



COMMONWEALTH OF PENNSYLVANIA

September 3, 2021

**E-FILED**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**Re: Pennsylvania Public Utility Commission v. Duquesne Light Company 1308(d)  
Proceeding / Docket No. R-2021-3024750**

Dear Secretary Chiavetta:

Enclosed please find the Main Brief, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Sharon E. Webb

Sharon E. Webb  
Assistant Small Business Advocate  
Attorney ID No. 73995

*Enclosures*

cc: Robert D. Knecht  
Parties of Record

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Pennsylvania Public Utility Commission</b>	:	
	:	
v.	:	<b>Docket No. R-2021-3024750</b>
	:	
<b>Duquesne Light Company</b>	:	
<b>1308(d) Proceeding</b>	:	

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing have been served via email only (*unless other noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Deputy Chief Administrative Law Judge Joel  
H. Cheskis  
Administrative Law Judge John Coogan  
Pennsylvania Public Utility Commission  
400 North Street  
Commonwealth Keystone Building  
Harrisburg, PA 17120  
[jcheskis@pa.gov](mailto:jcheskis@pa.gov)  
[jcoogan@pa.gov](mailto:jcoogan@pa.gov)

Christy Appleby, Esquire  
Aron J. Beatty, Esquire  
David Evrard, Esquire  
Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5th Floor  
Harrisburg, PA 17101-1923  
[cappleby@paoca.org](mailto:cappleby@paoca.org)  
[abeatty@paoca.org](mailto:abeatty@paoca.org)  
(*Counsel for OCA*)

Scott Granger, Esquire  
Bureau of Investigation & Enforcement  
Commonwealth Keystone Building  
400 North Street, 2nd Floor West  
Harrisburg, PA 17105-3265  
[sgranger@pa.gov](mailto:sgranger@pa.gov)  
(*Counsel for BIE*)

Tishekia E. Williams, Esq.  
Michael Zimmerman, Esq.  
Emily Farah, Esq.  
Duquesne Light Company  
411 Seventh Avenue  
Pittsburgh, PA 15219  
[twilliams@duqlight.com](mailto:twilliams@duqlight.com)  
[mzimmerman@duqlight.com](mailto:mzimmerman@duqlight.com)  
[efarah@duqlight.com](mailto:efarah@duqlight.com)

Michael W. Gang  
Anthony D. Kanagy  
Post & Schell, P.C.  
17 North Second Street, 12th Floor  
Harrisburg, PA 17101-1601  
[mgang@postschell.com](mailto:mgang@postschell.com)  
[akanagy@postschell.com](mailto:akanagy@postschell.com)

Joseph L. Vullo, Esquire  
Burke Vullo Reilly Roberts  
1460 Wyoming Avenue  
Forty Fort, PA 18704  
[jlvullo@aol.com](mailto:jlvullo@aol.com)

Derrick Price Williamson  
Barry A. Naum  
Spilman Thomas & Battle, PLLC  
1100 Bent Creek Boulevard, Suite 101  
Mechanicsburg, PA 17050  
[dwilliamson@spilmanlaw.com](mailto:dwilliamson@spilmanlaw.com)  
[bnaum@spilmanlaw.com](mailto:bnaum@spilmanlaw.com)

Sophia Al-Rasheed, Esquire  
Fair Shake Environmental Legal Services  
600 Superior Avenue Suite 1300  
Cleveland, OH 44114  
[salrasheed@fairshake-els.org](mailto:salrasheed@fairshake-els.org)

Andrew J. Karas, Esquire  
Fair Shake Environmental Legal Services  
647 E. Market Street  
Akron, OH 44304  
[akaras@fairshake-els.org](mailto:akaras@fairshake-els.org)

John F. Povilaitis, Esquire  
Alan M. Seltzer, Esquire  
409 North Second Street, Suite 500  
Harrisburg, Pennsylvania 17101  
[john.povilaitis@bipc.com](mailto:john.povilaitis@bipc.com)  
[alan.seltzer@bipc.com](mailto:alan.seltzer@bipc.com)

Michael Turzai, Esquire  
William Roberts II, Esquire  
Peoples Natural Gas Company LLC  
375 North Shore Drive  
Pittsburgh, PA 15212  
[Michael.Turzai@peoples-gas.com](mailto:Michael.Turzai@peoples-gas.com)  
[William.H.RobertsII@peoples-gas.com](mailto:William.H.RobertsII@peoples-gas.com)

Karen O. Moury, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
213 Market St., 8th Floor  
Harrisburg, PA 17101  
[kmoury@eckertseamans.com](mailto:kmoury@eckertseamans.com)

