided for in the Commission's regulations. 52 Pa. Code § 5.102(b). This approach would balance the interests of the parties in proceeding to litigation within a reasonable timeframe while also ensuring that adequate time is allotted to dispositive motions, given the likelihood that one or more parties may seek to file such a motion.

In the alternative, if Your Honor believes that additional information is needed prior to the filing of dispositive motions, then an initial period for discovery should be established and then further discovery tolled pending the filing of dispositive motions. If Your Honor prefers this approach, the OCA recommends that the initial discovery period should conclude on January 31, 2025, at which point parties would have 45 days to file dispositive motions and 30 days to respond to those motions, with the full investigation commencing, if necessary, following Your Honor's rulings on any motions filed.

Based on the parties' discussions, the OCA submits that there are several legal questions which could possibly be resolved through dispositive motions that would either eliminate the need for a factual investigation or, at the very least, narrow the scope of such an investigation. Ultimately, it is unclear whether the Petitioners will continue to pursue declaratory relief if certain legal questions are resolved in a manner unfavorable to the Petitioners. By permitting parties to file dispositive motions while discovery is tolled, the Petitioners and answering parties could be relieved of the significant time and expense of the discovery process based on the resolution of purely legal questions.

The OCA is prepared to fully discuss its proposals at the Further Prehearing Conference on October 29, 2024.

Copies of this letter have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Jacob Guthrie

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DATED: October 28, 2024

Enclosures:

CC: Secretary Rosemary Chiavetta, Via Electronic Filing  
Certificate of Service

CERTIFICATE OF SERVICE

Petition of the Boroughs of Camp Hill, :  
Carlisle, Hatboro, Lansdowne, Media, :  
Narberth, State College, and Swarthmore for : Docket No. P-2024-3049623  
a Declaratory Order regarding the :  
Implementation of Community Choice :  
Aggregation :

I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and served a true copy of the following document, the Office of Consumer Advocate’s Letter re: Further Proceedings, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below.

Dated this 28<sup>th</sup> day of October, 2024.

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Dated: October 28, 2024

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