



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

Anthony D. Kanagy

akanagy@postschell.com
717-612-6034 Direct
717-731-1985 Direct Fax
File #: 126931

July 8, 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: Petition of Duquesne Light Company For Waiver and Suspension of Meter Testing Requirements Under 52 Pa. Code §§ 57.20(e) and 57.21(f) For Deployed Legacy Meters
Docket No. P-2016-2525790

Dear Secretary Chiavetta:

Enclosed please find the Petition of Duquesne Light Company for Reconsideration of the Pennsylvania Public Utility Commission's Order Entered on June 23, 2016 in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

A handwritten signature in black ink that reads 'Anthony D. Kanagy'. The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Anthony D. Kanagy

ADK/jl
Enclosures

cc: Honorable Katrina L. Dunderdale
Certificate of Service

CERTIFICATE OF SERVICE

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 FIRST CLASS MAIL

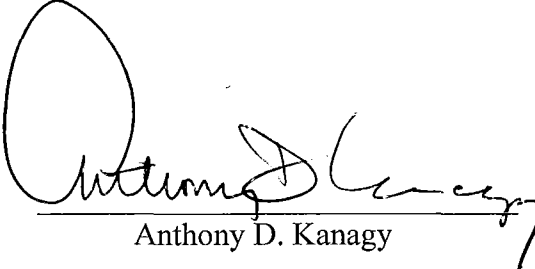
Sharon Webb, Esquire
Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101

Aron J. Beatty, Esquire
David Evrard, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Johnnie E. Simms, Esquire
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
PO Box 3265
Harrisburg, PA 17105-3265

Theodore S. Robinson, Esquire
Citizen Power Inc.
2121 Murray Avenue
Pittsburgh, PA 15217

Date: July 8, 2016



Anthony D. Kanagy

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company :
For Waiver and Suspension of Meter : Docket No. P-2016-2525790
Testing Requirements Under 52 Pa. Code :
§§ 57.20(e) and 57.21(f) For Deployed :
Legacy Meters :

**PETITION OF DUQUESNE LIGHT COMPANY FOR RECONSIDERATION
OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION'S
ORDER ENTERED ON JUNE 23, 2016**

I. INTRODUCTION

Pursuant to Section 703(g) of the Public Utility Code, 66 Pa. C.S. § 703(g), and Section 5.572 of the Pennsylvania Public Utility Commission's ("Commission") regulations, 52 Pa. Code §5.572, Duquesne Light Company ("Duquesne Light" or the "Company") hereby files this Petition requesting reconsideration of the Commission's Order entered on June 23, 2016 ("*Waiver Petition Order*") in the above-captioned proceeding.

In the *Waiver Petition Order*, the Commission denied the Company's request for a waiver and suspension of the Commission's wathour meter and demand meter periodic testing requirements, set forth at 52 Pa. Code §§ 57.20(e) and 57.21(f), until the end of Company's AMI deployment period. Duquesne Light is not requesting reconsideration of this aspect of the *Waiver Petition Order* and will continue its meter testing programs pursuant to §§ 57.20(e) and 57.21(f) during its smart meter deployment period. However, in the *Waiver Petition Order*, the Commission revised electric distribution companies ("EDCs") long-standing interpretation of the

blanket waiver granted by the Commission in the *Smart Meter Implementation Order*¹ for “as found” meter testing under Section 57.20(h), 52 Pa. Code § 57.20(h). In the *Smart Meter Implementation Order*, the Commission, without qualification, stated as follows:

The Commission agrees with First Energy that the costs of complying with 52 Pa. Code § 57.20(h) are unnecessary and will grant a waiver of this provision for wathour meters that are being replaced with smart meters in accordance with an approved plan.

Smart Meter Implementation Order, p. 12. Further, in the Ordering Paragraph number 5 of the *Implementation Order*, the Commission unambiguously stated:

That all electric distribution companies that are required to install smart meter technology are exempt from compliance with 52 Pa. Code 57.20(h) for testing wathour meters that are being replaced with smart meters in accordance with an approved smart meter technology procurement and installation plan.

