**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company :

for Approval of its Act 129 Phase II : M-2012-2334399

Energy Efficiency and Conservation Plan :

**SECOND PREHEARING ORDER**

In accordance with the provisions of 52 Pa. Code § 5.483, the purpose of this Order is to confirm certain agreements among the parties and related rulings made during the Prehearing Conference in this case on Monday, December 10, 2012. That hearing was convened to discuss procedural issues relative to the Commission’s Implementation Order of August 3, 2012, at *Energy Efficiency and Conservation Program*, Docket No. M-2012-2289411 (Order entered August 3, 2012) (*Implementation Order*), to determine the further course of this proceeding, and to rule on the various Petitions to Intervene submitted to date.

The Prehearing Conference was presided over by the undersigned and was attended by counsel for: Duquesne Light Company (Duquesne), the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), Duquesne Industrial Intervenors (DII), the Community Action Association of Pennsylvania (CAAP) and Citizen Power, Inc. (Citizen).

A. *Implementation Order* Requirements

The Commission’s *Implementation Order* contains the following directory language:

Specifically, for Phase II, we adopt the following EE&C plan approval process:

The Commission will publish a notice of each proposed plan in the Pennsylvania Bulletin within 20 days of its filing. In addition, the Commission will post each proposed plan on its website. An answer along with comments and recommendations are to be filed within 20 days of the publication of the notice in the Pennsylvania Bulletin. Each plan will be referred to an Administrative Law Judge (ALJ), who will establish a discovery schedule and hold a public input hearing(s) in the EDC’s service territory upon request of any party, as well as an evidentiary hearing(s) on issues related to the EDC’s EE&C plan. Such hearings are to be completed on or before the 65th day after a plan is filed, after which, the parties will have 10 days to file briefs. The EDC will then have 10 days to submit a revised plan or reply comments or both. The ALJ will then certify the record to the Commission.

The Commission will approve or reject all or part of a plan at public meeting within 120 days of the EDC’s filing. The Commission will provide a detailed rationale for rejecting all or part of a plan. Thereafter, the EDC will have 60 days from the entry date of the order to file a revised plan that addresses the identified deficiencies. This revised plan is to be served on OCA, the Office of Small Business Advocate (OSBA), the Commission’s Bureau of Investigation & Enforcement (I&E) and all other parties to the EDC’s EE&C plan filing, who, along with other interested parties, will have ten days to file comments on the revised plan, with reply comments due ten days thereafter. The Commission will approve or reject a revised plan at a public meeting within 60 days of the EDC’s revised plan filing. This process will be repeated until a complete plan receives Commission approval.

*Implementation Order* at 61-62.

Given that the Notice of this proceeding was not be published in the *Pennsylvania Bulletin* until December 1, 2012,[[1]](#footnote-1) with a twenty day comment/intervention period thereafter, the necessity of holding an evidentiary hearing by January 18, 2013 has the potential of affecting orderly discovery for the current parties and placing future intervenors at a disadvantage. I stated that flexibility will be afforded to such intervenors. Duquesne stated its willingness to work with any such intervenors.

B. PUBLIC INPUT HEARING

There has been no request for a public input hearing in this case. The OCA agreed to promptly inform me if they receive such a request.

C. PROCEDURAL SCHEDULE

The following procedural schedule is adopted:

November 15, 2012 EE&C Plan Phase II filed

December 1, 2012 Publication in the *Pennsylvania Bulletin*

December 10, 2012 Prehearing Conference

January 3, 2013 (Noon) Other Parties’ Comments/Direct Testimony

January 15, 2013 Rebuttal Testimony

January 18, 2013 Hearing – Harrisburg, PA

January 28, 2013 Main Briefs Due

February 7, 2013 Reply Comments/Revised Plan

February 14, 2013 Certification of the Record

March 14, 2013 Commission Order

D. DISCOVERY AND SERVICE MODIFICATIONS

Prior to the Prehearing Conference, the parties discussed and agreed to changes to the Commission’s rules of discovery as proposed by Duquesne in its Prehearing Memorandum, specifically:

(1) Answers to written interrogatories shall be served in-hand within ten calendar days of service.

(2) Objections to interrogatories shall be communicated orally within three calendar days of service of the interrogatories; unresolved objections shall be filed in writing within five days of service of the interrogatories.

(3) Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three calendar days of service of the written objections.

(4) Answers to motions to dismiss objections and/or answering of interrogatories shall be filed within three calendar days of service of such motions.

(5) Ruling over such motions shall be issued, if possible, within seven calendar days of the filing of the motion.

(6) Requests for admissions will be deemed admitted unless answered within ten calendar days or objected to within five calendar days of service.

(7) Answers to on-the-record data requests shall be served in-hand within seven calendar days of the requests.

(8) Any discovery served after 12:00 p.m. on a Friday will be deemed to have been served on the following business day.

Additionally, electronic or fax service on the due date will satisfy the "in-hand" requirement, with a hard copy sent by first class mail to other counsel and the Presiding Officer as soon as possible thereafter.

E. PETITIONS TO INTERVENE

On December 5, 2012, the OSBA filed a Public Statement and Notice of Intervention in this case. On December 6, 2012, the OCA filed a Public Statement and Notice of Intervention in this case. Also on December 6, 2012, the following filed individual Petitions to Intervene in this case: CAAP and CAUSE-PA. On December 7, 2012, the DII and Citizen filed Petitions to Intervene in this case. There were no objections to the Petitions to Intervene noted, above, and they are granted.

F. E-SERVICE LIST

The following attorneys have been designated to receive all documents from me. Please note that this is the ALJ’s e-service list, NOT the Commission’s official service list:

Andrew S. Tubbs, Esq. Duquesne Light Company

Tishekia Williams

David Evrard, Esq. Office of Consumer Advocate

Brandon Pierce, Esq.

Sharon Webb, Esq. Office of Small Business Advocate

Patrick Cicero, Esq. CAUSE-PA

Joseph Vullo, Esq. Community Action Association of PA

Teresa Schmittberger, Esq. Duquesne Industrial Intervenors

Theodore Robinson Citizen Power, Inc.

THEREFORE,

IT IS ORDERED:

1. That the procedural schedule set forth in Part C, above, is adopted.

2. That the Commission’s rules of discovery are hereby modified in accordance with the revisions set forth above in Part D.

3. That the following individuals are designated to receive service of documents from the undersigned for their respective clients:

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4. That the Petitions to Intervene in this case filed by CAUSE-PA, Community Action Association of Pennsylvania, Duquesne Industrial Intervenors, and Citizen Power, Inc. are granted.

Dated: December 12, 2012

Dennis J. Buckley

Administrative Law Judge

**M-2012-2334399- PETITION OF DUQUESNE LIGHT COMPANY FOR APPROVAL OF ITS ACT 129 PHASE II ENERGY EFFICIENCY AND CONSERVATION PLAN.**

TISHEKIA E WILLIAMS ESQUIRE

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1. 42 Pa.B. 7372 [↑](#footnote-ref-1)