

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

 @pa_oa

 /pennoca

FAX (717) 783-7152
consumer@paoca.org

May 24, 2021

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Petition of Duquesne Light Company to
Adjust DSIC Rate
Docket No. P-2021-3025892

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Answer to the Petition of Duquesne Light Company in the above-referenced proceeding. The OCA has attached the verification of Erin L. Gannon, Senior Assistant Consumer Advocate, pursuant to the requirements of 52 Pa. Code § 1.36.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Erin L. Gannon

Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487
E-Mail: EGannon@paoca.org

Enclosures

cc: Office of Administrative Law Judge (**email only**)
Bureau of Technical Utility Services (**email only**)
Office of Special Assistants (**email only**: ra-OSA@pa.gov)
Certificate of Service

*309502

CERTIFICATE OF SERVICE

Re: Petition of Duquesne Light Company to : Docket No. P-2021-3025892
Adjust DSIC Rate :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Answer to the Petition of Duquesne Light Company, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 24th day of May 2021.

SERVICE BY E-MAIL ONLY

Richard A. Kanaskie, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120
rkanaskie@pa.gov

Steven C. Gray, Esquire
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923
sgray@pa.gov

Tishekia E. Williams, Esquire
Emily M. Farah, Esquire
Duquesne Light Company
411 Seventh Avenue, MD 15-7
Pittsburgh, PA 15219
twilliams@duqlight.com
efarah@duqlight.com

/s/ Erin L. Gannon
Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487
E-Mail: EGannon@paoca.org

Counsel for:
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152
Dated: May 24, 2021
*309503

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company : Docket No. P-2021-3025892
to Adjust DSIC rate :

ANSWER OF THE OFFICE OF CONSUMER ADVOCATE
TO THE PETITION OF DUQUESNE LIGHT COMPANY

Pursuant to Section 5.61 of the Pennsylvania Code, 52 Pa. Code § 5.61, the Office of Consumer Advocate (OCA) provides the following Answer to the Petition of Duquesne Light Company in the above-captioned proceeding.

I. Duquesne Should Not Be Permitted to Increase its DSIC Cap.

On May 14, 2021, Duquesne Light Company (Duquesne or the Company) filed the above-captioned Petition. Through its Petition, Duquesne seeks approval from the Pennsylvania Public Utility Commission (Commission) to adjust the Distribution System Improvement Charge (DSIC) rate effective July 1, 2021 to recover a \$2 million undercollection resulting from a billing error. Petition at 4. Duquesne asked for a shortened 10-day response period. Also, in a footnote, Duquesne asked the Commission to treat its Petition as a petition for waiver of the 5% DSIC cap, if the adjustment would make the July 1 DSIC rate exceed 5%. Petition at 4, note 5. The OCA opposes such waiver, for the reasons discussed herein.

Governor Corbett signed Act 11 of 2012 into law on February 14, 2012. Act 11, *inter alia*, amended Chapter 13 of Title 66 of the Public Utility Code to grant the Commission authority to allow utilities to implement a DSIC, which would “provide for the timely recovery of the reasonable and prudent costs incurred to repair, improve or replace eligible property in

order to ensure and maintain adequate, efficient, safe, reliable and reasonable service.” 66 Pa. C.S. § 1353(a). Act 11 also included certain consumer protections, including a requirement that the DSIC may not exceed 5% of amounts billed to customers. 66 Pa. C.S. § 1358(a)(1). Section 1358 allows the Commission to grant a waiver of the 5% limit “in order to ensure and maintain adequate, efficient, safe, reliable and reasonable service.” Id.

Duquesne’s DSIC was approved by Commission Order entered on September 15, 2016 in Docket No. P-2016-2540046 and includes a 5% cap on billed distribution revenues. DSIC Order at 33-34. By asking the Commission treat its Petition as a petition for a waiver of that cap, Duquesne suggests that it meets the statutory standard for waiver contained in Section 1358(a)(1) of the Public Utility Code. 66 Pa. C.S. § 1358(a)(1).

The OCA submits that a waiver of the 5% cap is inappropriate and should not be approved in this case. The 5% cap was included in Act 11 in order to provide a very important protection to consumers. Although the Commission has statutory authority to waive the 5% cap, a waiver is only to be granted “to ensure and maintain adequate, efficient, safe, reliable and reasonable service.” 66 Pa. C.S. § 1358(a)(1). The OCA submits that Duquesne has not demonstrated in its Petition that a waiver is necessary for purposes of Section 1358(a)(1).

First, Duquesne has a pending base rate case at Docket No. R-2021-3024750 that it filed on April 16, 2021. The future test year for the rate filing is January 1, 2021 through December 31, 2021, according to materials filed in support of its filing.¹ The investment that Duquesne was approved to recover in its DSIC rate effective January 1, 2021 was placed into service in the period September through November 2020,² which is during the historic test year and, therefore,

¹ Pa. P.U.C. v. Duquesne Light Co., Docket No. R-2021-3024750, Duquesne Exh. 3.

² Petition, Exh. A, Sch. 2, line 1, col. N; see also 66 Pa. C.S. § 1358(a)(2) (“After calculation of the initial charge under paragraph (1), the distribution system improvement charge must be updated on a quarterly basis to reflect

can be recovered in the utility's new base rates effective January 2022. Thus, without a waiver, Duquesne can begin recovering the costs of its investment through base rates in six months.