Despite this clear guidance, in the *Waiver Petition Order*, however, the Commission stated that the waiver of 57.20(h) only applies when a customer requests a smart meter ahead of an EDC’s AMI deployment schedule. *Waiver Petition Order*, p. 7. This conclusion relies upon statements made in First Energy’s underlying Comments in the Smart Meter proceeding and ignores their request for a blanket waiver of §57.20(h) as part of that proceeding which was ultimately granted by the Commission in the *Implementation Order*.

Because the Commission’s 2009 *Implementation Order*, not a party’s Comments, control the scope of the waiver, Duquesne Light respectfully requests that the Commission reconsider its newly articulated interpretation in the *Waiver Petition Order* regarding the “as found” wathour meter testing requirements of Section 57.20(h). As explained in more detail below, Duquesne Light believes that requiring “as-found” testing for all legacy wathour meters removed from service and replaced with a smart meter (except for the very few legacy wathour meters which

¹ *Smart Meter Procurement and Installation*, Docket No. M-2009-2092655 (Order entered June 24, 2009) (“*Implementation Order*”).

are removed and replaced by smart meters at the request of a customer ahead of Duquesne Light's AMI deployment schedule) incorrectly interprets longstanding Commission precedent. As illustrated above, the grant of a waiver of Section 57.20(h) in the *Implementation Order* was for all EDCs that are required to install smart meter technology and contains no explicit or implicit limitation that would restrict the waiver's application solely to legacy wathour-meter removals and replacements conducted at the request of a customer ahead of the Company's AMI deployment schedule. Moreover, the Commission's revised interpretation of the waiver granted in the *Implementation Order* would eviscerate its purpose, and require all EDCs with approved smart meter technology procurement and installation plans to incur substantial costs (well above and beyond the "as found" testing costs in base rates) for testing legacy meters that have been removed from service.

Additionally, Duquesne Light proposes a sampling testing program herein that it believes adequately addresses the Commission's concerns regarding "as found" meter testing under 57.20(h) for the duration of the AMI deployment schedule. Under this sampling program, Duquesne Light proposes to: (1) identify a random sample (1%) of removed meters to be flagged for registration accuracy testing and returned to the Company's meter test lab as they are removed from service; and (2) continue to hold all removed meters for two billing cycles before allowing them to be retired to address any customer billing concerns.

Accordingly, the Company respectfully requests that the Commission reconsider its decision regarding the scope of the waiver of "as found" meter testing under 52 Pa. Code § 57.20(h) in the June 23, 2016 Order, and approve the Company's modified "as found" meter-testing program proposed herein.

II. BACKGROUND

1. On November 14, 2008, Act 129 of 2008, P.L. 1592 (“Act 129”) became effective. Act 129 required EDCs to implement multiple programs to promote energy efficiency and conservation by electric customers. In addition, Act 129 required EDCs to file smart meter plans within 9 months after the effective date of the Act. On June 24, 2009, the Commission issued its *Implementation Order*. In the *Implementation Order*, the Commission established the standards that EDCs must meet for providing smart meter technology to customers and also provided guidance for meeting those standards.

2. Importantly, in the *Implementation Order*, the Commission established a blanket waiver of the “as found” testing requirements for watt-hour meters under Section 57.20(h), 52 Pa. Code § 57.20(h), that are removed and replaced with smart meters in accordance with a Commission-approved smart meter plan. *Implementation Order*, p. 12; Ordering Paragraph No. 5, p. 35.

3. The Commission explained that the waiver of Section § 57.20(h) was grounded in the Commission’s belief that “it would add unreasonable and unnecessary costs to require EDCs to test every meter removed for the purposes of upgrading to a smart meter.” *Implementation Order*, p. 12.

