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June 21, 2016

VIA ELECTRONIC FILING

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:

Attached please find the Answer of Duquesne Light Company to Whemco-Steel Castings, Inc's Motion to Require Duquesne Light Company to Submit Written Surrebuttal Testimony and Cancel Scheduled Evidentiary Hearings in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Anthony D. Kanagy

ADK/skr

cc: Certificate of Service
Honorable Jeffrey Watson

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

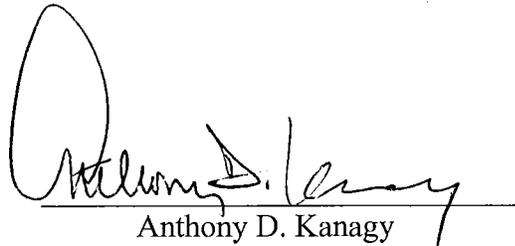
I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Date: June 21, 2016


Anthony D. Kanagy

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**ANSWER OF DUQUESNE LIGHT COMPANY TO WHEMCO-STEEL CASTINGS,
INC.'S MOTION TO REQUIRE DUQUESNE LIGHT COMPANY TO SUBMIT
WRITTEN SURREBUTTAL TESTIMONY AND CANCEL SCHEDULED
EVIDENTIARY HEARINGS**

TO ADMINISTRATIVE LAW JUDGE JEFFREY A. WATSON:

Duquesne Light Company (“Duquesne Light” or the “Company”) hereby files, pursuant to 52 Pa. Code § 5.103, this Answer to the Motion of Whemco-Steel Castings, Inc. (“Whemco”) to Require Duquesne Light Company to Submit Written Surrebuttal Testimony and Cancel Scheduled Evidentiary Hearings. As explained herein, Whemco’s request to postpone the scheduled evidentiary hearing should be denied. In support of this Answer, Duquesne Light States as follows:

I. INTRODUCTION

1. On May 20, 2016, in accordance with Administrative Law Judge Jeffrey A. Watson’s (the “ALJ”) February 8, 2016 Second Prehearing Order, Duquesne Light filed a Motion Requesting Permission to Provide Oral Surrebuttal Testimony at the evidentiary hearing in this proceeding (“Duquesne Light Motion for Oral Surrebuttal”).

2. On May 26, 2016, Whemco filed an Answer to Duquesne Light’s Motion for Oral Surrebuttal opposing Duquesne Light’s request to provide oral surrebuttal testimony at the evidentiary hearing (“Whemco Answer to Duquesne Light Motion for Oral Surrebuttal”).

3. By Interim Order dated June 16, 2016, the ALJ granted Duquesne Light’s Motion for Oral Surrebuttal.

4. On June 17, 2016, Whemco filed a Motion requesting that the evidentiary hearing scheduled in this proceeding be cancelled and that Duquesne Light be required to submit written surrebuttal testimony (“Whemco Motion for Written Surrebuttal”).

5. Duquesne Light hereby files this Answer to Whemco’s Motion for Written Surrebuttal.

II. WHEMCO’S MOTION TO REQUIRE DUQUESNE LIGHT COMPANY TO CANCEL THE SCHEDULED EVIDENTIARY HEARINGS SHOULD BE DENIED.

6. In its Motion for Written Surrebuttal, Whemco argues that its due process rights will be violated if Duquesne Light is permitted to provide oral surrebuttal testimony at the scheduled evidentiary hearing because, as the party with the burden of proof, Whemco is entitled to “close” at the hearing. However, Whemco has failed to demonstrate how allowing Duquesne Light to provide oral surrebuttal testimony would violate Whemco’s due process rights.

7. As indicated in Whemco’s Motion, Duquesne Light would not oppose a request from Whemco to provide oral rejoinder testimony after Duquesne Light submits oral surrebuttal testimony. In addition, Duquesne Light has offered to submit written surrebuttal testimony by noon on Wednesday, June 22, 2016 and allow Whemco to provide oral rejoinder testimony on Friday, June 24, 2016. Under Duquesne Light’s proposal, the hearing would begin on Thursday, June 23, 2016 and the parties would conduct cross-examination as to the pre-filed direct, rebuttal and surrebuttal testimony. The hearings would continue on June 24, 2016 when Whemco could present its oral rejoinder testimony, and Duquesne Light could cross-examine Whemco’s witnesses as to the oral rejoinder. The parties could also complete any other cross-examination that was not completed on June 23, 2016. At this time, Whemco has not accepted this proposal.

