

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Communications Workers of	:	
America for a Public, On-the-Record Commission	:	
Investigation of the Safety, Adequacy, and	:	P-2015-2509336
Reasonableness of Service Provided by Verizon	:	
Pennsylvania, LLC	:	

SCHEDULING ORDER #3

On October 21, 2015, the Communications Workers of America (CWA) filed with the Pennsylvania Public Utility Commission a Petition requesting that the Commission open an investigation into the safety, adequacy and reasonableness of service provided by Verizon Pennsylvania, LLC (Verizon). The Petition was docketed at P-2015-2509336. In its Petition, CWA indicated that it is the authorized bargaining unit for approximately 4,700 employees of Verizon who are directly responsible for operating and maintaining the physical facilities that are used to provide telecommunications service to the public. CWA averred that it conducted an investigation of the conditions at Verizon under which its members work and the investigation showed deferred maintenance or other indications that Verizon should be increasing its budget for certain repair and maintenance. CWA further averred that there are “numerous instances throughout the Commonwealth of physical plant in an appalling state of disrepair that pose a safety hazard to utility employees and the public.” CWA asked that the Commission conduct an in-depth in-person examination and audit of Verizon records and physical plant throughout Verizon’s service areas, adopt detailed findings of fact, order Verizon to take specific, detailed remedial actions and impose substantial civil penalties on Verizon for repeated and willful failure to comply with the Public Utility Code, Commission regulations and standard industry practices for protecting the safety of the public and utility employees. CWA provided specific examples in support of its Petition.

On November 3, 2015, the Office of Consumer Advocate (OCA) filed a Notice of Intervention and Public Statement.

On November 10, 2015, Verizon and Full Service Network (FSN) filed separate Answers to CWA's Petition.

Also on November 10, 2015, the Small Business Advocate (OSBA) filed a Notice of Appearance, a Notice of Intervention and a Public Statement.

Additional pleadings and filings in the form of letters have been filed at this docket.

On February 16, 2016, the Commission issued a Hearing Notice establishing an Initial Prehearing Conference for this case for Friday, March 18, 2016 10:00 a.m. in Hearing Room 5 of the Commonwealth Keystone Building in Harrisburg and assigning me as the Presiding Officer. A Prehearing Conference Order was issued dated February 18, 2016.

The Commission's Bureau of Investigation and Enforcement (I&E) filed a Notice of Intervention on February 24, 2016.

The Initial Prehearing Conference convened on March 18, 2016 as scheduled. The following counsel was present: Scott Rubin, Esquire, on behalf of CWA; Lauren Burge, Esquire, Darryl Lawrence, Esquire and Barrett Sheridan, Esquire, on behalf of the OCA; Elizabeth Triscari, Esquire, on behalf of OSBA; Stephanie Wimer, Esquire, and Bradley Gorter, Esquire, on behalf of I&E; Suzan Paiva, Esquire, on behalf of Verizon; and Sarah Stoner, Esquire, on behalf of FSN. Each of these parties previously submitted prehearing memoranda as requested in the Prehearing Conference Order. As per the Prehearing Conference Order regarding participation in this proceeding, the service list for this proceeding was limited to these six parties.

During the Initial Prehearing Conference, various procedural matters were discussed. Most notably, extensive discussion was held regarding a procedural schedule for this case. A Scheduling Order was issued dated March 22, 2016.

In response to the Scheduling Order, Verizon filed a Petition for Interlocutory Review and Answer to a Material Question on March 29, 2016. On April 8, 2016, CWA, Verizon, the OCA and I&E filed briefs in response to the Petition. On April 21, 2016, the Commission issued an Opinion and Order granting the Petition, answering each of the questions and returning the matter to the Office of Administrative Law Judge.

On May 6, 2016, Verizon filed a Motion to Hold the Proceeding in Abeyance and for a Continuance. In its Motion, Verizon argued that, on April 13, 2016, CWA and the International Brotherhood of Electrical Workers (IBEW) began a strike against Verizon and its affiliates. On May 16, 2016, CWA filed an Answer opposing Verizon's Motion. In its Answer, CWA recognized that its members began a strike against Verizon on April 13, 2016 but argued that Verizon has not shown "good cause" for continuing the proceeding.

