**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Metropolitan Edison Company for :

Approval of a Distribution System Improvement : P-2015-2508942

Charge :

Office of Consumer Advocate :

: C-2016-2531040

v. :

:

Metropolitan Edison Company :

Petition of West Penn Power Company for :

Approval of a Distribution System Improvement : P-2015-2508948

Charge :

Office of Consumer Advocate :

: C-2016-2531019

v. :

:

West Penn Power Company :

Petition of Pennsylvania Electric Company for :

Approval of a Distribution System Improvement : P-2015-2508936

Charge :

Office of Consumer Advocate :

: C-2016-2531060

v. :

:

Pennsylvania Electric Company :

Petition of Pennsylvania Power Company for :

Approval of a Distribution System Improvement : P-2015-2508931

Charge :

Office of Consumer Advocate :

: C-2016-2531054

v. :

:

Pennsylvania Power Company :

**BRIEFING ORDER**

On June 9, 2016, the Pennsylvania Public Utility Commission (Commission) entered Orders separately approving petitions for a Distribution System Improvement Charge (DSIC) filed by Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), West Penn Power Company (West Penn) and Pennsylvania Power Company (Penn Power). In the Orders, the Commission determined that the petitions comply with the requirements of Act 11 of 2012 (Act 11) and the Commission’s Final Implementation Order implementing Act 11. Implementation of Act 11 of 2012, Docket No. M-2012-2293611 (entered Aug. 2, 2012). The Commission found the petitions to be consistent with applicable law and Commission policy and allowed the tariffs to go into effect on July 1, 2016. The Commission, however, also referred the matters to the Office of Administrative Law Judge (OALJ) for hearing and preparation of a recommendation decision regarding various issues raised in response to the petitions.

As a result, on July 28, 2016, the Commission issued a Hearing Notice establishing an Initial Prehearing Conference for these cases for Wednesday, August 10, 2016 beginning at 10:00, 10:30, 11:00 and 11:30 a.m. in Hearing Room 5 of the Commonwealth Keystone Building in Harrisburg and assigning me as the Presiding Officer. Prior to the prehearing conferences, a discussion was held amongst the parties and the Presiding Officer regarding consolidating the four proceedings. Since no party objected to consolidation and common issues of law and fact were present, the proceedings were consolidated.

During the prehearing conference, the companies proposed that, in lieu of establishing a litigation schedule, the parties would schedule two or more settlement and/or technical conferences to be held between August 15, 2016 and September 15, 2016 and report back to the Presiding Officer on the status of negotiations by September 19, 2016. If the consolidated proceedings were not settled by that time, a second prehearing conference would be scheduled. The proposal was memorialized via a Scheduling Order dated August 12, 2016. The parties submitted several status reports and engaged in various settlement efforts culminating in the submission of a Joint Petition for Settlement of Pending Issues on February 2, 2017.

In the interim, the Commission issued an Opinion and Order on January 19, 2017 in the proceeding involving the companies’ consolidated respective base rate filings. In that Opinion and Order, the Commission referred to this proceeding the contested issue concerning the Office of Consumer Advocate’s (OCA) claim with regard to the calculation of the Accumulated Deferred Income Tax (ADIT) and the companies’ DSIC riders interpreting the recently enacted Act 40. The Commission also transferred to this proceeding various parts of the record from the base rate proceeding that pertained to ADIT issues. The Commission noted that a Recommended Decision had not yet been issued in this proceeding and that there is adequate time to resolve the contested issue from the base rate proceeding within the context of this proceeding.

On February 21, 2017, at the request of the Presiding Officer, an off-the-record conference call amongst the parties and the Presiding Officer was held. During that call, it was determined that, in light of the submission of the settlement of the original issues raised in this proceeding on February 2, 2017, a further prehearing conference should be convened on March 6, 2017 to discuss how to address the ADIT issue referred to this case in the Commission’s January 19, 2017 Opinion and Order.

As a result, on February 21, 2017, the Office of Administrative Law Judge issued a hearing notice establishing a further prehearing conference for this case for Monday, March 6, 2017, at 10:00 a.m. in hearing room 4 of the Commonwealth Keystone Building in Harrisburg. In anticipation of the further prehearing conference, a further prehearing conference order was issued dated February 22, 2017.

