**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2018-3000124

: R-2018-3000829

:

Office of Consumer Advocate : C-2018-3001029

Jason Dolby : C-2018-3001074

Peoples Natural Gas Company LLC : C-2018-3001152

Office of Small Business Advocate : C-2018-3001566

Duquesne Industrial Intervenors : C-2018-3001713

Leonard Coyer : C-2018-3002424

NRG Energy Center Pittsburgh LLC : C-2018-3002755

:

v. :

:

Duquesne Light Company :

1308(d) Proceeding :

**NINTH INTERIM ORDER**

Deny the Motion of

Duquesne Light Company

to Dismiss Objections

and

Compel Answers to Interrogatories (Set III)

On March 28, 2018, Duquesne Light Company (Duquesne), 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.

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, and instituted an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations proposed in Supplement No. 174.

On May 3, 2018, Administrative Law Judge Katrina L. Dunderdale conducted a call-in telephonic prehearing conference at which the participants discussed various procedural matters and established a litigation schedule. The presiding officer issued the prehearing order on May 8, 2018 and scheduled the evidentiary hearings to be conducted in Harrisburg, Pennsylvania on August 15 through August 17, 2018. Thereafter, the parties have engaged in discovery.

On July 19, 2018, Duquesne filed a Revised Motion to Dismiss Objections and Compel Answer to Interrogatories (Set III) concerning Nos. 2, 52-54, 58 and 62 (Motion). In the Motion, Duquesne averred it served Set III upon Peoples Natural Gas Company LLC (Peoples) on July 3, 2018 and Peoples orally objected on July 6, 2018. On July 10, 2018, Peoples had served its written objections to six interrogatories on Duquesne. Duquesne averred Peoples continued to object to six interrogatories.

On July 24, 2018, Peoples filed its Answer to the Revised Motion to Dismiss Objections and to Compel Answers.

This Interim Order will speak to the continuing objections of Peoples to the identified interrogatories Nos. 2, 52-54, 58 and 62.

DISCUSSION

Section 5.321(c) of the Commission’s Rules of Administrative Practice and Procedure, 52 Pa.Code § 5.321(c), specifically provides that “a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action.” Discovery is permitted regardless of whether the information sought “relates to the claim or defense of the party seeking discovery or to the claim or defense of another party or participant.” *Id*. Information may be discoverable, even if it would be inadmissible at a hearing. “It is not grounds for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.” *Id*. Consistently, the Commission has allowed participants wide latitude in discovery matters. Pa. Pub. Util. Comm’n v. The Peoples Natural Gas Company, 62 Pa. PUC 56 (August 26, 1986); and Pa. Pub. Util. Comm’n v. Equitable Gas Company, 61 Pa. PUC 468 (May 16, 1986).

Identified Interrogatory No. 2

Appearing on page 5, Interrogatory No. 2, in *verbatim*, asks:

Referring to Peoples Statement No. 1, page 3, lines 19 through 21 of Mr. Nehr’s direct testimony, where Mr. Nehr states that, “Because Peoples takes service from Duquesne for use in its utility operations, the cost of electric service is included in the rates that Peoples charges to customers.”

1. For each year, 2012 through 2017, provide in dollars the annual total charges for electric service in Duquesne Light’s service territory that Peoples incurred in connection with its utility operations, broken out by annual total electric supply charges, annual total electric transmission charges, and annual total electric distribution charges.
2. For each year, 2012 through 2017, provide in kWh the annual total supply volumes and annual total distribution service volumes (if different) for service that Peoples received from Duquesne (or other electric generation supplier(s) (EGSs) operating in Duquesne Light’s service territory) for use in Peoples’ utility operations.

Duquesne argued Peoples admitted the information Duquesne requested in Interrogatory No. 2 is largely in the possession of Duquesne. Duquesne contends Peoples’ use of the term – largely – is proof Peoples concedes the information about generation supply charges Peoples incurs from electric generation suppliers (including the related kilowatt hour sales data) are *not* available to Duquesne. Consequently, the fundamental basis for Peoples’ objection is undercut by its own concession. Duquesne pointed out that Interrogatory No. 2 also asked Peoples for the portion of its distribution, transmission and supply charges which were incurred in connection with utility operations and related kilowatt hour sales that were used in Peoples’ utility operations.

