

8-29-06

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,

v

Duquesne Light Company

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R-00061346

**DOCKETED**  
JAN 10 2007

DOCUMENT  
FOLDER

SECOND INTERIM ORDER

On July 10, 2006, Charles E. Swintek filed a formal complaint against the base rate increase request which Duquesne Light Company (Duquesne Light) filed on April 7, 2006. The Commission assigned Mr. Swintek's complaint to Docket No. R-00061346C0008. The Commission suspended the effective date of the increase until January 6, 2007.

By letter dated July 24, 2006, with which I enclosed a copy of the prehearing order I issued on May 12, 2006 setting forth the schedule for this proceeding, I informed Mr. Swintek that as a party he will:

be expected to serve written testimony, participate in discovery, attend and present evidence at the hearing in Harrisburg, and file both a Main and Reply Brief. Additionally, you will receive all documents served by the other parties and all notices, orders and letters from the Pennsylvania Public Utility Commission issued in connection with this case.

In addition, the letter indicates if it was not Mr. Swintek's intent to participate in this case to the full extent expected of a party, he could withdraw his complaint in writing or contact Michael W. Gang, Esquire, counsel for Duquesne Light and authorize him to file a certificate of satisfaction (pursuant to 52 Pa. Code §5.24(a)) regarding his formal complaint. To date, Mr. Swintek has not responded to my letter. He has not filed testimony in this case and has not been active in any other way.

On the morning of August 22, 2006, Mr. Gang and I left a message on Mr. Swintek's telephone answering machine, reminding him of my letter and leaving Mr. Gang's telephone number, my telephone number and the telephone number of the Office of Consumer Advocate so he could call one of the numbers to indicate his intent regarding his formal complaint.

On the morning of August 23, 2006, I called Mr. Swintek and left a message with my telephone number, indicating that I would issue an order directing him to respond by a certain date, failing which I would dismiss his complaint. Mr. Swintek returned my call in the afternoon of August 23, 2006. During the telephone conversation, Mr. Swintek stated that he would be mailing to me a letter withdrawing his complaint. As of the mail delivery on August 29, 2006, however, I have not received such a letter and Mr. Swintek has not responded to the message I left on his answering machine on August 28, 2006, leaving my direct dial telephone number and asking him to call me to indicate if he had sent the letter.

By failing to file testimony or take any other action regarding his complaint, Mr. Swintek has not met his obligations as a party. His failure to respond to my letter and my telephone calls can be construed as a failure to prosecute his complaint, for which his complaint can be dismissed. Mr. Swintek's failure to submit the letter he promised withdrawing his complaint does not change this. The order below, however, gives Mr. Swintek one more chance to indicate his intent regarding his complaint. If he fails to respond by the September 7, 2006 due date set forth in the order below, his complaint will be dismissed in the Recommended Decision I issue in this proceeding.

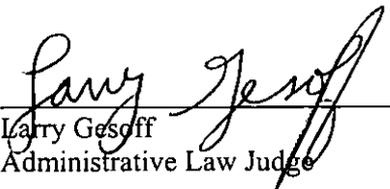
THEREFORE;

IT IS ORDERED:

1. That on or before September 7, 2006, a letter from Charles E. Swintek arrive in the office of the undersigned indicating if he will actively pursue the complaint he filed at Docket No. R-00061346C0008, or if he wishes to withdraw his complaint; and further that Mr. Swintek send a copy of the letter to all parties on the service list accompanying this order.

2. That if Charles E. Swintek does not comply with paragraph number one of this order, his complaint at Docket No. R-00061346C0008 will be dismissed for failure to prosecute.

Dated: August 29, 2006

  
Larry Gesoff  
Administrative Law Judge

SERVICE LIST: R-00061346

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