

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission <i>et al.</i>	:	
	:	
v.	:	R-2024-3046523
	:	
Duquesne Light Company	:	

**PREHEARING ORDER**

On March 20, 2024, Duquesne Light Company (Duquesne Light) filed its Supplement No. 71 to Tariff Electric Pa. P.U.C. No. 25, seeking a general rate increase with the Pennsylvania Public Utility Commission. The Company is proposing a general increase in electric distribution rates of approximately \$133 million. Because the proposed base rate increase includes \$32 million of revenues currently recovered under surcharges, the proposed increase to customers over current charges is \$101 million. The filing also included a request for Commission approval of the following alternative rate mechanisms: (1) Community Development Rider; (2) Residential Managed Charging and Behavioral Load Management Pilots; and (3) Electric Vehicle Time of Use Distribution Rates in accordance with 66 Pa. C.S. § 1330 (related to alternative ratemaking for utilities).

On March 22, 2024, the Office of Consumer Advocate (OCA) filed a Complaint and Public Statement in the above-captioned rate case at Docket No. C-2024-3047779. On April 1, 2024, Duquesne Light filed an Answer to OCA’s Complaint.

On March 28, 2024, the Commission’s Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance in the above-captioned rate case.

Also on March 28, 2024, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene and Answer in the above-captioned rate case.

On March 29, 2024, Ronald T. Bernick filed a Formal Complaint at Docket No. C-2024-3048340.

On April 4, 2024, the Commission entered an Order suspending Supplement No. 71 to Tariff Electric Pa. P.U.C. No. 25 until December 20, 2024, unless otherwise directed by Order of the Commission, pursuant to 66 Pa. C.S. §1308(d). The matter was referred to the Office of the Administrative Law Judge and assigned to me.

On April 5, 2024, the Office of Small Business Advocate (OSBA) filed a Complaint and Public Statement in the above-captioned matter at Docket No. C-2024-3048171. On April 15, 2024, Duquesne Light filed an Answer to OSBA's Complaint.

On April 15, 2024, an Initial Telephonic Prehearing Conference Notice was served scheduling a prehearing conference for April 22, 2024. On April 15, 2024, a Prehearing Conference Order was served.

On April 15, 2024, the Pennsylvania Weatherization Providers Task Force, Inc. (Providers Task Force) filed a Petition to Intervene in the above-captioned matter.

The Prehearing Conference convened as scheduled on April 22, 2024. Counsel for Duquesne Light, I&E, OCA and OSBA appeared, as well as CAUSE-PA and Providers Task Force (collectively, Parties). Ronald T. Bernick was not present or represented at the Prehearing Conference. This prehearing order memorializes the matters decided and agreed upon by the Parties attending the conference.

Consolidation

The complaints of the statutory advocates and Ronald T. Bernick are consolidated with the above-docketed rate proceeding. Any additional complaints filed following the April 22, 2024, Prehearing Conference are deemed consolidated without further order.

Petitions to Intervene

There was no objection to the petitions to intervene of CAUSE-PA or Providers Task Force. Those petitions are granted.

Service List

A service list of the Parties is attached to this order.

Any party that did not appear at the April 22, 2024, Prehearing Conference will be treated as an inactive participant to this proceeding, unless they submit a written request to the undersigned advising that they are an active participant and wish to be added to the active participant list. Inactive participants will receive the undersigned’s written orders, notices of hearings and public input hearings and copies of any Commission decisions and orders. Inactive participants will not participate in discovery, testify at the evidentiary hearing, or cross-examine witnesses. Inactive participants will not receive copies of the hearing exhibits or briefs filed by the active participants. Any participant entering their appearance after the April 22, 2024, Prehearing Conference must designate whether they want to be treated as an active participant in writing to the Administrative Law Judge and the active participants of record.

Litigation Schedule

<u>Date</u>	<u>Event</u>
April 22, 2024	Prehearing Conference
June 5, 2024	Public Input Hearings at 1:00 p.m. and 6:00 in Pittsburgh and Beaver County, PA. Specific locations TBA

June 6, 2024	Public Input Hearings at 1:00 p.m. and 6:00 p.m. by telephone
June 11, 2024	Service of written Direct Testimony of Non-Company Parties
June 18, 2024	Service of written Supplemental Direct Testimony addressing public input testimony
July 10, 2024	Service of written Rebuttal Testimony
July 23, 2024	Service of written surrebuttal testimony
July 26, 2024 by noon	Written rejoinder outline and <b>witness matrix listing the Parties intending to cross-examine each witness and the extent of any cross-examination</b>
July 29-30, 2024	Technical evidentiary hearings by telephone
August 16, 2024	Filing and service of main briefs
August 26, 2024	Filing and service of reply briefs or submission of joint settlement petition executed by representatives of Parties thereto, together with all Parties' statements in support of joint petition/settlement

