

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17120

**Petition of Duquesne Light Company
for Clarification of Interim Guidelines
for Eligible Customer Lists
Final Order entered October 23, 2014**

**Public Meeting of January 18, 2024
3043362-LAW
Docket Nos. P-2023-3043362
M-2010-2183412**

STATEMENT OF VICE CHAIR KIMBERLY BARROW

In this matter, Duquesne Light Company (DLC) seeks clarification and approval to send its solicitations regarding customer inclusion in its eligible customer list (ECL) through electronic service for customers who have consented to receive e-communications. DLC seeks approval for 2024 and subsequent years. DLC previously filed a Petition for Waiver¹ in 2020, seeking to expand email service to include e-communications for its 2021 solicitations. By Order entered January 14, 2021, the Commission granted DLC's petition, finding that solicitation for e-communications customers would reduce costs, would provide useful analytics on the effectiveness of solicitation by email, and would be consistent with consumer preferences.²

In granting DLC's instant request for clarification, the staff recommendation presents a *Duick* analysis whereas the petitioner is required to present "new and novel arguments" not previously heard by the Commission or considerations which appear to have been overlooked or not addressed by the Commission.³ To the contrary, the standards in *Duick* only apply to petitions for reconsideration, petitions for rehearing, and petitions for reopening of the record.⁴

¹ *Petition of Duquesne Light Company for Limited Waiver of Service Requirements of the Eligible Customer List Triennial Solicitation*, Docket Nos. M-2010-2183412; P-2020-3022674 (Order entered January 14, 2021).

² *Id.*

³ *Duick v. Pennsylvania Gas and Water Company*, 56 Pa. PUC 553, 559 (1982).

⁴ The Commission held:

We view the situation, as follows:

1. A petition for rehearing, under the provisions of 66 Pa C.S. § 703(f), properly must seek the reopening of the record for the introduction of additional evidence of some sort. As grounds therefore it must allege newly discovered evidence, not discoverable through the exercise of due diligence prior to the close of the record. [citations omitted]
2. A petition seeking reopening of the record (more properly one for rehearing) may be entertained as a petition for reconsideration, under the provisions of 66 Pa C.S. § 703(g), if the newly discovered evidence, was not in existence, or was not discoverable through the exercise of due diligence, prior to the expiration of the time within which to file a petition for rehearing, under the provisions of 66 Pa C.S. § 703(f). [citations omitted]
3. A petition for reconsideration, under the provisions of 66 Pa C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the

Imposing the *Duick* standard in a petition for clarification is inappropriate and creates an impossible burden because the petitioner is not asking the Commission to re-evaluate an order or take other affirmative action, but rather is seeking an explanation or interpretation. It would be illogical to hold a petition for clarification to the *Duick* standard and require the presentation of “new and novel arguments” not previously heard by the Commission when that party is not seeking to change, modify, or otherwise disturb the Commission order.

January 18, 2024

Date


Kimberly Barrow, Vice Chair

Court in the Pennsylvania Railroad Company case, wherein it was said that “[p]arties . . . , cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically considered and decided against them. . . .” What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked or not addressed by the Commission. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

Duick, 56 Pa. PUC 553, 558.