8. Whemco offered a counter-proposal under which the parties would conduct the hearing on June 23, 2016 as to the pre-filed direct and rebuttal testimony and hold a later hearing

for cross-examination as to surrebuttal and rejoinder testimony. Duquesne Light does not believe that it is necessary to hold multiple rounds of hearings and does not agree to Whemco's counter-proposal.

9. In support of its argument, Whemco cites to Section 5.242(a) of the Public Utility Code, 52 Pa. C.S. § 5.242(a). Whemco misconstrues the requirements set forth in Section 5.242(a) relating to order of procedure. Section 5.242(a) simply directs that Whemco, as the party with the burden of proof, be permitted to close at the hearing. Duquesne Light's submission of oral surrebuttal testimony will not deprive Whemco of its right to "close" at the hearing nor will it result in any prejudice whatsoever to Whemco. Whemco will still have an opportunity to present witnesses and conduct cross-examination of Duquesne Light's witnesses at the hearing. Further, as explained above, Duquesne Light does not oppose allowing Whemco an opportunity to provide oral rejoinder testimony at the hearing on Friday, June 24, 2016, following Duquesne Light's surrebuttal testimony.

10. Whemco's requests to cancel or continue the scheduled evidentiary hearing should not be granted because there is no good cause for delaying the hearing. Whemco raised concerns about preserving its ability to "close" and potentially being surprised by new issues raised in Duquesne Light's surrebuttal testimony. These issues are fully alleviated by the Company's proposal. Accordingly, the existing litigation schedule, which was established by the ALJ's Second Prehearing Order, should not be disrupted at this late stage in the proceeding. The schedule provides for hearings to begin on June 23, 2016, which is less than one week from the date of Whemco's Motion.

11. In its Motion for Written Surrebuttal, Whemco also alleges that Duquesne Light's presentation of oral surrebuttal testimony at the hearing would not allow Whemco enough time

to prepare its response. This is contrary to Whemco's assertions throughout this proceeding. In its Answer opposing Duquesne Light's Motion for Oral Surrebuttal Testimony, Whemco stated that "the facts in this case are clearly known, have been thoroughly investigated in discovery and reflected in testimony." (Whemco Answer to Duquesne Light Motion for Oral Surrebuttal , p. 5.) Therefore, Whemco concluded that there was no need for Duquesne Light to provide oral surrebuttal testimony at the hearing. Whemco's very own statement contradicts its request to cancel the hearing and require Duquesne Light to submit written surrebuttal testimony. Whemco cannot allege that there are no undisputed facts in this case for purposes of opposing Duquesne Light's request to provide oral surrebuttal testimony, while also alleging that it would not be prepared to respond to Duquesne Lights' oral surrebuttal testimony at the hearing. If, as Whemco has stated, "the facts in this case are clearly known", Whemco should be prepared to address Duquesne Light's oral surrebuttal testimony at the scheduled hearing. Moreover, Duquesne Light has offered to provide written surrebuttal by noon on June 22, 2016.

12. At the second prehearing conference in this proceeding, the ALJ suggested "forgoing written testimony and considering live testimony in this case from all witnesses." (Second Prehearing Conference Tr., pp. 7-8). The ALJ's statement indicates that the parties should be ready to proceed to the hearing in this matter at scheduled and that there is no need to postpone the hearing. The parties in this case have conducted their discovery since the second prehearing conference which further negates Whemco's claims that it may be prejudiced by Duquesne Light's oral surrebuttal testimony.

13. Both parties agreed at the second prehearing conference that Duquesne Light would be permitted to file a Motion requesting permission to provide oral surrebuttal at the hearing and that Whemco would have an opportunity to respond should Duquesne Light submit

such a request. Duquesne Light notes that it would have agreed to build time for written surrebuttal testimony and written rejoinder testimony into the litigation schedule. However, the existing schedule was adopted as a compromise to accommodate Whemco's request for a condensed litigation schedule. Whemco should not be permitted to disrupt the established procedural schedule when it advocated for a shortened schedule in the first place.

14. Whemco's Motion for Written Surrebuttal provides no basis for modifying the existing litigation schedule. The evidentiary hearing should be held as scheduled.

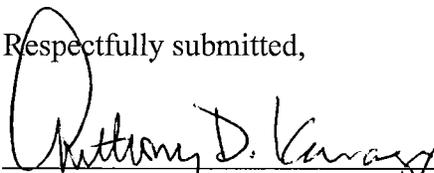
III. CONCLUSION

WHEREFORE, for the foregoing reasons, Duquesne Light Company respectfully requests that Administrative Law Judge Jeffrey A. Watson deny Whemco Steel Castings, Inc.'s Motion to Require Duquesne Light Company to Submit Written Surrebuttal Testimony and Cancel Scheduled Evidentiary Hearings.

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