

Lindsay Baxter
Manager, Regulatory and Clean Energy Strategy
lbaxter@duqlight.com
(412) 393-6224



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VIA ELECTRONIC FILING

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
2nd Floor, Room-N201
400 North Street
Harrisburg, PA 17120

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

Dear Secretary Chiavetta:

Enclosed please find Duquesne Light Company's Reply Comments for filing in the above referenced proceeding.

If you have any questions regarding the information contained in this filing, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'LBQ', is positioned below the word 'Sincerely,'.

Lindsay A. Baxter
Manager, Regulatory and Clean Energy Strategy

Enclosure

Cc (w/ enc.):

Mel El Atieh, melatieh@pa.gov

Louise Fink Smith, finksmith@pa.gov

Karen Thorne, kathorne@pa.gov

Erin L. Laudenslager, elaudensla@pa.gov

**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
:

**REPLY COMMENTS OF
DUQUESNE LIGHT COMPANY**

I. INTRODUCTION

The Pennsylvania Public Utility Commission (“Commission” or “PUC”) issued a Clarified Notice of Proposed Rulemaking Order (“Clarified NOPR”) seeking comment from interested parties related to the proposed amendments to 52 Pa. Code §§ 53.51-53.56 (relating to information to be furnished with the filing of rate changes). Fifteen parties filed comments on November 15, 2022. The Clarified NOPR additionally provided for Reply Comments to be filed 45 days following the deadline for comments. By Secretarial Letter issued October 14, 2022, the Commission granted the petition of the Office of Consumer Advocate to extend the deadline for Reply Comments, establishing a new deadline of January 31, 2023. In accordance with this new timeline, Duquesne Light Company (“Duquesne Light” or “Company”) hereby submits these reply comments for the Commission’s consideration.

II. BACKGROUND

This proceeding dates back to the signing of Act 11 by Governor Corbett on February 14, 2012. Among other things, Act 11 amended Section 315(e) of the Public Utility Code and provided for the use of a fully projected future test year (“FPFTY”) in utility base distribution rate filings. Act 11 called for the establishment of regulations regarding information a utility must provide when utilizing a FPFTY. 66 Pa.C.S. § 315(e).

On December 22, 2017, the Commission issued an Advanced Notice of Proposed Rulemaking (“ANOPR”) that directed staff to convene stakeholder meetings to inform these regulations. The working group met throughout calendar years 2018 and 2019. Informed by the discussion in these meetings, the Commission issued a Notice of Proposed Rulemaking (“NOPR”) on June 17, 2021, and subsequently adopted a Clarified NOPR at the May 12, 2022 Public Meeting. As described *supra*, fifteen parties filed comment in response to the Clarified NOPR.

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 files these reply comments in response to the Clarified NOPR.

III. COMMENTS

The Company notes several common themes consistent throughout the comments of multiple parties. Most significant, multiple parties noted that the proposed requirements in the Clarified NOPR are not likely to serve the intended purpose of streamlining rate cases, but instead will add more burden and cost.¹ Duquesne Light agrees with the Office of Small Business Advocate (“OSBA”) that “The Commission should recognize that it should not attempt

¹ Energy Association of Pennsylvania at 5-6; Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively FirstEnergy) at 7-11; PPL Electric Utilities Corporation at 2-6; Peoples Natural Gas Company LLC and Peoples Gas Company LLC at 5; National Association of Water Companies at 2.

to require every public utility in every base rate proceeding to provide information on every issue that has ever arisen in such a proceeding.”²

Duquesne Light is a member of the Energy Association of Pennsylvania (“EAP”) and participates in an EAP working group which has conducted an in-depth review of the Clarified NOPR. The Company supports the redlined version of Annex A and B filed with EAP’s comments at this docket. These redlines will result in effectively achieving the intended outcome of the proceeding, which 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” and “to develop consistency in filing requirements across public utility types, incorporate the appropriate standard discovery requests, and eliminate the filing of unnecessary information.”³

In addition to supporting the EAP redlines, the Company respectfully responds to certain specific comments offered by other parties.

a. The Commission should reject proposals to require use of average test year rate base compared to end of test year rate base.

Both the OSBA and the Industrial Energy Consumers of Pennsylvania (“IECPA”) suggest in their comments that utilities should provide average test year rate base, rather than solely utilizing an end of test year rate base.⁴ As a preliminary matter, this subject is outside of the scope of this proceeding, reflecting a substantive ratemaking issue, and not a filing requirement. Beyond that, this matter has already been litigated

² OSBA at 2.

³ Clarified Order at 9.

⁴ IECPA at 3; OSBA at 2

in the Commonwealth Court, which expressly upheld utilities' use of end-of-test-year rate base.⁵ For these reasons, the Commission should not consider this proposal.

b. Proposals to re-litigate rate reviews, as suggested by IECPA, should be rejected.

