

COMMONWEALTH OF PENNSYLVANIA



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April 19, 2024

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission
v.
Duquesne Light Company
Docket No. R-2024-3046523

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

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

Respectfully submitted,

/s/ Christy M. Appleby
Christy M. Appleby
Senior Assistant Consumer Advocate
PA Attorney I.D. # 85824
CAAppleby@paoca.org

Enclosures:

cc: The Honorable Deputy Chief Mark A. Hoyer (email only)
Certificate of Service

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
v. : Docket No. R-2024-3046523
Duquesne Light Company :

I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and served a true copy of the following document, the Office of Consumer Advocate’s Prehearing Memorandum, 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 19th day of April 2024.

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Dated: April 19, 2024

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,	:	
	:	
v.	:	Docket No. R-2024-3046523
	:	
Duquesne Light Company	:	

PREHEARING MEMORANDUM OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. Section 333, and in response to the April 15, 2024, Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On March 20, 2024, Duquesne Light Company (Duquesne or the Company) filed Supplement No. 71 to Tariff Electric – PA. P.U.C. No. 25 (Supplement No. 71) to become effective May 20, 2024. Duquesne’s tariffs propose to increase the total annual operating revenues by approximately \$133 million¹ per year, or 16%, over the amount of annual distribution revenues at present rates for the Fully Projected Future Test Year (FPFTY), ending December 31, 2025. On April 4, 2024, the Public Utility Commission (Commission) suspended the effective date of the proposed tariffs to December 20, 2024.

The Consumer Advocate is empowered to represent the interests of consumers before the Commission, pursuant to Act 161 of the General Assembly, as amended. 71 P.S. §§ 309-1, *et seq.*

¹ The \$133 million amount is different from what was stated in the OCA’s Formal Complaint (\$101 million), but upon further review and investigation of the Company’s filing, the OCA believes that the actual amount of the general rate increase is \$133 million.

The Consumer Advocate filed a Formal Complaint in this matter to ensure that the Commission fully and fairly adjudicates issues pertaining to whether the Company's existing and proposed rates – and all rate policy changes – are just, reasonable, not unduly discriminatory, and otherwise lawful.

Duquesne is engaged in the business of providing electric service to approximately 605,000 customers. The Company provides electric service to customers in the greater Pittsburgh region, specifically in Allegheny and Beaver counties.

On March 22, 2024, the Office of Consumer Advocate (OCA) filed a Formal Complaint and Public Statement. The Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance on March 28, 2024. On April 5, 2024, the Office of Small Business Advocate (OSBA) filed its Formal Complaint and Public Statement. On March 29, 2024, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene.

On April 4, 2024, the Commission issued a Suspension Order, initiating an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase requests, and suspended the effective date of Supplement No. 71, by operation of law. The Commission assigned this proceeding to the Office of Administrative Law and further assigned this proceeding to Administrative Law Judge Mark Hoyer. ALJ Hoyer issued a Prehearing Conference Order on April 15, 2024, directing parties to file and serve a Prehearing Memorandum on Friday, April 19, 2024, and scheduling a telephonic Prehearing Conference for April 22, 2024, at 11 a.m.

The OCA filed a Formal Complaint against the proposed rate increase to protect the interests of Duquesne's customers and seeks to ensure that Duquesne is permitted to implement only those rates that are fully justified and in accordance with sound ratemaking principles. The OCA will strive to prevent Duquesne from collecting all alleged costs that cannot be justified, or

are unreasonable or unduly discriminatory, or otherwise violate the Public Utility Code. The OCA submits that Duquesne's current rates and the rates sought by Duquesne may be unjustifiable and unlawful based upon information filed by Duquesne in support of its claim.

