

149 FERC ¶ 61,279
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

The Dayton Power and Light Company

Docket Nos. ER14-2775-000
ER14-2776-000
ER14-2778-000
ER14-2779-000
ER14-2784-000
ER14-2785-000

ER15-33-000
ER15-36-000
ER15-37-000
ER15-38-000
ER15-40-000
ER15-41-000
ER15-243-000
(consolidated)

ORDER ACCEPTING NOTICES OF TERMINATION, WHOLESALE
DISTRIBUTION SERVICE AGREEMENTS AND TARIFF REVISIONS,
ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES, AND
CONSOLIDATING PROCEEDINGS

(December 30, 2014)

1. On September 4, 2014, The Dayton Power and Light Company (Dayton) filed, pursuant to 18 C.F.R. § 35.15 of the Commission's regulations,¹ six notices of termination of power services agreements (PSAs) with various municipal utilities in West

¹ 18 C.F.R. § 35.15 (2014).

Central Ohio (Villages).² On October 3, 2014, Dayton also filed, pursuant to section 205 of the Federal Power Act (FPA),³ six partially executed service agreements for wholesale distribution service (WDS Agreements) with each of the Villages. On October 30, 2014, in Docket No. ER15-243-000, Dayton also filed revisions to Attachment H-15 of the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (Tariff) to establish within the PJM Tariff a wholesale distribution service rate for network customers with retail load within the Dayton Zone who receive power through interconnections with Dayton Power that are operating at voltage levels below 69 kV. In this order, we accept the notices of termination to become effective December 31, 2014, as requested. Additionally, we accept the partially executed WDS agreements and revisions to Attachment H-15 of the PJM Tariff for filing and suspend them for a nominal period, to become effective January 1, 2015 as requested, subject to refund, establish hearing and settlement judge procedures, and consolidate the proceedings, as discussed below.

I. Background

2. The Villages receive wholesale distribution service through Dayton's facilities operating at voltages below 69 kV pursuant to individually executed PSAs with Dayton. The PSAs are substantially identical in form with each setting forth general requirements relating to maintenance obligations, delivery points, metering, scheduling and billing, and each includes the following five schedules for different services: Firm Power Service, Short-Term Power Service, Firm Transmission Service, Short-Term Transmission Service, and Regulation Service. The PSAs had an initial term of 20 years as set forth in section 17 of each PSA, which ends on December 31, 2014.

II. Notices of Termination

A. Filings

3. On September 4, 2014, Dayton submitted six notices of termination and cancellation of the PSAs with the Villages of Arcanum, Eldorado, Lakeview, Mendon, Waynesfield, and Yellow Springs (collectively, Villages). Dayton represents that each of the PSAs has been effective since January 1, 1995 and contains provisions relating to the transmission service and rates for potential purchases of power by the Villages from Dayton. Dayton notes that the agreements have been amended several times, most

² The municipal utilities include the Villages of Arcanum (Docket No. ER14-2775-000), Eldorado (Docket No. ER14-2776-000), Lakeview (Docket No. ER14-2778-000), Mendon (Docket No. ER14-2779-000), Waynesfield (Docket No. ER14-2784-000), and Yellow Springs (Docket No. ER14-2785-000).

³ 16 U.S.C. § 824d (2012).

notably after Dayton became a member of PJM. Dayton also explains that the Villages currently purchase power from third parties and receive transmission service from PJM. Dayton states that, to its knowledge, the notices of termination should result in no interruption of service.

4. Dayton states that each of the PSAs has an initial term of 20 years (or to the end of December 31, 2014). According to Dayton, pursuant to section 17 of each of the PSAs, the 20-year term will automatically extend year-by-year unless a notice of termination is provided by one party to the other one year or more in advance of the termination. Dayton asserts that it provided notice of termination to each of the Villages by separate letters dated July 11, 2013, with termination to be effective as of December 31, 2014.

B. Notices of Filings and Responsive Pleadings

5. Notices of Dayton's filings in Docket Nos. ER14-2775-000 (Arcanum PSA termination), ER14-2776-000 (Eldorado PSA termination), ER14-2778-000 (Lakeview PSA termination), ER14-2779-000 (Mendon PSA termination), ER14-2784-000 (Waynesfield PSA termination), and ER14-2785-000 (Yellow Springs PSA termination) were published in the *Federal Register*, 79 Fed. Reg. 54,700 (2014), with interventions and protests due on or before September 25, 2014.