4. On August 14, 2009, Duquesne Light filed its Initial Smart Meter Plan, which the Commission approved on May 11, 2010, with certain modifications. The Commission approved Duquesne Light’s proposal to recover its smart meter costs through a reconcilable cost recovery mechanism, and set forth the details of how this mechanism would work.

5. On June 29, 2012, the Company filed a Petition for Approval of its Smart Meter Deployment Plan. Included with the Petition was a copy of the 2012 Smart Meter Plan and

direct testimony that detailed the Company's plans to replace its Advanced Meter Reading ("AMR") system with AMI and deploy smart meters over a seven-year period from 2014-2020.

6. Following extensive investigation by interested stakeholders, on December 7, 2012, Duquesne Light and the Office of Consumer Advocate filed an uncontested Joint Petition for Approval of Full Settlement ("Joint Petition"). On January 24, 2013, Administrative Law Judge Katrina Dunderdale issued an Initial Decision approving the Joint Petition.

7. On May 6, 2013, the Commission entered an Opinion and Order ("May 6 Order") granting approval of, in part, and modifying the 2012 Smart Meter Plan and the Joint Petition. In the May 6 Order, the Commission directed Duquesne Light to make a compliance filing within ninety (90) days of the date of entry of the May 6 Order providing data supporting whether or not inclusion of the voltage monitoring and communication of outages and restorations capabilities are cost effective, among other things.²

8. On August 4, 2015, the Company filed a Petition for Approval to Modify Its Smart Meter Procurement and Installation Plan ("2015 Smart Meter Plan") at Docket No. P-2015-2497267. Therein, the Company proposed several modifications to its approved smart meter plan, including accelerating the deployment period by one year, such that all residential meter installations would be completed by 2018 and all commercial and industrial meter installations would be completed by 2019.

9. The 2015 Smart Meter Plan is currently being litigated. No party has challenged the Company's revised deployment schedule in this proceeding.

10. On January 25, 2016, Duquesne Light filed a Petition for waiver and suspension of the periodic meter testing requirements under 52 Pa. Code §§ 57.20(e) and 57.21(f) at Docket

² On August 2, 2013, Duquesne Light submitted its Compliance Filing. No parties filed comments to the Company's Compliance Filing.

No. P-2016-2525790 (“*Waiver Petition*”). The Company requested waiver of these periodic testing requirements for its currently-deployed legacy meters, for the duration of the Company’s smart meter deployment period—as modified by the 2015 Smart Meter Plan.³

11. The Commission denied Duquesne Light’s Petition in the *Waiver Petition Order* on June 23, 2016 and further stated that the waiver of “as found” meter testing requirements under Section 57.20(h) granted in the *Smart Meter Implementation Order* only applied to meters that were exchanged pursuant to customer request ahead of an EDC’s full deployment schedule.

12. Duquesne Light herein respectfully requests that the Commission reconsider its June 23, 2016 decision with respect to the scope of the waiver of “as found” meter testing requirements.

III. THE COMMISSION SHOULD RECONSIDER ITS JUNE 23, 2016 ORDER WITH RESPECT TO “AS FOUND” METER TESTING UNDER 52 Pa. CODE § 57.20(h)

13. The Commission’s standards for granting reconsideration following final orders are set forth in *Duick v. Pennsylvania Gas and Water Co.*, 56 Pa. P.U.C. 553, 559 (1982):

A petition for reconsideration, under the provisions of 66 Pa. C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the Court in the Pennsylvania Railroad Company case, wherein it was said that “[p]arties . . . , cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them. . . .” What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission.

14. This Petition for Reconsideration meets the *Duick* standards because it raises arguments regarding the Commission’s revised interpretation of the unambiguous “as found”

³ Under the 2015 Smart Meter Plan, all residential smart meters would be installed by 2018, and all commercial and industrial smart meters would be installed by 2019.

meter testing blanket waiver under 52 Pa. Code § 57.20(h) that the Commission granted in the *Smart Meter Implementation Order*.