James M. Van Nostrand, Esquire  
Keyes & Fox LLP  
275 Orchard Drive  
Pittsburgh, PA 15228

Mark Szybist, Esquire  
Natural Resources Defense Council  
1152 15th Street NW  
Suite 300  
Washington DC 20005  
[mszybist@nrdc.org](mailto:mszybist@nrdc.org)

Ria Pereira, Esq.,  
118 Locust Street  
Harrisburg, PA 17101  
[pulp@pautilitylawproject.org](mailto:pulp@pautilitylawproject.org)

Robert A. Eberle, Esquire  
Amanda B. Bundick, Esquire  
Eberle & Bundick, LLC  
P.O. Box 44290  
Pittsburgh, PA 15205  
[bob@eblaborlaw.com](mailto:bob@eblaborlaw.com)  
[amanda@eblaborlaw.com](mailto:amanda@eblaborlaw.com)

Jan Vroman  
623 Eastman Street  
West Mifflin, PA 15122  
[jan.vroman@yahoo.com](mailto:jan.vroman@yahoo.com)

Sean Daly Ferris  
406 Laurie Dr.  
Pittsburgh, PA 15235  
[sferris.1@netzero.net](mailto:sferris.1@netzero.net)

Lauren M. Burge, Esquire  
Eckert Seamans Cherin & Mellott, LLC  
600 Grant Street, 44th Floor  
Pittsburgh, PA 15219  
[lburge@eckertseamans.com](mailto:lburge@eckertseamans.com)

Scott F. Dunbar  
Keyes & Fox LLP  
1580 Lincoln St., Suite 1105  
Denver, CO 80203  
[sdunbar@keyesfox.com](mailto:sdunbar@keyesfox.com)

James Davis  
Duquesne Light  
411 Seventh Avenue  
Pittsburgh Pa 15219  
[Jdavis4@Duqlight.Com](mailto:Jdavis4@Duqlight.Com)

DATE: September 3, 2021

Nicholas Futules  
Office Of The County  
Council District 7  
119 Courthouse  
436 Grant Street  
Pittsburgh Pa 15219  
[Nicholas.Futules@Alleghenycounty.Us](mailto:Nicholas.Futules@Alleghenycounty.Us)

/s/ Sharon E. Webb

---

Sharon E. Webb  
Assistant Small Business Advocate  
Attorney ID No. 73995

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Pennsylvania Public Utility Commission** :  
: **Docket No. R-2021-3024750**  
v. :  
: **Duquesne Light Company**  
: **1308(d) Proceeding**  
:

**MAIN BRIEF  
ON BEHALF OF THE  
OFFICE OF SMALL BUSINESS ADVOCATE**

**Sharon E. Webb**  
**Assistant Small Business Advocate**  
**Attorney ID # 73995**

**For: The Office of Small Business  
Advocate**

**Office of Small Business Advocate**  
**555 Walnut Street, 1<sup>st</sup> Floor**  
**Harrisburg, PA 17101**  
**(717) 783-2525**

**Dated: September 3, 2021**

## **I. INTRODUCTION**

### **A. Background**

On or about April 16, 2021, Duquesne Light Company (“Duquesne” or the “Company”) filed proposed Supplement No. 25 to Tariff Electric-Pa. P.U.C. No. 25 with the Commission. The Company’s April 16<sup>th</sup> filing requested an additional \$115 million in annual distribution rate revenue with a return on equity of 10.95%.

On April 22, 2021, the OSBA filed a Complaint and a Public Statement against the proposed increase. By Order entered May 20, 2021, the Commission entered an Order at this docket which suspended the proposed increase for investigation. As a result, the filing was suspended by operation of law through January 15, 2022.

A pre-hearing conference, at which a procedural schedule was established, was held on May 27, 2021. The OSBA, and other parties, filed Direct Testimony on June 30, 2021. Specifically, the OSBA filed the Direct Testimony of its witness, Robert D. Knecht. Rebuttal Testimony was filed by the OSBA and other parties on July 26, 2021. Surrebuttal Testimony was filed by the OSBA and other parties on August 10, 2021.

The OSBA participated in the negotiations that led to the Joint Petition for Approval of Settlement (“Settlement”) and is a signatory to the Settlement. All issues relating to Duquesne’s base rate filing with the exception of one issue have been resolved.

The OSBA submits this Main Brief relative to Nationwide Energy Partners, LLC's ("NEP") proposal to adopt Tariff Rule 41.2, that allows for metering requirements for multi-family residential customers, as detailed in NEP Statements No. 1 and 2.

**B. Burden of Proof**

Section 1301 of the Public Utility Code, 66 Pa. C.S. § 1301, provides that "every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission."