The further prehearing conference convened on March 6, 2017, as scheduled. The following counsel appeared: Anthony DeCusatis, Esquire and John Munsch, Esquire, on behalf of the companies; Erin Gannon, Esquire, on behalf of the OCA; Daniel Asmus, Esquire, on behalf of the Office of Small Business Advocate (OSBA); and, Alessandra Hylander, Esquire, on behalf of the industrial users groups for each company. Each of these parties previously submitted further prehearing conference memoranda as requested in the further prehearing conference order.

During the hearing, the parties agreed to the following procedural schedule for the purpose of addressing the contested issue raised by the OCA with regard to the calculation of the ADIT and the companies’ DSIC riders interpreting the recently enacted Act 40:

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| --- | --- |
| OCA Supplemental Direct Testimony | March 21, 2017 |
| All parties’ Supplemental Rebuttal Testimony | April 13, 2017 |
| All parties’ Supplemental Surrebuttal Testimony | May 1, 2017 |
| Companies’ Supplemental Rejoinder Testimony | May 5, 2017 |
| Hearings in Harrisburg | May 12, 2017 |

The parties also agreed that the modifications to the Commission’s discovery procedures agreed to in the initial prehearing conference will remain in effect for this portion of the proceeding.

The parties submitted pre-served testimony pursuant to the agreed upon schedule. A hearing was held in Harrisburg on May 12, 2017 where in the pre-served testimony was admitted into the record via stipulation and the parties waived cross-examination. Furthermore, the parties agreed to submit briefs in support of their positions with Main Briefs to be filed on June 5, 2017 and Reply Briefs to be filed on June 21, 2017.

The purpose of this order is to memorialize the briefing schedule and address additional procedural issues regarding briefs.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the parties shall file and serve **Main Briefs on or before June 5, 2017 and Reply Briefs on or before June 21, 2017** in conformance with the Commission’s regulations at 52 Pa.Code §§ 5.501, *et seq*. unless otherwise modified by the Presiding Officer.

2. That the briefs must contain: (a) a concise statement or counter-statement of the case; (b) an argument, with sufficient citations to record evidence, preceded by a summary; (c) a conclusion with requested relief; (d) proposed Findings of Fact, together with page references to statements of testimony, the hearing transcript and exhibits; (e) proposed Conclusions of Law, together with legal citations and (f) proposed Ordering Paragraphs.

3. That the parties shall file the original copies of the Main Brief and Reply Brief with the Commission no later than 4:30 p.m. on the date due, addressed as follows:

Rosemary Chiavetta, Secretary

Pennsylvania Public Utility Commission

P.O. Box 3265

Harrisburg, Pa. 17105-3265

4. That, consistent with 52 Pa. Code §1.54, the parties shall serve one copy of the Main Brief and Reply Brief on each other and the Presiding Officer in–hand no later than 4:30 p.m. on the date due. Parties may serve the brief via e-mail to meet this requirement, with hard copy to follow, sent to the addresses set forth on the attached service list and as follows:

Joel H. Cheskis

Administrative Law Judge

Pennsylvania Public Utility Commission

P.O. Box 3265

Harrisburg, Pa. 17105-3265

Email: [jcheskis@pa.gov](mailto:jcheskis@pa.gov)

5. That any brief not filed and served on or before the date set forth above will not be accepted except by special permission.

6. That the parties are advised not to include any extra-record evidence in their briefs.

7. That a party shall not introduce evidence or argument in the Reply Brief that is repetitive, should have been included in the Main Brief or substantially varies from the party’s case-in-chief.

8. That if a brief contains a citation to an unreported decision which is not available on LEXIS or the Commission’s website, a copy of that unreported decision must be appended to the brief.

9. That all briefs, testimony and other documents submitted in this proceeding are to be provided to the Presiding Officer in Microsoft Word format.

Date: May 15, 2017

Joel H. Cheskis

Administrative Law Judge

**P-2015-2508942 -** **METROPOLITAN EDISON COMPANY FILED PETITION FOR APPROVAL OF LONG-TERM INFRASTRUCTURE IMPROVEMENT PLAN..**

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**C-2016-2531040** *Metropolitan Edison Company*

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