BEFORE THE

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2018-3000124

Office of Consumer Advocate : C-2018-3001029

Jason Dolby : C-2018-3001074

Peoples Natural Gas Company LLC : C-2018-3001152

James Fedell : C-2018-3001473

Office of Small Business Advocate : C-2018-3001566

Duquesne Industrial Intervenors : C-2018-3001713

 :

 v. :

:

Duquesne Light Company :

1308(d) Proceeding :

**PREHEARING ORDER**

 On March 28, 2018, Duquesne Light Company (Duquesne Light), Utility Code 110150, filed Supplement No. 174 to Tariff Electric Pa. P.U.C. No. 24 to become effective May 29, 2018, containing a proposed general increase in electric distribution rates of approximately $133.8 million. The proposed base rate increase includes $52.2 million of revenues currently recovered under surcharges, therefore the increase to customers over current charges is $81.6 million. If approved the total bill for an average residential customer using 600 kilowatt-hours would increase from $98.15 to $106.80 (8.82%), an average commercial customer using 10,000 kilowatt-hours would increase from $984.94 to $1,013.71 (2.92%), and an average industrial customer using 200,000 kilowatt-hours would increase from $18,730.50 to $19,165.27 (2.32%).

On March 30, 2018, the Bureau of Investigation & Enforcement (BIE) filed a Notice of Appearance. On April 6, 2018, the Office of Consumer Advocate (OCA) filed a public statement and formal complaint at Docket No. C-2018-3001029. In addition to the formal complaint filed by OCA, formal complaints have also been filed by Jason Dolby at Docket No. C-2018-3001074; the Peoples Natural Gas Company LLC at Docket No. C-2018-3001152; James Fedell at Docket No. C-2018-3001473; the Office of Small Business Advocate at Docket No. C-2018-3001566 and Duquesne Industrial Intervenors (DII) at Docket No. C-2018-3001713.

Petitions to Intervene have been filed by Community Action Association of Pennsylvania (CAAP), the International Brotherhood of Electrical Workers Local 29 (IBEW-29), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Clean Air Council (CAC) and Natural Resources Defense Council (NRDC).

 By Order entered April 19, 2018, the Commission suspended the implementation of Supplement No. 174 to Tariff Electric Pa. P.U.C. No. 24 by operation of law, pursuant to 66 Pa.C.S.A. § 1308(d), until December 29, 2018, unless permitted by Commission Order to become effective at an earlier date, and instituted an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations proposed in Supplement No. 174. On April 26, 2018, the Office of Administrative Law Judge (OALJ) scheduled a prehearing conference to be conducted telephonically on May 3, 2018.

On May 3, 2018, Administrative Law Judge Katrina L. Dunderdale conducted a call-in telephonic prehearing conference with the parties in which various procedural matters were discussed and a litigation schedule was established. The participants appeared via telephone while the Administrative Law Judge appeared by conference phone from Pittsburgh. Present during the call-in telephonic prehearing conference were counsel representing the following: Duquesne Light; OCA; OSBA; BIE; CAAP; Peoples Natural Gas, IBEW-29; and CAUSE-PA.

The parties addressed the following matters: the procedural schedule; service of documents; identification of witnesses and subject area of testimony; timing of motions with respect to prepared written testimony; location and start time of hearings; need for public input hearings including the location and dates for a public input hearing; discovery modifications; the official service list; consolidation of formal complaints filed against the base rate proceedings; and four petitions to intervene. This prehearing order memorializes those matters discussed, decided and agreed to by the parties during the prehearing conference on May 3, 2018.

Consolidation

 The following cases were docketed separately as complaints but arose from Duquesne Light’s base rate filing. Therefore, they will be consolidated into the proceeding docketed at No. R-2018-3000124, pursuant to 52 Pa.Code § 5.81:

Office of Consumer Advocate at C-2018-3001029

Jason Colby at C-2018-3001074

Peoples Natural Gas Company LLC at C-2018-3001152

James Fedell at C-2018-3001473

Office of Small Business Advocate at C-2018-3001566

Duquesne Industrial Intervenors at C-2018-3001713

Petitions to Intervene

 To date, petitions to intervene have been filed by three entities: CAAP; IBEW-29 and CAUSE-PA. No party objected to the granting of the petitions. Accordingly, the petitions to intervene were granted and this judicial grant will be confirmed in the Ordering Paragraphs, herein.

Identification of Company Filing

 The Company will identify its filing, including the marking of statements and exhibits, when it presents the filing at the start of the initial hearing.