On May 25, 2016, counsel for CWA indicated via email that CWA and Verizon have reached an agreement regarding the following procedural schedule for this proceeding:

June 30, 2016	Verizon to file objections to CWA discovery Set I
August 12, 2016	Verizon to file responses to CWA discovery Set I
September 29, 2016	CWA and allied parties to file Direct Testimony
December 1, 2016	Verizon and allied parties to file Direct Testimony
January 5, 2017	CWA and allied parties to file Rebuttal testimony
Week of February 6, 2017	Hearings

The schedule proposed that normal discovery periods would resume after August 12, 2016. Counsel indicated that the Further Prehearing Conference could be cancelled if no other party objected to the schedule. The parties were instructed to indicate via email any objection to the

proposed procedural schedule. Each party responded that they had no objection to the proposed procedural schedule.

As a result, as the proposed procedural schedule was unopposed, the Further Prehearing Conference scheduled for May 26, 2016 was cancelled and Scheduling Order #2 was issued to formally establish the procedural schedule for this matter. The parties were also reminded that Commission policy promotes settlements and encouraged to commence settlement discussions as early as possible. 52 Pa. Code §5.231(a).

Pursuant to the agreed upon procedural scheduled, CWA and OCA filed direct testimony on September 29, 2016.

On November 21, 2016, counsel for Verizon indicated via email that the company and CWA are engaged in serious settlement discussions and that the other parties have indicated that they wish to join the discussions. As a result, counsel requested that the procedural schedule be modified to allow more time for the parties to focus on the settlement discussions. Counsel indicated that the December 1, 2016 deadline for Verizon and other allied parties to file direct testimony would be moved to January 27, 2017 and that all other dates would be suspended, including cancelling the hearings, to be rescheduled if a settlement is not reached. Counsel indicated that the parties will provide a report on the status of settlement discussions by January 27, 2017. No party opposed the proposal.

By email on November 21, 2016 the parties were informed that the proposal would be adopted. The purpose of this order is to formally grant the proposal and modify the procedural schedule.

Section 1.15 of the Commission's regulations provides: "Except as otherwise provided by statute, requests for continuance of hearings or for extension of time in which to perform an act required or allowed to be done at or within a specific time by this title or by order of the Commission or the presiding officer, shall be by motion in writing, timely filed with the Commission, stating the facts on which the application rests." 52 Pa.Code § 1.15(b). This

Section also provides that “only for good cause shown will requests for continuance be considered.” Id. Additionally, Section 5.483(a) provides Presiding Officers the authority to regulate the course of the proceeding. 52 Pa.Code § 5.483(a). Furthermore, Section 1.2 provides that the Commission’s rules shall be “liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding.” 52 Pa.Code § 1.2(a).

The request to modify the procedural schedule will be granted. The parties have indicated that are engaged in serious settlement discussions. The Commission strongly encourages settlement. 52 Pa.Code § 5.231. As a result, modifying the procedural schedule to allow for additional settlement discussions is consistent with the Commission’s policy encouraging settlement and, therefore, good cause has been shown. Modifying the procedural schedule will secure the just, speedy and inexpensive determination of the proceeding if some or all of the issues. As part of the approval of the request, the parties have agreed to provide a status report by January 27, 2017 if the matter is not settled before that time. To the extent that a settlement does not resolve all issues by that time, a new procedural schedule will be established. The parties are reminded that decisions of the Commission must be supported by substantial evidence. 2 Pa. C.S. § 704. "Substantial evidence" is such relevant evidence that a reasonable mind might accept as adequate to support a conclusion. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Any settlement submitted for approval must be supported by substantial evidence.

ORDER

THEREFORE,

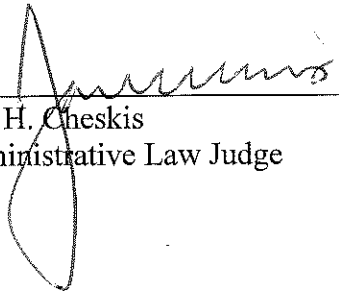
IT IS ORDERED:

1. That the procedural schedule adopted for this proceeding will be modified so that the due date for Verizon and allied parties to file direct testimony will be moved from December 1, 2016 to January 27, 2017 and all other dates will be suspended.

2. That the parties will provide a report on the status of settlement discussions by January 27, 2017 if the matter is not resolved by settlement prior to that date.

3. That the parties are reminded that decisions of the Commission must be supported by substantial evidence.

Date: November 22, 2016



Joel H. Cheskis
Administrative Law Judge

P-2015-2509336 - PETITION OF COMMUNICATIONS WORKERS OF AMERICA - FOR A PUBLIC,
ON-THE-RECORD COMMISSION INVESTIGATION OF SAFETY, ADEQUACY AND
REASONABLENESS OF SERVICE PROVIDED BY VERIZON PENNSYLVANIA LLC.

Revised 7/7/16

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