Second, with regard to the incremental return and depreciation at issue, there are alternatives to increasing the DSIC rate above 5%. The Company could wait to account for the underbilling until the annual reconciliation.³ Petition at 2, ¶7; 66 Pa. C.S. § 1358(e)(2). Or, rather than recovering the entire amount in one quarter, Duquesne could spread the recovery over a longer period so that the quarterly DSIC rate remains below 5%. Duquesne makes no claim or showing that it is not able to continue replacing its infrastructure at an accelerated pace and provide adequate service if it does not recover the \$2 million in the next quarter. If the cap can be routinely waived any time a utility makes a billing error, then the important protection provided by the General Assembly through the DSIC cap would be meaningless.

Finally, the OCA notes that the Commission has not approved any requests by an electric utility for waiver of the DSIC cap. Moreover, in the two cases where the Commission has granted a DSIC cap waiver to an investor-owned utility under Section 1358(a)(1), it has made the waiver temporary.⁴ Duquesne has made no evidentiary showing that it warrants an increase to

eligible property placed in service during the three-month period ending one month prior to the effective date of each distribution system improvement charge update.” 66 Pa. C.S. § 1357(a)(2).

³ “The revenue received under the distribution system improvement charge for the reconciliation period shall be compared to the utility's eligible costs for that period. The difference between revenue and costs shall be recouped or refunded, as appropriate, in accordance with section 1307(e), over a one-year period or quarterly period commencing April 1 of each year.” 66 Pa. C.S. § 1358(e)(2).

⁴ The Commission stated:

However, we emphasize that the increase of UGI-CPG's DSIC rate to 7.5% is not a permanent rate change. Determining the appropriate DSIC rate, and, in particular, whether the waiver permitting 7.5% recovery will continue, should be an issue when UGI-CPG files a new LTIP at the end of 2018. Accordingly, we shall approve a waiver of the 7.5% DSIC rate until UGI-CPG's next LTIP filing, absent a statutory reason to reduce or suspend the DSIC.

Petition of UGI Central Penn Gas, Inc. for a Waiver of the DSIC Cap, Docket No. P-2016-2537609, Order at 65-66 (May 10, 2017); Petition of UGI Penn Natural Gas, Inc. for a Waiver of the DSIC Cap, Docket No. P-2016-2537594, Order at 60-61 (May 10, 2017).

the DSIC cap on a permanent basis. Thus, while the OCA opposes any waiver, if one is granted, the OCA submits that it must be limited and temporary.

For the above reasons and those set forth below, the OCA submits that Duquesne's Petition for waiver of the DSIC cap should be denied.

II. There Are Alternatives to Adjusting the July 1, 2021 DSIC Rate.

The OCA does not oppose Duquesne's Petition to adjust the July 1 DSIC rate, if the adjusted rate is capped at 5%. As discussed above, Duquesne has not shown that waiver of the cap is necessary.

Further, there are alternatives to making any adjustment to the July 1 DSIC rate that were not raised in the Petition. For example, as identified above, the Company could wait to account for the underbilling until the annual reconciliation or spread the recovery over multiple quarters. Duquesne could also choose to forego recovery of the \$2 million underbilling, recognizing that it has a pending request to recover an additional \$85.8 million per year from customers.⁵

III. Specific Responses to Numbered Paragraphs

1-13. Admitted.

14-20. Neither admitted nor denied. The OCA is without knowledge and information that would allow it to either admit or deny the statements in these paragraphs.

21. This paragraph contains a request for relief to which no response is required.

22. The paragraph in the body of the Petition contains a request for relief to which no response is required. Footnote 5 is denied with respect to the suggestion that Duquesne has met the statutory standard for waiver of the DSIC cap. As discussed above, Duquesne has made no

⁵ Pa. P.U.C. v. Duquesne Light Co., Docket No. R-2021-3024750, Order suspending Supp. No. 25 to Tariff Electric - Pa. P.U.C. No. 25 (May 20, 2021).

showing that increasing the DSIC rate above 5% is necessary “to ensure and maintain adequate, efficient, safe, reliable and reasonable service” for purposes of Section 1358(a)(1). If the Commission does not deny the Petition for waiver of the DSIC cap outright, the Company should be required to prove through sworn testimony at hearings that waiver is needed to ensure and maintain adequate, efficient, safe, reliable and reasonable service.

23-34. Neither admitted nor denied. The OCA is without knowledge and information that would allow it to either admit or deny the statements in these paragraphs.

III. Conclusion

WHEREFORE, for all of the foregoing reasons, no waiver of the 5% DSIC cap should be granted. The OCA does not oppose Duquesne’s request to adjust the July 1 DSIC rate, if the adjusted rate is capped at 5%.

Respectfully Submitted,



Erin L. Gannon
Senior Assistant Consumer Advocate
PA Attorney I.D. # 83487

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048

DATED: May 24, 2021

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company : Docket No. P-2021-3025892
to Adjust DSIC rate :

VERIFICATION

I, Erin L. Gannon, hereby state that the facts set forth in the Answer of the Office of Consumer Advocate are true and correct (or are true and correct to the best of my knowledge, information, and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904 (relating to unsworn falsification to authorities).

May 24, 2021

Date

Signed:  _____

Erin L. Gannon

Senior Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923