

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Use of Fully Projected Future Test Year, 52 :
Pa. Code Chapter 53.51-53.56a : Docket No. L-2012-2317273
:

**COMMENTS OF
DUQUESNE LIGHT COMPANY**

I. INTRODUCTION

On August 24, 2022, the Pennsylvania Public Utility Commission (“Commission” or “PUC”) entered a Clarified Notice of Proposed Rulemaking Order (“Clarified NOPR”) seeking comments on proposed amendments to the regulations at 52 Pa. Code §§ 53.51-53.56 (relating to information to be furnished with the filing of rate changes). Interested parties were invited to file written comments within 45 days after the date of publication in the *Pennsylvania Bulletin*, which occurred October 1, 2022. Accordingly, Duquesne Light (“Company”) submits these comments for the Commission’s consideration.

II. BACKGROUND

On February 14, 2012, Governor Corbett signed into law Act 11, which amended, among other things, Section 315(e) of the Public Utility Code (relating to the future test year) and provided for the use of a fully projected future test year (“FPFTY”) in a utility rate filing. The Act required the adoption of rules and regulations regarding information a utility must provide when utilizing a FPFTY. 66 Pa.C.S. § 315(e).

Accordingly, the Commission, on December 22, 2017, entered an Advanced Notice of Proposed Rulemaking (“ANOPR”) that included a directive to convene stakeholder meetings to

discuss the information a utility must submit when requesting a general rate increase of more than one million dollars using a FPFTY. These meetings were held throughout calendar years 2018 and 2019.

Following the stakeholder meeting process, the Commission, on June 17, 2021, issued a Notice of Proposed Rulemaking Order (“NOPR”) soliciting comments on the proposed revisions to the regulations. Prior to publication in the *Pennsylvania Bulletin*, the Commission adopted the Clarified NOPR at the May 12, 2022 Public Meeting. The Clarified NOPR was published in the *Pennsylvania Bulletin* on October 1, 2022, allowing for public comment to be received within 45 days and reply comments 45 days thereafter. The reply comment deadline was subsequently extended to January 17, 2023, following a request from the Office of Consumer Advocate (“OCA”), filed October 5, 2022.

Duquesne Light is a public utility as the term is defined under Section 102 of the Public Utility Code, 66 Pa.C.S. § 102, and is certificated by the Commission to provide electric distribution service in portions of Allegheny County and Beaver County in Pennsylvania. Duquesne Light provides electric service to approximately 605,000 customers in and around the City of Pittsburgh. As an electric distribution company (“EDC”) subject to the provisions of these regulations, Duquesne Light is an interested stakeholder in this proceeding and files these responsive comments to the Clarified NOPR.

III. COMMENTS

The intent of this proceeding, as described in the Clarified Order, is “to standardize and streamline the filing requirements for information and data related to various ratemaking components for a public utility in a base rate case proceeding.”¹ The Order additionally describes that the goal is “to develop consistency in filing requirements across public utility types, incorporate the appropriate standard discovery requests, and eliminate the filing of unnecessary information.” Based on its experience utilizing a FPFTY in three base rate proceedings,² Duquesne Light contends that many of the changes projected in the Clarified Order may have the opposite of the intended effect, as described in more detail below.

Duquesne Light is a member of the Energy Association of Pennsylvania (“EAP”) and participated in an EAP working group to conduct an in-depth review of the NOPR, resulting in the production of comments on behalf of the member companies, filed at this docket. For efficiency, the Company will not restate each point in its individual comments, but rather endorse the comments of the EAP, including the redlined versions of Annex A and B.

While the sentiments of the Company are largely represented by the comments filed by EAP, it highlights a few specific issues below.

¹ Order at 9.

² See *Pennsylvania Public Utility Commission, et. al v. Duquesne Light Company*, Docket Nos. R-2013-2372129, *et. al.*; *Pennsylvania Public Utility Commission, et. al v. Duquesne Light Company*, Docket Nos. R-2018-3000124, *et. al.*; *Pennsylvania Public Utility Commission, et. al v. Duquesne Light Company*, Docket Nos. R-2021-3024750, *et. al.*

A. The additional filing requirements proposed in Annex B will add burden and cost to base rate proceedings.

The Company has concern that some of the new filing requirements proposed in the Clarified NOPR do not reflect information that would provide value in a base rate case proceeding. To produce this information as part of the initial filing will result in significant effort and cost, counter to the Commission's stated intent, which is to streamline the process. Based on its recent experience, the Company recommends that requirements to provide this information upfront be struck from the proposed annexes, to avoid increasing the costs of rate cases by providing information that is not relevant to the proceeding, or which parties may not actually want or need. Instead, parties may request relevant information through discovery.