6. The Villages of Arcanum, Eldorado, Lakeview, Mendon, Waynesfield, and Yellow Springs each filed, in Docket Nos. ER14-2775-000, ER14-2776-000, ER14-2778-000, ER14-2779-000, ER14-2784-000, and ER14-2785-000, timely motions to intervene and a joint protest.

7. American Municipal Power, Inc. (AMP) filed timely motions to intervene in Docket Nos. ER14-2775-000, ER14-2776-000, ER14-2778-000, ER14-2779-000, ER14-2784-000, and ER14-2785-000.

8. On October 3, 2014, Dayton filed an answer to the Villages' joint protest. The Villages filed an answer to Dayton's answer on October 15, 2014.

C. Villages' Protest

9. The Villages assert that their distribution systems are connected with Dayton, rendering interconnection and wholesale distribution services essential and non-terminable. The Villages state that they have engaged in preliminary discussions with Dayton regarding successor agreements to the PSAs but are concerned that the wholesale distribution rate under these successor agreements will be nearly 300 percent higher than the rates under the current PSAs. According to the Villages, the magnitude and lack of supporting justification for the anticipated rate increases means that the Commission will likely impose a five-month suspension.

10. If the Commission imposes a five-month suspension on the successor agreements but grants the notices of termination to be effective as of the end of December 31, 2014, the Villages note that there will be no agreements in place governing wholesale distribution service or interconnections during the suspension period. The Villages add that it would also be inappropriate to order only a nominal suspension to avoid the contractual gap because the rate increase would present an immediate hardship that, according to the Villages, cannot be remedied by refund protection. Accordingly, the Villages request that the Commission reject the notices of termination, without prejudice to resubmission once just and reasonable successor rates, terms and conditions have been determined and become effective. If the Commission does not reject the notices of termination, the Villages alternatively request that the Commission suspend the notices of termination until just and reasonable successor rates, terms and conditions have been determined and become effective, and for no less than five months.

III. Wholesale Distribution Service (WDS) Agreements

A. Filings

11. On October 3, 2014, Dayton submitted six partially executed WDS Agreements with the Villages of Arcanum, Eldorado, Lakeview, Mendon, Waynesfield, and Yellow Springs. Dayton states that it is filing these WDS Agreements to continue providing wholesale distribution service to the Villages after the existing PSAs are scheduled to terminate on December 31, 2014. The WDS Agreements specify the terms and conditions of service including rights and responsibilities of each party and a proposed rate for wholesale distribution service. Dayton states that the purpose of the filing is to ensure that there continues to be a contractual relationship that explicitly authorizes the delivery of power to the Villages through interconnections with Dayton facilities that are operating at voltage levels below 69 kV, and compensates Dayton for that service. Dayton submitted the WDS Agreements as partially executed because it was unable to reach agreement with the Villages as to the contractual provisions or the rate for the service.

12. Dayton states that the proposed rate for the wholesale distribution service is a monthly demand charge of \$4.17 per kilowatt of the Network Customer's contribution to the PJM Network Service Peak Load for the Dayton Zone.⁴ Dayton states that this will be the same kilowatt level charge used by PJM to charge the Network Customer for Network Integrated Transmission Service. Dayton represents that this demand charge

⁴ Under Section 2.2 of Rate Schedule C of the PSAs scheduled to terminate on December 31, 2014, the wholesale distribution services rate applicable to the Villages is equal to \$1.22 per kW-month of Actual Firm Transmission Demand.

was developed by adapting a cost-based transmission formula rate and substituting transmission plant and costs with distribution plant and costs.

13. Dayton states that the overall rate of return computed of 8.32 percent is comprised of Dayton's actual costs of debt and preferred stock, and an 11.00 percent return on equity. Further, Dayton states that the weighting among debt, preferred stock and equity is based on Dayton's 2013 FERC Form 1. Further, Dayton states that after income tax effects are computed, an overall revenue requirement for the distribution function is developed. Dayton states that the overall revenue requirement is then divided by the total contribution toward the 2014 PJM Network Service Peak Load for the Dayton Zone of all load served at voltages below 69 kV, which results in an annual charge of \$50.06 per kW per year. That rate is divided by 12 to establish a monthly demand charge of \$4.17 per kW, which is then billable based on each of the Villages' contributions to the PJM Network Service Load for the Dayton Zone.

14. Dayton requests waiver of "any and all requirements under Part 35 of the Commission's regulations and any other applicable regulations" in order to permit the WDS Agreements to become effective January 1, 2015, as requested.

