

COMMONWEALTH OF PENNSYLVANIA



PATRICK M. CICERO
Consumer Advocate

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

 @pa_oca
 /pennoca
FAX (717) 783-7152
consumer@paoca.org
www.oca.pa.gov

June 5, 2024

Via Electronic Mail Only

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

Re: Petition of Duquesne Light Company For
Approval of Default Service Plan For The
Period June 1, 2025 Through May 31, 2029

Docket No. P-2024-3048592

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 Appleby
Christy Appleby
Senior Assistant Consumer Advocate
PA Attorney I.D. # 85824
cappleby@paoca.org

Enclosures:

cc: The Honorable Mary D Long (email only)
The Honorable John Coogan (email only)
Certificate of Service

CERTIFICATE OF SERVICE

Petition of Duquesne Light Company For :
Approval of Default Service Plan For The : Docket No. P-2024-3048592
Period June 1, 2025 Through May 31, :
2029 :

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 5th day of June 2024.

SERVICE BY E-MAIL ONLY

Allison Kaster, Director
Bureau of Investigation & Enforcement
400 North Street, 2nd Floor West
Harrisburg, PA 17105-3265
akaster@pa.gov
Counsel for I&E

Sharon E. Webb, Esquire
Office of Small Business Advocate
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
swebb@pa.gov
Counsel for OSBA

Elizabeth J. Sher, Esquire
Constellation NewEnergy, Inc.
Constellation Energy Generation, LLC
One Jefferson Road
Parsippany, NJ 07054-2891
esher@daypitney.com
*Counsel for Constellation NewEnergy, Inc.
and Constellation Energy Generation, LLC*

John F. Lushis, Jr.
NORRIS McLAUGHLIN, P.A.
515 W. Hamilton Street, Suite 502
Allentown, PA 1810
jlushis@norris-law.com
Counsel to Calpine Retail Holdings, LLC

Anthony D. Kanagy, Esq.
Nicholas Stobbe, Esq.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
akanagy@postschell.com
nstobbe@postschell.com
Counsel for DLC

Lisa L. Grimenstein, Esq.
Duquesne Light Company
411 Seventh Avenue
Pittsburgh, PA 15219
lgrimestein@duqlight.com

Karen O. Moury, Esquire
Deanne M. O'Dell, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market St., 8th Floor
Harrisburg, PA 17101
kmoury@eckertseamans.com
dodell@eckertseamans.com
Counsel for NRG and RESA

Lauren M. Burge, Esquire
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA
lburge@eckertseamans.com
Counsel for NRG and RESA

SERVICE BY E-MAIL ONLY(Continued)

Elizabeth Marx, Esquire
John Sweet, Esquire
Ria Pereira, Esquire
Laura N. Berman, Esquire
118 Locust Street
Harrisburg, PA 17101
emarx@pautilitylawproject.org
pulp@pautilitylawproject.org
Counsel for CAUSE-PA

/s/ Christy M. Appleby

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

Emily A. Farren
Assistant Consumer Advocate
efarren@paoca.org

Counsel for:
Patrick M. Cicero
Consumer Advocate

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

Dated: June 5, 2024

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company	:	
For Approval of a Default Service Plan	:	Docket No. P-2024-3048592
For the Period June 1, 2025	:	
Through May 31, 2029	:	

PREHEARING MEMORANDUM
OF THE OFFICE OF CONSUMER ADVOCATE

Before the Pennsylvania Public Utility Commission (Commission), pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and in response to the May 7, 2024 Prehearing Conference Order issued by the Honorable Administrative Law Judges (ALJs) Mary D. Long and John M. Coogan in the above-captioned matter, the Office of Consumer Advocate (OCA) hereby submits this Prehearing Conference Memorandum.