II. ISSUES AND SUB-ISSUES

Based upon a preliminary analysis of Duquesne's base rate filing, the OCA has compiled a list of issues and sub-issues, which it anticipates will be included in its investigation of Duquesne's rate request. It is anticipated that other issues may arise and may be pursued once the answers to all of the OCA's interrogatories have been received and analyzed. The OCA also anticipates that additional discovery and/or informal discovery meetings can be scheduled to narrow the scope of additional information requests. Once the discovery process is complete, the OCA will file direct testimony which will set forth the specific issues it will address in this proceeding. At that time, the OCA will also make and quantify its specific recommendations. The issues and sub-issues set forth, and others that may develop during discovery, will be analyzed and presented, as appropriate, by the OCA with the assistance of its expert witnesses:

A. Rate of Return

1. The OCA will perform a detailed analysis of the 11.5% cost of common equity claimed by Duquesne. Also, the OCA will carefully examine the Company's methodologies and supporting data used to develop its final cost of common equity claim.

2. The OCA will examine whether the capital structure proposed by Duquesne is representative of the period in which rates will be in effect and is otherwise appropriate for ratemaking purposes.

3. The OCA will examine the embedded cost of debt claimed by Duquesne to determine whether it is reasonable and appropriate for ratemaking purposes.

4. The OCA will further examine whether any Company-specific adjustments proposed by Duquesne are justified.

B. Rate Base/Measure of Value

1. The OCA will examine the reasonableness and accuracy of the Company's projections related to the utility plant in service at the time relevant to this proceeding.
2. The OCA will review the Company's claim for plant additions during the FTY and FPFTY.
3. The OCA will investigate whether the Company's adjustment to rate base for depreciation reserve is appropriate.
4. The OCA will examine the Company's projections of non-investor supplied funds, including but not limited to, customer deposits, customer advances for construction, and contributions in aid of construction.
5. The OCA will examine the Company's claim for materials and supplies.
6. The OCA will examine the Company's calculation and amount of cash working capital.
7. The OCA will examine the Company's Accumulated Deferred Income Tax (ADIT) balances and excess ADIT balances.
8. The OCA will examine the reasonableness of the Company's proposed AFUDC for land held for future use.

C. Revenues and Expenses

1. The OCA will examine the Company's claimed revenues and any adjustments to the level of revenues.
2. The OCA will seek to ascertain whether the Company's claimed expenses are supported, reasonable, and appropriate.
3. The OCA will examine whether the projected number of customers in the FTY and FPFTY are reasonable and accurate.
4. The OCA will examine whether the Company's claims of sales and revenues during the FTY and FPFTY are reasonable and accurate.
5. The OCA will examine whether the Company's projections of revenues in the future periods are reasonable and accurate including, but not limited to, its billed days adjustments, metered sales and the impact of conservation measures, and miscellaneous revenue adjustments.

6. The OCA will examine whether the Company's projections of number of employees, overtime, and incentive pay are reasonable and accurate.
7. The OCA will examine the costs associated with the accrual of retirement benefits other than pensions for the Company's employees or contributions to pension funds.
8. The OCA will examine the justness and reasonableness of the Company's employee healthcare expense.
9. The OCA will examine the appropriateness of the Company's pro forma claim for rate case expense.
10. The OCA will examine the Company's request for depreciation expenses to determine whether they are just and reasonable.
11. The OCA will examine the justness and reasonableness of the Company's claim for insurance costs.
12. The OCA will examine the justness and reasonableness of the Company's proposed expense amortizations.
13. The OCA will examine the justness and reasonableness of the Company's claims for other operations and maintenance expenses.
14. The OCA will examine the justness and reasonableness of the Company's claimed rate case normalization period.
15. The OCA will examine the justness and reasonableness of the Company's claimed uncollectible expenses.
16. The OCA will examine the Company's claimed revenues and any adjustments to the level of revenues.
17. The OCA will examine the reasonableness of the Company's claimed expenses for its electrification programs.
18. The OCA will review the reasonableness of Duquesne's proposed increased vegetation management expenses.
19. The OCA will examine the reasonableness of the expenses associated with the Company's proposed workforce development program.
20. The OCA will also review the reasonableness of the Company's proposal to create a regulatory asset for the Eligible Customer List (ECL).

21. The OCA will examine the reasonableness of the Company's proposal to defer costs related to the Company's efforts to obtain federal grant funding and maintain a regulatory asset for which recovery is requested with a 3-year amortization.

