

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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September 23, 2010

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Pennsylvania Public Utility Commission
v.
Duquesne Light Company – 2010 Base Rate
Docket No. R-2010-2179522

Dear Secretary Chiavetta:

Enclosed for filing is the Prehearing Memorandum of the Office of Consumer Advocate, in the above-referenced proceeding.

Copies have been served as indicated on the Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Candis A. Tunilo".

Candis A. Tunilo
Assistant Consumer Advocate
PA Attorney I.D. # 89891

Enclosure

cc: Honorable Mark A. Hoyer
Honorable Conrad A. Johnson

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	Docket Nos.	R-2010-2179522
Office of Small Business Advocate	:		C-2010-2193322
Office of Consumer Advocate	:		C-2010-2194660
Janet Vento	:		C-2010-2196479
Mary M. Chestnut	:		C-2010-2196799
Donald W. Killmeyer	:		C-2010-2199926
Sarah Divilly	:		C-2010-2199945
v.	:		
Duquesne Light Company	:		

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. §333, and as directed by Prehearing Conference Order issued by Presiding Officers Mark A. Hoyer and Conrad A. Johnson on September 17, 2010, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On July 23, 2010, Duquesne Light Company (DLC or Company) filed Tariff Supplement No. 35 to Tariff Electric - Pa. P.U.C. No. 24 (Supplement No. 35) with the Pennsylvania Public Utility Commission (Commission) to become effective on September 21, 2010. In its filing, DLC requests that the Commission approve rates and rate changes, which would reflect an increase in overall annual revenues of \$87.3 million, or approximately 6.69% over the Company's annual revenues at present rates.

DLC provides utility service to approximately 588,000 retail customers in the Pittsburgh region, specifically Allegheny and Beaver Counties.

II. HISTORY OF THE PROCEEDING

On August 12, 2010, the Office of Small Business Advocate (OSBA) filed a Formal Complaint, Public Statement and Notice of Appearance. On August 20, 2010, the OCA filed a Formal Complaint, Public Statement and Notice of Appearance. On September 16, 2010, the Office of Trial Staff (OTS) filed a Notice of Appearance. The International Brotherhood of Electrical Workers Local 29 (Local 29) filed a Petition to Intervene. Several formal complaints and protests were filed by DLC customers as well.

By Order entered September 16, 2010, the Commission suspended the Company's proposed Supplement No. 35 pending investigation. The proceeding was assigned to Administrative Law Judges Mark A. Hoyer and Conrad A. Johnson (ALJs). A prehearing conference is scheduled for Friday, September 24, 2010.

III. ISSUES AND SUB-ISSUES

Based upon a preliminary analysis of DLC's base rate filing, the Office of Consumer Advocate has compiled a list of issues, which it anticipates will be included in its investigation of the Company's request. It is anticipated that issues in addition to those enumerated below may arise and may be pursued once the answers to the OCA's interrogatories have been received and analyzed. The OCA reserves the opportunity to present any new or unanticipated issues at such time.

The OCA has propounded six sets of discovery upon the Company to date. Numerous responses are overdue, and the OCA has been continuously attempting to work with the Company to obtain verified responses. As soon as the OCA has had the opportunity to review the answers to interrogatories, the OCA anticipates that informal discovery meetings can be scheduled, and potential settlement discussions may take place. At those meetings and discussions, the OCA will be able to narrow the scope of additional information requests. Once the discovery process is

complete, the OCA will file direct testimony setting forth the specific issues to be addressed in this proceeding. At that time the OCA will also be able to make and to quantify its specific recommendations.

The list of issues and sub-issues set forth below will be analyzed and presented as appropriate by the OCA with the assistance of OCA's expert witnesses:

A. Rate of Return

The OCA will perform a detailed analysis of the cost of common equity claimed by DLC. The OCA will carefully examine the Company's methodologies and supporting data used to develop its final cost of common equity claim of 11.25%. In particular, the OCA will review the cost of equity models and how they have been implemented and will evaluate the theoretical and empirical foundations of the proposed leverage adjustment to the equity cost rate. The OCA will also examine the Company's position that its exemplary management performance merits an 11.25% equity cost rate.

The OCA will examine the capital structure and long-term debt proposed by DLC so as to determine if they are appropriate. The OCA will also examine the applicable rate of return, cost of equity and capital structure issues outlined in Appendix A to the Commission's Order entered September 16, 2010, in this matter.