B. Notices of Filings and Responsive Pleadings

15. Notices of Dayton's filings in Docket Nos. ER15-40-000 (Arcanum agreement) and ER15-41-000 (Eldorado agreement) were published in the *Federal Register*, 79 Fed. Reg. 61,857 (2014), with interventions and protests due on or before October 27, 2014. Notices of Dayton's filings in Docket Nos. ER15-33-000 (Lakeview agreement), ER15-36-000 (Mendon agreement), ER15-37-000 (Lakeview Agreement), and ER15-38-000 (Yellow Springs agreement) were published in the *Federal Register*, 79 Fed. Reg. 61,857 (2014), with interventions and protests due on or before October 24, 2014.

16. AMP filed timely motions to intervene in Docket Nos. ER15-40-000, ER15-41-000, ER15-33-000, ER15-36-000, ER15-37-000, and ER15-38-000.

17. The Villages of Arcanum, Eldorado, Lakeview, Mendon, Waynesfield, and Lakeview each filed, in Docket Nos. ER15-40-000, ER15-41-000, ER15-33-000, ER15-36-000, ER15-37-000, and ER15-38-000, timely motions to intervene and a joint protest with AMP, which was initially filed on October 24, 2014 and corrected in an errata filing on October 27, 2014.

C. Protest

18. AMP and the Villages argue that Dayton's filings are patently deficient and do not meet the basic requirements of Part 35 of the Commission's regulations or otherwise provide any meaningful support or explanation for the proposed rate increase. AMP and the Villages argue that the proposed wholesale distribution rate of \$4.17/kW-month should be compared to the current rate charged to Villages of \$1.22/kW-month, and Dayton's retail distribution rate of \$1.84/kW-month. Using this comparison, AMP and the Villages argue that Dayton's proposed wholesale distribution service rate for the Villages is increasing from \$1.22/kW-month to \$4.17/kW-month, or a 342 percent increase. AMP and the Villages also argue that Dayton has not provided justification for its proposed 11.00 percent return on equity.

19. AMP and the Villages argue that Dayton's request to "waive and any all requirements under Part 35" is inadequate to overcome these deficiencies. According to AMP and the Villages, a request for waiver must "specifically identify the requirement that the applicant wishes the Commission to waive."⁵ AMP and the Villages also argue that Dayton's general waiver request does not satisfy the requirements of section 35.13(a) because it does not specifically identify the requirements it is asking the Commission to waive.

20. AMP and the Villages request that the Commission reject Dayton's WDS Agreement filings with the Villages as patently deficient. In the alternative, AMP and the Villages request that the Commission suspend the WDS Agreements for five months, allow the rate to become effective only subject to refund with interest, and set the matter for hearing to determine just and reasonable successor rates, terms and conditions.

21. AMP and the Villages question Dayton's use of a coincident peak demand divisor. AMP and the Villages contend that if Dayton used a non-coincident peak demand divisor rather than the annual Coincident Peak Network Service Peak Load, then the proposed rate would be significantly lower, adjusting the rate from \$4.17/kW-month to \$2.78/kW-month.⁶

22. AMP and the Villages also object to Dayton's proposal to use a formula that calculates a single, uniform distribution rate for all six Villages, arguing that this is not a common industry ratemaking practice for local facilities. AMP and the Villages argue that Dayton's proposal attempts to develop a rate as though all distribution facilities are a single integrated network, but they are not. AMP and the Villages argue that the result of

⁵ Villages and AMP Protest at 17 (citing 18 C.F.R. § 35.13(a) (2014)).

⁶ *Id.* at 7.

this system-wide rate is that the Villages are paying a significantly higher rate than they would be if Dayton were to directly assign those costs.⁷

23. Finally, AMP and the Villages request clarification on a number of non-rate provisions and have included proposed revisions to Articles 1.2, 2.1, 2.2, 3.1, 6.1(a), 6.1(b), 7.1(d), 7.2, and 7.3(a).⁸

IV. Revisions to PJM Tariff

A. Filing

24. On October 30, 2014, Dayton submitted in Docket No. ER15-243-000 revisions to Attachment H-15 of the PJM Tariff, which sets forth the rates charged to load serving entities for transmission service provided by PJM to load within the Dayton Zone. Dayton states that the purpose of its filing is to establish within the PJM Tariff a wholesale distribution service rate for those Network Customers with retail load within the Dayton Zone who receive power through interconnections with Dayton facilities that are operating at voltage levels below 69 kV.