15. The Commission revised its application of the prior waiver of “as found” meter testing requirements under 57.20(h) in the *Waiver Petition Order* for the first time. A Petition for Reconsideration is necessary to address this issue.

16. In the *Waiver Petition Order*, the Commission incorrectly interpreted its prior precedent regarding “as found” meter testing under 57.20(h). The Commission stated that the waiver of Section 57.20(h) previously established in the *Implementation Order* was “clearly limited.” *Waiver Petition Order*, p. 7. Specifically, the Commission found that: “[t]he wathour meters excused, pursuant to the *Implementation Order*, from testing upon removal are only those that have been removed and replaced by smart meters *at the request of the customer ahead of Duquesne Light’s AMI deployment schedule.*” *Waiver Petition Order*, p. 7 (emphasis in original).

17. However, neither the discussion in the *Implementation Order* nor Ordering Paragraph Number 5 where the waiver was articulated provides either an implicit or explicit limitation to the blanket waiver of Section 57.20(h) as articulated by the Commission in the June 23, 2016 Order. This new limitation would restrict the waiver’s application to wathour meters that are removed and replaced at a customer’s request, ahead of an EDCs approved AMI deployment schedule.⁴ Rather, the *Implementation Order* makes clear that its waiver of the “as found” testing requirements of Section 57.20(h) for legacy wathour meters is necessarily broad

⁴ The only colorable reference to limiting the application of the Section 57.20(h) waiver to situations where a customer requests meter replacement ahead of the EDCs deployment schedule, appears in a quote excerpted from FirstEnergy’s comments in the *Implementation Order* proceeding. *See Waiver Petition Order*, p. 6 (“[The proposed] guidelines contemplate the EDCs providing customers with smart meters upon request.”). However, the Commission clearly acknowledges that FirstEnergy’s request was not so limited. *See id.*, at p. 6-7 (“Inasmuch as meters being replaced with smart meters will, in essence, be obsolete, the FE Companies respectfully ask the Commission to provide EDCs with a *blanket waiver* of this requirement.”) (emphasis added). Indeed, FirstEnergy requested and the Commission granted a blanket waiver of Section 57.20(h)’s testing requirements.

to avoid the unreasonable and unnecessary costs to test every meter removed in order to upgrade to a smart meter. See *Waiver Petition Order*, p. 10-12.

18. The *Implementation Order* acknowledges that FirstEnergy—the EDC requesting waiver of the Section 57.20(h) requirements in that proceeding—requested that “the Commission provide EDCs with a *blanket waiver of this requirement*, as the meters are not being replaced due to any perceived malfunction and will not be put back into service.” *Waiver Petition Order*, p. 10-11 (emphasis added).

19. In granting the waiver, the Commission stated:

The Commission agrees with FirstEnergy that the costs of complying with 52 Pa. Code § 57.20(h) are unnecessary and will grant a waiver of this provision for watthour meters that are being replaced with smart meters in accordance with an approved plan. The Commission believes it would add unreasonable and unnecessary costs to require the EDCs to test every meter removed for the purposes of upgrading to a smart meter. *Implementation Order*, p. 12.

Nowhere in this discussion does the Commission state or otherwise imply that its granted waiver of Section 57.20(h) is limited to watthour meters that have been removed and replaced by smart meters at the request of the customer ahead of an EDCs AMI deployment schedule.

20. Furthermore, in the Ordering Paragraphs of the *Implementation Order*, the Commission stated:

That all electric distribution companies that are required to install smart meter technology are exempt from compliance with 52 Pa. Code 57.20(h) for testing watthour meters that are being replaced with smart meters in accordance with an approved smart meter technology procurement and installation plan. *Implementation Petition Order*, p. 35 (Ordering Paragraph 5).

