**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company for Approval : M-2015-2515375

of its Act 129 Phase III Energy Efficiency and :

Conservation Plan :

**SCHEDULING ORDER**

The Commission’s Order in Docket No. M-2014-2424864, entered June 19, 2015, requires each electric distribution company to file a plan in Phase III of the Act 129 Energy Efficiency and Conservation Plan (EE&C) series. *Energy Efficiency and Conservation Program,* Docket No. M-2014-2424864 (*Implementation Order*) entered June 19, 2015, which sets up the litigation process Duquesne Light Company and other electric distribution companies (EDCs) must follow.

On November 25, 2015, Duquesne Light Company (Duquesne Light or Petitioner) filed with the Pennsylvania Public Utility Commission (Commission) its Petition for Approval of its Act 129 Phase III Energy Efficiency and Conservation Plan. Duquesne Light asks the Commission to approve its Energy Efficiency and Conservation Plan (EE&C Plan), which is designed to reduce energy consumption and demand in its service territory in accordance with the requirements of Act 129, 66 Pa.C.S.A.§ 2806.1, and the *Implementation Order*.

The *Implementation Order* requires publication of notice of the filing, which was accomplished on December 12, 2015, 45 Pa.B. 7078, and sets a 20-day deadline for answers with comments and recommendations. Hearings must be held before the 65th day following the filing of the plan, and briefing is to be 10 days after the hearing. The Company has 10 days after the briefing date in which to file a revised plan, reply comments or both. After that deadline, the presiding officer must certify the record to the Commission’s Office of Special Assistants for preparation of a Commission order. The Commission order approving or rejecting the plan, in full or in part, is to be adopted within 120 days of the filing of the plan, which from the November 30,2015 filing due date, is March 31, 2016.

On December 9, 2015, the Commission’s Office of Administrative Law Judge issued the Call-In Telephone Notice for the prehearing conference set for January 6, 2016 and listed the undersigned Administrative Law Judge (ALJ) as the assigned presiding officer. On December 15, 2015, the ALJ issued a prehearing order which set forth some of the requirements for participation in a formal proceeding before the Commission, and which required the parties to file prehearing memoranda on or before 12:00 p.m. on Tuesday, January 5, 2016. By separate electronic mail to the parties on December 15, 2015, the presiding officer provided a litigation schedule which included the hearing date, and the date the hearing record would be certified to the Commission.

On December 10, 2015, the Office of Consumer Advocate (OCA) filed its notice of intervention and public statement. On December 18, 2015, the Office of Small Business Advocate (OSBA) filed its notice of intervention, public statement and notice of appearance.

To date, Petitions to Intervene have been filed by: the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA); Wal-Mart Stores East and Sam’s East, Inc. (Walmart); Citizen Power, Inc. (CPI); and Duquesne Industrial Intervenors (DII).

To date, comments have been filed by: OCA; Energy Efficiency for ALL (EEFA); EnergyHub; DII; and joint commentators comprised of Pennsylvania’s Future, Sierra Club, Environmental Defense Fund and Clean Air Council (collectively, Penn Future, et al).

Prehearing memoranda were filed by: Walmart; CAUSE-PA; DII; OCA; Duquesne Light; Citizen Power; and OSBA.

The prehearing conference was held as scheduled, with the following attorneys present: on behalf of Duquesne Light, Michael A. Gruin, Esq., Linda Evers, Esq., Elizabeth Ware, Esq., Adrienne Kurtanich, Esq. and David Defide; on behalf of OCA, Lauren M. Burge, Esq.; on behalf of OSBA, Elizabeth Rose Triscari, Esq.; on behalf of Walmart, Barry A. Naum, Esq.; on behalf of Citizen Power, Theodore S. Robinson, Esq.; on behalf of CAUSE-PA, Joline Price, Esq. and Patrick Cicero, Esq.; and on behalf of DII, Pamela Polacek, Esq. and Alye Hylander, Esq.

The parties agreed to shorten the discovery response time to seven (7) calendar days for all discovery propounded after January 6, 2016. In all other regards, the parties agreed to the other modifications suggested by Duquesne Light in its prehearing memorandum as listed in the ordering paragraphs below.

