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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Energy Efficiency and Conservation Program ands EDC Plans	:	**Docket No. M-2008-2069887**

COMMENTS OF DUQUESNE LIGHT COMPANY

Pursuant to the Secretarial Letter dated November 26, 2008 at this docket, Duquesne Light Company ("Duquesne") herein submits its responses to the specific questions raised in Attachment A of that Letter.

Additional Questions Related to the Commission's Energy Efficiency and Conservation Program at Docket No. M-2008-2069887

1. Efficiency targets/Goals:

a) Should the Commission use the average usage during the 100 highest peak hours during the entire reference year, or the average usage during the 100 highest summer peak hours when calculating the peak demand reduction targets for each EDC?

Comment: Duquesne's 100 hours are always during the summer peak hours and therefore Duquesne is indifferent whether the Commission explicitly uses the summer months or entire reference year.

b) Does Act 129 require reductions down to a fixed level, or require a fixed amount of decrease? How should this be calculated? Should the consumption reduction requirements contained in Section 2806.1(c) be treated the same as the demand reduction requirements contained in Section 2806.1(d)?

Comment: Duquesne concurs with the "savings approach" for consumption and demand reductions described on pages 12-15 of the November 26, 2008 Working Group Draft.

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2. Program Design:

a) Statewide vs. EDC specific: Should the Commission encourage, by policy, a statewide approach to some programs that are likely to be effective across Pennsylvania? For example, should rebate programs be harmonized across the state? Should specific programs, such as Energy Audits, PJM load reduction programs, Home Performance With Energy Star, and Energy Star Homes be consistently available in all EDC service territories? If so, what programs should the EDCs implement consistently across the state?

Comment: At this stage of program development, it is too early to determine the impact of encouraging statewide programs. Though economies of scale, statewide informational campaigns and more efficient use of resources are the benefits, the uniqueness of regional programs by EDC cannot yet be determined. Duquesne believes there are programs, such as PJM load response programs, that must be considered in the complete package of EE and DSR programs offered by the EDC. EDCs must consider the impact of EDC programs and their performance related to non-EDC programs, as well as effective communications to the end-use customer to ensure clarity. It would be inappropriate to encourage an EDC to adopt non-EDC programs for the sake of existence, and the potential for double counting of results would be magnified. Furthermore, requiring standard offerings from all EDCs will reduce the amount of dollar resources that would otherwise be available for the EDC to address the unique conditions that exist in its own territory, such as levels of shopping, the absence of price signals to reduce demand and overall limitations on costs.

b) Can Act 129 programs have negative impacts on existing cost effective energy efficiency and demand side programs by 3rd parties? If so, how can this Commission avoid damaging existing 3rd party efforts when socializing Act 129 energy efficiency and demand side programs through non-bypassable charges to all customers, while increasing customer participation in these services?

Comment: See Comment to item 2a.

c) Should the Commission seek to harmonize Act 129 programs with other Federal, State, local, RTO or other group programs? If so, what specific programs should this Commission encourage EDCs to replicate, incorporate, or leverage as part of their compliance filings? How can this best be achieved?

Comment: An EDC should be allowed to leverage or partner with existing programs and funding. So long as there is no double counting of results, the opportunities to capture further efficiencies in achieving the mandated targets should be allowed.

3. Total Resource Test

Overall Comment: Duquesne has no objection to the use of the California TRC manual referenced on page 12 of the November 26, 2008 Working Group Draft as the starting point for the TRC. Duquesne believes it would be effective to refine this document to address the following issues as well as all comments through a separate working group or through the same process the Commission contemplates for the refinement of the Technical Reference Manual referenced on page 10.

a) How can the Total Resource Cost Test that must be approved by the Commission under Sections 2806.1(a)(3) and 2806.1(b)(1)(i)(I) be simplified?

b) The Act defines "Total Resource Cost Test" (TRC test) as "a standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value of avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of energy efficiency conservation measures." Under this definition, may the Commission limit consideration of monetary costs to the costs incurred by the EDC?