IECPA, in its comments, recommends the Commission require utilities to submit actual monthly data following the Future Test Year (“FTY”) or FPFTY and that the Commission should initiate a “Just and Reasonable Rate Review Proceeding” to “assess the accuracy of the utility’s projections.”⁶ This proposal should be rejected as it constitutes re-litigation of the same issues presented in the initial case, adding burden and expense for all parties involved. Under section 315(e) of the existing regulations, the Commission has authority to review information for individual rate cases and, if necessary, adjust rates going forward.

c. The Commission should set an implementation date for any changes at least six months following adoption of a final order.

Similar to Duquesne Light, several commenters noted the extensive preparation that goes into rate reviews. Peoples Natural Gas suggests at least nine months of advanced notice stating “It is possible that a utility could be preparing to file a rate case at the same time that these regulations become effective. If that does happen, a utility may need to re-examine its preparation work and may have to potentially re-do certain exhibits or the presentation of certain exhibits.”⁷ Pennsylvania American Water

⁵ See *PA Public Utility Commission vs. UGI Utilities, Inc. - Electric Division* (Docket No. R-2017-2640058) and *McCloskey v. Pa PUC*, 225 A. 3d 192; 2020 WL 215931.

⁶ IECPA Comments at 4-5.

⁷ Peoples at 4

Company noted similar themes, requesting a period of at least six months from when changes are made until they go into effect.⁸

d. Expanded service requirements should be rejected.

Duquesne Light supports the comments of Metropolitan Edison et. al. in recommending that the Commission reject the proposed service requirement to low-income advocates. Met Ed. et al explains that “‘low-income advocates’ are not statutorily-created offices or bureaus within Commonwealth government.

Organizations or associations that intervene in base rate proceedings in a representational capacity on behalf of low-income residential customers do so in private (i.e., non-governmental) capacities. Moreover, the specific organizations or associations that seek party status as low-income advocates differ from one utility’s service area to another and, in some cases, more than one such organization or association may intervene. There is no basis for selecting any one organization or association to receive service of a rate filing, even if the potential low-income advocates were known at the time of filing, which they are not.”⁹ Duquesne Light agrees and urges the Commission to strike this proposed requirement.

e. The Commission should encourage standardization where it makes sense, but recognize that not all rate cases include identical information.

The Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (“CAUSE-PA”), in its comments, recommends that the Commission “standardize the filing format to provide a more user-friendly experience for the public when

⁸ PAWC at 6.

⁹ Met Ed. Et. al. at 12.

accessing through the Commission’s online docketing system.”¹⁰ While Duquesne Light is open to standardization to streamline the participation process for intervenors, it notes that not all companies file the same information as part of an initial rate review filing. For example, the same Data Filing Requirements (“DFRs”) do not apply to all companies, and pre-filed testimony will not necessarily align from company to company. The Commission should resist the temptation to try to make all filings identical, but encourage standardization where it is possible.

f. Reject the proposal to require utilities to re-submit reports filed with the Bureau of Consumer Services from the past five annual reports.

CAUSE-PA proposes that utilities should be required to submit updated version of the low-income data reported to the Bureau of Consumer Services (“BCS”) in universal service reporting for the past five annual reports.¹¹ Duquesne Light recommends the PUC reject this proposal, as provision of this information adds additional burden without it being clear that the data is relevant to ratemaking. Advocates can request this information from the BCS at any time through a Right-to-Know request. Additionally, to the extent this information is relevant to a utility’s rate case, advocates can request it via the discovery process. Utilities should not be required to provide this extensive data as part of an initial rate review filing.

¹⁰ CAUSE-PA at 6 and 12.

¹¹ CAUSE-PA at 9.

g. Reject proposals to require filing of information that would reverse-engineer black box settlements.

In regards to section 53.5a(c), the OSBA recommends that utilities be required to submit comparison of actual results relevant to filed position.¹² In the redlined Annex B submitted by the EAP, this section was struck altogether. Duquesne Light supports the EAP’s proposed revision; to the extent the Commission moves forward with inclusion of section 53.5a(c), it should reject the OSBA’s proposal. Importantly, in a black box settlement, utilities are not required to earmark dollars, unless specifically called out as a provision of the agreement. To require a more detailed comparison of actuals to FPFTY than what is already provided risks the settlement no longer being a “black box,” reducing the motivation of parties to enter into agreement.

Today, utilities are required to provide information demonstrating expenses and how that money was allocated. It is a not a useful exercise to compare it to a previously-filed FPFTY, which would have been premised upon a different outcome than the black-box settlement. This proposal should be rejected.

h. The Commission should clarify the definitions of certain key terms.

Duquesne Light supports the recommendation of the OSBA to clarify certain definitions, including “tariff rate,” “tariffed rate,” “rate schedule,” “tariff rate schedule,” and “customer class.”¹³

¹² OSBA at 3.

¹³ OSBA at 5.

i. Reject certain OCA proposals for filing of additional information.

