

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission  
v.  
West Penn Power Company

Docket Number  
R-2014-2428742

Pennsylvania Public Utility Commission  
v.  
Pennsylvania Electric Company

Docket Number  
R-2014-2428743

Pennsylvania Public Utility Commission  
v.  
Pennsylvania Power Company

Docket Number  
R-2014-2428744

Pennsylvania Public Utility Commission  
v.  
Metropolitan Edison Company

Docket Number  
R-2014-2428745

West Penn Power Company

Docket Number  
M-2013-2341991

Pennsylvania Electric Company

Docket Number  
M-2013-2341994

Pennsylvania Power Company

Docket Number  
M-2013-2341993

Metropolitan Edison Company

Docket Number  
M-2013-2341990

**ORDER**

This Order is entered pursuant to the authority granted to presiding officers under 52 Pa. Code § 5.483. Pursuant to 52 Pa. Code § 5.483, the presiding officers have the authority

to, *inter alia*, exclude irrelevant, immaterial and unduly repetitive evidence, and to regulate the course of the proceeding. Furthermore, pursuant to 52 Pa. Code § 5.485(a), the presiding officers must conduct a fair and impartial hearing and maintain order in the admission of evidence and in the conduct of the hearing. Pursuant to 52 Pa. Code § 5.403(a), the presiding officers have “all necessary authority to control the receipt of evidence, including ... [c]onfining the evidence to the issues in the proceeding and impose, where appropriate: ... (ii) Limitations of time and scope for direct and cross examinations.... (iv) other necessary limitations.” The overarching purpose to these powers in the presiding officer is to use the authority to “direct and focus the proceedings consistent with due process.” 52 Pa. Code § 5.405(c).

#### A. Procedural Background

On August 4, 2014, four FirstEnergy Companies (FirstEnergy) filed tariff supplements requesting increases to the base rates charged to ratepayers by the electric distribution companies (EDCs). These cases have been referred to as the “R docket cases.” The separate increases requested by the FirstEnergy companies to annual distribution revenue are:

1. West Penn Power Company – requesting \$115.5 million or 8.4% of total electric operating revenues;
2. Pennsylvania Electric Company – \$119.8 million or 8.6% of total electric operating revenues;
3. Pennsylvania Power Company – \$28.5 million or 8.7% of total electric operating revenues; and
4. Metropolitan Edison Company – \$151.9 million or 11.5% of total electric operating revenues.

By Order entered October 2, 2014, the Pennsylvania Public Utility Commission (Commission) suspended the filings by operation of law until May 3, 2015, and instituted an investigation to determine the lawfulness, justness and reasonableness of the proposed rates, rules, and regulations.

In addition to the four filings, FirstEnergy filed on behalf of all four utilities separate pro-forma tariff supplements on August 1, 2014 to implement the Smart Meter Technologies Charge (SMT-C) Rider pursuant to the Smart Meter Deployment Dockets for the Companies. These filings, referred to as “M Docket” proceedings, were made in compliance with a prior Commission Order where the Commission directed the electric distribution companies to file by August 1<sup>st</sup> of each year the SMT-C Rider Rates for the Residential, Commercial and Industrial Customer Classes for service rendered on or after January 1<sup>st</sup> and continuing through December 31<sup>st</sup> of each year.

On November 25, 2014, a second prehearing conference was held in these cases at the office of the Commission in Harrisburg, Pennsylvania.<sup>1</sup> Given the challenges associated with litigating and adjudicating eight inter-related cases, and on the basis of that second prehearing conference, the presiding officers wish to afford clarification to the parties with respect to several issues.<sup>2</sup>

#### B. Specific Issues Raised in Public Input Hearings

The Office of Administrative Law Judge (OALJ) held public input hearings in these matters on various dates and in accord with prior, published notice in the cities of Warren, New Castle, Erie, Washington, Uniontown, East Stroudsburg and Reading, Pennsylvania. Approximately fifty-five (55) individuals testified at the public input hearings.

The testimony of the witnesses at the public input hearings raised the following issues and/or allegations:

1. The Companies’ alleged excessive use of consecutive estimated meter readings;

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<sup>1</sup> Administrative Law Judge Katrina Dunderdale participated by telephone.

<sup>2</sup> In addition to issues discussed, the presiding officers notified the parties of the assignment of five technical advisors to work with the presiding officers and of the need to provide all statements and exhibits to those advisors going forward. Those advisors are Debra Backer, Lee Yalcin, David Washko, Marc Hoffer, and Andrew Herster of the Commission’s Bureau of Technical and Utility Services (TUS).

2. The Companies' alleged failure to charge appropriately in monthly billing statements using estimated meter readings;
3. The Companies' alleged failure to respond timely to customer calls alleging safety concerns;
4. The Companies' alleged failure to timely and appropriately update and/or repair equipment and facilities;
5. The Companies' alleged failure to make base rate filing materials available within the territory as promised in materials sent by the Companies to ratepayers;
6. The allegation that employees of one or more of the Companies were told or advised by Company staff to replace broken or non-working, less expensive equipment with more expensive equipment which would drive up the capital costs.

The presiding officers are concerned that these issues, many if not all of which were raised by multiple witnesses, be addressed by the Companies. While it is correct that issues raised at public input hearings are customarily addressed in the Companies' rebuttal and Other Parties' surrebuttal testimony, these issues are of such relevance to the disposition of these cases that the presiding officers feel that it is incumbent upon them to direct the attention of the parties to these issues and to require direct responses thereto.

All parties were advised that because the issues arising from the public input hearings do not necessarily apply to all four utilities, responses to these issues must be identified and addressed by individual utility company. Accordingly, the presiding officers advised the parties that additional statements and/or exhibits with respect to these six issue areas must be filed by the Companies. The Other Parties will be provided with an opportunity to file written statements and/or exhibits in response.

