



17 North Second Street  
12th Floor  
Harrisburg, PA 17101-1601  
717-731-1970 Main  
717-731-1985 Main Fax  
www.postschell.com

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Anthony D. Kanagy

akanagy@postschell.com  
717-612-6034 Direct  
717-731-1985 Direct Fax  
File #: 161587

November 3, 2015

***VIA HAND DELIVERY***

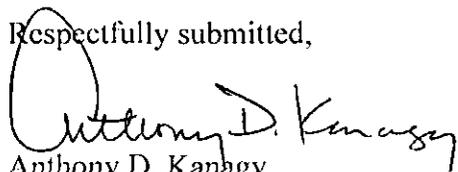
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Whemco-Steel Castings, Inc. v. Duquesne Light Company**  
**Docket No. C-2014-2459527**

Dear Secretary Chiavetta:

Enclosed please find the Application of Duquesne Light Company for Authorization to Take the Deposition of Pamela C. Polacek, Esquire, a Non-Party, and the Issuance of a Subpoena in Connection Therewith in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

  
Anthony D. Kanagy

ADK/skr  
Enclosure

cc: Honorable Jeffrey Watson  
Certificate of Service

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Whemco-Steel Castings, Inc. :  
 :  
 v. : Docket No. C-2014-2459527  
 :  
 Duquesne Light Company :

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**APPLICATION OF DUQUESNE LIGHT COMPANY FOR AUTHORIZATION  
TO TAKE THE DEPOSITION OF PAMELA C. POLACEK, ESQUIRE, A NON-PARTY,  
AND THE ISSUANCE OF A SUBPOENA IN CONNECTION THEREWITH**

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**TO ADMINISTRATIVE LAW JUDGE JEFFREY A. WATSON:**

Duquesne Light Company (“Duquesne Light” or the “Company”) hereby files the following Application for Authorization to Take the Deposition of Pamela C. Polacek, Esquire, a Non-Party, and the Issuance of a Subpoena Therewith (“Application”), pursuant to the Pennsylvania Public Utility Commission’s (“Commission”) regulations at 52 Pa. Code §§ 5.343, 5.344 and 5.421(a)(2) as follows:

**I. INTRODUCTION**

1. On December 23, 2014, WHEMCO-Steel Castings, Inc. (“Whemco”) filed the above-captioned Complaint. The allegations set forth in the Complaint relate to the elimination of Duquesne Light’s Rider No. 5, Time of Day Discounts (“Rider No. 5”), which became effective on January 1, 2011.

2. Specifically, Whemco erroneously alleges that Duquesne Light eliminated Rider No. 5 for all customers in violation of the Commission’s order approving the settlement in Duquesne Light’s Default Service Proceeding for the period of January 1, 2008 through December 31, 2010, and without proper notice to Whemco. *Petition of Duquesne Light Company for Approval of a Default Service Plan for the Period January 1, 2008 through*

*December 31, 2010*, Docket No. P-00072247, Order approving Settlement Stipulations entered June 22, 2007. According to Whemco, the Commission-approved elimination of Rider No. 5 was limited to only the Small Commercial and Industrial (“Small C&I”) customers, and Duquesne Light unlawfully eliminated Rider No. 5 and its discounts for all customers, including for Large Commercial and Industrial (“Large C&I) customers such as Whemco’s industrial plant located in Midland, Pennsylvania (“Midland Facility”). (Complaint ¶¶ 34-40.)

3. Based on the allegations contained in its Complaint, Whemco claims that it has overpaid the Company for electric distribution service received by the Midland Facility, and seeks a refund of the amount allegedly overpaid for the period of January 1, 2011 through April 2014. (Complaint ¶ 39.)

4. On January 21, 2015, Duquesne Light filed an Answer and New Matter to the Complaint. In its Answer, Duquesne Light denied that the elimination of Rider No. 5 was improper and denied that Whemco was entitled to any refunds. In its New Matter, the Company also explained that it filed a distribution rate case in 2010 and that the former Rider No. 5 was completely eliminated for all customers in the proposed distribution rate case tariff that was filed with the Commission.