I. PROCEDURAL HISTORY

On April 19, 2024, Duquesne Light Company (Duquesne or Company) filed a Petition for Approval of its Default Service Program (DSP) for the Period from June 1, 2025 through May 31, 2029. The Commission assigned the Company’s Petition to the Office of Administrative Law Judge (OALJ) and thereafter to ALJs Long and Coogan. On April 29, 2024, the OCA filed its Answer to the Petition. On May 7, 2024, the OALJ issued a Notice scheduling a Call-In Telephonic Prehearing Conference for June 7, 2024. Additionally, on May 7, 2024, ALJs Long and Coogan issued a Prehearing Conference Order setting forth the parties’ obligations with respect to the Prehearing Conference and directing the parties to prepare and distribute prehearing memoranda by June 5, 2024.

II. ISSUES

The OCA seeks to ensure that the DSP and any rates approved as a result of this proceeding are just and reasonable and otherwise consistent with Pennsylvania statutes and case law, the Commission's regulations, and Commission orders. Upon a preliminary analysis of the Company's Petition, the OCA identified several significant issues that require further review. These issues include the following:

A. Default Service Products and Procurement Methodology: The OCA will examine the type and variety of products that the Company proposes to solicit to determine whether the proposal will provide the least cost over time for residential default service customers in accordance with the Commission's regulations and Act 129 of 2008 (Act 129). The OCA will also examine the Company's procurement plan to determine whether the proposal is designed to provide the least cost reliable supply, taking into account price stability for customers over time.

B. Alternative Energy Portfolio Standards (AEPS) Act Procurement: The OCA will review the Company's procurement methodology proposal to ensure that ratepayers receive these services at the least cost over time.

C. Contingency Plans: The OCA will review the contingency plans to ensure that the risks to winning full requirements bidders are not overly burdensome and meets the requirements of Act 129.

D. Rate Design and Cost Recovery: The OCA will review the Company's proposed residential rate design practices for compliance with the Commission's regulations.

E. Supplier Master Agreement: The OCA will analyze the proposed SMA to ensure its compliance with the Public Utility Code, and to ensure that such a plan does no harm to default service, consumers, or the retail competitive market.

F. Time-of-Use Rates and EV Time-of-Use Pilot: The OCA will review the proposed TOU rates to ensure that the needs of ratepayers are met and the Company complies with the existing law and the Commission's regulations. The OCA will also examine the Electric Vehicle Time of Use Option (EV TOU) rate option to ensure that the program meets the needs of ratepayers while maintaining compliance with existing law and the Commission's regulations. The OCA also will review the Company's proposed communication, education, and outreach of the TOU and EV TOU rates.

G. Green Tariff Rate Pilot: The OCA will analyze the proposed Green Tariff Rate Pilot to ensure the proposal meets the requirements for least cost over time procurement under

Act 129 and is otherwise consistent with the Commission's Orders, regulations, applicable law, and whether sufficient consumer protections are in place.

H. Standard Offer Program: The OCA will examine the SOP and any costs likely to arise as a result to determine the program remains reasonable and cost-justified, whether it should continue or be modified, and whether costs are allocated appropriately among stakeholders.

I. Purchase of Receivables: The OCA will examine the continuation of the Purchase of Receivables program to determine whether continuation of the program is in the public interest and the proposal is consistent with the Commission's rules, regulations, and applicable law.

J. CAP and Default Service: The OCA will examine the Company's current CAP program and relationship with the other default service provisions in order to ensure that it continues to meet the needs of CAP customers while maintaining compliance with existing law and the Commission's regulations.

K. Requests for Waivers: The OCA will review the impacts of the Company's proposals and whether the proposals are consistent with Commission Orders, the Commission's regulations, and applicable law.

The OCA anticipates that other issues may arise as its investigation into this matter continues. Therefore, the OCA specifically reserves the right to raise additional issues as this matter proceeds.