To provide a more concrete example, today the Company submits a revenue requirement model and a Jurisdictional Separation Study for each test year (i.e. historic test year [HTY], future test year [FTY], and FPFTY) as part of the initial filing. If the requirements expand from three years to five years (i.e., the two years immediately preceding the HTY), this could potentially increase the Company's modeling effects by 66%. Additionally, while some information outside of the normal three-year period may be requested in discovery, historically parties have not requested the amount of additional information proposed by the Clarified NOPR.

This proceeding dates back to the signing of Act 11 in February of 2012, more than ten years ago. As noted in the Clarified Order, "Public utilities have

been able to use a FPFTY since Act 11 became effective.”³ Additionally, the last stakeholder meeting to inform this matter was held in 2019, more than three years ago. Many companies, including Duquesne Light, have had base rate proceedings that utilize a FPFTY since that time. In fact, EAP member companies indicate utilizing a FPFTY more than 34 times since Act 11 became effective. The Company argues that the real-world experience of these rate cases has more relevance than the dated feedback from this lengthy proceeding.

Public utilities are entitled to recover the costs of base rate cases.⁴ To the extent that the costs of rate cases increase, those costs are ultimately borne by customers. The Commission and utility companies should be focused on opportunities to improve affordability for customers. The proposed changes in the Clarified NOPR have the potential to instead increase costs.

The redlines submitted as part of the EAP’s comments at this docket propose to strike those pieces of information that are not frequently requested by parties to a rate case. Duquesne Light supports these redlines.

B. Certain aspects of the Clarified NOPR require greater clarity.

Certain terms and descriptions in the Clarified NOPR should be better defined to provide more specificity. Many of these are included in the redlines provided by EAP. Duquesne Light highlights a few key points below, noting that this is not intended to be an exhaustive list.

³ Order at 10

⁴ *City of Lancaster v. Pennsylvania Public Utility Commission*, 793 A.2d 978, 982 (2002).

- Duquesne Light supports the redlines provided by EAP as it relates to the definition of customer class. The Company seeks further clarification from the Commission that “customer class” refers to broad classifications, such as residential, commercial, and industrial, and not to individual rate class (i.e. General Small [GS], General Medium [GM], etc.).
- The final Order should define the term “service area,” which is used in multiple places within Annex B, to ensure consistency.
- The Company wishes to confirm that a cash flow analysis is not required. *See Annex B, Section G, items six and seven.*
- Further clarity is required regarding the proposed changes to the service requirements under Section 53.51(d). The Clarified Order would require utilities to serve their initial rate filing on “the low-income advocates in the public utility’s service territory,” in addition to other defined entities. The Company has concern about the ambiguity associated with this description. There are many governmental, non-profit, and charitable organizations with missions to assist low-income populations, and it may not be possible for the Company to identify and serve each individual group. This requirement should be struck from the final regulations.
- Additionally, the Company requests clarification regarding Section III.B.10 of Annex B – “Identify each major addition to plant or facilities to be placed in operating service or removed from operating service. The supporting documentation shall indicate the effect of the plant addition or removal from service upon rate base, revenue, expense, tax, income and

revenue requirement.” The current regulation requires utilities to provide such information “Whenever a major generating plant is placed in operating service or removed from operating service.” *See* 52 Pa. Code §53.53. The Company requests clarification regarding the intent of this new language, as well as clarification as to the difference between this new requirement and the language in Section III.D.11 of Annex B.

C. The effective date of rule changes resulting from the Clarified NOPR should account for the significant time spent preparing to file a base rate proceeding.

While the Clarified NOPR is silent as to implementation timeline, the Company strongly encourages the Commission to use an effective date that is no shorter than six months following the adoption of a final order. Rate case planning begins more than one year prior to the intended filing date. Utilities spend significant time over the course of many months preparing the filing. The Commission must ensure that the effective date is far enough in the future to not require any companies in the midst of rate case preparations to re-do work that has already been started in advance of a filing.

IV. CONCLUSION

Duquesne Light is supportive of efforts to streamline base rate case proceedings for all parties. However, it urges the Commission to reconsider some proposed changes to ensure they will result in the desired outcomes of improving efficiency and reducing costs. The experience of utility companies that have utilized FPFTYs in the past decade provide useful insight into

what information is most frequently utilized by parties and what information may not ultimately be relevant. Duquesne Light appreciates the Commission's consideration of these comments.

Respectfully submitted,



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