Comment: This in general will depend on the complete definition of TRC. Total costs, however, must consider those costs incurred had the programs never been offered, as well as all costs expended to implement the measures and therefore must include participant investment as well.

c) Can the TRC test include avoided environmental costs or other avoided societal costs?

Comment: Duquesne does not believe these costs should be included.

d) If the Commission limits costs considered under the TRC test to those incurred by the EDC, should the Commission exclude costs not incurred by the EDC from the test?

Comment: See response to b.

e) If participant costs that are not paid by the EDC are included, should these costs be reduced by tax credits or credits under the AEPS Act received by the participants?

Comment: This should be addressed as part of the working group, but in general, "net costs" should be considered.

f) What elements of the "avoided monetary cost of supplying electricity" should be included in the TRC test?

Comment: This should be addressed as part of the working group.

g) Should these costs be valued at the "marginal costs for the periods when there is a load reduction" as required by the draft Implementation Order? What does this mean precisely?

Comment: The marginal cost will remain an estimate since the actual cost absent the load reduction will be unknown.

h) Should the methodology for calculating the Net Present Value (NPV) and B/C ratio set forth in *The California Standard Practice Manual - Economic Analysis of Demand-Side Programs and Projects* (July 2002) be used, or is there a better alternative?

Comment:This should be addressed as part of the working group.

i) What discount rate should be used in the calculation of NPV? How frequently should it be reevaluated? Should it be established for each EDC service territory, or for the Commonwealth as a whole?

Comment: Typically in NPV calculations, the discount rate used is the after-tax weighted average cost of capital for the entity considering an investment which will produce benefits for it by use of its resources. Under the provisions of Act 129, EDCs' investment in the efficiency programs is recoverable on a full and current basis. Furthermore, the avoided costs are primarily driven by the competitive energy market rather than the EDC and the benefits will accrue to the ratepayers and to society in general. Duquesne therefore suggests that the Commission consider the use of a discount rate not tied to the current financial condition of the individual EDC. A published rate, such as a 15-year treasury rate, that is identifiable and easily available to all participants, should be considered. Use of a common discount rate may serve to make the evaluation of plan measures indifferent to unrelated financial considerations.

j) Should the elements used in the calculation of an EDC's total annual revenue be the same elements used to calculate the "avoided monetary cost of supplying electricity" under the TRC test?

Comment: Duquesne restates its position that the EDC's annual revenue must include an adjustment for customer load shopping with an EGS. Further, the Commission should provide clarification for the definition of avoided monetary cost of supplying electricity, particularly *for shopping customers*. For example, consider two customers, each with the same load, consumption, and exact response to the EDC's EE and DSR programs. One is a POLR customer, the

other shops with an EGS. Determination of the avoided monetary *cost* for the POLR customer is not an easy calculation and must consider all of the elements of the POLR supply mix (e.g. supply contracts, load shape adjustments, line losses, capacity contracts, cost of unhedged supply). For shopping customers, the EDC will have no means to determine the avoided cost of the supply. To the EDC, there is no avoided cost. This issue should be addressed in the definition of avoided supply cost and the refinement of the TRC Test.

k) The gas industry raised some interesting points on the net impact of displacing natural gas heating equipment (space and water) with electricity heating equipment. Should the TRC test include parameters to capture the consequences of net energy gains or losses in delivering alternative fuels to consumers?

Comment: It is premature at this time to evaluate fuel-switching options. This issue should be addressed in refinement of the TRC Test.

4. Evaluation, Measurement and Verification:

a) Should the Commission use a statewide, independent evaluator hired by the Commission to review EDC compliance with Act 129, pursuant to 2806.1(b)(1)(i)(J)? What would be the advantages and disadvantages of consolidating this review process?

