**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company : P-2016-2540046

For Approval of its Long-Term :

Infrastructure Improvement Plan :

:

and :

:

Petition of Duquesne Light Company : P-2016-2540046

For Approval of a Distribution :

System Improvement Charge :

**PREHEARING ORDER**

Duquesne Light Company (DLC or Duquesne Light) filed two separate petitions: one, on April 15, 2016 which seeks to accelerate the repair, improvement and replacement of aging infrastructure beginning January 1, 2017; and one on May 26, 2016 which seeks approval of a Distribution System Improvement Charge. Both petitions were docketed at P-2016-2540046.

Duquesne Light, which is a wholly owned subsidiary of Duquesne Light Holdings, Inc., as an Electric Distribution Company (EDC), provides electric distribution, transmission, and provider of last resort services to approximately 588,000 customers in a certified service territory that spans approximately 817 square miles to include the City of Pittsburgh and portions of Allegheny and Beaver Counties in western Pennsylvania. As part of its distribution network, Duquesne operates and maintains approximately 5,900 miles of overhead lines, 1,400 miles of underground lines, and 182 substations.

On April 15, 2016, Duquesne Light filed a Petition for Approval of its Long-Term Infrastructure Improvement Plan (LTIIP Petition), with copies being served upon the statutory advocates and all active parties in Duquesne’s most recent base rate case[[1]](#footnote-1), in accordance with the Commission’s *Implementation of Act 11 of 2012*, Docket No. M‑2012‑2293611, dated August 2, 2012, and often referred to as the Final Implementation Order.

On May 5, 2016, the Office of Small Business Advocate (OSBA) filed an Answer, Notice of Intervention, Public Statement, and Verification for Duquesne’s LTIIP. In its Answer, OSBA requested the Petition be sent to the Office of Administrative Law Judge (OALJ) for hearings and preparation of an initial decision because, per 52 Pa.Code § 121.4(c), the Commission’s LTIIP review procedures require LTIIPs to be referred to the OALJ if comments “raise material factual issues”. The only sections of Duquesne’s LTIIP Petition that were denied by OSBA were I-8, II-9, II-10, and III-30.

On May 13, 2016, the Office of Consumer Advocate (OCA) provided comments on the LTIIP. OCA did not request hearings, but suggested Duquesne Light should provide additional information to ensure the LTIIP accelerated infrastructure repair and replacement in a cost effective manner as required by Act 11. Specifically, OCA noted DLC did not provide historical baseline data to compare against the proposed LTIIP and further recommended the Commission review DLC’s biennial Inspection and Maintenance Plans to determine if the LTIIPs meet the acceleration requirements in Act 11.

Also on May 13, 2016, the Bureau of Investigation and Enforcement (BIE) filed comments indicating it did not oppose Duquesne Light’s LTIIP, but it reserved its right to address cost recovery and allocation issues during any forthcoming Duquesne Light DSIC proceeding. Specifically, BIE noted the absence of specific information related to the Microgrid portion of Duquesne’s LTIIP.

On May 16, 2016, Citizen Power Inc. (Citizen) filed comments indicating it has concerns the LTIIP does not meet the acceleration requirements under 52 Pa.Code § 121.3(a)(6), and noted Duquesne Light did not provide adequate detail regarding baseline expenditures in order to independently determine if the projected expenditures were actually being accelerated.

Then, on May 26, 2016, Duquesne Light filed its Petition of Duquesne Light Company for Approval of a Distribution System Improvement Charge (DSIC Petition) which included a ProForma Supplement No. XXX to Electric – Pa. P.U.C. No. 24 to introduce the DSIC Rider into the Company’s tariff with an effective date of October 1, 2016. The filing was made pursuant to 66 Pa.C.S.A. § 1353 and the Final Implementation Order.

On June 15, 2016, OCA filed an Answer to Duquesne Light’s DSIC Petition in which it contended the Commission should deny the Petition as filed, suspend the proposed tariff, and refer the matter to the OALJ for full hearing and investigation.

On June 15, 2016, BIE filed an Answer to the DSIC Petition, and requested the Commission deny the Petition as filed and refer the matter to the OALJ for evidentiary hearings and the issuance of a recommended decision.