The parties agreed upon a litigation schedule, which is adopted in the ordering paragraphs below. The litigation schedule includes providing the parties with an opportunity to file briefs in this proceeding. While there is no requirement that the parties file briefs, those who do file briefs are required to follow a common briefing outline, attached to this Scheduling Order as Appendix A. Note that there is no requirement that all topics be addressed by all briefing parties, but the parties should adhere to the numbering in the common outline and indicate when topics not addressed are skipped.

THEREFORE,

IT IS ORDERED:

1. That the petitions to intervene of the following parties are granted: the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania; Wal-Mart Stores East and Sam’s East, Inc.; Citizen Power, Inc. (CPI) and Duquesne Industrial Intervenors.

2. That the following litigation schedule is adopted:

Due Date

Other parties’ direct January 13, 2016

Rebuttal testimony January 21, 2016

Telephonic Hearing January 26, 2016

Main briefs February 5, 2016

Revised plan February 22, 2016

Record certification February 24, 2016

3. That the Commission’s regulations regarding discovery are modified as follows:

1. Answers to written interrogatories and responses to requests for production of documents must be served in-hand within 7 calendar days of service.
2. Objections to interrogatories must be communicated orally within 3 calendar days of service of the interrogatories. Unresolved objections must be served within 5 calendar days of service of the interrogatories.
3. Motions to dismiss objections to interrogatories must be filed within 3 calendar days of service of the objections.
4. Answers to motions to dismiss objections must be filed within 3 calendar days of service of the motion.
5. Rulings on motions to dismiss objections will be issued, to the extent possible, within 7 calendar days of the filing of the motion.
6. Any discovery requests served after 12:00 noon on a Friday will be deemed served on the following business day for purposes of calculating due dates.
7. All discovery due dates require “in-hand” service. Electronic service on the due date will satisfy the “in-hand” requirement, where such service is immediately followed by a hard copy sent via First Class U.S. Mail.

h. Discovery-related pleadings, such as objections, motions, and answers to same, served on a Friday or any business day preceding a state holiday will be deemed served on the next business day.

4. That discovery disputes may be resolved via telephone conference with the presiding officer without need of a motion to compel, although the propounding party may choose to file a formal motion to compel.

5. Testimony shall be served but not filed.

6. On or before 9:00 a.m. on January 25, 2016, Duquesne Light Company shall provide a completed daily witness listing and cross-examination grid to the presiding officer. Parties shall complete the daily witness listing and cross-examination grid as developed by Petitioner.

7. Briefs must comply with 52 Pa.Code §§ 5.501 and 5.502, and shall follow the common briefing outline, attached to this Scheduling Order as Appendix A. The numbering for sections not addressed by a party shall be included and marked as “not addressed.” (For example: “V.A.2. Not addressed.”)

8. All parties are directed to comply with the provisions of 52 Pa.Code

§ 5.243(e) which prohibits the introduction of evidence during rebuttal or surrebuttal which should have been included in the case-in-chief or which substantially varies from the case-in-chief, unless the evidence is introduced in support of a proposed settlement.

Date: January 7, 2016 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Katrina L. Dunderdale

Administrative Law Judge

**APPENDIX A**

**Act 129**

**Generic Outline of Briefs**

1. Introduction
2. Procedural History
3. Description of EDC Plan
4. Legal Standards
5. Summary of Argument
6. Argument

A. Act 129 Conservation and Demand Reduction Requirements

1. Overall Conservation Requirements

2. Overall Demand Reduction Requirements

1. Requirements for a Variety of Programs Equitably Distributed
2. Government/Non-Profit Requirement
3. Low Income Program Requirements
4. Comprehensive Program Requirements
5. Issues Relating to Individual Conservation and Demand Reduction Programs
   1. Residential
   2. Commercial
   3. Industrial
6. Proposals for Improvement of EDC Plan
   1. Residential
   2. Commercial
   3. Industrial
7. Cost Issues

1. Plan Cost Issues

2. Cost Effectiveness/Cost-Benefit Issues

3. Cost Allocation Issues

4. Cost Recovery Issues

1. CSP Issues
2. Implementation and Evaluation Issues
   1. Implementation Issues
   2. QA Issues
   3. Monitoring and Reporting Issues
   4. Evaluation Issues
3. Other Issues
4. Conclusion
5. Proposed Ordering Paragraphs

**M-2015-2515375 – PETITION OF DUQUESNE LIGHT COMPANY - FOR APPROVAL OF ITS ACT 129 PHASE III ENERGY EFFICIENCY AND CONSERVATION PLAN**

***(Revised 1/7/16)***

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