

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,	:	R-00061346
	:	
Duquesne Industrial Intervenors and Industrial Energy Consumers of Pennsylvania,	:	R-00061346C0001
	:	
Irwin A. Popowsky, Consumer Advocate,	:	R-00061346C0002
	:	
Bernadine Creighton,	:	R-00061346C0003
	:	
David J. McAdams,	:	R-00061346C0004
	:	
Office of Small Business Advocate,	:	R-00061346C0005
	:	
International Brotherhood of Electrical Workers Local 29,	:	
	:	
Constellation NewEnergy, Inc. and NRG Energy Center, Pittsburgh, Intervenors, and	:	
	:	
Office of Trial Staff, Statutory Party	:	

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PREHEARING ORDER

At issue in this proceeding is Tariff Electric-Pa. P.U.C. No. 24, which Duquesne Light Company ("Duquesne Light") filed on April 7, 2006, to become effective June 6, 2006. Duquesne Light requests an increase of approximately \$143.7 million in distribution rates and notified the Commission of an anticipated \$19 million increase in retail distribution rates. By Order entered May 4, 2006, the Commission instituted an investigation on its own motion into the proposed tariff and suspended it until January 6, 2007. The Commission's Order also assigned the case to the Office of Administrative Law Judge for hearings and the issuance of a Recommended Decision.

The Commission held a prehearing conference on May 12, 2006. The parties are to be commended for discussing and agreeing upon a litigation schedule for this proceeding. The schedule appears in Appendix A to this Order.

Petitions to Intervene

The following have filed petitions to intervene: International Brotherhood of Electrical Workers Local 29; Constellation NewEnergy, Inc. and NRG Energy Center, Pittsburgh (jointly). Duquesne Light did not object to the petitions and I granted them at the hearing.

Counsel for Strategic Energy LLC and Reliant Energy, Inc. attended the prehearing conference and indicated that he would be filing a joint petition to intervene. Counsel for Citizen Power had indicated to me in an email that an attorney for Citizen Power would attend the prehearing conference. After the conference, I received an email indicating that while an attorney could not attend, Citizen Power intends to file a petition to intervene.

Complaints

The following have filed complaints: Duquesne Industrial Intervenors and Industrial Energy Consumers of Pennsylvania; Office of Consumer Advocate; Bernadine Creighton; David J. McAdams; Office of Small Business Advocate.

Notice of Intervention

The Office of Trial Staff filed a notice of intervention.

Proprietary Order

The parties will agree on a proprietary order and submit it for approval.

Electronic Service of Documents

Electronic service of documents meets the service requirements under the Commission's regulations as long as a hard copy of the document is sent by first class mail. Electronic service must be perfected by 5:00 p.m. on the due date. The parties will indicate to Duquesne Light if they require a hard copy after electronic service.

The parties shall serve electronic copies of documents on the ALJs in Word format. They may also serve them in PDF format.

Discovery

As the litigation schedule set forth in Appendix A indicates, the parties will conduct two days of informal discovery during the week of June 2 or June 12, 2006.

Answers to written interrogatories propounded prior to the submission of Rebuttal Testimony shall be served in-hand within ten (10) calendar days of service of the interrogatories. Interrogatories served after 12 o'clock noon on a Friday shall be deemed to have been served the following Monday.

Answers to written interrogatories propounded after the submission of Rebuttal Testimony shall be served in-hand within seven (7) calendar days of service of the interrogatories. Interrogatories served after 12 o'clock noon on a Friday shall be deemed to have been served the following Monday.

The parties shall not send interrogatories or objections to the Administrative Law Judge (ALJ). If a party objects to a discovery request, counsel for both parties shall try to resolve the objection over the telephone. If this is unsuccessful, the parties shall send the ALJ the interrogatories and objections (electronically if possible) and then call the ALJ for a telephone discussion. The ALJ will make a verbal ruling during the discussion.

Responses to requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days.

Requests for admission shall be deemed admitted unless answered within ten (10) days or objected to within five (5) days of service

Answers to on-the-record data requests shall be served in-hand within seven (7) calendar days of the request.