On July 13, 2016, the Commission issued a Secretarial Letter to Duquesne Light requesting more details regarding its LTIIP, specifically in regards to historical baseline infrastructure replacement and capital spending for the categories of eligible property. Duquesne Light responded to the Secretarial Letter on July 25, 2016. Thereafter, on July 28, 2016, the Commission issued another Secretarial Letter extending the review period until September 16, 2016.

On August 11, 2016, the Commission issued a third Secretarial Letter requesting further details and clarification in regards to the LTIIP historical and projected baseline expenditures and project categories. DLC filed a response on August 22, 2016.

On August 25, 2016, Duquesne Light filed a letter with the Commission clarifying the fact that, in its petition, testimony, and exhibits, it should have stated that the initial DSIC effective October 1, 2016 will include eligible plant placed in service during the months of June, July, and August 2016, rather than just July and August as originally stated. Duquesne Light included a revised exhibit DBO-3, which provided a revised DSIC calculation using the corrected months of June through August as eligible plant.

On August 29, 2016, pursuant to discussion with Commission Staff, Duquesne Light filed revised tables for its LTIIP that reconciled historical baseline, forecasted, and accelerated spending plans and units from previously submitted versions.

On September 15, 2016, the Commission issued its Opinion and Order approving the Petition of Duquesne Light Company for Approval of its Long-Term Infrastructure Improvement Plan and the Petition of Duquesne Light Company for Approval of a Distribution System Improvement Charge with the following provisions:

1. Duquesne Light was permitted to collect revenues pursuant to its requests in the Petitions effective on October 1, 2016 but subject to refund and recoupment based on a final resolution in this proceeding;

2. The Office of Administrative Law Judge was to conduct a hearing and prepare a Recommended Decision concerning the DSIC-recovery of costs associated with Duquesne Light’s Microgrid Program, and concerning the inclusion of riders in distribution revenues when calculating the DSIC mechanism; and

3. Duquesne Light was to provide an estimate for the number of anticipated new jobs that would be created for specific replacement projects with its revised DSIC tariff and to track that employment in order to provide the information in the future when the DSIC fund information is submitted for annual audit and reconciliation.

Thereafter, on September 20, 2016, Duquesne Light filed Supplement No. 141 to Tariff Electric – PA P.U.C. No. 24 to become effective on October 1, 2016, in compliance with the Commission’s Order, which proposed to implement the Company’s Rider No. 22 DSIC, and to provide estimates for the anticipated number of new jobs.

Letters expressing opposition to the DSIC have been received from individual customers, who have argued against implementation of a DSIC. No objections or comments were received from federal, state or local governmental agencies.

On October 6, 2016, the Office of Administrative Law Judge issued a Notice scheduling the prehearing conference for yesterday. On the same date, the presiding officer issued a Prehearing Conference Order notifying the parties of the obligation to file prehearing memoranda prior to the prehearing conference.

On October 12, 2016, Community Action Association of Pennsylvania (CAAP) filed a Petition to Intervene. In addition, on October 12, 2016, the presiding officer received prehearing memoranda from: BIE, OCA, OSBA, Duquesne Light, and CAAP.

On October 13, 2016, the Administrative Law Judge conducted the prehearing conference with the following parties represented: DLC, BIE, OCA, OSBA and CAAP. At the prehearing conference, the parties considered issues raised by the Petitions, discussed discovery provisions and established a litigation schedule. The parties advocated for the two Petitions to be held in abeyance until after DLC files a petition concerning the MicroGrid on March 31, 2017, and after a final disposition in ongoing litigation involving the First Energy companies is issued which would provide guidance concerning how income tax deductions and credits related to the costs included in the DSIC rate must be included in the DSIC calculation.

The presiding officer denied the parties’ request to hold the matters in general abeyance for an indeterminate period. Therefore, after much discussion, the parties agreed to a litigation schedule with all due dates requiring service to be “in hand” by 4:00 p.m. The parties further agreed electronic or e-mail service will satisfy the “in hand” requirement if done by 4:00 p.m. and if the service is completed by service of a hard copy via regular first class mail. This prehearing order memorializes the matters discussed, decided and agreed to by the parties during the prehearing conference.