25. Dayton represents that the revisions to Attachment H-15 include the same \$4.17 per kW rate as the WDS Agreements with the Villages. Dayton states that the WDS Agreements state that if there is an Attachment H-15 modification that establishes a generally applicable rate for wholesale distribution services, the Attachment H-15 rate will apply.

26. Dayton states that because the rates in each of the WDS Agreements are identical to the proposed modification to Attachment H-15, the proposed modification in this filing will have no incremental effect beyond the effects already proposed in the proceedings for each of the WDS Agreements. Dayton states that to the extent that there are future changes proposed and made in Attachment H-15 rates, those modifications would apply to the Villages. Further, Dayton notes that the proposed Attachment H-15 rates would also apply to any new customer who requests and receives service through facilities operating below 69 kV.

27. Additionally, Dayton states that the proposed modifications to Attachment H-15 of the PJM Tariff also delete obsolete references in the current version of the PJM Tariff to provisions in contracts and a settlement agreement that are terminating December 31, 2014. Dayton requests that the Commission accept the proposed revisions to Attachment

⁷ *Id.* at 11-12.

⁸ *Id.* at 12-13.

H-15 of the Tariff without modification, condition or suspension, effective January 1, 2015. Further, Dayton requests that the Commission waive “any and all requirements under the Commission’s regulations and any other applicable regulations” in order to permit the rate to become effective as of that date.

B. Notices of Filings and Responsive Pleadings

28. Notice of Dayton’s filing in Docket No. ER15-243-000 was published in the *Federal Register*, 79 Fed. Reg. 66,713 (2014), with interventions and protests due on or before November 20, 2014.

29. AMP and PJM each filed timely motions to intervene in Docket No. ER15-243-000.

30. The Villages of Arcanum, Eldorado, Lakeview, Mendon, Waynesfield, and Lakeview jointly filed, in Docket No. ER15-243-000, a timely motion to intervene and a joint protest with AMP. Buckeye Power, Inc. (Buckeye) filed a timely motion to intervene and protest in Docket No. ER15-243-000.

31. On December 1, 2014, Dayton filed an answer to the protests filed by Buckeye and AMP and the Villages. On December 8, 2014, Buckeye filed an answer to Dayton’s answer. On December 13, 2014, AMP and the Villages filed an answer to Dayton’s answer.

C. Protests

32. The Villages and AMP argue that Dayton’s filing in Docket No. ER15-243-000 is the same unsupported rate proposal that it submitted in Docket Nos. ER15-40-000, ER15-41-000, ER15-33-000, ER15-36-000, ER15-37-000, and ER15-38-000. The Villages and AMP ask that the Commission reject Dayton’s proposed revisions to Attachment H-15 of the PJM Tariff as patently deficient. In the alternative, the Villages and AMP request that the Commission suspend the filing for the full five-month period permissible under the Federal Power Act, allow the rate to become effective only subject to refund with interest, and set the matter for hearing to determine a just and reasonable rate.

33. Buckeye states that it is a party to a Local Delivery Service Agreement with Dayton, which will expire at the conclusion of Dayton’s next retail distribution rate case before the Public Utility Commission of Ohio. Buckeye states that, upon expiration of the Local Delivery Service Agreement, Buckeye could be subject to the wholesale distribution service rate that Dayton is proposing in Attachment H-15 of the PJM Tariff. Buckeye is concerned that Dayton’s proposed rate recovers distribution-related costs generically by rolling those costs into a single rate without regard to customer-specific non-coincident peak load characteristics or which distribution facilities are actually utilized in the service of particular customers.

34. Buckeye argues that Dayton's proposal to roll all distribution-related costs into a single generic rate is at odds with Commission policy and precedent which, according to Buckeye, favors the direct assignment of costs of distribution facilities in the absence of a showing that the facilities constitute an integrated network whose components may be deemed to benefit all users of the network. Buckeye adds that Dayton has made no attempt to show that the facilities whose costs it seeks to roll in through the distribution formula constitute an integrated distribution network. Buckeye also argues that Dayton has failed to adequately explain and support the formula used to calculate the proposed rate, or the costs included in the formula, and that the Commission should summarily reject the filing. If the Commission declines to reject the filing, Buckeye requests that the matter be set for hearing to determine whether all or any of Dayton's distribution facilities included in the formula constitute an integrated, networked system whose costs may properly be rolled into a single generic rate, or should instead be directly assigned to the customers that they serve.

