

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

**Petition of Communications Workers of
America for a Public, On-the-record
Commission Investigation of the Safety,
Adequacy, Reasonableness of Service
Provided by Verizon Pennsylvania, LLC**

**Public Meeting held April 21, 2016
2509336-OSA
Docket No. P-2015-2509336**

STATEMENT OF CHAIRMAN GLADYS M. BROWN

In this case, the CWA asked the Commission to open an “on the record investigation” to decide if an investigation of Verizon’s current utility practices and services complies with the Public Utility Code. The ALJ’s Prehearing Order of March 22, 2016 set out a proposed procedural schedule for managing this proceeding. On April 8, 2016, Verizon filed a Petition for Interlocutory Review in order to obtain answers to four specific questions Verizon has with the overall conduct of this proceeding.

This is the Commission’s first opportunity to provide clarification regarding the nature of this proceeding. Clarification is best provided by simply construing the CWA Petition as a formal complaint, answering Verizon’s questions in the negative since they are moot, and remanding the matter to the OALJ for proceedings consistent with the Prehearing Order.¹ This clarification is consistent with the Bureau of Investigation and Enforcement’s view that this CWA Petition is best suited in its entirety to a formal complaint proceeding.

This approach ensures that the dispute is resolved in a just, speedy, and inexpensive manner compared to undertaking a two-stage process envisioned if the Commission continues to view the CWA Petition as asking the Commission to, first, decide if an investigation is needed and, then, secondly, conducting another proceeding if it is. This two stage process could also be a violation of the *Lyness* principle which requires separate prosecutory and adjudicatory functions.² This *Lyness* challenge is avoided if the Commission construes the CWA Petition as a formal complaint, denies the Interlocutory Petition questions, and remands the matter the ALJ to conduct the proceeding as outlined in the Prehearing Order.

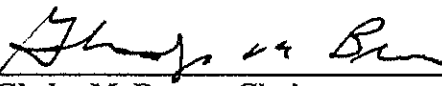
¹ The decision to construe the underlying CWA Petition that gave rise to the instant Interlocutory Petition as a formal complaint is consistent with Judicial and Commission precedent upholding the Commission’s authority to construe a pleading in order to secure the just, speedy, and inexpensive determination of every action. *ATT Communications v. Pennsylvania Public Utility Commission*, 130 Pa. Cmwlth. Ct. 595, 568 A.2d 1362, 1364 (1990); *Whitney and Gwen Cox v. Pennsylvania Power and Light*, Docket No. F-00164309 (October 28, 1994); *Big Apple Dinner Theatre v. Bell of Pennsylvania*, Docket No. C-00934817 (April 30, 1993).

² *Lyness v. Commonwealth of Pennsylvania, State Board of Medicine*, 529 Pa. 535, 605 A.2d 1204, 1992 Pa. LEXIS 246 (1992).

No parties' due process rights are harmed. The Parties and the public will be given a meaningful opportunity to be heard on the CWA's claims.

Because a complaint proceeding is more transparent, efficient, and circumvents any *Lyness* challenges, I support treating the CWA Petition as a Formal Complaint.

April 21, 2016
Date



Gladys M. Brown, Chairman