**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2021-3024750

Office of Consumer Advocate : C-2021-3025538

Office of Small Business Advocate : C-2021-3025462

Nationwide Energy Partners : C-2021-3026057

Sean Ferris : C-2021-3026365

Jan Vroman : C-2021-3026521

Diane Buzzard : C-2021-3027067

:

v. :

:

Duquesne Light Company :

**BRIEFING ORDER**

On April 16, 2021, Duquesne Light Company (Duquesne) filed Supplement No. 25 – PA P.U.C. No. 25 to become effective June 15, 2021 seeking an increase in total annual operating revenues for electric service by approximately $115 million, which includes rolling the Distribution System Improvement Charge (DSIC) Rider charges into base rates. If the Company’s entire request is approved, the proposed metered usage rates would increase from $100.12 to $107.85 per month, or by 7.72% for a residential customer using 600 kWh per month.

On April 23, 2021, the Office of Small Business Advocate (OSBA) filed a formal complaint and public statement against the tariff filing, docket number C-2021-3025462, averring, among other things, that upon review of the materials filed by Duquesne, those materials may be insufficient to justify the rate increase requested. On April 23, 2021, the Commission’s Bureau of Investigation and Enforcement (I&E) intervened into this case. On April 27, 2021, the Office of Consumer Advocate (OCA) filed a formal complaint and public statement against the tariff filing, docket number C-2021-3025538, averring, among other things, that a preliminary examination of Duquesne’s rate increase request indicates that the present rates, rules and regulations are not just and reasonable or otherwise proper under the Public Utility Code and applicable ratemaking principles. Petitions to intervene were filed by the Pennsylvania Weatherization Providers Task Force, Inc. (PWPTF), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), the Natural Resources Defense Council (NRDC), United States Steel Corporation (U.S. Steel), Peoples Natural Gas Company LLC (Peoples), ChargePoint, Inc. (ChargePoint), and the International Brotherhood of Electrical Workers, AFL-CIO, Local Union 29 (IBEW Local 29).

On May 20, 2021, the Commission suspended the filing by operation of law until January 15, 2022 pursuant to Section 1308(d) of the Public Utility Code, unless permitted by the Commission to become effective at an earlier date. The Commission added that investigation and analysis of the proposed tariff filing and the supporting data indicate that the proposed changes in rates, rules and regulations may be unlawful, unjust, unreasonable and contrary to the public interest. The Commission determined that consideration should be given to the reasonableness of Duquesne’s existing rates, rules and regulations. The Commission assigned the case to the Office of Administrative Law Judge for the prompt scheduling of hearings as may be necessary culminating in the issuance of a recommended decision.

On May 25, 2021, Nationwide Energy Partners, LLC (Nationwide) filed a formal complaint against the tariff filing, docket number C-2021-3026057, averring, among other things, that based on the terms and interpretation of its tariff provisions relating to master metering for commercial buildings, specifically Tariff Rule 18 and Rule 41, Duquesne is depriving certain of its commercial customers of the opportunity to reduce their rates for service and, therefore, Duquesne’s current and proposed rates may be contrary to law

On May 27, 2021, a prehearing conference was convened amongst the parties wherein various procedural matters were addressed. A scheduling order was issued on May 28, 2021, which, among other things, consolidated the OCA and the OSBA complaints with the Commission’s investigation at docket number R-2021-3024750, granted the petitions to intervene of CAUSE-PA, U.S. Steel, PWPTF, and NRDC, and provided Duquesne until June 4, 2021, to file any answer or response to the complaint filed by Nationwide and the petition to intervene filed by Peoples.

On June 2, 2021, ChargePoint filed a petition to intervene. Parties were provided until June 4, 2021, to file any answer or response to ChargePoint’s petition to intervene.

On June 2, 2021, and in response to a request from the presiding officers, Nationwide filed a motion to consolidate its formal complaint with Duquesne’s general rate case, arguing that such consolidation is consistent with the Commission’s regulations and precedent and will promote judicial economy and administrative efficiency because there are common questions of law and fact.

On June 4, 2021, Duquesne filed an answer to Nationwide’s complaint. In its answer, Duquesne admitted in part and denied in part the various averments made by Nationwide in its complaint. Duquesne denied Nationwide’s characterization of the company’s current and proposed master metering tariff rules, namely Rule 18 and Rule 41, and attached copies of those tariffs to its answer.

Also on June 4, 2021, Duquesne filed a preliminary objection in response to Nationwide’s complaint. In its preliminary objection, which was accompanied by a notice to plead, Duquesne argued that Nationwide’s complaint should be dismissed in its entirety because Nationwide does not have a direct, immediate or substantial interest in the proceeding and therefore lacks standing to bring its complaint.

On June 4, 2021, Duquesne filed an answer to Peoples’ petition to intervene, stating it did not object to Peoples’ intervention in this base rate proceeding. No answers or responses were filed to ChargePoint’s petition to intervene.