The Parties are reminded of the Commission's requirements for the preparation and filing of written testimony. 52 Pa. Code § 5.412. Written testimony must be accompanied by all exhibits to which it relates. **Worksheets and calculations which are used as exhibits must be provided in Excel format by email to the Administrative Law Judge and other Parties within two business days of the testimony being served.** Technical terms and concepts are to be clearly defined and explained in the testimonies and briefs. **The Parties are to agree on a list of common acronyms and use them consistently in all written testimony and briefs.**

The above-stated dates are in-hand dates for service on the Parties and the Administrative Law Judge. The Parties at the Prehearing Conference and the Administrative Law Judge agree to accept electronic service of such material,<sup>1</sup> so long as the subject email is received by the date due. The Administrative Law Judge's e-mail address is as follows: Deputy Chief Administrative Law Judge Mark A. Hoyer (mhoyer@pa.gov).

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<sup>1</sup> For parties accepting electronic service, the documents are to be served electronically on the date indicated, by 4:00 p.m. unless otherwise indicated.

The evidentiary hearings will begin promptly at 10:00 a.m. The Parties must confer before commencement of the hearing to schedule their witnesses so as to avoid “holes” or “dead time” during the hearing. In the event that a partial settlement is achieved, the Parties should be prepared to proceed at the hearing to present evidence on the non-resolved issues.

### Public Input Hearings

The Parties have agreed to one day of in-person public input hearings and one day of public input hearings conducted by telephone.

Public input hearings shall be held on **June 5, 2024, at 1:00 p.m. and 6:00 p.m. at locations in Pittsburgh and Beaver County, PA. Public input hearings by telephone will be conducted on June 6, 2024, at 1:00 p.m. and 6:00 p.m.** Once the locations of the in-person public input hearings are finalized the Office of Administrative Law Judge will issue two public input hearing notices, one for the in-person public input hearings and one for the telephone public input hearings. Duquesne Light is hereby ordered to publish notice of the date, time and registration instructions for the public input hearings in newspapers of general circulation in Duquesne Light’s service territory, weekly, for two consecutive weeks before the hearings. Duquesne Light shall file proof of publication with the Commission’s Secretary’s Bureau. Duquesne Light is further ordered to publish notice of the public input hearings on its website, social media and through any other electronic means available.

### Issues

In their respective prehearing memoranda, the Parties identified various issues they may wish to pursue. The reader is directed to these documents to review a recitation of these issues. Additional issues may arise as the discovery process develops.

## Discovery

The Parties shall engage in informal discovery whenever and wherever possible in an attempt to resolve any discovery disputes amicably. 52 Pa. Code § 5.322. If this process fails, the Parties have recourse to the Commission's procedures for formal discovery, as herein modified. 52 Pa. Code §§ 5.321, *et seq.* The Parties must not send the Administrative Law Judge discovery material or cover letters, unless attached to a motion to compel. **All motions to compel must contain a certification of counsel of the informal discovery undertaken and their efforts to resolve their discovery disputes informally.** If a motion to compel fails to contain such certification, the Administrative Law Judge will contact the Parties and direct them to pursue informal discovery.

The Parties must endeavor to complete discovery upon the filing of surrebuttal testimony absent extraordinary circumstances.

OCA proposed modifications to the Commission's procedures for formal discovery. No Party objected to the proposed modifications. Following a discussion with the Parties at the Prehearing Conference, the following modified discovery procedures apply to this case:

A. Answers to written interrogatories and requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service.

B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories; unresolved objections shall be served in writing to the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.

C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of written objections.

D. Answers to motions to dismiss objections and/or answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.

E. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.

F. Answers to on-the-record data requests shall be served in-hand within five (5) calendar days of the requests.

G. Any discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of calculating the due date for any responsive filing.

After rebuttal is served, the deadlines shall be reduced as follows:

A. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served within seven (7) calendar days of service of the interrogatories or requests for production.

B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within two (2) calendar days of service; unresolved objections shall be served on the propounding party in writing within three (3) calendar days of service of the interrogatories and/or requests for production.

C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within two (2) calendar days of service of written objections.

D. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within two (2) calendar days of service of such motions.

E. Requests for admission shall be deemed admitted unless answered or objected to within three (3) calendar days of service.

F. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day

All discovery due dates shall be “in-hand” and electronic or fax service on the due date will satisfy the “in-hand” requirement.

These modifications to discovery procedures are effective April 22, 2024. Any other discovery propounded before April 22, 2024, is subject to the normal response times for discovery in the Commission’s procedural rules.

### Pre-Served Testimony and Exhibits

No written testimony will be admitted into evidence unless accompanied by a verification or affidavit of the witness.