B. Rate Base/Measure of Values

The OCA will examine the reasonableness and accuracy of the projections of DLC pertaining to the utility plant in service at the time relevant to this proceeding including, but not limited to, whether the test year plant will be completed as claimed and whether retirements are accurately reflected. The OCA will review the Company's claim for plant additions during the future test year to determine if the Company has demonstrated that all such costs are prudently incurred. Further, the OCA will assess the Company's cash working capital claim. The OCA will

also examine the applicable rate base issues outlined in Appendix A to the Commission's Order entered September 16, 2010, in this matter.

C. Revenues and Expenses

The OCA will review the reasonableness and accuracy of the Company's revenue annualizations and normalizations, consistent with appropriate levels of normalized customers and usage adjusted for known and certain rate year changes. The OCA will examine the appropriateness, reasonableness and accuracy of the Company's claims for wages and benefits, rate case expenses, service company charges, outside service, uncollectible accounts, pensions and OPEBs, as well as other categories of expenses. The OCA will also investigate the reasonableness of the Company's pro-forma income tax claims, including an investigation into the Company's adherence to the established precedent concerning consolidated tax savings. The OCA will also examine the applicable revenue and expense issues outlined in Appendix A to the Commission's Order entered September 16, 2010, in this matter.

D. Rate Structure/Cost of Service/Rate Design

The OCA will examine DLC's Class Cost of Service Study, with particular regard to appropriate and Commission-approved methods to allocate secondary lines, poles and transformers, and the proper recognition of weighting of various Customer Service, Accounting, and Information expenses between classes. The OCA will examine the Company's Class Revenue responsibility and apportionment of the revenue increase given cost of service results, as well as recognition of other relevant factors and ratemaking principles. Also, the OCA will examine the Company's proposed rate design, including the 21.4% increase to the residential customer charge (from \$7.00 to \$8.50). With regard to the customer charge, the OCA will consider the Commission-approved methodology for determining "customer costs," proper economic pricing signals for the efficient use of electricity, conservation, revenue stability and risk reductions to DLC, gradualism, and the

impact on low users. The OCA will also examine the applicable rate structure, rate design and cost allocation issues outlined in Appendix A to the Commission's Order entered September 16, 2010, in this matter.

E. Universal Service Programs

The OCA will review the Company's proposed changes to its Customer Assistance Program as well as DLC's proposed new Universal Service Charge Rider. The OCA will also examine the applicable universal service issues outlined in Appendix A to the Commission's Order entered September 16, 2010, in this matter.

F. Other Issues

The OCA will examine the reasonableness and appropriateness of the Company's proposed tariff changes, any relevant issues that arise as a result of the Company's operations and will investigate to ensure that the Company is complying with all prior orders. The OCA will examine the Company's proposal to recover the costs of its Energy Conservation programs through its new, proposed Universal Service Charge Rider. The OCA will also examine all of the issues outlined in Appendix A to the Commission's Order entered September 16, 2010, in this matter.

IV. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding. Each witness will present testimony in written form and will also attach various exhibits, documents, and explanatory information, which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be emailed directly to the expert witness(es) responsible for the area of the case, as well as emailing and mailing a copy to counsel for the OCA.

Accounting/Regulatory Policy:

David J. Effron
Bershire Consulting Services
12 Pond Path
North Hampton, NH 03862
Telephone: (603) 964-6526
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Rate of Return:

Stephen G. Hill
Hill Associates
4000 Benedict Road
P.O. Box 587
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Telephone: (304) 562-3645
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Rate Design/Cost of Service:

Clarence L. Johnson
CJEnergy Consulting
3707 Robinson Avenue
Austin, TX 78722
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Universal Service:

Roger D. Colton
Fisher, Sheehan and Colton
34 Warwick Road
Belmont, MA 02478
Telephone: (617) 484-0597
Facsimile: (617) 484-0594
E-mail: roger@fsconline.com

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case, the Presiding Officers and all parties of record will be notified promptly.

V. EVIDENCE

The OCA will rely on the direct, rebuttal, and surrebuttal testimony of its expert witnesses as well as the testimony of the other parties to the proceeding. The OCA will present relevant exhibits to support its own testimony, including but not limited to, materials obtained from the Company through discovery and cross-examination. As described above, the OCA's witnesses will present

testimony in the following areas: accounting and regulatory policy, rate of return, rate design and cost of service, and universal service.

