



ClearChoice Energy
A World Of Possibilities.

July 27, 2009

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
400 North Street – 2nd Floor
Commonwealth Keystone Building
Harrisburg, PA 17120

RE: Petition of Duquesne Light Company for Approval of its Energy Efficiency and Conservation Plan; Docket Number M-2009-2093217

Dear Secretary McNulty:

Please find for electronic filing the Petition of ClearChoice Energy in the above referenced matter. Copies of this document have been served in accordance with the attached Certificate of Service.

Sincerely,

Carolyn Pengidore
President/CEO
ClearChoice Energy

c: Administrative Law Judge Fred Nene (via E-Mail and First Class Mail)

Pittsburgh, PA 15241
Phone: (724) 825-5391
Email: Carolyn@ClearChoice-Energy.com

5. Consistent with the requirements of Act 129 and the Commission's Implementation Order entered on January 16, 2009, at Docket No. M-2009-2069887, on June 30, 2009, Duquesne Light filed its Act 129 Energy Efficiency and Conservation Plan ("EE&C Plan") with the Commission. Among other things, the EE&C Plan proposes to finance the EE&C Plan through a non-bypassable line-item surcharge on the customer's monthly bills entitled "Energy Efficiency and Demand Response Surcharge" which would be reconciled on an annual basis. Among the costs being financed by the Energy Efficiency and Demand Response Surcharge are costs for Duquesne Light's Commercial and Industrial Curtailable Load Program for Large Accounts (> 300 kW). Under the EE&C Plan, Duquesne Light seeks to use a third party contractor experienced in wholesale market demand response programs, and provide participants communications equipment at half price and pay incentives based upon recorded reductions and the wholesale energy price during curtailment periods.¹ The EE&C plan proposes a variety of marketing initiatives including direct mail, telemarketing and media events. Participants will also receive the load cycling unit at no charge with no charge for installation.

6. We are concerned about how Duquesne Light's proposed Curtailable Load Program will impact our ability to compete for customers to participate in demand response programs offered by PJM Interconnection, L.L.C. through ClearChoice Energy. Duquesne Light's proposed payment incentives based upon wholesale energy prices mirror those provided through PJM's economic demand response program. The

¹ EE&C Plan, §3.4.9, pp 75-76.

provision of communications equipment at half price with cycling equipment provided at no charge, along with the rate-payer funded marketing strategy will substantially bias potential customers that may be interested in programs offered by PJM Interconnection through ClearChoice Energy, to instead do business through Duquesne Light or its contracted agent. As a privately owned and financed Pennsylvania company, it would be unjust and unreasonable to put us in a position of competing against a rate-payer funded utility (or their contracted agent), for customers who wish to participate in demand response programs offered by PJM Interconnection, L.L.C.

7. Participation in demand response programs offered by PJM Interconnection, L.L.C. requires the sale of energy, capacity or ancillary services from a retail electric customer into the wholesale electric market. Such a sale represents a new supply of power that directly competes with power supplied from power generators and lowers the cost of wholesale electricity in the competitive generation market. Pennsylvania's Electric Generation and Competition Act, passed in 1996, expressly states the legislature's policy objective that Pennsylvania's retail customers have direct access to a competitive generation market, including stating that "competitive market forces are more effective than economic regulation in controlling the cost of generating electricity."² Competition in the demand response business is vital to the public's interest in providing low cost power supply from demand side resources into the wholesale electric market to mitigate prices for energy, capacity and ancillary services. By underwriting the marketing costs, providing equipment for free or with a cost subsidy, and offering incentives mirroring those available from wholesale market programs offered through PJM Interconnection L.L.C., Duquesne Light will substantially lessen

² 66, Pa C.S. §2802.

competition for the participation of demand side resources in the wholesale electric market within their service territory.

8. We are confident that the Commission will consider all issues attendant to whether the Duquesne Light's EE&C Plan and proposed programs are in accordance with Act 129 and other applicable statutes including the state's Electric Generation and Competition Act.

9. ClearChoice Energy may suffer an adverse impact on its ability to compete for demand side resources in the Duquesne Light service territory under the Curtailable Load program proposed in the EE&C Plan. Accordingly, ClearChoice Energy has an interest in this proceeding that is not represented by any other party of record; consequently, ClearChoice Energy satisfies the standards for intervention under Section 5.72 of the Commission's regulations. See 52 Pa. Code §5.72.

WHEREFORE, ClearChoice Energy respectfully requests that the Pennsylvania Public Utility Commission grant this Petition to Intervene and provide ClearChoice Energy with full-party status in this proceeding.

Respectfully submitted,



Carolyn Pengidore
President/CEO
ClearChoice Energy
180 Fort Couch Road, Suite 265
Pittsburgh, PA 15241
Phone: (724) 825-5391
Email: Carolyn@ClearChoice-Energy.com

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing Petition to Intervene upon the parties, listed below, in accordance with the requirements of §1.54 (relating to service by a party.)

Via First Class Mail & Electronic Mail

Honorable Fred R. Nene
Administrative Law Judge
Pa Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105
fnene@state.pa.us

David T. Evrard, Esquire
Tanya J. McCloskey, Esquire
Office of Consumer Advocate
555 Walnut St. 5th Floor, Forum Place
Harrisburg, PA 17101
devrard@paoca.org
TMcCloskey@paoca.org

Charles Daniel Shields, Esquire
Adeolu A. Bakare, Esquire
Office of Trial Staff
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
chshields@state.pa.us
abakare@state.pa.us

Gary A. Jack, Esquire
Kelly L. Geer, Esquire
Duquesne Light Company
411 Seventh Avenue
Pittsburgh, PA 15219
gjack@duqlight.com
kgeer@duqlight.com

Sharon E. Webb
Office of Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101
Swebb@state.pa.us

Pamela C. Polacek, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
ppolacek@mwn.com


Carolyn Pengidore
President/CEO
ClearChoice Energy
180 Fort Couch Road, Suite 265
Pittsburgh, PA 15241

Dated this 27th day of July, 2009 at Pittsburgh, Pennsylvania.