5. On February 10, 2015, Whemco filed a Reply to Duquesne Light’s New Matter.

6. On April 21, 2015, the ALJ issued a Prehearing Conference Order and Order Converting Initial Telephonic Hearing To A Prehearing Conference. The Prehearing Conference Order set forth rules for the prehearing conference that was to be held on May 7, 2015 and directed parties to file and serve prehearing memoranda by May 4, 2015.

7. On May 4, 2015, Duquesne Light filed its Prehearing Memorandum. In its Prehearing Memorandum, Duquesne Light indicated that, at that time, Duquesne Light intended

to call Mr. William V. Pfrommer and Ms. Pamela Niehaus as witnesses in this proceeding. Duquesne Light further noted that it reserved the right to substitute witnesses or add witnesses, as appropriate, depending upon how the procedural schedule develops and what issues were raised by other parties. At this time, Duquesne Light intends to call Ms. Polacek as a witness if she is not called by Whemco as a witness.

8. Also on May 4, 2015, Whemco filed its Prehearing Memorandum. Therein, Whemco indicated that it intended to call Mr. Christian Slingluff, Ms. Pamela Polacek, Mr. Robert Rosenthal, Mr. Kim Titley, Ms. Lesley C. Gannon and Ms. Pamela Niehaus as witnesses in this proceeding. Whemco also stated that it reserved the right to call additional witnesses in the proceeding.

9. A Prehearing Conference was held on May 7, 2015. At the Prehearing Conference, the Parties agreed to, and Administrative Law Judge Jeffrey A. Watson (the "ALJ") approved, a date of July 1, 2015 for filing Motions for Summary Judgment.

10. A Prehearing Order was issued on June 2, 2015.

11. The Parties have engaged, and continue to engage, in discovery throughout the course of this proceeding. Several discovery issues have been contested, and the ALJ has issued orders resolving the various discovery disputes.

12. On June 8, 2015, Whemco filed an Application For Authorization To (I) Take the Deposition of Kim Titley, A Non-Party, and (II) the Issuance of a Subpoena in Connection Therewith. On June 17, 2015, Whemco withdrew its Application to take the deposition of Mr. Titley.

13. On July 1, 2015, Duquesne Light filed a Motion for Partial Summary Judgment ("Duquesne Light Motion for Summary Judgment") explaining that it disagreed with all

allegations that Whemco was entitled to a refund related to the elimination of Rider No. 5. Duquesne Light further explained that Whemco's relief was barred, in substantial part, by the resolution of Duquesne Light's 2010 rate case and by the Commission-made rates doctrine.

14. Also on July 1, 2015, Whemco filed a Motion for Summary Judgment ("Whemco Motion for Summary Judgment") arguing that it was entitled to summary judgment and a refund based upon the rates it would have paid if Rider No. 5 had existed for the period of January 2011 through April 2014.

15. Attached to the Whemco Motion for Summary Judgment were affidavits of Mr. Slingluff and Ms. Polacek. In her Affidavit, Ms. Polacek stated that she reviewed the Default Service Petition, supporting testimony and exhibits and was not able to discern from the filing that Duquesne Light was seeking to terminate Rider No. 5 for Large C&I customers.

16. On July 21, 2015, Duquesne Light filed an Answer to the Whemco Motion for Summary Judgment. In its Answer, Duquesne Light explained that there were material facts in dispute in this proceeding, including substantial factual questions regarding why Ms. Polacek did not discern from her review of the tariff that was provided as an Exhibit with the Default Service filing that Duquesne Light was proposing to eliminate Rider No. 5 – Time of Day Discounts for all customers.

17. Also on July 21, 2015, Whemco filed an Answer to the Duquesne Light Motion for Summary Judgment.

18. On August 10, 2015, Duquesne Light filed a Motion to Compel Whemco to fully answer Duquesne Light's Set III Discovery. The Set III Discovery sought to compel Whemco to answer questions related to disputed issues raised in Ms. Polacek's affidavit.

19. On August 14, 2015, Whemco filed responses to the Set III Discovery in lieu of filing an Answer to Duquesne Light's Motion to Compel.

20. However, Whemco did not fully respond to the Set III Discovery. Therefore, on August 24, 2015, Duquesne Light filed a further Motion to Compel Whemco to answer the Set III Discovery.

21. On August 28, 2015, Whemco filed an Answer to Duquesne Light's Further Motion to Compel.

22. On September 10, 2015, the ALJ issued Interim Orders denying Duquesne Light's and Whemco's Motions for Summary Judgment.

