

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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January 10, 2013

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

RE: Petition of Duquesne Light Company for
Deferred Accounting
Docket No. P-2012-2333760

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Answer to the Amended Petition of Duquesne Light Company for Deferred Accounting, in the above-referenced proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script, reading "David T. Evrard".

David T. Evrard
Assistant Consumer Advocate
PA Attorney I.D. # 33870

Enclosures
cc: Certificate of Service
163014

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Amended Petition of Duquesne Light Company : Docket No. P-2012-2333760
For Deferred Accounting :

ANSWER OF
THE OFFICE OF CONSUMER ADVOCATE

I. INTRODUCTION

Pursuant to 52 Pa. Code § 5.61, the Office of Consumer Advocate (OCA) files this Answer to the Amended Petition of Duquesne Light Company (Duquesne or the Company) to defer, for accounting purposes, a portion of the implementation costs associated with replacing certain of the Company's information technology (IT) systems. As explained in its Amended Petition, Duquesne has an ongoing project known as the FOCUS project. As part of that project, the Company is replacing its current customer information system with a new Customer Care and Billing System (CC&B), a new Meter Data Management System (MDM) and a new Mobile Workforce Management System (MWM). Amended Petition at 1. The Company is also implementing a new Interactive Voice Response System (IVR), a Web Self-Service Portal (WSS) and a Systems Oriented Architecture (SOA). *Id.*

Certain elements of the FOCUS project – the CC&B and MDM – are linked to the Company's smart meter deployment pursuant to Act 129 of 2008. Duquesne refers to these elements as the smart meter-related FOCUS components. Other elements of the project – the IVR, MWM, WSS and SOA – must be updated or replaced in order to work with the new CC&B system. Duquesne refers to these elements as the non-smart meter FOCUS components and it is

the costs of implementing these components for which the Company seeks deferred accounting treatment. Duquesne proposes that the costs of the smart meter-related FOCUS components will be recovered through the Company's existing Smart Meter Charge. Amended Petition at 4. Duquesne's estimate of the non-smart meter costs to be deferred is approximately \$2,865,500. This includes materials, leasing costs, software maintenance costs, training costs and communication costs. Amended Petition at 2. The majority of the costs will be incurred in the 12 months ending June 2013. Amended Petition at 5.

Duquesne points out that it is not requesting the Commission to decide the ratemaking treatment of the non-smart meter FOCUS expenses by way of the instant Petition. Rather, it is seeking only to defer these costs for accounting and reporting purposes until it can present a claim for recovery of the costs in its next base rate case. Amended Petition at 2.

II. SUMMARY OF THE OCA'S POSITION

Deferral treatment is not for routine business activities. The costs associated with the upgrade and replacement of IT systems are part of the normal business operations for a public utility and cannot reasonably be considered to be the type of costs that the Commission has allowed for deferral. The Commission should reject the Petition in its entirety.

If, however, the Commission approves the Petition to defer the costs, it should condition such approval as set forth herein. Further, the Commission should make clear that Duquesne will bear the burden of proving the justness and reasonableness of the costs in any future rate proceeding.

III. ARGUMENT

- A. Duquesne's Request Is Not the Type of Request That Should Be Afforded Deferral Treatment.

Duquesne has petitioned to defer the implementation costs related to the upgrade or replacement of a number of its IT systems. In an Order entered July 19, 2012, this Commission set forth the standard for approval of a deferral request:

the standard which a utility must meet when seeking Commission authorization for deferral accounting is whether, based on Commission precedent, the expense item appears to be within the scope of the type of items that the Commission has allowed as an exception to the general rule against retroactive recovery of past expenses.

Petition of Pennsylvania Util. Co., Inc., 2012 PaPUC LEXIS 1124 at*5-6 (Pa.Util.); see also

Petition of Pike County Light & Power Co., 2012 Pa. PUC LEXIS 939 at *5-6 (Pike County).

The type of items that the Commission has allowed as an exception to the general rule against retroactive recovery of past expenses have been extraordinary, unanticipated, non-recurring and substantial. Examples include costs to make repairs to avoid an imminent threat to public health and safety, hurricane damages and across-the-board accounting changes that have a substantial financial impact. Pa. Util. at *2-3.; Pike County at *2; Petition of Columbia Gas of Pa, Inc., 2012 Pa. PUC LEXIS 836. In the case at hand, the type of costs in question, costs incurred to upgrade or replace IT systems, does not meet the Commission's standard for deferral accounting.

First, upgrades to and replacement of IT systems is today a part of routine business operations and is not extraordinary. All public utilities require ongoing modifications, upgrades to or even full replacement of their information systems due to the continuing acceleration of technological advancements and changes in standards, which cause older systems or system components to become obsolete.

Second, the upgrades to and replacement of the non-smart meter FOCUS components are not unanticipated. The Company has been planning to meet Act 129's smart meter requirements for several years. Further, the existing customer information system could not have been expected to last indefinitely. The very fact that the new CC&B will enable additional

capabilities (Petition at 3) suggests as much. At some point the existing customer information system would have had to be replaced and that replacement could have triggered the upgrades to and replacement of the various non-smart meter FOCUS components.