Duquesne insisted its request for information specifically related to Peoples’ witness (Mr. Nehr) who in direct testimony stated proposed changes in Rider No. 16 would allegedly have an adverse effect on Peoples’ customers because Peoples’ costs for electricity used in its natural gas utility function are passed-through to those customers. Duquesne argued it did not have the data or information to identify separately the portions of Peoples’ total annual charges and kilowatt hour sales volumes that relate solely to its “utility” operations – as compared to non-utility uses, such as non-regulated lines of business or competitive services. Consequently, Peoples’ contention that Interrogatory No. 2 is too “broad” and should have been limited – in some manner not specified by Peoples – to a subset of the requested information is incorrect and should be rejected. Duquesne argued Peoples had a legal obligation to furnish the information it agrees Duquesne could not obtain otherwise because Peoples concedes some of the information requested in Interrogatory No. 2 is not available to Duquesne. Duquesne lastly contended that none of the requested information is available to it.

Peoples objected to both subparts of Data Request 2, arguing that since Peoples purchases its electricity from Duquesne, these Data Requests seek information that is largely already in the possession of Duquesne. Peoples cited to 52 Pa.Code § 5.361(a)(2), which prohibits discovery that would cause unreasonable annoyance, embarrassment, oppression, burden or expense to a party. Peoples argued that because the usage and cost information is in Duquesne’s possession already, it is unreasonable for Duquesne to ask Peoples to incur the expense of going through its records from 2012 through 2017 in order to locate and produce the requested information. Peoples further objected to Data Request No. 2 because Duquesne, as the electric utility supplying Peoples with electricity and billing Peoples for that electricity, can perform the requested study or analysis itself. Peoples pointed out in its response to the Motion that Duquesne already has the information sought either in its own records or in the information provided by Peoples on July 20, 2018. (See Appendix to Peoples’ Answer to the Revised Motion to Dismiss Objections and to Compel Answers dated July 24, 2018). The additional information provided to Duquesne on July 20, 2018 includes an explanation by Peoples’ Vice President of Business Development, Jeffrey Nehr, showing how much of the total cost of electric service Peoples receives from Duquesne is used for utility operations, and how much money was spent by Peoples to receive supply from electric suppliers other than Duquesne over a six-year period.

Disposition

A portion of this question is relevant to the base rate proceeding, however, that portion was answered by Peoples on July 20, 2018. That portion – how much of the electricity used by Peoples is used by Peoples for its utility operations – tangentially might be related to the dispute between Peoples and Duquesne concerning the Combined Heat and Power program costs. In a similar manner, the amount of money spent by Peoples to purchase electric supply from other suppliers possibly might relate to that ongoing dispute. However, in all other regards about the information requested by Duquesne, I agree with Peoples. The remaining information sought by Duquesne is within its own billing system. In order to obtain the information Duquesne seeks, Duquesne can find that information by doing a query of its own records. To insist Peoples provide information which Duquesne has available to it gives the appearance that the interrogatory is intended to be unreasonably annoying, oppressive, burdensome and intended to force Peoples to incur unnecessary costs, for which Peoples’ customers will have to pay.

Accordingly, Peoples will not be compelled to answer Interrogatory No. 2, to the extent the interrogatory remains unanswered.

Identified Interrogatory No. 52

Appearing on pages 23 and 24, Interrogatory No. 52, in *verbatim* asks:

Referring to Peoples Statement No. 3, page 25, lines 3 through 5 of Ms. Scripps’ direct testimony, where Ms. Scripps states that, “The Rider No. 16 changes proposed by Duquesne Light Company would have a dramatic effect on the economics of CHP systems going forward.”