23. On September 30, 2015, the ALJ issued an Interim Order Granting in Part and Denying in Part the Further Duquesne Light's Motion To Compel Answers To Interrogatories and Requests For Production of Documents Propounded By Duquesne Light Company on Whemco Set III ("Set III Interim Order"). In the Set III Interim Order, the ALJ ordered that Duquesne Light may conduct additional discovery of Ms. Polacek, including depositions. See Set III Interim Order, pp. 16-17, 18.

24. On page 18 of the Set III Interim Order, the ALJ stated:

Duquesne Light may engage in further discovery and depositions and is not precluded from filing a further motion to compel or other appropriate requests for relief as the record further develops in this proceeding.

## **II. THE NOTICE AND THE SUBPOENA SHOULD BE APPROVED**

25. The Commission regulation at 52 Pa. Code § 5.344(a) and Section 333(b)(2) of the Public Utility Code, 66 Pa. C.S. § 333(b)(2) require a party to file an application to take a deposition upon oral examination if the other party does not agree to the deposition. Pursuant to Section 5.343(a) of the Commission's regulations, a person who is not a party is not required to

appear unless subpoenaed. 52 Pa. Code § 5.343(a). Section 5.421(a)(2) of the Commission's regulations permits a party to submit a written application for a subpoena to the presiding officer. 52 Pa. Code § 5.421(a)(2). Duquesne Light seeks to depose Pamela C. Polacek. Ms. Polacek is not a party to this proceeding, and Whemco has not voluntarily agreed to Duquesne Light's request to depose Ms. Polacek. This Application and Subpoena complies with the Commission's requirements governing depositions.

26. Duquesne Light seeks to take the deposition of Pamela C. Polacek for several reasons. In its Prehearing Memorandum, Whemco listed Ms. Polacek as a witness in this proceeding. In addition, Whemco submitted the affidavit of Ms. Polacek in support of the Whemco Motion for Summary Judgment, which sets forth both factual statements and judgments made by Ms. Polacek on a number of issues relevant to this proceeding including, but not limited to, Duquesne Light's Default Service Petition for the period of January 1, 2008 through December 31, 2010 ("DSP IV Proceeding"); Ms. Polacek's participation in the DSP IV Proceeding; Ms. Polacek's experience in utility default service and rate proceedings; the elimination of Rider No. 5; and the matters appropriately addressed in a default service proceeding. ("Polacek Affidavit" ¶¶ 5-10, 12-26.) The averments contained in Ms. Polacek's affidavit are directly relevant to the issues raised by the Formal Complaint. A copy of the Polacek Affidavit is attached hereto as "Exhibit A."

27. The deposition of Pamela C. Polacek, Esquire, will inquire into factual matters relating to (i) the Formal Complaint filed by Whemco in the above-referenced matter; (ii) preparation of the Complaint; (iii) the statements made in Ms. Polacek's affidavit; (iv) preparation of the Affidavit; (v) Ms. Polacek's review of Duquesne Light's filing in the DSP IV Proceeding and Ms. Polacek's participation in that proceeding; (vi) the extent of Ms. Polacek's

communications (written and oral) with Whemco regarding the DSP IV Proceeding, including all documents exchanged between Ms. Polacek and Whemco; (vii) Ms. Polacek's experience with default service proceedings and distribution-related proceedings and the types of matters appropriately addressed therein; (viii) Ms. Polacek's involvement in Duquesne Light's 2010 Base Rate proceeding at Docket No. R-2010-2179522; and (ix) such other matters reasonably related to the inquiries specified in subparagraphs (i)-(viii) above. All of these issues are directly relevant and pertinent to Whemco's Formal Complaint, which Ms. Polacek stated in her affidavit that she has reviewed and is generally familiar with, Whemco's request for relief and Duquesne Light's defense in this proceeding. (Polacek Affidavit ¶ 12.)