Procedural Schedule

 The parties discussed the litigation at length. Peoples expressed concern that delays during discovery might impact its ability to file its direct testimony by June 25, 2018, and requested four additional days for filing direct testimony. Peoples also requested less time for rebuttal testimony and more time for surrebuttal testimony. After discussion, Duquesne Light indicated it had no intention to objecting to Peoples’ discovery requests because of Duquesne Light’s Motion for Partial Judgment on the Pleadings. The presiding officer ruled the parties should use the litigation scheduled proposed by Duquesne Light, however, Peoples might be granted leave to file written testimony later if discovery disputes negatively impact Peoples’ ability to file its written testimony.

 Other Party’s Direct Testimony June 25, 2018

Written Rebuttal Testimony July 23, 2018

Written Surrebuttal Testimony August 6, 2018

 Written Rejoinder Outlines August 10, 2018

 Hearings – Harrisburg August 15-17, 2018

 Close of Record August 17, 2018

 Main Briefs September 6, 2018

 Reply Briefs September 14, 2018

 Last Public Meeting before suspension date December 20, 2018

All due dates in the litigation schedule are for service “in-hand” by 4:00 p.m. Electronic or e-mail service will satisfy the “in-hand” requirement if done by 4:00 p.m. Electronic or e-mail service should be followed by service of a hard copy that may be served by first-class mail.

Service of Documents

 The above filing dates are all in-hand dates (by 4:00 p.m.) to the parties and the presiding officer. The parties are also directed to provide an e-version in Word format and hard copy of testimony and briefs to any technical advisors in the Commission’s Bureau of Technical Utility Services once informed by the presiding officer as to who they are. In addition, the Company is directed to supply an e-version of its Petition and previously-filed testimony to the presiding officer. All parties are reminded to serve the Administrative Law Judge directly with all filed documents, and to provide a Word version.

 Upon agreement of the parties and with the concurrence of the Administrative Law Judge, service of documents made via electronic mail (by 4:00 p.m.) on the due date will be considered in-hand service, provided a hard copy is sent by the following day via first-class mail. In the event a party does not or cannot accept service via electronic mail, and that party is not located in Harrisburg, the parties will effectuate service in-hand by the close of business on the following business day by mailing to that party by express mail.

This Commission’s requirements for the preparation and filing of written testimony and related exhibits are set forth in 52 Pa.Code § 5.412. In addition, the lines and pages are to be numbered.

Evidentiary Hearings

The evidentiary hearings will commence at **9:00 a.m.** on each day, beginning on **Wednesday, August 15, 2018** and continue through **Friday, August 17, 2018**. The parties must inform the presiding officer before **12:00 p.m.** on **Monday, August 13, 2018** in the event the parties intend to submit little or no new testimony at the evidentiary hearing with no more than limited cross examination anticipated. In that event, the presiding officer will conduct the evidentiary hearing telephonically from the Commission’s offices in Piatt Place, 301 Fifth Avenue, Pittsburgh, Pennsylvania 15222.

Witness Lists

 The presiding officer requested, and the utility agreed, that the utility will coordinate an agreement amongst the parties as to the order of witnesses, with the understanding the utility’s witnesses will go first. Counsel for the utility will provide that list to the presiding officer on or before **August 13, 2018**.

Any party which has not set forth its witness list, including the subject area of proposed testimony, in its prehearing memorandum must provide that information to the presiding officer and the other parties no later than two (2) weeks prior to the due date for direct testimony. Motions with respect to written testimony must be presented in writing no later than 24 hours prior to the day the witness is scheduled to testify.

Public Input Hearings

OCA requested a public input hearing in the territory served by Duquesne Light. Duquesne Light concurred with the request. Commission policy provides at least one public input hearing should be held in a utility’s service area if the Commission determines there is substantial public interest in a rate proceeding. 52 Pa.Code § 69.321(b). I find substantial public interest in this proceeding exists to warrant holding one public input hearing. After discussion, the parties agreed one afternoon and one evening public input hearing should be conducted within Duquesne Light’s territory. After investigation, the Office of Administrative Law Judge determined the public input hearings would take place in Piatt Place, 301 Fifth Avenue, Pittsburgh, Pennsylvania at 1:00 p.m. on Thursday, June 14, 2018 and at the Park Inn by Radisson, 7195 Eastwood Road, Beaver Falls, Pennsylvania at 6:00 p.m. on Thursday, June 14, 2018.