1. Using Ms. Scripps’ methodology, for the one identical sample customer used in her analysis in Exhibit JWS-1, calculate and show separately the average monthly and total annual Duquesne Light supply, transmission, and distribution charges assuming the customer did not own CHP and received all of its supply and delivery services from Duquesne Light in accordance with Duquesne Light’s applicable general service rate schedules (e.g., GL) and current rates. Provide any related workpapers, analysis, support, and spreadsheets (with electronic formulas intact) supporting her results.
2. Using Ms. Scripps’ methodology, for the one identical sample customer used in her analysis in Exhibit JWS-1 and for each CHP outage scenario evaluated by Ms. Scripps, calculate and show separately the average monthly and total annual Duquesne Light supply, transmission, and distribution charges assuming the customer does own CHP and received all of its supply and delivery services from Duquesne Light in accordance with Duquesne Light’s applicable general service rate schedules (e.g., GL) and current rates (and with electing Rider No. 16 and net metering Rider No. 21). Provide any related workpapers, analysis, support, and spreadsheets (with electronic formulas intact) supporting her results.
3. Using Ms. Scripps’ methodology, for the one identical sample customer used in her analysis in Exhibit JWS-1 and for each CHP outage scenario evaluated by Ms. Scripps, calculate and show separately the average monthly and total annual Duquesne Light supply, transmission, and distribution charges assuming the customer does own CHP and received all of its supply and delivery services from Duquesne Light in accordance with Duquesne Light’s applicable general service rate schedules (e.g., GL) and current rates (without electing Rider No. 16 but electing net metering Rider No. 21). Provide any related workpapers, analysis, support, and spreadsheets (with electronic formulas intact) supporting her results.
4. Using Ms. Scripps’ methodology, for the one identical sample customer used in her analysis in Exhibit JWS-1, calculate and show separately the average monthly and total annual Duquesne Light supply, transmission, and distribution charges assuming the customer did not own CHP and received all of its supply and delivery services from Duquesne Light in accordance with Duquesne Light’s applicable general service rate schedules (e.g., GL) and proposed rates. Provide any related workpapers, analysis, support, and spreadsheets (with electronic formulas intact) supporting her results.
5. Using Ms. Scripps’ methodology, for the one identical sample customer used in her analysis in Exhibit JWS-1 and for each CHP outage scenario evaluated by Ms. Scripps, calculate and show separately the average monthly and total annual Duquesne Light supply, transmission, and distribution charges assuming the customer does own CHP and received all of its supply and delivery services from Duquesne Light in accordance with Duquesne Light’s applicable general service rate schedules (e.g., GL) and proposed rates (with electing Rider No. 16 and net metering Rider No. 21). Provide any related workpapers, analysis, support, and spreadsheets (with electronic formulas intact) supporting her results.
6. Using Ms. Scripps’ methodology, for the one identical sample customer used in her analysis in Exhibit JWS-1 and for each CHP outage scenario evaluated by Ms. Scripps, calculate and show separately the average monthly and total annual Duquesne Light supply, transmission, and distribution charges assuming the customer does own CHP and received all of its supply and delivery services from Duquesne Light in accordance with Duquesne Light’s applicable general service rate schedules (e.g., GL) and proposed rates (without electing Rider No. 16 but electing net metering Rider No. 21). Provide any related workpapers, analysis, support, and spreadsheets (with electronic formulas intact) supporting her results.

Duquesne contends Interrogatory No. 52 is necessary because Peoples’ witness, Ms. Scripps, selected the scenarios she chose to model, chose the scenarios offered in support of her stated position, excluded other possible but contrary scenarios and then couched her testimony in terms of the alleged adverse effects that would flow from the “proposed” changes to Rider No. 16. As a result, Duquesne argues Peoples does not address and assess these other scenarios to determine whether the scenarios would support or contradict the opinions expressed in Ms. Scripps’ testimony. Additionally, Duquesne avers Ms. Scripps did not model the *existing* Rider No. 16 despite her allegations that Duquesne’s “proposed” changes in Rider No. 16 would have “a dramatic effect on the economics of CHP systems.” Duquesne argues Ms. Scripps could not have assessed whether there is a meaningful difference in the impact of “proposed” changes versus the existing terms of Rider No. 16 on the “economics of CHP systems.”

Duquesne insists Interrogatory No. 52 is needed to fill the voids in Ms. Scripps’ analysis that were left by her failure to model certain realistic scenarios and her failure to model any scenarios based on the existing terms of Rider No. 16 (notwithstanding her opinion that there is a differential impact on the “economics of CHP systems” between Rider No. 16’s existing and proposed terms). Duquesne argues this interrogatory is highly relevant to the position Ms. Scripps took in her direct testimony. Duquesne asks that Peoples be compelled to do nothing more than ask Ms. Scripps to run a limited number of additional scenarios under the existing and proposed terms of Rider No. 16 to test her hypothesis about the potential effect of proposed changes in Rider No. 16 on the “economics” of CHP.