- The OCA proposes that utilities provide a copy of the full tariff in its initial filings.¹⁴ Duquesne Light does not see the value in this recommendation, as all tariffs are publicly available. The intent of a “loose leaf tariff” is that changes can be made to relevant sections of the document, without creating an entirely new tariff. This recommendation, if implemented, could add hundreds of pages to a utility company’s initial rate review filing, counter to the stated intent to streamline rate case filings.
- Additionally, OCA, under sub-section E.H.7, proposes a requirement to provide customer data projections for the two years following the FPFTY. As a threshold matter, this information will frequently be irrelevant to the setting of rates in the FPFTY. The possible exception could be for alternative ratemaking mechanisms that companies may propose in the future. Should the Commission adopt OCA’s recommendation, the Company suggests it clarify that such information need only be included “as applicable,” i.e., where the company’s rate request incorporates or directly relies upon post-FPFTY customer data projections.
- Under section E.J.1 – Payroll, Employee Benefits and Retiree Costs, the OCA recommends that utilities provide additional information related to expected changes and explanations of historical and projected variances. Specifically, the OCA recommends the Commission require the following of utilities:

¹⁴ OCA at 8.

- Provide a list of historic variances for the HTY and the two years immediately preceding the HTY and indicate whether the vacant positions are included in the headcount detail provided in response to Part a;
- Indicate whether employment changes have happened due to, or are expected to happen as a result of, attrition, reductions in force, sale or acquisitions of operations of facilities, mergers, etc., in the HTY, the FTY, and the FPFTY; and
- Provide a copy of all wage, salary, incentive compensation and bonus, benefit, leave, insurance, pension/thrift, and similar plan documents.¹⁵

Duquesne Light avers that OCA's request is too broad, requests highly confidential information, and represents information that is not currently requested by parties in discovery. Utilities should not be required to include such information in initial rate review filings. Parties can request it, if relevant, through discovery.

j. Reject IECPA's proposed expansion of data filing requirements.

In addition to rejecting the post-filing requirements recommended by IECPA, discussed *supra*, the Company wishes to highlight two specific recommendations from the organization which should be rejected.

- In Section E.III of Annex B, IECPA proposes under B.3 and B.4 that the data to be filed be expanded from two years to five years preceding the HTY.¹⁶

¹⁵ OCA at 11.

¹⁶ IECPA at 6.

This amount of data is not only burdensome for utilities to compile, but it is simply not relevant for the purposes of ratemaking.

- Additionally, in regard to Exhibit E- Subsection III.H.6, IECPA suggests the Commission expand the reporting requirements for monthly customer counts and monthly usage from five years to ten years. IECPA writes that “Discovery on this topic often requests ten years of data so that the requesting party may fully appreciate customer counts and usage per customer on a longitudinal basis. Requiring this ten-year data will reduce this discovery burden and regulatory expense for all parties.”¹⁷ Duquesne Light contends that this level of data is not regularly requested by intervenors in discovery. In discovery in its most recent rate case, the Company provided such data for four years preceding the HTY. Data from ten years prior to the HTY is not relevant for ratemaking purposes and adds additional burden and costs to the filing of a rate review. This recommendation should be rejected.
 - IECPA further requests that utilities provide ten years of sales data, by unit and by month, in Exhibit E- Subsection III.H.13. As stated above, compiling this level of data adds additional staff time and cost to rate case preparation. These costs are ultimately borne by the customer.¹⁸ Additionally, no party requested this level of detail in the Company’s most recent rate case.
- Duquesne Light encourages the Commission to reject this proposal and to

¹⁷ IECPA at 9.

¹⁸ DLC at 5.

consider the redlines submitted by EAP which reduce this filing requirement from three to two years preceding the HTY.¹⁹

- Finally, in IECPA's proposed changes to Section 53.56(c) and 53.56a(c), the Commission should reject the proposal to reduce the deadline for reporting from 30 days to 15 days following the end of the last quarter of the FTY or FPFTY. Duquesne Light supports the redlines of the EAP, which strike 53.56a(c) entirely; however, to the extent the Commission considers this proposed change, the Company notes that this proposal is an unreasonably short time period for compiling a significant amount of data. Utility billing systems generally require a certain number of working days following the end of a quarter to provide reliable data for reporting. Additionally, depending on how the end of the quarter aligns with weekends or holidays, there could be fewer than 15 working days to prepare these filings, resulting in the need for companies to request extensions for Commission consideration, adding further burden to the process.

IV. CONCLUSION

In closing, Duquesne Light strongly recommends the Commission maintain a focus on the intent of the proceeding, which is to streamline filing requirements in rate cases. Pennsylvania's existing rate review process allows for significant stakeholder participation with the ability to request relevant utility data via the discovery process. The Commission should not move to require the filing of extensive information that may not ultimately be relevant. Utility companies have utilized FPFTYs for a decade in Pennsylvania; this lived experience is

¹⁹ EAP at 17.

indicative of what information is most frequently utilized and most appropriate for inclusion in rate case filings, noting that parties can request additional information via discovery. The Company looks forward to continuing to participate in this proceeding to inform a more efficient rate review process for all parties.

Respectfully submitted,



Lindsay A. Baxter
Manager, Regulatory and Clean Energy Strategy
Duquesne Light Company
411 Seventh Avenue, Mail Drop 15-7
Pittsburgh, PA 15219
lbaxter@duqlight.com
Tel. (412) 393-6224

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