28. It is Duquesne Light's understanding that Whemco seeks to delay all of Duquesne Light's depositions until after Whemco submits Direct Testimony in this proceeding.<sup>1</sup>

29. Duquesne Light does not believe that it is appropriate or reasonable to delay taking Ms. Polacek's initial deposition. Based upon Whemco's objections to Duquesne Light's Set III Discovery and the numerous discovery disputes that have required the ALJ's intervention, Duquesne Light believes that it is likely that its deposition of Ms. Polacek will be contentious and may require the ALJ to resolve contentious issues. This could cause significant delay in obtaining full and complete answers to Duquesne Light's questions. Any delay in taking Ms. Polacek's deposition could impact Duquesne Light's ability to fully investigate the issues in this proceeding, defend its position and present testimony.

30. Ms. Polacek has submitted an Affidavit in support of Whemco in this proceeding, and Duquesne Light intends to cross-examine Ms. Polacek regarding the statements that she has made in her affidavit if Whemco presents Ms. Polacek as a Direct Witness. If Whemco does not

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<sup>1</sup> Duquesne Light and Whemco have not been able to agree to a litigation schedule for this proceeding at this time. Duquesne Light intends to request that the ALJ establish a further prehearing conference so that a litigation schedule can be established if the parties are not able to reach a mutually agreeable schedule.

present Ms. Polacek as a Direct Witness, Duquesne Light intends to call her as a witness on cross-examination. Therefore, Ms. Polacek's deposition is necessary, and Duquesne Light does not believe that it is appropriate or reasonable to delay taking her deposition.

31. Duquesne Light further notes that a deposition is a form of discovery under the Commission's regulations. The Commission's regulations provide that the right to discovery commences upon the filing of a complaint. 52 Pa. Code § 5.331.

32. It is also Duquesne Light's understanding that Whemco may assert that Ms. Polacek is an expert witness and therefore should not be deposed under Section 5.324 of the Commission's regulations. 52 Pa. Code § 5.324.

33. Duquesne Light disagrees that it should not be permitted to depose Ms. Polacek under 52 Pa. Code § 5.324. Duquesne Light seeks to depose Ms. Polacek on factual grounds related to Ms. Polacek's actual participation in the DSP IV proceeding, the 2010 Base Rate case, preparation of the Complaint, preparation of her affidavit and the factual statements made in the affidavits. Ms. Polacek is a fact witness as to these issues, and Duquesne Light is not seeking her expert opinion as to these issues.<sup>2</sup> In addition, Duquesne Light disagrees that Ms. Polacek is an expert in this proceeding. Ms. Polacek's "expert" opinion appears to be related to what issues should or should not be addressed in a default service proceeding. The Commission does not need an expert as to what issues can or cannot be addressed in its own proceedings.

34. Moreover, even if Ms. Polacek is considered to be an expert witness, Section 5.324 allows the ALJ to order a deposition for cause shown. 52 Pa. Code § 5.324(a)(3). In

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<sup>2</sup> A single person can be both an expert witness and a fact witness if the person has both expert qualifications and personal knowledge of the underlying facts. See advisory note to Fed.R.Evid. 701; *United States v. Figueroa-Lopez*, 125 F.3d 1241, 1246 (9<sup>th</sup> Cir. 1997) (law enforcement agents could testify as fact witnesses that the defendant was acting suspiciously and as expert witnesses with respect to drug lingo); *United States v. Goodwin*, 496 F.3d 636, 641 (7<sup>th</sup> Cir. 2007) (officer may testify in the capacity of both an expert and fact witness). In addition, parties cannot use the label of an expert to shield from discovery a witness with first-hand knowledge of underlying facts. See e.g., *Duke Gardens v. Universal Restoration*, 52 F.R.D. 365 (S.D.N.Y. 1971).

addition to the reasons explained above, there is cause for Duquesne Light to depose Ms. Polacek regarding the contradictory statements contained in her discovery responses and her affidavit regarding her review of the DSP IV filing. See Duquesne Light Further Motion to Compel filed on August 24, 2015, ¶¶ 32-33. This is a factual issue in dispute in this proceeding and Duquesne Light should be permitted to depose Ms. Polacek to further investigate this and other factual issues in this proceeding.

35. A proposed Notice of Deposition to Pamela C. Polacek, Esquire, is attached hereto as Exhibit B and made a part hereof. The Notice of Deposition sets forth the date, time and location of the deposition, the matters that will be inquired into, and a request for documents.

