

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

Petition of Duquesne Light Company for
Reconsideration/Rehearing of the
Pennsylvania Public Utility Commission's
Order Entered December 4, 2014

Public Meeting January 29, 2015
2448863-LAW
Docket No. P-2014-2448863

**JOINT MOTION OF
CHAIRMAN ROBERT F. POWELSON
AND COMMISSIONER PAMELA A. WITMER**

Before the Commission for consideration is Duquesne Light Company's (Duquesne or Company) Petition for Reconsideration/Rehearing (Petition) of the Commission's December 4, 2014 Order denying the Company's request for a full waiver of the Commission's Regulations requiring electric distribution companies (EDCs) to change customers' generation suppliers within three business days.¹ Duquesne's Petition requests that the Commission: (1) reconsider its decision denying Duquesne's request for a full waiver of 52 Pa. Code Section 57.174; (2) reconsider permitting Duquesne to change residential and small commercial customers who contact Duquesne concerning variable rates to default service within three business days until Duquesne's proposed Phase 1 Solution is implemented; and (3) grant Duquesne a hearing in order to provide factual evidence in support of its request.

Commonly referred to as the *Duick* Standard, a Petition for Reconsideration and/or Rehearing must present new and novel arguments not previously heard or considerations that were overlooked or not previously addressed by the Commission in order to be granted. Absent this, the Commission will not reopen a proceeding.²

In its Petition, Duquesne offers explanations as to why it is unable to offer the manual three-business day switch solution that was suggested in the Commission's December 4 Order. In doing so, Duquesne satisfies the *Duick* Standard, and as such, we move that the Commission grant reconsideration.

We do not, however, believe that Duquesne has offered valid arguments as to why the Commission should grant the requested full waiver of Section 57.174. Duquesne has been consistently wrong in its representations to the Commission as to when it will be able to meet the partial waiver that was granted in the December 4 Order. Duquesne first represented that it would be able to provide a workable off-cycle switch solution by December 15. Then the date was moved to January 16. Most recently, the Company filed a letter stating that the solution could not be provided by January 16 but rather would be "in the later part of February 2015." Based on this history of imprecision, we fully expect that when the end of February arrives Duquesne will have pushed the compliance date further into 2015.

¹ 52 Pa. Code § 57.174

² *Duick v. Pa. Gas & Water Co.*, 56 Pa. P.U.C. 553, 559 (1982).

Duquesne has been on notice for years that the Commission wanted EDCs to reduce the amount of time it takes a customer to change generation suppliers. And yet, a brand new billing system was designed without accelerated switching, thereby depriving Duquesne the opportunity to be a leader in providing this service to its customers. Further, even had the Commission historically not been clear that this goal was a priority, Duquesne has unequivocally been on notice since May that this Regulation was being promulgated and chose not to inform the Commission until shortly before the effective date that it would not be able to comply by the required date of December 15, 2014.

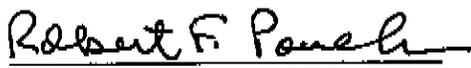
Our statement in the December 4 Order holds true: we will not grant a petition for full waiver of our Regulations based on future contingencies and possibilities without a clearly articulated and supported demonstration of good cause or actual need. Granting the requested waiver will in no way further the public interest, and rather may actually serve to harm the public interest by taking pressure off Duquesne to implement the important customer protections that are contained in Section 57.174.

Similarly, we see no reason to depart from the Commission's prior denial of Duquesne's request to permit the switching of customers that contact the company complaining about variable rates to default service. The rationale in this instance remains the same; this component of the Company's proposal is moot since we believe Duquesne should be required to provide one off-cycle switch per billing period.

Lastly, regarding Duquesne's request for an evidentiary hearing, we note that such hearings are only required to resolve disputed issues of fact.³ There are no disputes of fact in this matter and there was nothing preventing Duquesne from asserting all facts at its disposal that support its requests in those Petitions. We accept the assertions Duquesne made in its Petition for a waiver and Petition for Reconsideration/Rehearing as true. Rather, we simply do not believe that Duquesne has met its burden of proving that it should be granted the requested waiver and rather than distracting Duquesne with an unnecessary evidentiary hearing, it is our hope that the company chooses to instead focus on implementing the necessary IT changes to allow it to become in compliance the partial waiver that was granted in the Commission's December 4 Order.

THEREFORE, WE MOVE THAT:

The Law Bureau prepare and Opinion and Order consistent with this Motion.


ROBERT F. POWELSON
CHAIRMAN


PAMELA A. WITMER
COMMISSIONER

DATE: January 29, 2015

³ *Diamond Energy v. Pa. PUC*, 653 A.2d 1360, 1367 (Pa. Cmwlth. 1995).