D. Taxes

1. The OCA will examine issues related to the calculation of taxes including, but not limited to, calculation of federal and state income taxes and the amount of taxes included as expenses for ratemaking purposes and will examine whether the Company is in compliance with Act 40 of 2016 (Act 40).

2. The OCA will examine the reasonableness of the Company's proposal regarding the tax repairs deductions, and its claims for income taxes, property taxes, and general assessments.

3. The OCA will examine the effect of the Tax Cuts and Jobs Act on the Company's tax expense and its ADIT accounts and the amount, if any, that needs to be returned to ratepayers as a result.

4. The OCA will examine the Company's level of PURTA and property tax expense.

E. Rate Structure/Cost of Service/Rate Design/Tariffs

1. The OCA will examine the reasonableness of the Company's proposed distribution or allocation of the revenue increase among customer classes to determine whether the proposal meets all legal requirements and sound ratemaking principles.

2. The OCA will examine the Company's cost of service study, including the methodology used and the reasonableness of the allocations.

3. The OCA will review the Company's proposed increase to its residential customer charge.

4. The OCA will examine the Company's proposal to combine the RS heating classes and to use a demand charge for the residential heating customers.

5. The OCA will examine the reasonableness of the Company's proposed tariff changes.

6. The OCA will examine the proposed rate design of the distribution Time-of-Use proposals.

7. The OCA will examine all other cost allocation and rate design proposals, including the proposed Community Development Rider.

F. Depreciation

1. The OCA will examine Duquesne's depreciation study, including the proposed service lives, net salvage rates, and depreciation rate calculations to determine if they are reasonable.

2. The OCA will analyze the depreciation rates based upon the actuarial analysis to determine if any modifications are necessary.

G. Low-Income Programs

1. The OCA will analyze current and proposed Company operations, practices, procedures, and outreach related to serving low-income customers.

2. The OCA will assess the impact of the Company's proposed rate increase on universal service, including the overall Customer Assistance Program (CAP) cost as affected by the Company's rate design.

3. The OCA will examine how the Company's proposed rate increase, rate structure, and proposed alternative ratemaking and new surcharges will affect low-income and/or low-usage customers.

4. The OCA will review the Company's current bill discount programs, arrearage management programs, or lack thereof, and any proposed changes to the program.

5. The OCA will review the Company's affordability analysis.

H. Quality of Service

1. The OCA will review the Company's quality of service to ensure that it is providing safe, adequate, and reliable service that is consistent with the requirements of Section 1501 of the Public Utility Code.

2. The OCA will investigate any quality of service complaints by Company customers.

I. Customer Service

1. The OCA will review the Company's consumer protection policies and programs in order to ensure compliance with Chapter 14 of the Public Utility Code and Chapter 56 of the Commission's regulations.

2. The OCA will examine the Company's customer service, including performance trends, internal training, management oversight, policies, and programs.

3. The OCA will examine the Company's consumer education programs, particularly with regard to changes in billing and collection rights and remedies, and complaint process.

4. The OCA will examine the Company's compliance and reporting as required in the last rate case concerning service and service quality.

5. The OCA will examine the Company's request for management performance and rate of return in light of the Company's customer service performance.

6. The OCA will examine the Company's response to the most recent Commission Management Audit.

J. Electrification Proposals

1. The OCA will examine the reasonableness and appropriateness of the Company's proposed Building Electrification programs, including the proposed rebates for Heat Pump Hot Water (HPHW) heaters, induction stoves and electric lawn equipment for residential customers.

2. The OCA will review the reasonableness and appropriateness of the design of the Company's proposed transportation electrification programs including the educational materials, costs of the programs, and allocation of the costs of the program.

3. The OCA will review the proposed education, design, and metrics to evaluate the success of each of the proposed electrification programs.

K. Electric Vehicle Proposals

1. The OCA will review the reasonableness and appropriateness of the design of the Company's proposed Electric Vehicle programs, including its Time-of-Use programs, Make Ready programs, and proposed rebates for residential Level 2 charging systems.