The parties agreed to a schedule for the service of these pleadings. To the extent that the foregoing six issues have not been addressed in the Companies' rebuttal testimony due on December 18, 2014, the Companies will address these issues in a filing due by 4:30 p.m. on

December 26, 2014. Thereafter, the Other Parties may respond in their Surrebuttal testimony due on January 6, 2015 or in a stand-alone pleading due on January 7, 2015.

C. Document Control/Service Issues

The presiding officers discussed difficulties experienced with service due to the quantity and size of documents filed and/or served in these cases matter. To facilitate document control and service, the following shall apply:

1. That all documents served on the presiding officers shall be filed with the Secretary's Bureau, as appropriate, with hard copies mailed by overnight express mail to the presiding officers, with an electronic version included in Word format on a compact disc to the presiding officers only. The parties shall not attach a copy of the documents to any electronic mail sent to the presiding officers.
2. That all future documents served on the presiding officers are to be served on the technical advisors and shall be provided in electronic format only. The technical advisors are: Debra Backer (dbacker@pa.gov), Lee Yalcin (lyalcin@pa.gov), David Washko (dawashko@pa.gov), Marc Hoffer (mhoffer@pa.gov), and Andrew Herster (aherster@pa.gov).
3. That the presiding officers will serve correspondence, orders and documents on only one attorney per party and will refer all questions to the first attorney listed on the party's Notice of Appearance.
4. That all individual Complainants shall be removed from the parties' service lists for the service of documents, except William Welch, as these individuals did not participate in either of the two Prehearing Conferences herein. The presiding officers will continue to copy these individual Complainants on all orders and decisions issued by the Office of Administrative Law Judge and by the Commission.

5. That the parties are to provide a copy of all statements and exhibits issued to date to William Welch but only as those statements and exhibits relate to Pennsylvania Electric Company filings.

D. Consolidation of “R” and related “M” Dockets

These proceedings involve eight separately docketed cases. As of the time of the prehearing conference on November 25, 2014, none of the docketed cases had been consolidated with any other docketed case; however, the presiding officers advised the parties that future correspondence and filings could combine the smart meter surcharge proceeding associated with the base rate proceeding of the same utility in order to aid judicial economy and ease the burden on the parties.

The parties may discuss the issues arising from the base rate proceeding and the related smart meter surcharge proceeding for each utility. The presiding officers identified the following specific issues related to the smart meter surcharge:

1. Whether the surcharge for each utility should be “zeroed out” and included within the base rate for that utility;
2. If the answer to Issue #1 above is “no”, then what is the appropriate surcharge; and,
3. If the answer to Issue #1 above is “yes”, then what is the appropriate base rate.

E. Consolidation of the Other Parties' Complaints

At the second prehearing conference on November 25, 2014, the presiding officers granted an oral motion consolidating the Other Parties' formal Complaints with the relevant "R docket" proceedings. Tr. at 579. That Order is hereby affirmed.

F. Settlement Discussions

It is the policy of the Commission to encourage settlements. 52 Pa. Code § 5.231. If the parties have not already done so, they are hereby directed to initiate settlement discussions among themselves no later than the week of December 8, 2014. The parties will report to the presiding officers by January 5, 2015 whether they have been able to settle these cases or any of the issues in these cases.

G. Procedure in the Event of Settlement(s)

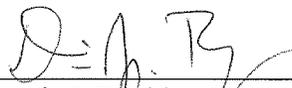
In the event the parties successfully resolve all of the outstanding issues in the four base rate proceedings and/or the four smart meter surcharge proceedings, the parties are directed to the Commission's Settlement Guidelines and Procedures for Major Rate Cases- Statement of policy at 52 Pa. Code § 69.401 *et seq.* Any settlement agreement filed by the parties must specify the Rate of Return and the Return on Equity though not the methodology used to arrive. In general base rate proceedings, settlements are often "black box," meaning that the parties have not negotiated each and every revenue and expense line item but rather have, after considerable effort, been able to agree upon a final revenue number based on their individual revenue and expense analysis. It is, however, expected that financial data submitted in support of any filed tariff Supplements will support the results of settlement petition(s).

H. Presentation of Evidence at the Hearings January 13-16, 2015

Given the administrative and logistical complexity of conducting evidentiary hearings in these cases that will result in the creation of a coherent and comprehensible record, the presiding officers have repeatedly expressed their concern that the parties present a proposal with respect to how their evidentiary presentations will be managed. At the second prehearing conference on November 25, 2014, we renewed this concern and suggested as an initial framework the early creation of a witness matrix by the parties.

It is anticipated that, consistent with the discussion at the second prehearing conference, that the parties will present the presiding officers with a proposal as to how the parties intend to present their cases at hearing. The purpose of this is to afford the parties an opportunity to resolve their own issues with respect to witness availability and case-management. It was anticipated that the parties will present this proposal on December 8, 2014. However, and given the delay in issuing this Order, that presentation may be made no later than December 10, 2014.

The parties must ensure that all statements and/or exhibits be pre-marked when served and that the identification or name of the sponsoring witness be clearly shown on the cover sheet for each statement and/or exhibits. Each statement and/or exhibit will indicate the utility to which the statement and/or exhibit relates.

  
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Dennis J. Buckley  
Administrative Law Judge

Date: December 5, 2014

  
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Katrina L. Dunderdale  
Administrative Law Judge

PENNSYLVANIA PUBLIC UTILITY CORPORATION

v.

R-2014-2428742 - WEST PENN POWER

R-2014-2428743 - PENNSYLVANIA ELECTRIC COMPANY

R-2014-2428744 - PENNSYLVANIA POWER COMPANY

R-2014-2428745 - METROPOLITAN EDISON COMPANY

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