III. SERVICE ON THE OCA

The OCA will be represented in this matter by Senior Assistant Consumer Advocate Christy M. Appleby and Assistant Consumer Advocate Emily A. Farren. For the purposes of the Prehearing Conference, the OCA will be represented by Emily A. Farren, Esq. Copies of all documents should be served on the OCA as follows:

Christy M. Appleby
Senior Assistant Consumer Advocate
E-Mail: CAppleby@paoca.org

Emily A. Farren
Assistant Consumer Advocate
E-Mail: EFarren@paoca.org

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

IV. WITNESSES

The OCA intends to present the direct, rebuttal, and surrebuttal testimony of its witnesses, as may be necessary. The OCA's witnesses will present testimony in written form and will attach various exhibits, documents, and explanatory information to assist in the preparation of the OCA's cases. In order to expedite the resolution of this matter, the OCA requests that copies of all interrogatories, testimony, and answers to interrogatories be emailed directly to the OCA's witnesses at the addresses below as well as counsel for the OCA.

Retail Electric Default Service, Procurement Methods, Portfolio Construction, and Related Issues:

Serhan Ogur
Exeter Associates, Inc.
10480 Patuxent Parkway
Suite 300
Columbia, MD 20144

Retail Market Rate Mechanism, Standard Offer Program, Portfolio Procurement, CAP, Consumer Communications Issues:

Barbara Alexander
Barbara Alexander Consulting, LLC
44 Beech St.
Hallowell, ME 04347

The OCA specifically reserves the right to call additional witnesses, as necessary. At the time at which the OCA determines that additional witnesses are necessary for any portion of its case, the OCA will promptly notify ALJs Long and Coogan and all parties of record.

V. 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.

VI. PUBLIC INPUT HEARINGS

The OCA is not requesting a public input hearing at this time as it has not received any requests for public input hearings as of the time of the filing of this prehearing memorandum. Should such a request be received, the OCA will promptly advise ALJs Long and Coogan and the parties of the same.

VII. LITIGATION SCHEDULE

The CAUSE-PA and OCA recommend the following schedule. It is the OCA’s understanding that the Company and OSBA can also agree with the proposed schedule:

Other Parties’ Direct Testimony	July 12, 2024
Rebuttal Testimony	August 9, 2024
Surrebuttal Testimony	August 22, 2024
Rejoinder or Rejoinder Outlines	August 27, 2024 at noon
Hearings ¹	August 28-29, 2024
Main Briefs	September 19, 2024
Reply Briefs	October 1, 2024
Public Meeting Date	January 9, 2025

¹ The OCA requests that the hearings be held telephonically.

VIII. SETTLEMENT

The OCA will fully participate in settlement discussions with the parties at the appropriate time during this proceeding.

Respectfully Submitted,

/s/ Christy M. Appleby

Christy M. Appleby
Senior Assistant Consumer Advocate
PA Attorney I.D. # 85824
E-Mail: CAppleby@paoca.org

Emily A. Farren
Assistant Consumer Advocate
PA Attorney I.D. # 322910
E-Mail: EFarren@paoca.org

Counsel for:
Patrick M. Cicero
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: (717) 783-5048
Fax: (717) 783-7152

DATE: June 5, 2024

APPENDIX A
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company	:	
For Approval of a Default Service Plan	:	Docket No. P-2024-3048592
For the Period June 1, 2025	:	
Through May 31, 2029	:	

OCA PROPOSED DISCOVERY
RULE MODIFICATIONS

In conjunction with its proposed schedule, the OCA proposes the following modifications to the Commission’s procedural rules regarding discovery. The OCA requests that the Presiding Officer direct that the modifications will take effect when addressed during the on the record prehearing conference and apply to all future discovery requests served as of the day of the prehearing conference.

- A. Answers to written interrogatories and requests for document production, entry for inspection, or other purposes shall be served in-hand within ten (10) calendar days of service.
- B. Objections to interrogatories and/or requests for production shall be communicated orally to the propounding party within three (3) calendar days of service of the interrogatories; unresolved objections shall be served in writing to the propounding party within five (5) 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 three (3) calendar days of service of written objections.
- D. Answers to motions to dismiss objections and/or answering of interrogatories and/or requests for production shall be filed within three (3) calendar days of service of such motions.
- 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.