36. Because Ms. Polacek is not a party to this proceeding, the Notice of Deposition must be accompanied by a proposed form of subpoena. The subpoena is necessary to compel both the appearance of Ms. Polacek and the production of the requested documents at the deposition. See 52 Pa. Code § 5.343(d). A proposed form of subpoena to Ms. Polacek is attached hereto as Exhibit C and made a part hereof. The proposed form of subpoena is the form customarily used in Commission proceedings and was obtained from the Commission's website.

37. Duquesne Light respectfully requests that the ALJ approved the Notice of Deposition and Subpoena, attached hereto as Exhibits B and C, respectively.

38. If Whemco objects to this Application, Duquesne Light requests that the ALJ allow Duquesne Light to file an Answer to Whemco's objections or permit oral argument by the parties on this matter.

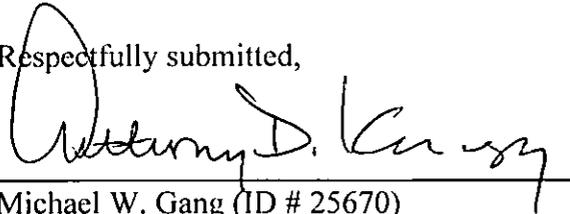
39. Duquesne Light requests authorization to conduct the deposition of Pamela C. Polacek on Thursday, December 3, 2015 at 10:00 a.m. at the offices of Duquesne Light's outside

counsel, 17 North Second Street, 12<sup>th</sup> Floor, Harrisburg, Pennsylvania 17101, which Complies with the twenty (20) day notice period provided in 52 Pa. Code § 5.343(a).

### III. CONCLUSION

WHEREFORE, Duquesne Light Company respectfully requests that Administrative Law Judge Jeffrey A. Watson grant this Application, order the taking of the deposition of Pamela C. Polacek, Esquire, at the time, date and location specified in the attached Notice of Deposition, approve the form of Notice of Deposition and subpoena attached to this Application, and authorize the issuance of a subpoena in connection therewith.

Respectfully submitted,



Tishekia E. Williams (ID # 208997)  
Robert H. Hoaglund II (ID # 313382)  
Duquesne Light Company  
411 Seventh Avenue, 16<sup>th</sup> Floor  
Pittsburgh, PA 15219  
Phone: 412-393-1541  
Fax: 412-393-5695  
E-mail: [twilliams@duqlight.com](mailto:twilliams@duqlight.com)  
[rhoaglund@duqlight.com](mailto:rhoaglund@duqlight.com)

Michael W. Gang (ID # 25670)  
Anthony D. Kanagy (ID # 85522)  
Post & Schell, P.C.  
17 North Second Street, 12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601  
Phone: 717-731-1970  
Fax: 717-731-1985  
E-mail: [mgang@postschell.com](mailto:mgang@postschell.com)  
[akanagy@postschell.com](mailto:akanagy@postschell.com)

Date: November 3, 2015

*Attorneys for Duquesne Light Company*

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# Exhibit A

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>WHEMCO-STEEL CASTINGS, INC.</b>	:	
	:	
v.	:	<b>DOCKET NO. C-2014-2459527</b>
	:	
<b>DUQUESNE LIGHT COMPANY</b>	:	

**AFFIDAVIT OF PAMELA C. POLACEK, ESQUIRE**

I, Pamela C. Polacek, provide this affidavit in the above referenced proceeding under penalty of perjury, and in connection therewith depose and say the following:

1. My name is Pamela C. Polacek, an attorney with the law firm of McNees Wallace & Nurick LLC.
2. My business address is 100 Pine Street, Harrisburg, PA 17101.
3. I am a member in the law firm of McNees Wallace & Nurick LLC, and practice in the Firm's Energy and Environmental Law Practice Group.
4. I have been practicing law in the Commonwealth of Pennsylvania for 18 years.
5. I have extensive experience in implementing electric supply competition in Pennsylvania and other states. I also advise clients regarding commercial, legal, regulatory and legislative opportunities and risks in the electric and natural gas industries, assist clients in analyzing and negotiating wholesale and retail natural gas and electricity contracts, as well as addressing other utility service requirements. I also represent and advise cable telephony providers, local exchange carriers and interexchange carriers, before various state and federal administrative agencies and courts.
6. I have also represented WHEMCO-Steel Castings, Inc. ("WHEMCO"), both on an individual basis and as part of a coalition of large commercial and industrial ("Large C&I") customers that from time to time intervenes in utility rate and other cases before the Pennsylvania Public Utility Commission ("Commission").
7. As a result of providing legal services to WHEMCO for a number of years, I am familiar generally with the nature of its Pennsylvania operations, its electricity usage, the electric utilities or distribution companies that provide it service, as well as competitive electric generation suppliers that sell electric supply to WHEMCO.