Third, because it is the nature of IT systems to evolve as technological advancements occur, the type of expenses Duquesne now seeks to defer are not non-recurring. The expense of replacing systems and system components in order to keep up with advancing technology is not a one-time event. It is an ongoing cost of doing business as a regulated public utility.

Fourth, at approximately \$2.9 million, the OCA questions whether the costs would satisfy the requirement for substantiality expressed in Popowsky v. PA PUC, 642 A. 2d 648 (Pa. Cmwlth. 1994) (Popowsky).¹ The Petition does not contain information to support a conclusion that the failure to reflect the costs incurred prior to the test year in its next base rate case will deny Duquesne an opportunity to earn its authorized rate of return.

The Amended Petition cites the Commission's recent Order in Petition of Columbia Gas of Pennsylvania to Defer for Accounting and Financial Reporting Purposes Certain Start Up Expenses Associated with the Redesign and Upgrade of Financial Processes and Information Systems, Docket No. P-2012-2319920, Order entered December 5, 2012 (Columbia Gas). In Columbia Gas, the Commission denied Columbia's request for deferral concluding that the startup expenses related to new software are routine business expenses. Columbia Gas at 5. The Commission went on to distinguish the case of Petition of Pennsylvania Electric Company For an Order Approving its Pilot Customer Assistance Program CAP and Related Ratemaking, Docket No. P-00930718. Order entered February 23, 1994 (Penelec), in which it granted deferred accounting for expenses associated with information system development, evaluation,

¹ "To be extraordinary, [an expense] must also be a substantial, one-time expense or a substantial item that will not appear as a continuing expense and could otherwise never be recovered in rate cases because, like the weather-related expenses, it would be normalized out of the test year as abnormal." Popowsky at 652.

and training. The Commission noted that in Penelec as opposed to Columbia Gas, the costs were incurred as a necessity to implement a Commission ordered pilot customer assistance program. The costs were not incurred simply to update an aging system or make the current system more efficient. Columbia Gas at 5-6.

Duquesne's Amended Petition seeks to rely on this distinction to justify approval of its deferral request. Duquesne argues that it is in the same position as Penelec, that the replacement of its customer information system with a new CC&B system is necessitated by the requirement to comply with the smart meter mandates of Act 129 and the Commission's Smart Meter Implementation Order. Amended Petition at 9-10. Essentially, Duquesne argues that *but for* Act 129, it would not replace its existing customer information system with the new CC&B. Duquesne further asserts that the replacement or upgrades to its other systems (IVR, MWM, WSS, SOA) are necessary because the old systems are not compatible with the new CC&B system. Id.

The OCA submits that Duquesne's *but for* argument is misleading. As noted above, all public utilities, indeed all businesses, require ongoing modifications, upgrades to or even complete replacement of their information systems due to the continuing acceleration of technological advancements and changes in standards, which cause older systems or system components to become obsolete. Duquesne's current customer information system is no exception. At some point, that system would have to be replaced. The fact that it may be being replaced earlier than the Company might otherwise have done so does not change the character of the costs incurred. These remain routine costs of doing business and do not warrant the deferral that Duquesne seeks.

The OCA submits that the non-smart meter FOCUS implementation costs at issue in Duquesne's petition are costs that are not within the scope of the type of items the Commission has allowed for deferral. The Commission should reject Duquesne's petition for permission to defer these costs.

If, however, the Commission grants deferral treatment, the OCA submits that the Commission should include certain conditions in its Order. At a minimum, the OCA submits that the following conditions should apply:

1. That the authorization granted herein to Duquesne for deferred accounting treatment carries with it no assurance of future rate recovery.
2. That Duquesne be directed to claim the deferred costs at the first available opportunity.
3. That the authorization for deferred accounting treatment be limited to actual operations and maintenance costs and not extend to capitalized costs; and
4. That any Opinion and Order in this matter not limit the ability of any party in a future rate case to oppose recovery of any of the costs deferred pursuant to the limited authorization granted herein.

The OCA notes that in its Amended Petition, Duquesne indicates that it is willing to accept the OCA's proposed conditions. Amended Petition at 13.

V. CONCLUSION

The OCA respectfully submits that Duquesne's Amended Petition for Deferred Accounting should be denied. In the alternative, should the Commission grant Duquesne's request, the OCA respectfully requests that the Commission's Order and Opinion granting the Amended Petition be conditioned as set forth herein.

Respectfully Submitted,

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January 10, 2013

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CERTIFICATE OF SERVICE

Petition of Duquesne Light Company :
For Authorization to Defer Expenses for : Docket No. P-2012-2333760
Accounting Purposes Only :

I hereby certify that I have this day served a true copy of the foregoing, the Office of Consumer Advocate's Answer to the Amended Petition of Duquesne Light Company for Deferred Accounting, 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 10th day of January 2013.

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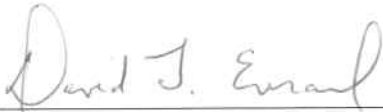
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