Duquesne insists Peoples’ objection is meritless for several reasons. At the time Peoples served its Objections, Peoples had not provided Ms. Scripps’ model to Duquesne in live Excel form with formulas and functions intact. Duquesne argues the model at issue is Ms. Scripps’ model*,* and Peoples is the party which presented Ms. Scripps as an “expert” witness in this case precisely because of her alleged expertise in developing, manipulating and running *that model*. Nonetheless, Peoples contends that, if it were simply to provide Ms. Scripps’ model to Duquesne, then Duquesne – having never seen or used the model previously – should be able immediately to use it with exactly the same facility as Ms. Scripps herself. Clearly, that position doesn’t say much about the allegedly “expert” status of Peoples’ witness.

Quoting 52 Pa.Code § 5.361(d) as the authority for its position, Peoples argued Interrogatory No. 52 was objectionable because Peoples has provided Duquesne, or will be providing in response to discovery requests, detailed information concerning Ms. Scripps’ methodology. Consequently, Duquesne has, or will have, the ability to perform the requested studies/analyses itself and at its own time and expense. Peoples argues this Data Request asks Peoples and its witnesses to perform a special study or analysis, but Duquesne can reasonably conduct the study or analysis itself and at its own expense. Peoples contends Duquesne is a large, sophisticated party, with the information, technical ability, and financial ability to perform the requested studies/analyses. Under these circumstances, it would be an unreasonable burden and expense for Peoples to undertake the requested studies and analyses for Duquesne. Peoples provided information in its response to the Revised Motion concerning assumptions which Peoples’ witness, Ms. Scripps, used concerning supplemental supply during on-peak and off-peaks periods.

Disposition

I agree with Peoples. Duquesne has the right to inquire about the assumptions and definitions used by an expert. Duquesne’s Interrogatory No. 52 goes beyond asking for an explanation of terms from Peoples’ expert. Duquesne requests that Ms. Scripps provide data about a customer’s total generation of electricity, about how much supplemental supply Duquesne provided, about how much backup supply Duquesne provided and about the total electricity consumption of the customer. These questions go far beyond a reasonable request to explain an expert’s opinion and assumptions. Duquesne’s request appears to be intended to annoy, oppress, create an unreasonable burden upon Peoples and to force Peoples to incur unnecessary costs, for which Peoples’ customers will have to pay.

Accordingly, Peoples will not be compelled to answer Interrogatory No. 52, to the extent the interrogatory remains unanswered.

Identified Interrogatory No. 53

Appearing on pages 24 and 25, Interrogatory No. 53, in *verbatim* asks:

Referring to Peoples Exhibit JWS-1, provide the total charges (with supply, transmission and distribution charges broken out separately) in dollars for the identical sample customer used in her analysis in Exhibit JWS-1 for each utility, assuming the customer has the same exact consumption pattern but did not own any on-site generation and received supply and delivery services from the utility. Provide any related workpapers, analysis, support, and spreadsheets (with electronic formulas intact).

Duquesne contends Peoples’ objection to Interrogatory No. 53 is without merit for the same reasons espoused concerning Interrogatory No. 52, namely that: Peoples had not provided Ms. Scripps’ model in live Excel form with formulas and functions intact; the model at issue is Ms. Scripps’ model; Peoples presented Ms. Scripps as an “expert” witness precisely because of her alleged expertise in developing, manipulating and running that model; and because Duquesne cannot use the model with exactly the same facility as Peoples’ expert can.

Identical to its position in Interrogatory No. 52, Peoples argued Interrogatory No. 53 was objectionable because Peoples provided Duquesne, or would be providing in response to discovery requests, detailed information concerning Ms. Scripps’ methodology. Consequently, Duquesne had, or will have, the ability to perform the requested studies/analyses itself and at its own time and expense. Peoples argued Duquesne asks Peoples and its witness to perform a special study or analysis, but Duquesne can reasonably conduct the study or analysis itself and at its own expense. Peoples contended Duquesne is a large, sophisticated party, with the information, technical ability, and financial ability to perform the requested studies and analyses. Under these circumstances, Peoples argues it would be an unreasonable burden and expense for Peoples to undertake the requested studies and analyses for Duquesne.