L. Other Programs

1. The OCA will review the reasonableness and appropriateness of the Company's additional proposed pilot programs including the Behavioral Load Management program.

2. The OCA will also examine the reasonableness of the proposed pilot programs for TripSavers and implementation of fiberglass arms.

M. Other Issues

1. The OCA will examine any relevant issues that arise as a result of the Company's operations.
2. The OCA will investigate to ensure that the Company is complying with all prior orders.
3. The OCA reserves the right to examine other issues affecting the Company's revenue requirements, rates, charges, and other tariff provisions as they are identified through discovery.

III. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following expert witnesses in this proceeding. Each witness will present testimony in written form and will also attach various exhibits, documents, and explanatory information which will assist in the presentation of the OCA's case. In order to expedite the resolution of this proceeding, the OCA requests that, in addition to e-mailing copies to OCA counsel, parties send copies of all interrogatory answers and testimony to the expert witness(es) responsible for the appropriate area of the case. The OCA also requests that CDs/thumb drives containing any interrogatory responses be mailed directly to the applicable witness.

Regulatory Policy Issues:

The OCA is investigating whether an expert witness in the area of regulatory policy is needed in this case and will notify the parties immediately upon obtaining such a witness.

Accounting/Revenue Requirement:

Dante Mugrace
PCMG and Associates
90 Moonlight Court
Toms River, NJ 08753
OCADUQUESNE2024@paoca.org

Rate of Return/Capital Structure/Depreciation:

David Garrett
Resolve Utility Consulting LLC
101 Park Avenue
Suite 1125
Oklahoma City, OK 73102

OCADUQUESNE2024@paoca.org

Rate Design/Revenue Allocation:

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6377 Mattawan Trail
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Affordability of Service/Low-Income:
Customer Assistance Programs

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Fisher, Sheehan, & Colton
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OCADUQUESNE2024@paoca.org

Customer Service/Quality of Service

Nicholas A. DeMarco
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Office of Consumer Advocate
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The OCA specifically reserves the right to call additional witnesses, as necessary. All parties of record will be notified as soon as the OCA has determined whether an additional witness or witnesses will be necessary for any portion of its case.

IV. EVIDENCE

The OCA will rely on the direct, rebuttal, and surrebuttal testimony of its expert witnesses as well as the testimony of other parties to the proceeding. The OCA will also present relevant exhibits to support its own testimony, including but not limited to, materials obtained from the Company through discovery and cross-examination.

V. PUBLIC INPUT HEARINGS

Given the magnitude of the requested rate increase, the OCA respectfully requests that both in-person and telephonic public input hearings be held for Duquesne's consumers in this matter. The OCA further requests that telephonic public input hearings be conducted with four public input

hearings being held over two days, one during the morning/afternoon and one in the evening on each day.² The OCA will be prepared to discuss public input hearings at the prehearing conference.

To improve consumer accessibility to the public input hearings, the OCA requests that the Commission not require pre-registration at public input hearings, including any telephonic hearings. Instead, the OCA encourages the Commission to publish the call-in number for any telephonic hearing on the hearing notice itself rather than require preregistration.

Nevertheless, if the Commission requires pre-registration, the OCA requests that pre-registration be limited to telephonic public input hearings only, and not in-person public input hearings in order to facilitate accessibility for Duquesne's customers. Additionally, the OCA recommends the following:

- A. Interested witnesses are encouraged to submit any hearing exhibits and pre-register by noon on the day before the telephonic Public Input Hearings.
- B. The Commission's notice of the Public Input Hearings will include the phone numbers and access codes necessary for participants to use to fully access all telephonic Public Input Hearings.
- C. The Company will be required to, at a minimum, generate a notice to the public within the service territory, on its website, and in social media posts which the Company for all of the Public Input Hearings, including the date, time, location, phone number and access codes for telephonic Public Input Hearings, and registration information published in the Commission's Public Input Hearing Notice.