8. As a result of legal services provided previously to WHEMCO and other Large C&I customers in Pennsylvania, I am familiar generally with the services provided by Duquesne Light Company ("Duquesne") to its retail electric customers and the terms and conditions of its retail electric service tariff on file with and approved by the Commission from time to time ("Tariff").
9. My previous work on behalf of WHEMCO and other Large C&I customers in Pennsylvania has allowed me at various times to review and become familiar with portions of Duquesne's Tariff, and I have on occasion interpreted the Tariff and applied it to select Duquesne customers and clients including, without limitation, WHEMCO.
10. My Firm began providing legal services to WHEMCO's corporate family in connection with Pennsylvania utility law and Commission proceedings in 2003, and continues to provide such services when asked to do so.
11. This Affidavit is being made voluntarily and with the full knowledge of my law firm and WHEMCO.
12. I have reviewed and am generally familiar with the Formal Complaint filed by WHEMCO against Duquesne at Commission Docket No. C-2014-2459527 ("Formal Complaint").
13. In 2007, Duquesne filed with the Commission a default service proceeding that covered the period January 1, 2008, through December 31, 2010, at Docket No. P-00072247 ("Default Service Proceeding").
14. Shortly after the petition by Duquesne in Default Service Proceeding ("Default Service Petition") was filed with the Commission in January 2007, I reviewed that filing, including the supporting exhibits and testimony, to determine the impact the filing would likely have, if any, on my clients or other Large C&I customers located in Duquesne's service territory including, without limitation, Large C&I customers like WHEMCO.
15. I was served directly with the Default Service Petition, but have no recollection of reviewing any documents or other information indicating that the petition, exhibits and testimony were served upon WHEMCO.
16. I am aware that the Formal Complaint alleges, among other things, that Duquesne wrongfully terminated as of December 31, 2010, for Rate L customers a distribution-rate discount contained in Rider No. 5 of Duquesne's then-prevailing and Commission approved retail electric service tariff as a result of the alleged improper implementation of a settlement of the Default Service Proceeding that covered the period January 1, 2008, through December 31, 2010, at Docket No. P-00072247. I further understand that WHEMCO is seeking in the Formal Complaint a refund from

Duquesne under Section 1312 of the Public Utility Code ("Code") in the amount of \$2,480,374.16, plus interest on all unpaid amounts.

17. I provided legal representation to Large C&I customers in the Default Service Proceeding via a coalition, but WHEMCO was not included in that coalition and was not otherwise a party in that Commission proceeding.
18. Based upon my review of the Default Service Petition, supporting testimony and exhibits, I was not able to discern from the filing that Duquesne was seeking in the Default Service Proceeding to terminate the Rider No. 5 distribution-related discount for Large C&I customers like WHEMCO.
19. Based upon my review of the Default Service Petition and supporting testimony, there was no mention of Duquesne's desire and/or intent to terminate the Rider No. 5 distribution-related discount for Large C&I customers like WHEMCO.
20. From my experience, the Default Service Petition is where I would have expected to see the proposals of a filing most critical to the electric distribution company, the Commission and ratepayers, such as an intention to terminate the Rider No. 5 distribution-related discount for Large C&I customers like WHEMCO. This is particularly true where the proposed change is being made in a default service proceeding but does not relate to electric generation service.
21. From my experience, default service cases like the Default Service Proceeding focus on the procurement of default service *generation* by the local electric distribution company and the default service generation supply options that will be available to customers; default service cases generally do not address *distribution-related* rate and other matters.
22. From my experience, a default service case is not where a retail electric customer would expect and search for any changes that would affect *distribution* rates as opposed to *generation* rates, absent clear notice.
23. I read and reviewed the prepared Direct Testimony of William Pfrommer submitted by Duquesne in the Default Service Proceeding and did not interpret any portion of his testimony as stating or implying that Duquesne intended to terminate the Rider No. 5 distribution-related discount for Large C&I customers like WHEMCO.
24. In Duquesne's 2003 default service proceeding at Docket No. P-00032071, Duquesne revised its default service generation supply options for Rates L, GL and GLH to provide a fixed price option with on-peak and off-peak pricing, and an hourly price option
25. Duquesne's prepared Direct Testimony by William Pfrommer: submitted at Commission Docket No. P-00032071 specifically indicated that the *generation-*