V. Discussion

A. Notices of Termination

1. Procedural Matters

35. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceedings in which they were filed.

36. Rule 213(a) of the Commission's Rules and of Practice and Procedure, 18 C.F.R. § 385.214 (2014), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We are not persuaded to accept Dayton and AMP and the Villages' answers and will, therefore, reject them.

2. Determination

37. We accept Dayton's notice of termination and cancellation filings, effective December 31, 2014, as requested. Pursuant to section 17 of the PSAs, Dayton provided the Villages with timely notices of termination in order to cancel the PSAs. Because we are accepting the WDS Agreements to take effect January 1, 2015, as discussed below, there will be no contractual gap in wholesale distribution service to the Villages and therefore no need to suspend the notices of termination. Further, we find that the Villages are fully protected by the Commission's refund authority, given that such refunds will include interest back to the refund effective date.

B. Wholesale Distribution Service Agreements and Revisions to PJM Tariff

1. Procedural Matters

38. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceedings in which they were filed.

39. Rule 213(a) of the Commission's Rules and of Practice and Procedure, 18 C.F.R. § 385.214 (2014), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We are not persuaded to accept the answers filed by Dayton, AMP and the Villages, and Buckeye and will, therefore, reject them.

2. Determination

40. We find that Dayton's proposed WDS Agreements and revisions to Attachment H-15 of the PJM Tariff raise issues of material fact that cannot be resolved based on the record before us, and that are more appropriately addressed in the hearing and settlement judge procedures ordered below.

41. Our preliminary analysis indicates that Dayton's proposed rates in the WDS Agreements and revisions to Attachment H-15 of the PJM Tariff have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we accept Dayton's proposed rates in the WDS Agreements and revisions to Attachment H-15 of the PJM Tariff for filing, suspend them for a nominal period and make them effective January 1, 2015, subject to refund, and set them for hearing and settlement judge procedures.

42. Having evaluated Dayton's submittals, we believe they minimally satisfy the Commission's threshold filing requirements and are not patently deficient. We therefore deny the requests by AMP and the Villages and Buckeye to reject Dayton's filings. In addition, we deny AMP and the Villages' requests for a five-month suspension. In *West Texas Utilities Co.*,⁹ the Commission explained that when its preliminary analysis indicates that the proposed rates may be unjust and unreasonable, and may be substantially excessive, the Commission will generally impose a five-month suspension. In the instant proceeding, our preliminary analysis indicates that the proposed rates may not be substantially excessive, as defined in *West Texas*, and therefore, as stated above, we accept Dayton's proposed rates in the WDS Agreements and revisions to Attachment H-15 of the PJM Tariff for filing, suspend them for a nominal period, making them

⁹ 18 FERC ¶ 61,189 (1982) (*West Texas*).

effective January 1, 2015, subject to refund, and set them for hearing and settlement judge procedures.

43. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.¹⁰ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding, otherwise the Chief Judge will select a judge for this purpose.¹¹ The settlement judge shall report to the Chief Judge and the Commission within thirty (30) days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

C. Consolidation

44. We find that there are common issues of law and fact in the filings made by Dayton in Docket Nos. ER15-40-000, ER15-41-000, ER15-33-000, ER15-36-000, ER15-37-000, ER15-38-000, and ER15-243-000. Therefore, we will consolidate Dayton's filings in these dockets for purposes of hearing, settlement and decision.

The Commission orders:

(A) Dayton's notices of termination in Docket Nos. ER14-2775-000, ER14-2776-000, ER14-2778-000, ER14-2779-000, ER14-2784-000, and ER14-2785-000 are hereby accepted for filing, effective December 31, 2014, as discussed in the body of this order.

¹⁰ 18 C.F.R. § 385.603 (2014).

¹¹ If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five (5) days of the date of this order. The Commission's website contains a list of Commission judges and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

(B) Dayton's proposed WDS Agreements and revisions to Attachment H-15 of the PJM Tariff are hereby accepted for filing and suspended for a nominal period, to become effective January 1, 2015, subject to refund, as discussed in the body of this order.

(C) Docket Nos. ER15-40-000, ER15-41-000, ER15-33-000, ER15-36-000, ER15-37-000, ER15-38-000, and ER15-243-000 are hereby consolidated, as discussed in the body of this order.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held concerning Dayton's proposed WDS Agreements and revisions to Attachment H-15 of the PJM Tariff. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (E) and (F) below.

(E) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2014), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(F) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(G) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing

a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.