 Duquesne Light is to advertise the public input hearings in a timely fashion and to work with any interested parties in regard to the wording of the public input hearing announcements, and where and how the public input hearing announcements are to be published and/or broadcast. Prior to the initial public input hearing, Duquesne Light is to file with the Secretary’s Bureau, with a copy to the presiding officer, a document which provides the wording of the public input hearing announcement, where it appeared and on what dates.

Discovery

 The parties agreed to modify discovery rules. Those modifications are included here as if set out in full. Furthermore, all parties are urged to engage in informal discovery whenever possible and to the extent necessary in this remanded proceeding. This Commission’s procedures for discovery are set forth in 52 Pa.Code §§ 5.321 *et seq.* The presiding officer will rule on objections to discovery in an expeditious manner, and may do so as part of an informal telephone conference. 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 including dates and times.

Stipulations

 The parties are to engage in discussions with each other prior to the date of the evidentiary hearings and be prepared to submit into the record all stipulations as to facts. The stipulations must be in writing and signed by respective counsel for the parties.

Settlements

 This Commission encourages settlements. 52 Pa.Code § 5.231(a). In this case a joint settlement petition must be served on the presiding officer on or before the date set for filing reply briefs (*i.e*., September 14, 2018).

Briefs

 The parties should comply with the briefing requirements set forth in 52 Pa.Code § 5.501 *et seq.* and as further specified in Attachment A (“Special Instructions for Briefs and Exceptions in Major General Rate Increase Proceedings”). Please provide the Administrative Law Judge and the Fixed Utility Services’ advisors with one printed copy and one electronic copy of each brief and reply brief in a format compatible with the Word 2007 format. Page limitations and the use of a common brief outline will be discussed with the parties on the last day of hearings or, in the event of a settlement, by separate interim order.

Official Service List

 The official service list will include those parties in attendance at the prehearing conference on May 3, 2018, and any additional parties whose future formal complaint or petition to intervene is consolidated herein by separate order. Each party will be limited to one address on the service list. A complete service list is attached hereto.

 THEREFORE,

 IT IS ORDERED:

 1. That the procedural schedule and other matters set forth herein are adopted for this proceeding.

 2. That, except for requests reasonably made during a hearing, any requests for a change in the scheduled dates must be submitted to the Administrative Law Judge in writing no later than five (5) business days prior to the scheduled date. 52 Pa.Code § 1.15(b). Requests for changes must establish good cause, must state the agreement or opposition of other parties, and must be sent to the presiding officer and all parties of record.

 3. That the Petitions to Intervene of Community Action Association of Pennsylvania, the International Brotherhood of Electrical Workers Local 29, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, Clean Air Council and Natural Resources Defense Council are granted.

 4. That evidentiary hearings will be scheduled in this proceeding to be conducted in Harrisburg starting at **9:00 a.m**. on each day from **August 15, 2018 through August 17, 2018**.

 5. That two public input hearings shall be conducted as follows: at Piatt Place, 301 Fifth Avenue, Pittsburgh, Pennsylvania, at 1:00 p.m. on Thursday, June 14, 2018; and at the Park Inn by Radisson, 7195 Eastwood Road, Beaver Falls, Pennsylvania at 6:00 p.m. on Thursday, June 14, 2018. A scheduling notice will be issued by the Office of Administrative Law Judge which specifies the date, time, location and site for each public input hearing.

 6. That Duquesne Light Company will be responsible to advertise the public input hearing in a timely fashion. Duquesne Light Company will work with any interested party in the wording of the public input hearing announcements, plus where and how the public input hearing announcements will be published and/or broadcast. Prior to the initial public input hearing, Duquesne Light Company will file with the Secretary’s Bureau a document which provides the wording of the public input hearing announcement, where it appeared and on what dates.