On June 9, 2021, Nationwide filed an answer to Duquesne’s preliminary objection. In its answer, Nationwide argued that, by attempting to obtain dismissal of Nationwide’s complaint in this proceeding, Duquesne is repeating the legal error it committed in its prior base rate increase case when it attempted to exclude the participation of Peoples. Nationwide also responded to Duquesne’s arguments that its interest is not direct, immediate and substantial. Nationwide concluded that Duquesne’s preliminary objection should be denied.

On June 8, 2021, Sean Ferris filed a formal complaint against the rate increase at docket number C-2021-3026365. On June 14, 2021 Jan Vroman filed a formal complaint against the rate increase at docket number C-2021-3026521. Duquesne filed an answer to these complaints on June 18, 2021, and June 21, 2021, respectively. Also on June 14, 2021, IBEW Local 29 filed a petition to intervene. By letter dated June 15, 2021, Duquesne indicated it did not object to IBEW Local 29’s petition to intervene.

On June 21, 2021, an order was issued, denying Duquesne’s preliminary objections, and granting consolidation of Nationwide Energy Partners’ complaint at docket number C-2021-3026057 with Duquesne’s base rate proceeding.

On June 22, 2021, two public input hearings were held to hear from the public regarding this matter. During the first public input hearing, the complaints of Sean Ferris at docket number C-2021-3026365 and Jan Vroman at docket number C-2021-3026521 were consolidated with Duquesne’s base rate proceeding. Additionally, Peoples’, ChargePoint’s, and IBEW Local 29’s petitions to intervene were granted.

On July 1, 2021, Diane Buzzard filed a formal complaint against the rate increase at docket number C-2021-3027067. Duquesne filed an answer to Ms. Buzzard’s complaint on July 16, 2021.

The parties submitted pre-served written testimony and exhibits pursuant to the litigation schedule established in the May 28, 2021, scheduling order.

A hearing was held on August 17, 2021. Anthony Kanagy, Esquire, Emily Farah, Esquire, and Michael Zimmerman, Esquire, appeared on behalf of Duquesne. Christy Appleby, Esquire, appeared on behalf of the OCA. Sharon Webb, Esquire, appeared on behalf of the OSBA. Scott Granger, Esquire, appeared on behalf of I&E. Ria Pereira, Esquire, appeared on behalf of CAUSE-PA. Alan Seltzer, Esquire, and John Povilaitis, Esquire, appeared on behalf of Nationwide. Andrew Karas, Esquire, and Sophia Al Rasheed, Esquire, appeared on behalf of NRDC. Joseph Vullo, Esquire, appeared on behalf of PWPTF. Scott Dunbar, Esquire, appeared on behalf of ChargePoint, Inc. Parties waived cross examination of witnesses, and pre-served testimony and exhibits were admitted into the record via stipulation. Additionally, Diane Buzzard’s complaint was consolidated with Duquesne’s base rate proceeding.

During the hearing, parties indicated all issues were settled, except one regarding master metering. Therefore, at the conclusion of the hearing, a discussion was held regarding the opportunity to submit briefs on the one remaining disputed issue. Pursuant to the May 28, 2021 scheduling order, main briefs will be filed on September 3, 2021 and reply briefs will be filed on September 13, 2021. The purpose of this order is to memorialize the briefing schedule and address additional procedural issues regarding briefs.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the parties shall file and serve **main briefs on or before September 3, 2021 and reply briefs on or before September 13, 2021** in conformance with the Commission’s regulations at 52 Pa.Code §§ 5.501, *et seq*. unless otherwise modified by the Presiding Officers.

2. That the briefs must contain: (a) a concise statement or counter-statement of the case; (b) an argument, with sufficient citations to record evidence, preceded by a summary; (c) a conclusion with requested relief; (d) proposed Findings of Fact, together with page references to statements of testimony, the hearing transcript and exhibits; (e) proposed Conclusions of Law, together with legal citations and (f) proposed Ordering Paragraphs.

3. That the parties shall file the original copies of the main brief and reply brief with the Commission via eservice no later than 4:30 p.m. on the date due.

4. That, due to the Covid-19 pandemic, the parties shall serve one copy of the main brief and reply brief on each other and the Presiding Officers ([jcheskis@pa.gov](mailto:jcheskis@pa.gov) and [jcoogan@pa.gov](mailto:jcoogan@pa.gov)) no later than 4:30 p.m. on the date due via e-mail.

5. That any brief not filed and served on or before the date set forth above will not be accepted except by special permission.

6. That the parties are advised not to include any extra-record evidence in their briefs.

7. That a party shall not introduce evidence or argument in the reply brief that is repetitive, should have been included in the main brief or substantially varies from the party’s case-in-chief.

8. That if a brief contains a citation to an unreported decision which is not available on LEXIS or the Commission’s website, a copy of that unreported decision must be appended to the brief.

9. That all briefs submitted in this proceeding are to be provided to the Presiding Officer in Microsoft Word format.

Dated: August 17, 2021 \_\_\_\_\_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Joel H. Cheskis

Deputy Chief Administrative Law Judge

\_\_\_\_\_\_/s/\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

John M. Coogan

Administrative Law Judge

**R-2021-3024750 - PA PUBLIC UTILITY COMMISSION et al v. DUQUESNE LIGHT COMPANY**

*Updated 08/17/21*

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