Exhibit B

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Whemco-Steel Castings, Inc.	:	
	:	
v.	:	Docket No. C-2014-2459527
	:	
Duquesne Light Company	:	

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**NOTICE OF DEPOSITION OF PAMELA C. POLACEK, ESQUIRE**

---

To: Pamela C. Polacek, Esquire  
McNees Wallace & Nurick LLC  
100 Pine Street, Harrisburg, PA 17101

Please take notice that the deposition upon oral examination will be taken of Pamela C. Polacek, Esquire by Duquesne Light Company (“Duquesne Light”) counsel, under and in accordance with the regulations of the Pennsylvania Public Utility Commission (“Commission”), 52 Pa. Code §§ 5.343, 5.347 and 5.348, at the offices of Post & Schell, P.C., 17 North Second Street, 12<sup>th</sup> Floor, Harrisburg, PA 17101 on Thursday, December 3, 2015 at 10:00 a.m. before a person authorized to administer oaths and as otherwise required in accordance with the provisions of 52 Pa. Code § 5.346.

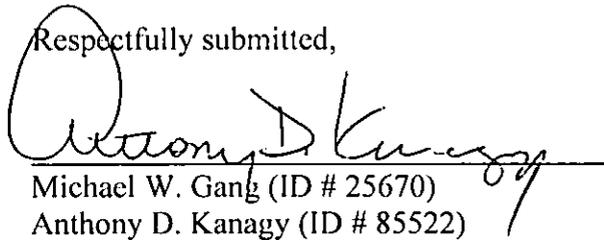
The deposition will inquire into matters relating to (i) the Formal Complaint filed by Whemco in the above-referenced matter; (ii) preparation of the Complaint; (iii) the statements and judgments made in Ms. Polacek’s affidavit; (iv) preparation of the Affidavit; (v) Ms. Polacek’s review of Duquesne Light’s filing in the DSP IV Proceeding and Ms. Polacek’s participation in that proceeding; (vi) the extent of Ms. Polacek’s communications (written and oral) with Whemco regarding the DSP IV Proceeding, including all documents exchanged between Ms. Polacek and Whemco; (vii) Ms. Polacek’s experience with default service

proceedings and distribution-related proceedings and the types of matters appropriately addressed therein; (viii) Ms. Polacek's involvement in Duquesne Light's 2010 Base Rate proceeding at Docket No. R-2010-2179522; and (ix) such other matters reasonably related to the inquiries specified in subparagraphs (i)-(viii) above.

By separate subpoena, Ms. Polacek is being asked to provide and bring to the aforesaid deposition all documents currently in her possession relating to certain of the items identified above.

The aforesaid deposition shall be taken for the purposes of discovery relating to the above-captioned Formal Complaint pursuant to the Commission regulations at 52 Pa. Code §§ 5.343, 5.347 and 5.348 and shall continue until appropriately terminated.

Respectfully submitted,



Tishekia E. Williams (ID # 208997)  
Robert H. Hoaglund II (ID # 313382)  
Duquesne Light Company  
411 Seventh Avenue, 16<sup>th</sup> Floor  
Pittsburgh, PA 15219  
Phone: 412-393-1541  
Fax: 412-393-5695  
E-mail: [twilliams@duqlight.com](mailto:twilliams@duqlight.com)  
[rhoaglund@duqlight.com](mailto:rhoaglund@duqlight.com)

Michael W. Gang (ID # 25670)  
Anthony D. Kanagy (ID # 85522)  
Post & Schell, P.C.  
17 North Second Street, 12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601  
Phone: 717-731-1970  
Fax: 717-731-1985  
E-mail: [mgang@postschell.com](mailto:mgang@postschell.com)  
[akanagy@postschell.com](mailto:akanagy@postschell.com)

Date: November 3, 2015

*Attorneys for Duquesne Light Company*

# Exhibit C

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**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**In the Matter of:**

