

OHIO BOARD OF TAX APPEALS

ANR Pipeline Company,)	CASE NO. 2006-K-1170
)	
Appellant,)	(PUBLIC UTILITY PERSONAL
)	PROPERTY TAX)
vs.)	
)	ORDER
William W. Wilkins, Tax Commissioner of Ohio,)	
)	(Confirming Parties' Case
Appellee.)	Management Schedule)

APPEARANCES:

For the Appellant		- Vorys, Sater, Seymour and Pease LLP Raymond D. Anderson 52 East Gay Street P.O. Box 1008 Columbus, Ohio 43216-1008
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For the Appellee		- Richard Cordray Attorney General of Ohio Barton A. Hubbard Assistant Attorney General State Office Tower-25 th Floor 30 East Broad Street Columbus, Ohio 43215
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Entered May 12, 2009

Pursuant to leave granted by this board, the parties have jointly proposed a case management schedule, as well as a revised version following telephone conference, thereby allowing for an evidentiary hearing to be convened within a reasonable period of time. Upon consideration of the parties' proposal, the following schedule¹ shall apply:

¹ Although the parties' proposal contemplated that a "viewing" may be requested, while perhaps useful, the dates offered have not been included within this order given existing funding limitations. Instead, to the extent deemed necessary, the parties should explore other means by which to visually depict matters which may have been the subject of such viewing. The parties' proposal also references the possibility for additional discovery not expressly delineated, as well as the filing of discovery related motions. Given the complexity of this appeal and the joint efforts demonstrated by counsel, it is deemed unnecessary to attempt

Service of preliminary discovery - July 31, 2009

Service of responses to discovery – August 28, 2009

Service of supplemental discovery – September 11, 2009

Completion of depositions of deponents whose testimony is necessary for completion of expert appraisal reports (not to preclude subsequent identification of potential trial witnesses) – September 14, 2009

Exchange of expert appraisal reports (not to preclude subsequent trial exhibits, including expert reports, that either supplement appraisal reports or rebut others' appraisal reports) and identification of potential expert appraisal witnesses – October 7, 2009

Service of responses to supplemental discovery – October 9, 2009

Completion of all depositions not provided for above (except for depositions of potential witnesses first identified subsequent to October 30, 2009) – October 30, 2009

Mediation conference (to be separately confirmed by the board's assignment commissioner) – October 30, 2009

Filing of initial stipulations of fact – October 30, 2009

Filing of subpoenas or stipulation for production of hostile witnesses – October 30, 2009

Filing of motions to quash – November 6, 2009

Final identification of potential trial witnesses, except pursuant to motion where the board finds good cause to allow for the

Footnote contd. _____

to address all possibilities which might arise during the course of these proceedings. However, counsel are reminded that the board expects discovery to proceed extra-judicially, with efforts to resolve disputes being exhausted before the filing of a motion. See Ohio Adm. Code 5717-1-11(A)(2). See, also, Civ.R. 37. Should it ultimately become necessary for a party to seek this board's intervention in discovery, or in any other contested prehearing matter, the parties should avoid delay and accord this board sufficient time to consider the issues presented so as to avoid adversely impacting other aspects of this scheduling order.

subsequent identification of additional witnesses² – November 7, 2009

Completion of depositions for potential witnesses first identified subsequent to October 30, 2009 – November 20, 2009

Filing of prehearing statements, optional and limited to fifteen pages in length – November 20, 2009

Exchange of trial exhibits³ between the parties, without copies to the board, and appraisal report errata sheets – November 23, 2009

Commencement of evidentiary hearing⁴ (to be separately confirmed by the board's assignment commissioner) – December 14, 2009 at 9:00 a.m. and continuing, if necessary, on consecutive days

Appellant's post-hearing brief – February 26, 2010

Appellee's post-hearing brief – March 26, 2010

Appellant's reply brief – April 23, 2010

Given the agreed dates and their relation to the scheduled hearing, all motions, and correspondingly memoranda in response, not jointly filed by the parties shall be contemporaneously served upon opposing counsel by facsimile transmission.

² The parties, while expressing their intent to identify rebuttal witnesses in advance of hearing, have agreed not to be prohibited from identifying such witnesses after hearing has commenced provided the testimony of rebuttal witnesses is indeed limited to rebuttal. In an effort to ensure their mutual preparedness for hearing, the parties have agreed that additional witnesses not identified by November 7, 2009 will be permitted only upon motion granted by this board.

³ With respect to rebuttal exhibits, the parties have again indicated their intent to exchange such exhibits in advance of hearing, but agreed not to be prohibited from identifying additional rebuttal exhibits after hearing has commenced provided they are indeed limited to rebuttal.

⁴ Due to previously announced budget limitations, the board will not secure a court reporter for hearing absent an agreement of a party(ies) to voluntarily assume the costs of such services. See <http://www.bta.ohio.gov/CourtRept.pdf>. Instead, an audio recording will be made which will serve as the board's official record.

Memoranda in opposition shall be filed within five business days of the filing of the motion, with reply memorandum filed three business days thereafter.

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