THEREFORE,

IT IS ORDERED:

1. That the litigation schedule for this case shall be as follows:

Direct testimony of parties other than DLC November 15, 2016

Rebuttal testimony December 13, 2016

Surrebuttal testimony (in writing) January 6, 2017

Written rejoinder (by 12:00 p.m.) January 17, 2017

Hearing in Harrisburg January 24, 2017

Main Briefs February 22, 2017

Reply Briefs March 15, 2017

2. That the hearing on January 24, 2017 shall commence at **9:00 a.m.** in the Commission’s hearing room in the Keystone Building, Harrisburg, Pennsylvania.

3. That oral rejoinder outlines shall be due by noon on Monday, January 23, 2017.

4. That parties shall comply with the Commission’s requirements for the preparation and filing of written testimony and related exhibits are set forth in 52 Pa.Code § 5.412.

5. That for the purposes of this case, the discovery procedures, proposed by the Office of Consumer Advocate and as accepted by the parties, include the following provisions:

a. Answers to written interrogatories will be served in-hand within ten (10) calendar days of service of the interrogatories except that service of interrogatories on a Friday shall be deemed service on the following business day;

b. Objections to interrogatories will be communicated orally within three (3) business days of service; unresolved objections shall be served on the parties in writing within five (5) business days of service of the interrogatories;

c. Motions to dismiss objections and/or direct the answering of interrogatories will be filed within three (3) business days of service of written objections;

d. Answers to motions to dismiss objections and/or direct the answering of interrogatories will be filed within three (3) business days of service of such motions;

e. Responses to requests for document production, entry for inspection, or other purposes will be served in-hand within ten (10) calendar days;

f. Requests for admission will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) business days of service;

g. Rulings over motions shall be issued, if possible, within seven (7) calendar days of the filing of the motion;

h. Any discovery or discovery related pleadings such as objections, motions, answers to motions served on a Friday or on any business day preceding a state holiday shall be deemed to have been served on the following business day for purposes of tracking responsive due dates; and

i. Due dates will be “ in-hand” with electronic service on the due date satisfying the “in-hand” requirement and where such service is immediately followed by a hard copy sent by first-class mail.

6. That the presiding officer will endeavor to rule on objections to discovery in an expeditious manner, and may do so as part of an informal telephone conference. All parties are urged to engage in informal discovery whenever possible. This Commission’s procedures for discovery are set forth in 52 Pa.Code §§ 5.321 *et seq.* The parties **should not** send discovery material **or cover letters** to the presiding officer unless attached to a motion to compel. All motions to compel **must** contain a certification from counsel setting forth the informal steps taken to resolve the dispute.

7. That in the event the parties reach a settlement in whole or in part, as encouraged by the Commission in 52 Pa.Code § 5.231(a), the parties will notify the presiding officer on or before **4:00 p.m.** on Friday, **January 20, 2017** in order to avoid unnecessary expense for the Commission and for the parties. Later, the joint settlement petition should be served on the presiding officer on or before the date set for filing reply briefs.

8. That the parties should comply with the briefing requirements set forth in 52 Pa.Code § 5.501, and will provide two printed copies with one electronic copy of each brief in a format compatible with Word. An attachment to e-mail is preferred. Any further necessary provisions will be discussed and determined at the hearing in this case.

9. That the Petition to Intervene filed by Community Action Association of Pennsylvania is granted in this proceeding, pursuant to 52 Pa.Code § 5.71 through § 5.76.

10. That the Service List attached hereto shall be used for the remainder of this case for the service of discovery requests, objections thereto, motions, testimony, etc. Changes to the Service List shall be on order of the Administrative Law Judge.

11. That any provision of this Prehearing Order may be modified upon motion and good cause shown by any party.

Date: October 19, 2016 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Katrina L. Dunderdale

Administrative Law Judge

**P-2016-2540046 - Petition of Duquesne Light Company for Approval of Its Long-Term Infrastructure Improvement Plan for period January 1, 2017 through December 31, 2022.**

***Revised 10/19/16***

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1. *See* Docket No. R-2013-2372129. [↑](#footnote-ref-1)