


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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January 5, 2021

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 its Act 129 Phase IV Energy  
Efficiency and Conservation Plan  
Docket No. M-2020-3020818

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 per the attached Certificate of Service.

Respectfully submitted,

/s/ Lauren E. Guerra

Lauren E. Guerra

Assistant Consumer Advocate

PA Attorney I.D. # 323192

E-Mail: [LGuerra@paoca.org](mailto:LGuerra@paoca.org)

Enclosures:

cc: The Honorable Mark A. Hoyer (**email only**)

Certificate of Service

\*301893

CERTIFICATE OF SERVICE

Re: Petition of Duquesne Light Company :  
for Approval of its Act 129 Phase IV : Docket No. M-2020-3020818  
Energy Efficiency and Conservation Plan :

I hereby certify that I have this day 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 5<sup>th</sup> day of January 2021.

**SERVICE BY E-MAIL ONLY**

Richard A. Kanaskie, Esquire  
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Pennsylvania Public Utility Commission  
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/s/ Lauren E. Guerra

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Dated: January 5, 2021  
\*301892

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company :  
for Approval of its Act 129 Phase IV Energy : M-2020-3020818  
Efficiency and Conservation Plan :

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. Section 333, and in response to the December 30, 2020 Prehearing Conference Order issued in the above-captioned matter, the Office of Consumer Advocate (OCA) provides the following information:

**I. Introduction**

On October 15, 2008, Act 129 of 2008 (Act 129 or the Act) was signed into law by Governor Edward G. Rendell. Act 129 made numerous amendments to Chapter 28 of the Public Utility Code and required the seven major electric distribution companies (EDCs) to file energy efficiency and conservation plans (EE&C Plans), which occurred in the summer of 2009. The Phase I Plans expired on May 31, 2013. Phase II of the EE&C Plans began on June 1, 2013 and expired on May 31, 2016. Phase III of the EE&C Plans began on June 1, 2016 and will continue until May 31, 2020. The Commission has now established the requirements and process for Phase IV of the EE&C Plans to operate from June 1, 2021 through May 31, 2026. Energy Efficiency and Conservation Program, Docket No. M-2020-3015228 (June 18, 2020) (Phase IV

Implementation Order). This proceeding concerns the Phase IV Plan filing of Duquesne Light Company (Duquesne or the Company).

The Phase IV Implementation Order directed that each EDC meet a consumption reduction target and a demand response target. Phase IV Implementation Order at 8. The Phase IV Implementation Order also established that 5.8% of the consumption reduction target must be met through the low-income customer sector programs. Phase IV Implementation Order at 35-37.

The Total Resource Cost (TRC) test will continue to be used to evaluate each EDC's EE&C Plan. Phase IV Implementation Order at 104, citing 66 Pa. C.S. § 2806.1(a)(3). Act 129 caps annual spending on the Plan at 2% of the EDC's total revenues for the calendar year 2006. 66 Pa. C.S. § 2806.1(g). The Act provides for full and current cost recovery of the Plan costs through an automatic adjustment rider, but it prohibits the recovery of lost revenues by the EDC through the automatic adjustment rider. 66 Pa. C.S. § 2806.1(k). The costs incurred are to be allocated to the classes that directly benefit from the program measures implemented, unless a system wide benefit can be shown.

Duquesne is required to file a Plan under Act 129 and the Phase IV Implementation Order. Under the timeline set forth in the Phase IV Implementation Order, Duquesne's EE&C Plan must be ruled upon within 120 days of the Companies' filing, or by March 30, 2021.

## **II. Procedural History**

On November 30, 2020, the Company filed its Petition for Approval of its Phase IV Energy Efficiency and Conservation Plan (EE&C Plan or Plan), pursuant to Section 2806.1 of the Public Utility Code and pursuant to the Implementation Order entered by the Commission at Docket No. M-2020-3015228 on June 18, 2020. With respect to residential customers, Duquesne proposed the following four residential customer energy efficiency programs: (1) a Rebate Program with

Downstream, Midstream and Upstream delivery channels; (2) a Residential Appliance Recycling Program; (3) Residential and Low Income Behavioral Energy Efficiency Programs; and (4) the Residential Low Income Energy Efficiency Program. Duquesne Plan at 24-46.

The Plan set forth the five-year costs and proposed energy and demand reduction targets. The five-year cost of Duquesne's EE&C Phase IV Plan is projected to be 97,729,760. Duquesne St. No. 1 at 23. The Company plans to reduce annual energy consumption by 383,733 MWh and reduce demand by 68.7 MW by May 31, 2026. Duquesne St. No. 1 at 5.

Duquesne's filing was assigned to the Office of Administrative Law Judge and further assigned to Administrative Law Judge Mark A. Hoyer for investigation. On December 30, 2020, ALJ Hoyer issued a Prehearing Conference Order. On January 6, 2020, the telephonic Prehearing Conference will be held.