Comment: Duquesne is indifferent to the selection of a statewide or EDC-specific evaluator. If the evaluation is "independent", the outcome of the review will be, by definition, the same whether sponsored by an individual EDC or the Commission. Advantages to the use of a Commission hired, statewide-applied evaluation may include economies achieved through using a common evaluation protocol, and the corresponding application of those economies to program implementations. For the sake of timely reviews, Duquesne recommends the use of multiple practitioners from the same entity utilizing the common evaluation protocol.

b) What programs lend themselves to a "deemed savings" approach, and what programs require more rigorous pre- and post-verification processes? How often should savings estimates be reviewed and how?

Comment: Energy efficiency programs lend themselves to the deemed savings approach. Load response programs and customized programs (e.g. a program that presents customized energy efficiency measures specific to an end-use customer) will require a more rigorous evaluation.

c) The Commission has a revised draft update to the 2005 Technical Reference Manual (TRM) that provides energy savings calculations for standard measures. The draft update is ready to be reviewed by interested parties. Should the Commission use a Secretarial Letter process to seek comments on this and subsequent updates to the TRM in the future? What timetable would be optimal for periodically updating the TRM?

Comment: Duquesne agrees to this process to update the TRM, preferably achieving a final document before the end of the first quarter in 2009. Regardless of the frequency of the updates, modifications must be prospective in application.

d) In addition to the TRM for standard measures, should the Commission adopt a standard measure and evaluation protocol for determining the energy savings from the installation or adoption of non-standard or custom measures not addressed in the TRM? If so, what protocols should be adopted? Comments to date have included the following protocols: 1) International Performance and Measurement Verification Protocol; 2) ISO New England Protocol; and 3) DOE Energy Star Portfolio Manager.

Comment: This should be addressed as part of the working group recommended above.

e) Bow might the Commission simplify and streamline the monitoring and verification of data so as to maximize resources for program measures but enable a thorough evaluation of program results consistent with Act 129 requirements?

Comment: See overall comment above.

f) Should the Commission adopt standard data collection formats and data bases for the evaluation of program benefits and results that would be used across all EDC service territories?

Comment: Duquesne does not object to a standardized reporting format, but suggests the first year report should be used as a guide to consider all alternatives for subsequent year standardized reports.

5. Revenue Requirement:

a) The Act defines "Electric Distribution Company Total Annual Revenue" as amounts paid to the EDC for "generation, transmission, distribution and surcharges" by retail customers. What "surcharges" should be included in the calculation of an EDC's total annual revenue?

Comment: All surcharges should be included. And unless the intent of the language of the Act was to disproportionately handicap an EDC successful in the

early elimination of CTC charges, removal of rate caps and the support of an competition-friendly environment, then an adjustment to Duquesne's 2006 total annual revenue that serves as a basis for the limitation on costs is essential. The penalty from such a strict application will be felt not only by Duquesne, but by its customers as well.

The Commission's draft proposal included on page 25 a statement of the EDCs' 2006 total annual revenue. Utilizing the numbers of customer data included in PUC 2007 Annual Reports, the following $ per customer will be available in each EDC territory for implementing EE&C/DSR measures.

Calculation of Energy Efficiency and Conservation/DSR $ per Customer per PUC Draft Staff Proposal

	2006 Revenue *		EE&C/DSR Spend Limit	Average ** No. of Customers	$/Customer
Duquesne	$723,299,451	2.00%	$14,465,989	585,837	**$24.69**
MetEd	1,243,344,716	2.00%	$24,866,894	543,864	45.72
PECO	4,371,215,020	2.00%	$87,424,300	1,555,342	56.21
Penelec	1,148,737,096	2.00%	$22,974,742	588,886	39.01
Penn Power	332,989,436	2.00%	$6,659,789	158,987	41.89
PPL	3,402,953,852	2.00%	$68,059,077	1,385,122	49.14
West Penn	1,130,243,686	2.00%	$22,604,874	711,055	31.79

* Page 25 of PUC Staff Draft Proposal under Secretarial Letter dated 11/26/08

** Per PUC Annual Reports by EDCs

As was stated in the testimony presented by Duquesne at the en banc hearing held November 19, 2008, 46.5% of the load in Duquesne's control area was supplied by EGS. Had there been no shopping, the 2006 revenues would have been approximately $369 M greater by additional POLR generation revenues. Had Duquesne not elected to sell its generation assets, enabling it to complete CTC recovery within the first five years of the deregulated supply industry, the 2006 revenues would ALSO have included CTC revenues.