Finally, to ensure that consumers are adequately informed of the public input opportunities, newspaper notices must be advertised in the general readership sections of local newspapers, not in the legal section. Additionally, notices in social media must be advertised in the social media sites that the Company utilizes to advertise generally, and the posts must include all relevant information as to date, time, location, and phone numbers and access codes to be able to full access

² The OCA requests that the Commission handle registration for the public input hearings. Due to the volume of on-going and anticipated rate proceedings and OCA staffing limitations, the OCA is not able to handle the registrations for the public input hearings.

the hearings. In addition, the OCA requests the other parties involved in the proceeding be permitted to review these public input announcements prior to their publication and distribution and have input into which publications the ads are placed.

Finally, the OCA is open to working with the Company, the Commission, and other parties on determining a location for the Public Input Hearings that will improve accessibility for consumers.

VI. SERVICE ON THE OCA

The OCA will be represented in this case by Senior Assistant Consumer Advocates Darryl A. Lawrence and Christy M. Appleby, and Assistant Consumer Advocate David Evrard. The OCA has created a group e-mail address provided below. This is the only e-mail address that is required for service on the OCA; it will provide the emailed materials to all members of the OCA team including the consultants listed above. The OCA will not be providing service via mail and does not expect other parties to serve the OCA by mail. All documents should be served on the OCA by email as follows:

Darryl A. Lawrence, Senior Assistant Consumer Advocate
Christy M. Appleby, Senior Assistant Consumer Advocate
David Evrard, Assistant Consumer Advocate
OCADUQUESNE2024@paoca.org

The OCA requests that service by e-mail by 4:30 p.m. on the due date will satisfy the in-hand service requirement, without the need for follow-up hard copies.

During the prehearing conference, Christy Appleby will speak as lead attorney for the OCA.

VII. PROPOSED SCHEDULE

The OCA proposes that at least two days of evidentiary hearings should be scheduled. As discussed in the prior Section, the OCA requests that email distribution will satisfy all in-hand

service dates contained in the schedule. The OCA agrees with the procedural schedule proposed by the Company for the following dates:

Public Input Hearings	Dates to be determined.
Direct Testimony	June 11, 2024
Supplemental Direct Testimony	OCA reserves the need for supplemental direct depending on when the Public Input Hearings are scheduled.
Rebuttal Testimony	July 10, 2024
Surrebuttal Testimony	July 23, 2024
Oral Rejoinder Outline	July 26, 2024
Hearing Dates	July 29-30, 2024*
Main Brief	August 16, 2024
Reply Brief	August 26, 2024

*The OCA requests that due to witness constraints, the evidentiary hearings be telephonic.

The OCA notes that the proposed schedule is based upon the use of the December 5, 2024, public meeting date.

VIII. DISCOVERY

The OCA's proposed modifications to the Commission's discovery regulations are attached as Appendix A. The OCA believes that these modifications will assist the parties in clarifying and narrowing issues and developing a complete record for the Commission. Additionally, the OCA respectfully requests that, if adopted, the proposed modifications take effect on the date of the Prehearing Conference.

IX. SETTLEMENT

The OCA is willing to participate in settlement discussions.

Respectfully Submitted,

/s/ Christy M. Appleby

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DATE: April 19, 2024

- E. Requests for admissions will be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) calendar days of service.
- F. Answers to on-the-record data requests shall be served in-hand within five (5) calendar days of the requests.
- G. Any discovery or discovery-related pleadings (such as objections, motions, and answers to same) served after served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day before a holiday will be deemed to have been served on the next business day for purposes of calculating the due date for any responsive filing.

After rebuttal is served, the OCA proposes that the deadlines should be reduced as follows:

- A. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes shall be served within five (5) calendar days of service of the interrogatories or requests for production.
- B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within two (2) calendar days of service; unresolved objections shall be served on the propounding party in writing within three (3) calendar days of service of the interrogatories and/or requests for production.
- C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within two (2) calendar days of service of written objections.
- D. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production shall be filed within two (2) calendar days of service of such motions.
- E. Requests for admission shall be deemed admitted unless answered or objected to within three (3) calendar days of service.
- F. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 1:30 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.