VI. PROCEDURAL RULES / DISCOVERY

The OCA proposes the following modifications to the discovery rules:

1. When an interrogatory, request for production, request for admission or motion is served after 12:00 p.m. on a Friday or the day before a holiday, the appropriate response period is deemed to start on the next business day.
2. The response period for replying to written interrogatories, requests for production and requests for admissions is ten (10) calendar days of receipt. Responses may be served electronically but hard copies must follow by first-class mail, unless otherwise agreed to by the parties.
3. Objections to written interrogatories, requests for production and requests for admissions are to be communicated orally to the party serving the interrogatory within three (3) calendar days of receipt and in writing within five (5) calendar days of receipt. The parties are directed to confer, by telephone or e-mail, and attempt to resolve the objections.
4. Motions to dismiss objections and to compel response shall be filed with the Commission and served on the Administrative Law Judge and the other parties within three (3) calendar days of receipt of the written objections. Answers to such motions shall be filed and served within three (3) calendar days after filing of the motion.
5. If the objections are not resolved, counsel will alert the presiding officers by e-mail of the need for a ruling, and a conference call will be scheduled. The presiding officers will make a ruling over the telephone and not reduce it to writing unless requested to do so.
6. Interrogatories, requests for production and requests for admissions that are objected to but which are not made the subject of a motion to compel will be deemed withdrawn.
7. Requests for admission shall be deemed admitted unless objected to within five (5) calendar days of service or answered within ten (10) calendar days of service.
8. Pursuant to 52 Pa. Code §5.341(b), neither discovery requests nor responses thereto are to be served on the Commission or the Administrative Law Judge, although a certificate of service may be filed with the Commission's Secretary.
9. Discovery requests, motions to compel and responses are to be served electronically as well as on paper.

VII. PUBLIC INPUT HEARINGS

The parties have agreed to convene two Public Input Hearings, one in Pittsburgh and one in Beaver County. It is anticipated that the earliest these Public Input Hearings could be convened would be the last week of October 2010. Therefore, the OCA requests that it be permitted to address Public Input Hearing testimony, if necessary, in its Rebuttal and/or Surrebuttal testimony.

VIII. SERVICE ON THE OFFICE OF CONSUMER ADVOCATE

The OCA will be represented in this case by Senior Assistant Consumer Advocate Tanya J. McCloskey and Assistant Consumer Advocates Candis A. Tunilo, Barrett C. Sheridan and David T. Evrard. Two copies of all documents should be served on the OCA as follows:

Candis A. Tunilo
Assistant Consumer Advocate
Office of Consumer Advocate
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E-mail: CTunilo@paoca.org

As a courtesy, the OCA would appreciate it if the following email address could also be included on any electronic correspondence: JHorner@paoca.org.

IX. PROPOSED SCHEDULE

The OCA is willing to participate in settlement conferences with the parties to this matter, whenever they may be scheduled. The OCA, OTS and OSBA propose the following litigation schedule¹:

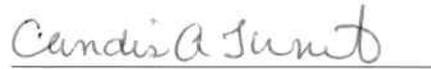
¹ The OCA proposes that the schedule dates be “in-hand” and that electronic service on the due date will satisfy the “in-hand” requirement, where a hard copy is sent by first-class mail.

Non-Company Direct Testimony
Rebuttal Testimony
Surrebuttal Testimony
Rejoinder Outline
Evidentiary Hearings (Philadelphia)
Main Briefs
Reply Briefs*

October 27, 2010
November 16, 2010
December 1, 2010
December 6, 2010 NOON
December 7-9, 2010²
December 23, 2010 NOON
January 7, 2011

* This date is taken from the ALJs' Prehearing Conference Order dated September 17, 2010.

Respectfully Submitted,



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Dated: September 23, 2010
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² OCA witness Effron is not available to appear at hearings on December 7, 2010. Therefore, the OCA proposes that he be scheduled to appear for cross examination on December 9, 2010. OCA witness Hill has hearings in Texas the week of December 6 – 10, 2010. Therefore, the OCA requests flexibility in scheduling the appearance of Mr. Hill during the hearing dates for this matter.

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
 :
 v. : Docket No. R-2010-2179522
 :
 Duquesne Light Company :

I hereby certify that I have this day served a true copy of the foregoing document, the Prehearing Memorandum of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 23rd day of September 2010.

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Complaint No.: *C-2010-2193322*

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Counsel for: *International Brotherhood of Electric Workers, Local 29*

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Complaint No.: C-2010-2196790

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Complaint No.: C-2010-2199926

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