21. Again, the Ordering Paragraph of the *Implementation Order* does not limit the application of the waiver of Section 57.20(h).

22. The *Implementation Order* is clear and unambiguous. A waiver of the “as found” testing requirements of Section 57.20(h) is appropriate for all watthour meters removed and replaced with smart meters pursuant to a Commission-approved AMI program. Further, the scope of this waiver is appropriate because to do anything less “would add unreasonable and unnecessary costs to require the EDCs to test every meter removed for the purposes of upgrading to a smart meter.” *Implementation Order*, p. 12.

23. In addition, the Commission’s statement in the *Waiver Petition Order* that the waiver of 57.20(h) is limited to “customer request ahead of an EDC’s AMI deployment schedule” is contrary to Ordering Paragraph No. 5 of the *Smart Meter Implementation Order* which provides for a waiver for all watthour meters “that are being replaced with smart meters in accordance with an approved smart meter technology procurement and installation plan.”

24. Indeed, limiting the blanket waiver of Section 57.20(h) in the manner described in the *Waiver Petition Order* would undermine the purpose of the waiver and EDCs’ interpretation of this waiver since 2009. Given the Commission’s specific explanation that waiver of testing requirements is necessary and appropriate “to avoid the unreasonable and unnecessary costs to require the EDCs to test every meter removed for the purposes of upgrading to a smart meter,” limiting the waiver to customer requests for legacy meter replacement ahead of AMI deployment would not accomplish this objective because Duquesne Light has received only one request by a customer for a smart meter in advance of the deployment schedule. *See Implementation Order*, p. 12. Under the *Waiver Petition Order*’s interpretation of the waiver, Duquesne Light submits that the waiver would fail to serve its purpose, and the Company and its customers would be subjected to the exact unnecessary and unreasonable costs that the Commission sought to avoid.

25. On a normal basis, Duquesne Light conducts “as found” testing on approximately 8,000 – 12,000 meters per year. Under its Smart Meter Program, Duquesne Light is replacing approximately 157,000 meters per year. Therefore, Duquesne Light’s base rates do not include costs for the significant increase in “as found” meter testing that would be required under the *Waiver Petition Order*.

26. Duquesne Light clearly meets the *Duick* standard for reconsideration because its arguments respond to the *Waiver Petition Order*’s new interpretation of the Section 57.20(h) waiver.

IV. DUQUESNE LIGHT REQUESTS THAT THE COMMISSION APPROVE THE COMPANY’S PROPOSED “AS FOUND” METER TESTING PROGRAM.

27. In this Petition, Duquesne Light proposes to implement a new “as found” meter testing program and requests a waiver of 57.20(h) to implement this program.

28. With regard to legacy wathour and demand meters removed during AMI deployment, the Company proposes to implement a “Deployment Sample Process” to identify a random sample (1%) of removed meters. This sample of removed meters will be flagged for registration accuracy testing and returned to the Company’s meter test lab as they are removed from service by the deployment vendor.

29. Duquesne Light will continue to hold all removed meters for two billing cycles before allowing them to be retired. This will allow any customer billing concerns to be addressed and provide the ability to locate the stored meter for accuracy testing.

30. The “as found” sampling and retention program proposed herein will monitor the accuracy of Duquesne Light’s wathour and demand meters, while avoiding the unnecessary and unreasonable costs associated with testing every in-service legacy meter that will be replaced

with a smart-meter pursuant to the Company's Commission-approved AMI deployment schedule.