Confidential Security Information (CSI) as defined by 35 P.S. § 2141 *et seq.* should not be transmitted by email or other electronic means. The Parties are to avoid introducing CSI into the record and should develop alternative means, such as joint stipulations or redaction when proposing testimony or exhibits. If there is no other alternative to establish a material fact other than by CSI, the Parties are to contact the Administrative Law Judge immediately and in advance of the evidentiary hearing.

### Settlement and Stipulations

The Parties are reminded it is the Commission’s policy to encourage settlements. 52 Pa. Code § 5.231(a). The Parties are strongly urged to seriously explore this possibility. Submission of a fully executed joint settlement petition, together with all Parties’ statements in support of the joint petition/settlement, must be filed with the Secretary for the Commission and received in-hand by the Administrative Law Judge no later than the close of business on **August 26, 2024.**

The Parties must agree on a common outline for statements in support, including headings and subheadings. Each party need not address every issue, but the same headings and



subheadings must be presented in the same order. Statements in support should be specific and explain the benefit of the settlement terms to your client beyond the savings of litigation time and expense.

A settlement petition must include an appendix table which sets for the following information: the current rates for each customer class in each rate zone, the rate increase proposed in the initial filing for each customer class in each rate zone and the rates proposed for each customer class in each rate zone in the petition for settlement. Presentation of rate impacts should be clear and consistent regarding whether the impacts include supply rates in effect at the time of the settlement or are exclusively related to distribution rates. All of these costs and comparisons shall be stated in dollar/cents amounts and in percentages.

If settlement is not feasible, the Parties are encouraged to stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all Parties and conserve precious administrative hearing resources. 52 Pa. Code §§ 5.232 and 5.234. All stipulations entered into by the Parties must be reduced to writing, signed by the Parties to be bound thereby, and moved into the record during the hearing in this case. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.

#### Cross-Examination

Friendly cross-examination or cumulative cross-examination during hearings will not be permitted. 52 Pa. Code §§ 5.76; 5.243.

#### Briefs and Reply Briefs

The Parties must comply with 52 Pa. Code §§ 5.501, et seq., regarding the preparation and filing of briefs. Briefs must include proposed findings of fact with citations to the record evidence, proposed conclusions of law and proposed ordering paragraphs. Page

limitations on briefs will be discussed on or before the last day of hearing. The Parties shall submit to the Administrative Law Judge one copy by email. The electronic version of a brief must be prepared in Microsoft Office Word format. If in doubt, please email the Administrative Law Judge for clarification.

IMPORTANT NOTICE: All briefs must conform to the “Instructions for Briefs” attached hereto as Appendix A and made a part of this order. **Also, Rate Case Tables will be electronically provided to the Parties. These Tables must be used by Duquesne Light and all Parties in this proceeding.** If any party fails to follow these instructions in the smallest detail, that party’s position will not be considered, regardless of where the record may support it or the position of any other party to this proceeding. Your anticipated cooperation will be appreciated.

#### Modification

Any of the provisions of this Prehearing Order may be modified upon motion and good cause shown by any party in interest.

Date: May 1, 2024

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/s/  
Mark A. Hoyer  
Deputy Chief Administrative Law Judge

Special Instructions for Briefs and Exceptions  
in Major General Rate Increase Proceedings

1. Each brief shall follow the general organization shown in the attached standardized format.
  
2. Each brief shall contain a table of contents with page references to a summary of argument and to each topic addressed in the argument.
  
3. Adjustments contained in each brief shall:
  - a. be based on a specific test year, to be selected before the close of the record;
  - b. be complete and self-contained, include accurate reference to the appropriate record sources, be on a before-income-tax basis (never on a net income or revenue requirement basis) and be on a consistent jurisdictional basis (if record support cannot be located, the adjustment may/will be rejected);
  - c. be detailed to demonstrate the step-by-step calculation of that adjustment together with appropriate accurate record references (once again, if the record support cannot be located for the necessary steps, the adjustment may/will be rejected);
  - d. include concomitant rate base, revenue, expense, depreciation expense, and tax (i.e., taxes other, State Income, and federal Income) adjustments set forth, together with the details of their calculation;
  - e. include within the brief calculations which are the basis for proposed adjustments, but which are incomplete in the record.
  
4. Tables showing all proposed rate base and income adjustments, organized as shown in the attached Table I and Table II, shall be submitted with each brief which includes such adjustments.
  - a. The starting point of Table I “Income Summary” shall be the utility’s final pro forma showing at present rates. The ALJS shall specify the starting point to be the most recent update admitted into evidence. The update, admission, and ALJS ruling shall be cited on the table.