 7. That the rate proceeding docketed at No. R-2018-3000124 is consolidated with the formal complaints docketed below:

Office of Consumer Advocate at C-2018-3001029

Jason Colby at C-2018-3001074

Peoples Natural Gas Company LLC at C-2018-3001152

James Fedell at C-2018-3001473

Office of Small Business Advocate at C-2018-3001566

Duquesne Industrial Intervenors at C-2018-3001713

Date: May 8, 2018 Katrina L. Dunderdale

 Administrative Law Judge

**R-2018-3000124 – PENNSYLVANIA PUBLIC UTILITY COMMISSION V. DUQUESNE LIGHT COMPANY 1308(D)**

*(Revised 5/8/18)*

MICHAEL W GANG ESQUIRE

**\***ANTHONY D KANAGY ESQUIRE

POST & SCHELL PC

12TH FLOOR

17 NORTH SECOND STREET

HARRISBURG PA 17101-1601

**717.731.1970**

*Representing Duquesne Light Company*

***\*Accepts e-Service***

DAVID T FISFIS ESQUIRE

**\***TISHEKIA E WILLIAMS ESQUIRE

**\***MICHAEL ZIMMERMAN ESQUIRE

EMILY M FARAH ESQUIRE

DUQUESNE LIGHT COMPANY

411 SEVENTH AVENUE

PITTSBURGH PA 15219

**412.393.6924**

**412.393.1541**

**412.393.6268**

**412.393.6431**

*Representing Duquesne Light Company*

***\*Accepts e-Service***

ANTHONY C DECUSATIS ESQUIRE

MORGAN LEWIS & BOCKIUS LLP

1701 MARKET STREET

PHILADELPHIA PA 19103-2921

**215.963.5034**

*Representing Duquesne Light Company*

***Accepts e-Service***

\*PHILLIP D DEMANCHICK ESQUIRE

DAVID T EVRARD ESQUIRE

ARON J BEATTY ESQUIRE

OFFICE OF CONSUMER ADVOCATE

555 WALNUT ST 5TH FL FORUM PLACE

HARRISBURG PA 17101

**717.783.5048**

*Representing Office of Consumer Advocate*

***C-2018-3001029***

***\*Accepts e-Service***

SHARON E WEBB ESQUIRE

DANIEL G ASMUS ESQUIRE

JOHN R EVANS

OFFICE OF SMALL BUSINESS ADVOCATE

300 NORTH SECOND STREET

SUITE 202

HARRISBURG PA 17101

**717.783.2525**

*Representing Office of Small Business Advocate*

***C-2018-3001566***

GINA L MILLER ESQURE

JOHN M COOGAN ESQUIRE

PA PUBLIC UTILITY COMMISSION

BUREAU OF INVESTIGATION & ENFORCEMENT

PO BOX 3265

HARRISBURG PA 17105-3265

**717.783.8754**

**717.783.6151**

**717.783.7998**

*Representing BI&E*

***Accepts e-Service***

JOSEPH L VULLO ESQUIRE

BURKE VULLO REILLY ROBERTS

1460 WYOMING AVENUE

FORTY FORT PA 18704

**570.288.6441**

*Representing Community Action Association of Pennsylvania (CAAP)*

***Accepts e-Service***

SCOTT J RUBIN ESQUIRE

333 OAK LANE

BLOOMSBURG PA 17815-2036

**570.387.1893**

*Representing International Brotherhood of Electrical Workers Local 29 (IBEW)*

***Accepts e-Service***

DAVID P ZAMBITO ESQUIRE

COZEN O’CONNOR

17 NORTH SECOND STREET

SUITE 1410

HARRISBURG PA 17101

**717.703.5892**

*Representing Peoples Natural Gas Company LLC*

***Accepts e-Service***

PATRICK M CICERO ESQUIRE

KADEEM G MORRIS ESQUIRE

**\***ELIZABETH RMARX ESQUIRE

PENNSYLVANIA UTILITY LAW PROJECT

118 LOCUST STREET

HARRISBURG PA 17101

**717.236.9486**

*Representing Coalition for Affordable Utility Services (CAUSE-PA)*

***\*Accepts e-Service***

MARK C SZYBIST ESQUIRE

NATURAL RESOURCES DEFENSE COUNCIL

1152 15TH STREET NW SUITE 300

WASHINGTON DC 20005

**202.289.2422**

*Representing Natural Resources Defense Council (NRDC)*

***Accepts e-Service***

PAMELA C POLACEK ESQUIRE

MATTHEW L GARBER ESQUIRE

MCNEES WALLACE & NURICK LLC

100 PINE STREET

PO BOX 1166

HARRISBURG PA 17108-1166

**717.232-8000**

*Representing Duquesne Industrial Intervenors*

***C-2018-3001713***

***Accepts e-Service***

JOSEPH OTIS MINOTT ESQUIRE

LOGAN WELDE ESQUIRE

CLEAN AIR COUNCIL

135 SOUTH 19TH STREET

SUITE 300

PHILADELPHIA PA 19103

**215.567.4004**

*Representing Clean Air Council*

***Accepts e-Service***

JASON DOLBY

409 ANAWANDA AVENUE

PITTSBURGH PA 15228

***C-2018-3001074***

***Accepts e-Service***

JAMES FEDELL

2009 FORGE DRIVE

ALIQUIPPA PA 15001

***C-2018-3001473***