**Docket No. C-2014-2459527**

**WHEMCO-STEEL CASTINGS, INC. :**  
:  
**v. :**  
:  
**DUQUESNE LIGHT COMPANY :**

**SUBPOENA**

To: Pamela C. Polacek, Esquire  
McNees Wallace & Nurick LLC  
100 Pine Street, Harrisburg, PA 17101

Pursuant to the authority of this Commission under §§309, 331(d)(2) and 333(j) of the Public Utility Code:

1. YOU ARE ORDERED by the Commission to come to Post & Schell, P.C., 17 North Second Street, 12<sup>th</sup> Floor, at Harrisburg, Pennsylvania 17101, on Thursday, December 3, 2015, at 10:00 o'clock (10:00 a.m.), in the above case, to testify on behalf of Duquesne Light Company and to remain until excused;

2. And bring with you and produce the following: All documents (as defined in Attachment A hereto) pertaining to (i) the Formal Complaint filed by Whemco in the above-referenced matter; (ii) preparation of the Complaint; (iii) the statements and judgments made in Ms. Polacek's affidavit; (iv) preparation of the Affidavit; (v) Ms. Polacek's review of Duquesne Light's filing in the DSP IV Proceeding and Ms. Polacek's participation in that proceeding; (vi) the extent of Ms. Polacek's communications (written and oral) with Whemco regarding the DSP IV Proceeding, including all documents exchanged between Ms. Polacek and Whemco; and (vii) such other matters reasonably related to the inquiries specified in subparagraphs (i)-(vi) above.

This subpoena is issued subject to the provisions of 52 Pa. Code §5.421 (with regard to issuance, notice, service and witness fees).

**BY THE COMMISSION**

**Date** \_\_\_\_\_

\_\_\_\_\_  
Administrative Law Judge

Commonwealth of Pennsylvania )  
 ) SS:  
County of )

**AFFIDAVIT OF SERVICE**

Before me, the undersigned authority, personally appeared \_\_\_\_\_  
who, being duly sworn according to law, deposes and says that he/she served a true and correct  
copy of the within SUBPOENA upon \_\_\_\_\_  
by handing the same to him/her at \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2015 at \_\_\_\_\_ a.m./p.m.

\_\_\_\_\_  
(Signature)

Sworn to and subscribed before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
*Notary Public*

**Definition of Document**

“Document” means the original and all drafts of all written and graphic matter, however produced or reproduced, of any kind or description, whether or not sent or received, and all copies thereof which are different in any way from the original (whether by interlineation, date-stamp, notarization, indication of copies sent or received, or otherwise), including without limitation, any paper, book, account, photograph, blueprint, drawing, sketch, schematic, agreement, contract, memorandum, press release, circular, advertising material, correspondence, letter, telegram, telex, object, report, opinion, investigation, record, transcript, hearing, meeting, study, notation, working paper, summary, intra-office communication, diary, chart, minutes, index sheet, computer software, computer-generated records or files, however stored, check, check stub, delivery ticket, bill of lading, invoice, record or recording or summary of any telephone or other conversation, or of any interview or of any conference, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter of which the Responding Party has or has had possession, custody or control, or of which the Responding Party has knowledge.

**CERTIFICATE OF SERVICE  
(Docket No. C-2014-2459527)**

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

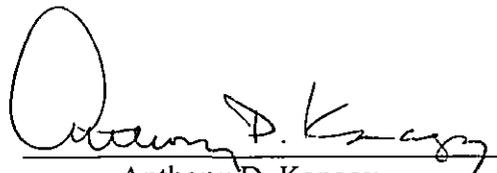
**VIA E-MAIL and CERTIFIED MAIL**

Alan M. Seltzer, Esquire  
John F. Povilaitis, Esquire  
Buchanan Ingersoll & Rooney PC  
409 N. Second Street, Suite 500  
Harrisburg, PA 17101-1357

Ricky L. Bertram, Esquire  
General Counsel  
Park Corporation  
6200 Riverside Drive  
Cleveland, OH 44135

Pamela C. Polacek, Esquire  
McNees Wallace & Nurick LLC  
100 Pine Street  
PO Box 1166  
Harrisburg, PA 17108-1166

Date: November 3, 2015

  
Anthony D. Kanagy

RECEIVED  
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