Disposition

I agree with Peoples. Duquesne has the right to inquire about the assumptions and definitions used by an expert. Duquesne’s Interrogatory No. 53 goes beyond asking for Peoples’ expert to explain her methodology. A simple reading of the interrogatory illustrates Duquesne wants Peoples’ expert to consider another scenario, as if it’s a simple mathematical formula which Ms. Scripps can exchange one set of numbers for another set of numbers. Having obtained Ms. Scripps’ explanation of what data she considered and how she rendered her opinion, Duquesne is in error to insist that Ms. Scripps has to perform an analysis on Duquesne’s behalf. If Duquesne would like another scenario considered, then Duquesne is sufficiently sophisticated to use its own experts to generate another scenario using Ms. Scripps’ methodology. These questions go far beyond a reasonable request to explain an expert’s opinion and assumptions. Duquesne’s request appears to be intended to annoy, oppress, create an unreasonable burden upon Peoples and to force Peoples to incur unnecessary costs, for which Peoples’ customers will have to pay.

Accordingly, Peoples will not be compelled to answer Interrogatory No. 53, to the extent the interrogatory remains unanswered.

Identified Interrogatory No. 54

Appearing on page 25, Interrogatory No. 54, in *verbatim* asks:

Referring to Peoples Exhibit JWS-1, provide the total utility charges (with supply, transmission and distribution charges broken out separately) in dollars for the identical sample customer used in her analysis in Exhibit JWS-1 for each utility and outage scenario, assuming the customer has the same exact consumption pattern but owns on-site generation and received back-up, supplemental, and any other required utility services for supply and delivery services from the utility. Provide any related workpapers, analysis, support, and spreadsheets (with electronic formulas intact).

Duquesne contends Peoples’ objection to Interrogatory No. 54 is without merit for the same reasons espoused concerning Nos. 52 and 53, namely that: Peoples had not provided Ms. Scripps’ model in live Excel form with formulas and functions intact; the model at issue is Ms. Scripps’ model; Peoples presented Ms. Scripps as an “expert” witness precisely because of her alleged expertise in developing, manipulating and running that model; and because Duquesne cannot use the model with exactly the same facility as Peoples’ expert can.

Identical to its position in Nos. 52 and 53, Peoples argued Interrogatory No. 54 was objectionable because Peoples provided Duquesne, or would be providing in response to discovery requests, detailed information concerning Ms. Scripps’ methodology. Consequently, Duquesne had, or will have, the ability to perform the requested studies/analyses itself and at its own time and expense. Peoples argued this Data Request asks Peoples and its witnesses to perform a special study or analysis, but Duquesne can reasonably conduct the study or analysis itself and at its own expense. Peoples contended Duquesne is a large, sophisticated party, with the information, technical ability, and financial ability to perform the requested studies and analyses. Under these circumstances, Peoples argues it would be an unreasonable burden and expense for Peoples to undertake the requested studies and analyses for Duquesne.

Disposition

I agree with Peoples. This interrogatory is almost identical to the previous interrogatory (Interrogatory No. 53) and will be denied for the same reason. The questions go far beyond a reasonable request to explain an expert’s opinion and assumptions. Duquesne’s request appears to be intended to annoy, oppress, create an unreasonable burden upon Peoples and to force Peoples to incur unnecessary costs, for which Peoples’ customers will have to pay.

Accordingly, Peoples will not be compelled to answer Interrogatory No. 54, to the extent the interrogatory remains unanswered.

Identified Interrogatory No. 58

Appearing on pages 25 and 26, Interrogatory No. 58, in *verbatim* asks:

Referring to Peoples Exhibit JWS-2:

1. Ms. Scripps states that for Duquesne Light she assumes a “GL – General Service Large customer with generation equal to 2,000 kW based on its nameplate capacity rating and a contract maximum limit of 5,000 kW (i.e., 3000) kW of supplemental service).” What is the customer’s total generation in kWh for the month during the on-peak and off-peak periods. What is the supplemental supply obtained from Duquesne Light in kWh for the month during on-peak and off-peak periods? What is the backup supply obtained from Duquesne Light in kWh for the month during the on-peak and off-peak periods? What is the total electricity consumption of the customer in kWh for the month during on-peak and off-peak periods?
2. Ms. Scripps uses average day-ahead LMP, on-peak and off-peak period prices in her analysis. How does she define on-peak and off-peak periods?

Duquesne contends Interrogatory No. 58 simply requests that Peoples’ expert provide the actual inputs to the model she created and used for the scenarios the expert ran, and to specify the time periods used as “peak” and “off-peak” periods for purposes of the analysis. Duquesne argues it was appropriate for it to request and obtain the input data that underlay the expert’s testimony. Duquesne further argues Peoples’ contention Duquesne is asking it to conduct a special study or analysis is false. Duquesne insists Interrogatory No. 58 asks for nothing more than a description by the expert of how she conducted her own study.