The burden of proof to establish the justness and reasonableness of every element of the utility's rate increase rests solely upon the public utility. 66 Pa. C.S. § 315(a). "It is well-established that the evidence adduced by a utility to meet this burden must be substantial."

*Lower Frederick Township. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980).

Although the burden of proof remains with the public utility throughout the rate proceeding, when a party proposes an adjustment to a ratemaking claim of a utility, the proposing party bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket No. R-00072711 (Order entered July 17, 2008). "Section 315(a) of the Code, 66 Pa. C.S. § 315(a), applies since this is a proceeding on Commission Motion. However, after the utility establishes a prima facie case, the burden of going forward or the burden of persuasion shifts to the other parties to rebut the prima facie case." *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-00061931 (Order entered September 28, 2007), at 12.

The OSBA submits that Duquesne has met its burden of proof in this case as modified by the Joint Petition for Settlement. NEP, as the sponsor of the proposed Tariff Rule 14.2, has not met its burden of proof and the NEP proposal should be denied.

## **II. ARGUMENT**

In this proceeding, NEP proposes that developers/owners of multi-family residential properties be permitted to purchase electricity supplies and distribution services in bulk for all tenants, and that it be allowed to individually meter and charge tenants for that service at owner-specified rates. NEP indicates that these rates must legally be at or below the regular utility residential rates.<sup>1</sup> In effect, NEP proposes that it be permitted to go into competition with DLC to provide customer services, EE&C services, as well as metering and billing functions for residents of multi-family dwellings.

Small and medium businesses are affected by this policy, because master-metered residential properties with multiple dwelling units take service under a non-residential general service tariff. Since residential loads tend to have load shapes that are relatively costly to serve, increasing residential loads in master-metered buildings will tend to increase unit costs assigned to non-residential rate classes.

Specifically, NEP proposes a revised paragraph 18 and a supplementary paragraph 41.2, shown below:

---

<sup>1</sup> See DLC-NEP-I-6(u).



18. REDISTRIBUTION All electric energy shall be consumed by the Customer to whom the Company supplies and delivers such energy, except for (1) any Customer who owns and operates a separate office building, or (2) any Customer who meets the requirements of Rule 41.1 and Rule 41.2 addressing the use of master meters in buildings with at least four (4) residential dwelling units may redistribute electric energy to the tenants of such customer.

41.2. RESIDENTIAL MASTER METERING IN NON-LOW-INCOME SUPPORTIVE HOUSING Notwithstanding anything in Rule No. 41 to the contrary, the Company shall install, own, operate and maintain a single commercial account (“Master Metering”), and redistribution of electric energy may occur, for multi-tenant premises that include at least four (4) dwelling units where, all of the following criteria are met:

1. The Customer or its authorized representative verifies in writing that it will comply with the requirements of 66 Pa.C.S. § 1313, price upon resale of public utility services.
2. The Customer or its authorized representative provides each dwelling unit in the premises with (1) a revenue grade smart meter according to the American National Standards Institute and (2) at least one energy technology for energy efficiency, energy control or demand response.
3. The tenant in each dwelling unit in the premises will have access to information on their hourly, monthly and annual electric energy usage.

Customers or their authorized representative permitted to use Master Metering under this Rule shall also comply with the following:

1. The Company may request and the Customer or its authorized representative shall provide within 60 days of a request information to certify ongoing compliance with the above criteria: and

The Company shall provide a Commission approved form for Customer or Authorized Representative contact information and required details to ensure proper delivery of such a request; Customers or their authorized representative shall notify Duquesne of their decision to Master Meter under this Rule and shall submit the notice to the Company using a form previously reviewed and approved by the Commission. The Company shall make the form available on its website. The Company shall advise the Customer if the form has any deficiencies within fourteen (14) days of its submission. The Company shall

participate in a Commission staff mediation of any unresolved deficiencies should one be requested by the Customer or its authorized representative.

2

The OSBA raised number of concerns about NEP's proposal as set forth in the rebuttal testimony of Mr. Knecht.<sup>3</sup> For the reasons detailed therein, the OSBA submits that NEP's proposal must be rejected.

---

<sup>2</sup> NEP St. No. 1, p. 24.

<sup>3</sup> OSBA Statement No 1-R at 22.

**IV. CONCLUSION**

For the reasons stated herein, the OSBA respectfully requests that the Commission reject NEP's proposal in its entirety.

Respectfully submitted,

/s/ Sharon E. Webb  
Sharon E. Webb  
Assistant Small Business Advocate  
Attorney I.D. No. 73995

Office of Small Business Advocate  
555 Walnut Street, 1<sup>st</sup> Floor  
Harrisburg, PA 17101  
(717) 783-2525

Dated: September 3, 2021