

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company for : P-2024-3048592
Approval of Its Default Service Plan for the Period :
From June 1, 2025, through May 31, 2029 :

PREHEARING ORDER

On April 19, 2024, Duquesne Light Company (Duquesne Light) filed a Petition for Approval of Default Service Plan (Petition) at Docket No. P-2024-3048592. The Petition was filed pursuant to Section 2807(e) of the Public Utility Code. The Petition was assigned to me and Administrative Law Judge John Coogan. A telephonic prehearing conference was scheduled for June 7, 2024, at 9:00 a.m. Notice of the petitions and the prehearing conference was also published in the Pennsylvania Bulletin on May 11, 2024.¹

The Office of Consumer Advocate (OCA) filed an Answer to the Petition and Office of Small Business Advocate (OSBA) a notice of intervention. Petitions to intervene were also filed by Calpine Energy Solutions, LLC, Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Constellation NewEnergy, Inc., Constellation Energy Generation, LLC (collectively, Constellation), NRG Energy Inc. (NRG) and Retail Energy Supply Association (RESA) and Respond Power LLC.

A prehearing conference was held on Friday, June 7, 2024. Counsel for the Companies, the statutory parties, and the interveners attended the conference. This order memorializes the matters discussed and agreed to by the Parties.

¹ 54 Pa.B. 2611 (May 11, 2024)).

Petitions to Intervene

Petitions to Intervene filed by Calpine Energy Solutions, LLC, Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Constellation NewEnergy, Inc., Constellation Energy Generation, LLC (Collectively Constellation), NRG Energy Inc. (NRG) and Retail Energy Supply Association (RESA), and Respond Power LLC were granted.

Petitions for Admission Pro Hac Vice

The petitions for admission pro hac vice for Alexander Judd and Sophia Browning, representing Constellation were granted. That in accordance with the provisions of Pa. B.A.R. 301(a) and Pa. R.C.P. 1012.1(d)(1), Elizabeth J. Sher, Esquire, shall remain attorney of record for Constellation.

Litigation Schedule

The parties agree upon the following litigation schedule:

<u>Date</u>	<u>Event</u>
June 7, 2024	Prehearing Conference
July 12, 2024	Service of written Direct Testimony of Non-Company Parties
August 9, 2024	Service of written rebuttal testimony
August 22, 2024	Service of written surrebuttal testimony
August 27, 2024	Written rejoinder outline by noon and witness matrix listing the Parties intending to cross-examine each witness and the extent of any cross-examination by 2:00 p.m.
August 28-29	Technical evidentiary hearings by telephone

September 19, 2024	Filing and service of main briefs or submission of non-unanimous joint petition for settlement
October 1, 2024	Filing and service of reply briefs or submission of unanimous joint settlement petition executed by representatives of Parties thereto, together with all Parties' statements in support of joint petition/settlement.

The parties are reminded of the Commission's requirements for the preparation and filing of written testimony. 52 Pa.Code § 5.412. Written testimony must be accompanied by all exhibits to which it relates. Technical terms and concepts are to be clearly defined and explained in the testimonies and briefs. **The parties are to agree on a list of common acronyms and use them consistently in all written testimony and briefs.**

The above-stated dates are in-hand dates for service on the parties and the Presiding Administrative Law Judges (ALJs). All parties have agreed to electronic service. The email addresses of the Presiding ALJs are: malong@pa.gov and jcoogan@pa.gov .

Hearings will begin promptly on each day. The parties must confer before commencement of the hearings to schedule their witnesses so as to avoid "holes" or "dead time" during the hearings. In the event that a partial settlement is achieved the parties should be prepared to proceed on the first scheduled day of hearing to present evidence on the non-resolved issues.

Public Input Hearings

The OCA reported that their office had not been contacted regarding public input hearings. Similarly, the Commission has not received an indication of sufficient public interest in this matter. Therefore, at this time, no public input hearings shall be scheduled.

Issues

In their respective prehearing memoranda, the parties identified various issues they may wish to pursue. The reader is directed to these documents to review a recitation of these issues. Additional issues may arise as the discovery process unfolds.

Discovery

The parties shall engage in informal discovery whenever and wherever possible in an attempt to resolve any discovery disputes amicably. 52 Pa.Code § 5.322. If this process fails, the parties have recourse to the Commission's procedures for formal discovery, as herein modified. 52 Pa.Code §§ 5.321, *et seq.* The parties must not send the Presiding ALJs discovery material or cover letters, unless attached to a motion to compel. **All motions to compel must contain a certification of counsel of the informal discovery undertaken and their efforts to resolve their discovery disputes informally.** If a motion to compel fails to contain such certification, the Presiding ALJs will contact the parties and direct them to pursue informal discovery.

The Parties must endeavor to complete discovery upon the filing of surrebuttal testimony absent extraordinary circumstances. Motions to compel discovery filed after August 22, 2024, may not be ruled upon in advance of the evidentiary hearing.

The parties agreed to the following modifications to the Commission's procedures for formal discovery:

- 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:

- 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.

Pre-Served Testimony and Exhibits

No written testimony will be admitted into evidence unless accompanied by a verification or affidavit of the witness.

Confidential Security Information (CSI) as defined by 35 P.S. § 2141 *et seq.* should not be transmitted by email or other electronic means. The Parties are to avoid introducing CSI into the record and should develop alternative means, such as joint stipulations or redaction when proposing testimony or exhibits. If there is no other alternative to establish a material fact other than by CSI, the Parties are to contact the Administrative Law Judges immediately and in advance of the evidentiary hearing.

Settlement and Stipulations

The Parties are reminded it is the Commission's policy to encourage settlements. 52 Pa. Code § 5.231(a). The Parties are strongly urged to seriously explore this possibility. Submission of a fully executed **unanimous** joint settlement petition, together with all Parties' statements in support of the joint petition/settlement, must be filed with the Secretary for the Commission and received in-hand by the Administrative Law Judges no later than the close of business on **October 1, 2024**. Any non-unanimous settlement petition must be filed by the deadline set for Main Briefs.

The Parties must agree on a common outline for statements in support, including headings and subheadings. Each party need not address every issue, but the same headings and subheadings must be presented in the same order. Statements in support should be specific and explain the benefit of the settlement terms to your client beyond the savings of litigation time and expense.

If settlement is not feasible, the Parties are encouraged to stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all Parties and conserve precious administrative hearing resources. 52 Pa. Code §§ 5.232 and 5.234. All stipulations entered into by the Parties must be reduced to writing, signed by the Parties to be bound thereby, and moved into the record during the hearing in this case. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.

Cross-Examination

Friendly cross-examination or cumulative cross-examination during hearings will not be permitted. 52 Pa. Code §§ 5.76; 5.243.

Briefs and Reply Briefs

The Parties must comply with 52 Pa. Code §§ 5.501, et seq., regarding the preparation and filing of briefs. The Parties shall use a common outline, including headings and sub-headings. Briefs must include proposed conclusions of law and proposed ordering paragraphs. Page limitations on briefs will be discussed on or before the last day of hearing. The Parties shall submit to the Administrative Law Judges one copy by email. The electronic version of a brief must be prepared in Microsoft Office Word format.

Modification

Any of the provisions of this Prehearing Order may be modified upon motion and good cause shown by any party in interest.

Date: June 11, 2024

/s/
Mary D. Long
Administrative Law Judge

Date: June 11, 2024

/s/
John M. Coogan
Administrative Law Judge

**P-2024-3048592 PETITION OF DUQUESNE LIGHT COMPANY FOR APPROVAL OF
DEFAULT SERVICE PLAN**

Revised - 6/10/24

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