Peoples argued Interrogatory No. 58 was objectionable because Peoples provided Duquesne, or did provide in its July 20, 2018 response, detailed information concerning Ms. Scripps’ methodology. Consequently, Duquesne has the ability to perform the requested studies and analyses itself and at its own time and expense. Peoples contended Duquesne is a large, sophisticated party, with the information, technical ability, and financial ability to perform the requested studies and analyses. Under these circumstances, Peoples argues it would be an unreasonable burden and expense for Peoples to undertake the requested studies and analyses for Duquesne.

Disposition

This interrogatory is similar to the previous interrogatories (Interrogatories Nos. 53 and 54) and will be denied for the same reason. The questions go far beyond a reasonable request to explain an expert’s opinion and assumptions. Duquesne is asking for detailed information about a customer’s usage, including asking how much supplemental supply and backup supply Duquesne itself provided to the customer. It is hard to imagine how Duquesne’s own records do not have the information requested because, presumably, Duquesne knows how much supply it charged Peoples. As a result, Duquesne’s request appears to be intended to annoy, oppress, create an unreasonable burden upon Peoples and to force Peoples to incur unnecessary costs, for which Peoples’ customers will have to pay.

Accordingly, Peoples will not be compelled to answer Interrogatory No. 58, to the extent the interrogatory remains unanswered.

Identified Interrogatory No. 62

Appearing on page 27, Interrogatory No. 62, in *verbatim* asks:

Referring to Peoples Statement No. 4, page 8, lines 20 through 21 of Ms. Kefer’s direct testimony, where Ms. Kefer states that, “Additionally, deploying CHP is a long-term investment for the user. The uncertainty of standby rates can be a barrier preventing consumers from making such an investment.”

1. In Ms. Kefer’s opinion, what do [sic] developers of wholesale generation plants consider when deciding the economic viability to develop a generation plant at the wholesale level?
2. In Ms. Kefer’s opinion, should prospective generators at the wholesale and retail levels be treated similarly in terms of compensation? If not, how should the market compensation differ between a kWh generated at the wholesale level and at the retail level (i.e., how should the value provided by a kWh generated at the retail level be adjusted)?

Duquesne contends Interrogatory No. 62 is intended to determine whether Ms. Kefer has an opinion concerning the analysis developers use when deciding whether to invest in new generation source(s) and whether that analysis should be relevant to how developers are compensated for the generation produced. Duquesne wants the expert to identify the factors generation developers use when making long term investment decisions. Duquesne argues the question is highly relevant in order to test the expert’s fundamental hypothesis. Of interest to Duquesne is whether the mode of economic analysis used by a long-term investor differs if the investor is an end-use retail customer of an electric distribution company or a developer of whole generation.

Peoples argued Interrogatory No. 62 goes beyond the scope of Ms. Kefer’s testimony. Peoples contended Ms. Kefer’s testimony addressed combined heat and power and other forms of distributed generation that provide electricity to the owner of the distributed generation (e.g., customer generation). Peoples asserts her testimony did not include a discussion about generators who provide electricity to wholesale or retail customers, nor what factors the investors in any form of generation would consider when determining whether to develop a plant at the wholesale level. Peoples argues it would be an unreasonable burden and expense for Ms. Kefer to answer discovery questions regarding topics that she did not discuss in her direct testimony. In order to answer the questions, Ms. Kefer would have to undertake a considerable amount of study which would be an unreasonable expense.

Disposition

This interrogatory goes beyond a reasonable request for an expert to explain her opinion and assumptions. Duquesne asks Peoples’ expert to consider a different segment of the electricity market and provide the factors and considerations which this broader expanse of entities might consider when making decisions about the creation of any form of generation, whether wholesale or retail. Duquesne does not have the right in discovery to compel an answer from an expert that extends beyond the scope of direct testimony.

Accordingly, Peoples will not be compelled to answer Interrogatory No. 62.

THEREFORE,

IT IS ORDERED:

That the Motion dated July 16, 2018 to Dismiss Objections and Compel Answers to Interrogatories Propounded by Duquesne Light Company to Peoples Natural Gas Company LLC – Set III, Nos. 2, 52-54, 58 and 62, on July 3, 2018, is denied.

Date: July 25, 2018 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Katrina L. Dunderdale

Administrative Law Judge

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

*(Revised 6/18/18)*

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