- b. The effect of deferred or accrued taxes on the various tax adjustments presented in Table II “Summary of Adjustments” shall be indicated by a footnote.
5. The following schedules shall be submitted with each brief.
- a. A schedule showing the precise derivation of any adjustment to proposed cash working capital allowance.
    - i. The schedule describing an adjustment to a Utility’s claim for Cash Working Capital shall separately list (1) adjustments originating from Table II “Summary of Adjustments” and (2) adjustments resulting from the proposed revenue increase. Any effect on deferred and/or accrued taxes shall be shown in a separate column or footnote.
    - ii. Net Revenue and Expense Lag Days for all Cash Working Capital Adjustments shall be calculated to at least one decimal place.
  - b. A schedule showing all tax and jurisdictional allocation factors utilized (any deviations from standard or obvious factors should be explained on the schedule on in the brief).
  - c. A schedule listing, for the party or Parties filing the brief, each exhibit or other document admitted into the record, along with the date the document was identified and the date the document was admitted.
6. Rate structure proposals shall be reasonably specific and explicit, shall, as appropriate, refer accurately to record support and shall be summarized at the end of the “Rate Structure” topic heading of each brief.
7. Parties shall, as feasible and appropriate, discuss alternative rate design proposals for overall rate increases at and below the requested increase

8. Regarding the filing of exceptions, the following instructions are provided:
  - a. Each exception shall be separately identified and, as necessary, discussed.
  - b. Each exception shall include, before any discussion is provided, the following elements (see examples attached):
    - i. a reference to the relevant part of the Recommended Decision, at least to the relevant pages;
    - ii. a reference to related discussions in the excepting party's brief and, as appropriate, to other briefs; and
    - iii. a concise statement of the exception.
  - c. The exceptions shall follow the order of presentation provided in the table of contents to the Recommended Decision.
  - d. If a party takes exception concerning a topic not included within the Recommended Decision or the table of contents thereto, the appropriate exception shall be included at the end of the appropriate major topic heading (such as "Rate Base" or "Expenses").
  - e. If a party seeks to correct computations associated with the Recommended Decision, replacement computations, with source references to briefs or the record, shall be provided.

Standardized Brief Format for  
General Rate Increase Proceedings

- I. Introduction
- II. Summary of Argument
- III. Rate Base
  - A. Fair Value
  - B. Plant in Service
  - C. Depreciation Reserve
  - D. Additions to Rate Base
  - E. Deductions from Rate Base
  - F. Conclusion
- IV. Revenues
- V. Expenses
- VI. Taxes
- VII. Rate of Return
- VIII. Miscellaneous Issue
- IX. Rate Structure
  - A. Cost of Service
  - B. Revenue Allocation
  - C. Tariff Structure
  - D. Summary and Alternatives
- X. Conclusion

Note: Appropriate modifications may be made. For instance, a party might add “Affiliated Interest Expenses” as a major topic heading or might brief only rate structure and not use other topic headings. A summary and alternatives should be provided under “Rate Structure” but the “Rate Base” and “Rate Structure” formats shown may be modified, as appropriate. Additional subheadings should be used, as appropriate.

TABLE I

INCOME SUMMARY  
(\$000)

	<u>Pro Forma</u> <u>Present</u> <u>Rates</u> \$	<u>Recommended</u> <u>Adjustments</u> \$	<u>Adjusted</u> <u>Present</u> <u>Rates</u> \$	<u>Revenue</u> <u>Adjustment</u> \$	<u>Total</u> <u>Allowable</u> <u>Revenues</u> \$
Operating Revenues	_____	_____	_____	_____	
Deductions:					
O&M Expenses					
Depreciation					
Taxes:					
State					
Federal					
Other	_____	_____	_____	_____	
Total Deductions	_____	_____	_____	_____	
Net Income Available for Return	=====	=====	=====	=====	
Rate Base					
Recommended Rate of Return					





### Examples of Specific Exceptions

1. Staff excepts to the ALJS's rejection of the Staff (and OCA) rate case expense adjustment. See R.D., pp. 31-2; Staff brief, pp. 54-5; OCA brief, pp. 98-9. The \$128,000 adjustment, based on a filing once every four years and on disallowance of certain expenses, should be accepted.
2. The Company excepts to the adoption of the OCA revenue adjustment. See R.D., pp. 28-30; Company brief, pp. 56-9; Company reply brief, p. 12. This adjustment was based on unreasonable projections of industrial consumption (see OCA brief, p. 84). The Company projection, as modified at Company St. 14, pp. 11-12, should be used.
3. OCA excepts to the ALJS's failure to address, and accept, its weather adjustment to revenues. See OCA brief, pp. 21-4; OCA reply brief, p. 12.
4. Corrections to calculations underlying salary increases (R.D., p. 41), force reductions (R.D., pp. 48-9) and tax normalization (R.D., pp. 81-2) are offered and explained at Appendix B.

**R-2024-3046523 - PENNSYLVANIA PUBLIC UTILITY COMMISSION v. DUQUESNE LIGHT COMPANY**

*Revised: April 16, 2024*

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