

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

CASE 11-W-0200 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Long Island Water Corporation d/b/a Long Island American Water for Water Service.

PROCEDURAL RULING

(Issued July 20, 2011)

RAFAEL A. EPSTEIN, Administrative Law Judge:

This ruling memorializes the results of a telephone conference I conducted, and modifications based on subsequent communications, among representatives of Long Island Water Corporation d/b/a Long Island American Water; staff of the Department of Public Service (Staff); Utility Intervention Unit, Division of Consumer Protection, N.Y.S. Department of State;<sup>1</sup> and the Municipal Consortium in Support of Reasonable Water Rates.

The purpose of the conference, in addition to identifying issues and parties, was to establish procedural schedules for a scenario in which the parties offer the Commission a unanimous or contested joint proposal for resolving the issues and, alternatively, a scenario in which they reach no such agreement. In setting each schedule, the objective was to allow sufficient but not excessive time to develop a record basis for a Commission decision within the legal suspension period, which is statutorily subject to extension through March 27, 2012.

Accordingly, the parties and I agreed upon schedules which appear fair and reasonable and are adopted as follows.

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<sup>1</sup> Formerly the N.Y.S. Consumer Protection Board.

September 12, 2011	Staff's and intervenors' cases
October 3, 2011	Rebuttal
October 19, 2011	Parties' status conference to establish whether a joint proposal will be filed by November 23, 2011
October 20, 2011	Judge's status conference; hearing commences

If the parties do not report on October 20 that they have reached an agreement in principle that will enable them to file a joint proposal by November 23, the purpose of the hearing starting October 20 will be to cross-examine the parties' respective cases, and the schedule will then continue as follows:

November 10, 2011	Initial post-hearing briefs
November 23, 2011	Reply briefs

Alternatively, if the parties report on October 20 that a joint proposal will be filed by November 23, the purpose of the October 20 hearing will be to accept the parties' previously filed cases into the record, suspend the litigation schedule, and initiate a new schedule as follows:

JP Date	Filing date of joint proposal, no later than November 23, 2011
JP Date	Subscribing parties jointly file a neutral outline or summary of joint proposal
JP Date + 14 days	Thorough, detailed initial statements supporting or opposing joint proposal
JP Date + 30 days	Reply statements

Hearing Date                      Commencement of adversarial hearing, no later than January 3, 2012, if joint proposal is contested in whole or part

Hearing Date  
+ 15 days                      Latest possible date for initial post-hearing briefs if there is an adversarial hearing

Hearing Date  
+ 22 days                      Latest possible date for reply briefs

All filing dates above are deadlines for e-mail to be sent by 4:30 p.m. Eastern Time. Documents will be filed with the Secretary of the Commission by e-mail only.

At the close of any hearing, I will invite the parties to reassess the post-hearing briefing dates in view of transcript availability and the scope of the contested issues.

Under the joint proposal scenario, when the JP Date has become definite, I will invite the parties to reassess the dates for initial and reply statements considering the scope of unresolved or disputed issues if any.

The October status conference and any evidentiary hearings will be held at the Commission's Albany offices. Public statement hearings will be held on Long Island at a date to be determined on the basis of the results of the October 20 status conference. The purpose of the October 20 hearing will be to cross-examine the parties' respective cases absent a joint proposal, or only to admit those cases into the record if a joint proposal is to be filed by November 23. All hearings will be the subject of notices separate from this ruling.

In its April 24, 2010 letter transmitting the rate filing, and in subsequent interrogatory responses, the company has asserted that certain items or categories of information should be deemed confidential under the criteria in 16 NYCRR 6-1.3. During the initial telephone conference or by subsequent agreement among the parties, the company has modified its confidentiality claims. Simultaneously with that evolution, the parties and I have considered a variety of procedures and deadlines that would allow discovery to go forward while also providing an opportunity to argue and decide the merits of confidentiality requests before the information in question becomes part of the record.

The result, at this time, is that discovery is proceeding in a manner satisfactory to all parties while they develop a form of agreement which they will submit for my approval and issuance in a ruling constituting a protective order. I have advised the company that the parties should submit the proposed form of agreement promptly.

During the proceeding, the Department of Public Service website ([www.dps.state.ny.us](http://www.dps.state.ny.us)) has undergone modifications which allow persons to request party status electronically by providing certain information including, as a precondition of being listed as a party, whether or not the person waives the right to receive Commission issuances by mail as provided in Public Service Law §23(1). I have instructed the parties to use the electronic system to update the parties list as necessary, so that they will continue to receive Commission documents without interruption.

(SIGNED)            RAFAEL A. EPSTEIN