On December 31, 2020, the OCA filed a Notice of Intervention and Public Statement.

On January 2, 2021, the matter was published in the *Pennsylvania Bulletin*. The OCA will file an Answer/Comments on January 22, 2021 in accordance with the Phase IV Implementation Order and the directive included in the publication of the filing in the *Pennsylvania Bulletin*.

### **III. Issues and Sub-issues**

Based upon a preliminary analysis of the Company's filing and participation in the stakeholder meetings, the OCA has compiled a list of issues and sub-issues that it anticipates will be included in its investigation of the filing. It is anticipated that other issues may arise and may be pursued during the course of the proceeding.

The following list sets forth the issues OCA expects to investigate at this time:

(1) Whether the proposed energy conservation plan and the individual program design meets the requirements of Section 2806.1 of the Code and the Commission's Phase IV Implementation Order;

(2) Whether the portfolio of programs proposed is reasonably balanced and whether the programs are equitably distributed across rate classes;

(3) Whether the Plan is reasonable and meets the requirements of Section 2806.1 and the Phase IV Implementation Order for low-income customers;

(4) Whether the design of the proposed demand reduction measures included in the Peak Demand Reduction program are reasonable and appropriately meet the requirements of the Phase IV Implementation Order's identified demand reduction targets;

(5) Whether the proposed cost recovery mechanisms, including the proposed budgets, are reasonable;

(6) Whether the proposed changes to the EEC Surcharge are reasonable;

(7) Whether the proposed program measures, including the cost-effectiveness of the Plan, are reasonable as measured by the Total Resource Cost (TRC) test;

(8) Whether the proposed measurement and verification and evaluation plan is appropriate and reasonable; and

(10) Whether the frequency of the stakeholder meetings is sufficient.

The OCA reserves the right to raise additional issues as may be necessary.

#### **IV. Witnesses**

The OCA intends to present the direct testimony of the following witness in this proceeding. In order to expedite the resolution of this proceeding, the OCA requests that copies

of all interrogatories, comments and answers to interrogatories be mailed directly to the expert witness as well as to counsel for the OCA.

EE&C Plans and Cost Recovery

Stacy L. Sherwood  
Exeter Associates, Inc.  
10480 Little Patuxent Parkway  
Suite 300  
Columbia, MD 21044  
E-mail: [sherwood@exeterassociates.com](mailto:sherwood@exeterassociates.com)

The OCA specifically reserves the right to call additional witnesses, as necessary. As soon as the OCA has determined if an additional witness or witnesses will be necessary for any portion of its case, all parties of record will be notified.

**V. Service on the OCA**

The OCA will be represented in this case by Assistant Consumer Advocate Lauren E. Guerra and Senior Assistant Consumer Advocate Aron J. Beatty. Two copies of all documents should be served on the OCA as follows:

Lauren E. Guerra  
Assistant Consumer Advocate  
Aron J. Beatty  
Senior Assistant Consumer Advocate  
Office of Consumer Advocate  
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[abeatty@paoca.org](mailto:abeatty@paoca.org)

## **VI. Discovery**

In order to effectively investigate and adequately develop a record on these issues in the limited timeframe for this proceeding, the OCA requests a modification of the Commission's procedural rules, as set forth below:

(1) Answers to written interrogatories shall be served in-hand within seven (7) calendar days of service.

(2) Objections to interrogatories shall be communicated orally within three (3) calendar days of the service of interrogatories; unresolved objections shall be served to the ALJ in writing within five (5) calendar days of service of the interrogatories.

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

(4) Answers to motions to dismiss objections and/or answering of interrogatories shall be filed within three (3) calendar days of service of such motions.

(5) Ruling over such motions shall be issued, if possible, within seven (7) calendar days of the filing of the motion.

(6) Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within seven (7) calendar days.

(7) Requests for admissions will be deemed admitted unless answered within seven (7) calendar days or objected to within five (5) calendar days of service.

(8) Interrogatories served after noon on Friday or after noon on the day before a holiday will be due as if served the following business day.

The OCA reiterates that all time periods established in the foregoing discovery schedule should be calculated using calendar days.



## VII. Schedule

The following procedural schedule has been proposed:

Intervenor Direct testimony	January 14, 2021
Rebuttal Testimony	January 20, 2021
Evidentiary Hearing	January 22, 2021
Answers due	January 22, 2021
Main Briefs due	January 29, 2021
Revised Plan	February 10, 2021
Certification of the Record	February 11, 2021

Respectfully Submitted,

/s/ Lauren E. Guerra

Lauren E. Guerra

Assistant Consumer Advocate

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DATE: January 5, 2021