As it it currently calculated, Duquesne will have nearly 25% less to spend per customer than then next closest EDC, West Penn Power, who is also our closest geographic neighbor. As compared to PECO, the other large urban EDC in Pennsylvania, we will have less than half of the resources per customer that can be invested in programs in that urban region.

The Act specifies that the total cost of the plan not exceed 2% of the 2006 revenue base. Duquesne, therefore, is required to design a plan for approval by the Commission within those boundaries. The likelihood that such limited resources can support programs that will achieve the mandated reductions is questionable. Most parties to this process have agreed that the reduction goals are aggressive and the EDCs – all of the EDCs – must rise to the challenge of achieving the targets. The "2008 State Energy Efficiency Scorecard" recently published by the American Council for Energy-Efficient Economy (ACEEE) sites Vermont as the leader in energy efficiency programs and savings. "In 2006, state spending (in Vermont) was equivalent to 2.4% of utility revenues, more than any other state and nearly 5 times the national average." In 2006, Vermont's energy efficiency programs saved about 1.0% of the state's electric needs. Vermont's 2006 spending per customer was $46.20.

As a result of the disparity between the components of Duquesne's revenues in 2006 as compared to the industry as a whole, Duquesne faces the likely reality of not meeting the required reductions. It has no other option but to make a best effort of achieving the legislative mandates with the funds "authorized" by the unadjusted 2% spending cap, which, given the empirical data on experience in other states, is not likely and will face possible penalties under the Act of up to $20 M.

Duquesne vigorously disagrees with the PUC position presented in the staff draft proposal on the propriety of an adjustment to Duquesne's 2006 revenues that will serve as a basis for the limitation on costs for the energy efficiency, conservation and demand-side response plans and asserts that there is no evidence that the intent of Act 129 was to punish Duquesne for its success in supporting the competitive market for energy supply in Pennsylvania. It is also counterintuitive that the strict application of the language of the law overrides the goals of achieving the required energy and peak load reductions. Duquesne therefore proposes that the Commission allow Duquesne's basis for the limitation on costs be modified to reflect POLR revenues as if there had been no shopping. This adjustment of $369 M (which addresses <u>only</u> the absence of generation revenues, and <u>not</u> CTC revenues also) will bring Duquesne's per customer spend to approximately $37.29, still over 20% below the statewide average spend per customer excluding Duquesne's service territory.

6. Cost Recovery Issues:

a) Can one class of customers have EE&C charges in excess of 2% of class revenues, due to an abundance of cost effective opportunities relative to other customer classes, while overall EE&C charges remain below 2% of revenues for the utility as a whole?

Comment: Yes.

7. CSP Issues:

a) Does the definition of "Conservation Service Provider" (CSP) in the Act prohibit an affiliated company of an EDC from serving as a CSP to an EDC other than its affiliate?

Comment: No.

b) Are there existing barriers to CSP market development that the Commission should address in the context of Act 129? For example, what data access, meter access or other barriers should the Commission accelerate resolution of in order to enhance Act 129 goal achievement?

Comment: A fuller examination of those issues should be addressed at Docket No. M-2008-2074154.

c) How should the Commission ensure that EDC self supplied EE&C programs are more cost effective than similar services offered by CSPs? Should this Commission require EDCs to demonstrate in their implementation filing that their self supplied program is more cost effective than similar CSP provided services?

Comment: The Act does not require that all programs be implemented using a CSP. Intuitively, an EDC will be motivated to maximize the effectiveness of the total resources available to spend in order to reach the targeted reductions, Requiring that additional analysis be included by EDCs in their filings relative to CSP programs will create inefficient encumbrances on the EDCs within already severe time constraints.

Duquesne appreciates the opportunity to comment.

Respectfully Submitted,

Duquesne Light Company

December 8, 2008