Scheduling of Witnesses and Common Brief Outline

A week or two before the hearing, counsel for Duquesne Light will prepare a grid containing the order in which witnesses will appear for cross-examination during the hearings. This should prevent gaps during which no witness is available.

After the hearings conclude, the parties shall draft a common brief outline, the basis for which shall be the standardized brief format for general base rate increases which is attached to this order as Appendix B.

Instructions for Briefs, Including Required Tables

Attached to this prehearing order as Appendix B are instructions for the parties to follow in preparing their briefs. If the parties advocate for an adjustment it must be reflected in the tables which appear in Appendix B. If not, the adjustment will not be considered. The instructions and required tables have not been in use since the last base rate cases litigated at the Commission some years ago. The parties should ignore anything no longer relevant.

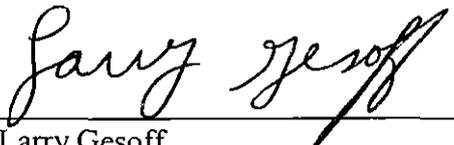
Public Input Hearings

Counsel for the Office of Consumer Advocate (OCA) has requested that one or two days of public input hearings be held. After Duquesne Light's notice of the proposed rate increase has reached all of its customers, which has occurred or will occur shortly, OCA and Duquesne Light will discuss the timing and location of public input hearings and contact me to set a schedule.

Administrative Law Judges

The undersigned and ALJ Michael A. Nemec are jointly assigned to this proceeding. ALJ Gesoff is the lead ALJ, but the parties should include both ALJs in all emails and hard copies of documents. If there is a discovery objection that cannot be resolved, the relevant parties are to contact ALJ Gesoff. If he is not available, they are to contact ALJ Nemec.

Dated: May 12, 2006



Larry Gesoff
Administrative Law Judge

Litigation Schedule

April 7, 2006	Duquesne Light Filing Date
June 6, 2006	Intervenor Direct
Week of June 2 or 12, 2006	Two days of informal discovery
June 14, 2006	Settlement discussions to include all parties; informal discovery follow up if any
June 26, 2006	<i>Parties must notify ALJs and the other parties of any additional witnesses that will be presented. These witnesses must meet the July 7 deadline for testimony</i>
July 7, 2006	Direct testimony of opposing parties due In Hand
July 20, 2006	Parties must notify ALJs and the other parties of any additional rebuttal witnesses that will be presented
August 2, 2006	Rebuttal Testimony due In Hand
August 16, 2006	Surrebuttal Testimony due In Hand
August 16, 2006	Parties must notify ALJs and the other parties of legal and/or policy issues which they believe are independent of factual issues they intend to raise in their briefs
August 18, 2006	Oral rejoinder outlines due by end of day
August 21-25, 2006	Technical Evidentiary hearings in Harrisburg beginning at 9:00 a.m. each day
August 25, 2006	Close of the record
September 19, 2006	Main Briefs are due In Hand
September 29, 2006	Reply Briefs are due In Hand to the ALJs
October 31, 2006	Recommended Decision Issued for exceptions
December 14, 2006	Public Meeting
January 6, 2007	Suspension Ends

**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 ALJ shall specify the starting point to be the most recent update admitted into evidence. The update, admission, and ALJ ruling shall be cited on the table.

9. 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					

TABLE II

SUMMARY OF ADJUSTMENTS
(\$000)

<u>Recommended Adjustments</u>	<u>Exhibit Reference</u>	<u>Rate Base Effect</u>	<u>Revenue Effect</u>	<u>Expense Effect</u>	<u>Depreciation Effect</u>	<u>Effect Upon Taxes - Other</u>	<u>State Tax Effect</u>	<u>Federal Tax Effect</u>
		\$	\$	\$	\$	\$	\$	\$
Total Adjustments		_____	_____	_____	_____	_____	_____	_____
Company Rate Base		_____	_____	_____	_____	_____	_____	_____
Recommended Rate Base		_____	_____	_____	_____	_____	_____	_____

Examples of Specific Exceptions

1. Staff excepts to the ALJ'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 ALJ'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.

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