31. The Commission recently approved a similar proposal by another EDC. *See Petition of PPL Electric Utilities Corporation for Approval of its Smart Meter Procurement and Installation Plan*, Docket No. M-2014-2430781 (Order entered September 3, 2015). In the September 3, 2015 Order, the Commission noted PPL Electric's proposal as follows:

In addition, PPL stated that it has developed a strategy to address in-service and removed watthour meter testing during full deployment in years 2017 to 2019. With regard to in-service periodic testing of watthour meters, PPL will adopt its current sample process to ensure that in-service testing continues to meet or exceed the requirements contained in 52 Pa. Code § 57.20(e). With regard to testing removed watthour meters during full deployment, PPL noted that the *SMP Implementation Order* exempted all EDCs required to install smart meter technology from compliance with 52 Pa. Code § 57.20(h), which states that "A service watthour meter which is removed from service shall be tested for 'as found' registration accuracy." Nevertheless, PPL will implement a "Deployment Sample Process" to identify a statistically significant random sample of removed meters. This sample of removed meters will be flagged for registration accuracy testing and returned to the Company's meter test lab as they are removed from service by the deployment vendor. In addition, PPL will hold all removed meters for two billing cycles before allowing them to be retired. According to PPL, this will allow it to address any customer billing concerns and provide the ability to locate the stored meter for accuracy testing. *Id.* at 26.

The Commission approved PPL Electric's proposal as part of PPL Electric's smart meter plan.

32. Duquesne Light's proposed Deployment Sample Process is a reasonable approach for meeting the "as found" testing requirements of 57.20(h) for legacy meters that are being replaced with a smart meter. Therefore, the Company respectfully requests that the Commission reconsider its Waiver Petition Order and grant Duquesne Light a waiver of 57.20(h) to the extent necessary to implement the testing program explained herein.

33. In the *Waiver Petition Order*, the Commission directed that Duquesne Light file additional data if it sought reconsideration of the Commission's denial of its requested waiver of

52 Pa. Code §§ 57.20(e) and 57.21(f). Duquesne Light is not seeking a waiver of these rules. Nevertheless, Duquesne Light will file the requested data as it relates to the waiver of 52 Pa. Code § 57.20(h).

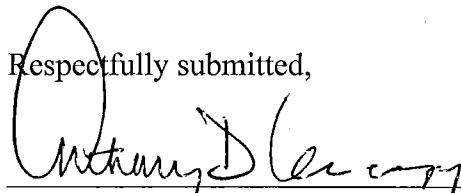
34. Duquesne Light is serving a copy of this Petition on the Statutory Parties and the parties to the Company's smart meter proceeding at Docket No. P-2015-2497267. Duquesne Light also requests that the Commission publish notice of this Petition in the Pennsylvania Bulletin. Duquesne Light will also serve notice of the filing on any parties as directed by the Commission.

V. CONCLUSION

WHEREFORE, Duquesne Light Company respectfully requests that the Commission reconsider its decision in the June 23, 2016 Order regarding its interpretation of the §57.20(h) waiver included in the 2009 *Implementation Order*, and grant Duquesne Light Company's Petition for Reconsideration, as described above.

Tishekia E. Williams, Esquire (ID #208997)
Duquesne Light Company
411 Seventh Avenue
Pittsburgh, PA
Phone: (412) 393-1651
Fax: (412) 393-5897
Email: twilliams@duqlight.com

Respectfully submitted,



Michael W. Gang, Esquire (ID #21670)
Anthony D. Kanagy, Esquire (ID #85522)
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: mgang@postschell.com
E-mail: akanagy@postschell.com

Date: July 8, 2016

Counsel for Duquesne Light Company

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

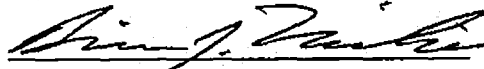
Petition of Duquesne Light Company :
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Legacy Meters :

VERIFICATION

I, Brian J. Novicki, Senior Manager, Meter Operations, of Duquesne Light Company, hereby state that the facts set forth in the Petition of Duquesne Light Company for Reconsideration of the Pennsylvania Public Utility Commission's Order Entered on June 23, 2016 in the above-referenced proceeding are true and correct to the best of my knowledge, information and belief, and that if asked orally at a hearing in this matter, my answers would be as set forth therein.

I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: July 8, 2016


Brian J. Novicki