

June 1, 2018

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Keystone Bldg. 2nd Floor W
400 N. Street
Harrisburg, PA 17120

RE: Michele Hriadil and Francis Hriadil v. Duquesne Light Company
Docket No. C-2016-2571726

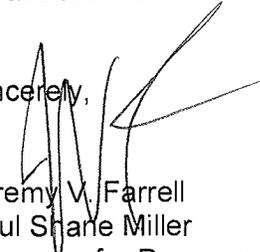
Dear Secretary Chiavetta:

Enclosed please find a copy of Duquesne Light's Answer to Motion for Continuance to Enable Complainants' Expert Witness to Participate in Hearing and Request to Allow Complainants' Expert Witness Testimony by Telephone.

A copy of this correspondence and the Answer has been served upon Complainant in accordance with Commission regulations.

Please feel free to contact me if you have any questions.

Sincerely,


Jeremy V. Farrell
Paul Shane Miller
Attorneys for Duquesne Light Company

JVF/sls
Enclosure

c: Michele Hriadil and Francis Hriadil (with enclosure - via regular mail)
ALJ Jeffrey Watson (with enclosure - via hand delivery)

LIT:641231-1 014657-158498

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MICHELE HRIADIL and
FRANCIS HRIADIL,

Complainants,

No: C-2016-2571726

v.

DUQUESNE LIGHT COMPANY,

Respondent.

**ANSWER TO MOTION FOR
CONTINUANCE TO ENABLE
COMPLAINANTS' EXPERT WITNESS TO
PARTICIPATE IN HEARING AND
REQUEST TO ALLOW COMPLAINANTS'
EXPERT WITNESS TESTIMONY BY
TELEPHONE**

Served on Behalf of Respondent
Duquesne Light Company

Counsel of Record for this Party:

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Pa. I.D. No. 316258

Paul Shane Miller, Esquire
Pa. I.D. No. 319174

Tucker Arensberg, P.C.
1500 One PPG Place
Pittsburgh PA 15222
(412) 566-1212

Request to Modify Litigation Schedule

3. As an initial matter, nothing in this Answer is intended to waive any objection Duquesne Light has to the admissibility (or weight) of any testimony that may be offered by Dr. David Carpenter. Duquesne Light will address those issues through separate motions, if necessary.

4. Duquesne Light does not object to Complainant's request to continue the hearing dates, so long as the new hearing dates do not conflict with the schedule of its witnesses and/or counsel, and so long as the resulting litigation schedule accommodates Duquesne Light's obligation, as provided in its Commission-approved Smart Meter Plan, to complete deployment of residential smart meters in 2018.¹

5. Duquesne Light objects to Complainant's request to modify the litigation schedule only to the extent that Complainant seeks new deadlines for events that have already passed under the current litigation schedule. Admittedly, Complainants do not explicitly make such a request, but Duquesne Light offers this limited objection out of an abundance of caution given Complainants' generic request to modify the litigation schedule.

6. The Commission has already issued two litigation schedules in this matter, the first of which came at Duquesne Light's request in the hopes of avoiding the scheduling uncertainty created by Complainants' recent filings. The current schedule was set in response to a discovery dispute by the First Supplemental Prehearing Order dated February 6, 2018 (the "Prehearing Order"). The following deadlines have already passed:

- a. Deadline to serve discovery requests (March 16, 2018);
- b. Deadline to identify expert witnesses and produce expert reports (April 30, 2018);
Deadline to identify lay witnesses and produce written summary of expected testimony (April 30, 2018); and

¹ If requested, Duquesne Light would be happy to supply the Commission with dates on which its counsel and witnesses are available.

- c. Deadline to identify rebuttal expert witnesses and produce rebuttal expert reports (May 18, 2018).

7. As noted above, Complainants did not ask for more time to produce another expert report, but to the extent such a request is implied by the request to modify the litigation schedule, it is worth noting that Complainants' scheduling difficulties involving Dr. Carpenter have nothing to do with their ability to produce an expert report. In other words, just because Dr. Carpenter cannot make the current hearing date does not mean Complainants should also have extra time to produce another expert report. To provide additional time would prejudice Duquesne Light, whose experts timely produced reports.

8. Therefore, Duquesne Light respectfully submits that the Parties be bound by the submissions they made in accordance with the above deadlines. Indeed, the initial litigation schedule was set so as to give Complainants ample time to comply with the deadlines, and those deadlines have already been extended once.

9. Additionally, in accordance with the Prehearing Order, Duquesne Light intends to file a motion for summary judgment on June 4, 2018. The Prehearing Order makes any response Complainants wish to file due seven days later.

10. Duquesne Light respectfully requests that those dispositive motion deadlines remain in place and that the remainder of the litigation schedule established by the Prehearing Order be held in abeyance pending the resolution of Duquesne Light's forthcoming motion for summary judgment. Upon the Commission's consideration of the dispositive motion, a hearing date can be established if an evidentiary hearing is necessary.

11. If Duquesne Light's motion for summary judgment is denied, then Duquesne Light respectfully requests that the Commission schedule an additional prehearing to establish a litigation schedule with deadlines for the following events:

- a. Stipulations;
- b. Pre-hearing motions in limine;

- c. Identification and exchange of hearing exhibits;
- d. Settlement conference (to be held by the Presiding Administrative Law Judge);
and
- e. Hearing date(s).

Request to Permit Telephonic Hearing Participation

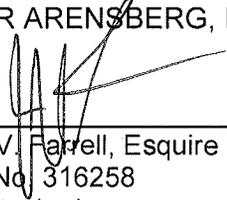
12. At the outset, it should be noted that Duquesne Light prefers that this matter be held as an in-person hearing, for all witnesses, as scheduled by the Prehearing Order.

13. Duquesne Light objects to Complainants' request for an exception to the in-person hearing for Dr. Carpenter, as such an exception would be unfair to and prejudice Duquesne Light. Duquesne Light's ability to cross-examine Dr. Carpenter would be impaired if he did not testify live.

14. Additionally, Duquesne Light must incur the costs associated with bringing its expert witnesses (and potentially some of its lay witnesses) to testify live. While Complainants contend that Duquesne Light should be forced to incur that cost and they should not because Duquesne Light is a commercial enterprise, that argument is unpersuasive. Complainants were the ones who initiated, and bear the burden of proof in, this action and should be held to the same standard as Duquesne Light in this regard as it is their Complaint that necessitated Duquesne Light's need to acquire expert witnesses (at considerable expense). If Complainants' witnesses are permitted to testify telephonically, then Duquesne Light respectfully requests that the same option be available for its witnesses.

Respectfully submitted,

TUCKER ARENSBERG, P.C.



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

MICHELE HRIADIL and
FRANCIS HRIADIL,

Complainants,

vs.

DUQUESNE LIGHT COMPANY,

Respondent.

No: C-2016-2571726

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participant listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

Michele Hriadil and Francis Hriadil
331 Shady Ridge Drive
Monroeville, PA 15146
Via Regular Mail

Administrative Law Judge Jeffrey Watson
Pennsylvania Public Utility Commission
Office of Administrative Law Judge
Piatt Place, Suite 220
301 Fifth Avenue
Pittsburgh, PA 15222
Via Hand Delivery

Dated this 1st day of June, 2018



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