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VIA ELECTRONIC FILING

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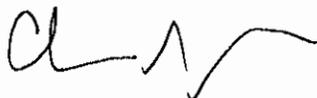
**Re: Petition of Duquesne Light Company for Approval of Smart Meter
Procurement and Installation Plan; Docket No. M-2009-2123948**

Dear Secretary McNulty:

Pursuant to 52 Pa. Code § 5.412, enclosed for filing is the Main Brief served today on behalf of Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. in the above-captioned proceeding.

If you have any questions, please contact me.

Respectfully,



Christopher R. Sharp

CRS/scc
Enclosure

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TABLE OF AUTHORITIES

1. *Implementation Order*, Commission Docket No. M-2009-2092655 (entered June 24, 2009).
2. *Act 129 of 2008*, 2008 Penn. Act 129 (enacted Oct. 15, 2008).
3. *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A. 2d 600, 602 (Pa. Cmwlth. 1990).

I. INTRODUCTION

Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. (collectively, “Constellation”) hereby submit their Main Brief for consideration by the Pennsylvania Public Utility Commission (“Commission”), with regard to the *Smart Meter Technology Procurement and Installation Plan* (“Smart Meter Plan” or “Plan”) filed by Duquesne Light Company (“Duquesne”) on August 14, 2009¹ (with supporting testimony from Duquesne filed on that same date²), in accordance with the Commission’s June 24, 2009 *Implementation Order*.³

A. SUMMARY AND STATEMENT OF POSITION

As part of its Smart Meter Plan, Duquesne fails to discuss in detail methods for customer’s and third-party suppliers’ (“TPSS”) access to data and the types and frequency of data that will be available under the technologies rolled out through Duquesne’s Plan. In fact, Duquesne explains that its Plan is not meant to include at this juncture even certain minimal requirements ordered by the Commission in its Implementation Order. Constellation submits that these topics are particularly important to Electric Generation Suppliers (“EGSS”) and other TPSS. The lack of details with respect to these topics, as well as Duquesne’s failure to comply

¹ *Petition of Duquesne Light Company for Approval of a Smart Meter Technology Procurement and Installation Plan*, Commission Docket No. **M-2009-2123948** (Aug. 14, 2009) (“Duquesne Petition”); and *Duquesne Light Company Smart Meter Technology Procurement and Installation Plan*, Commission Docket No. M-2009-2123945 (Aug. 14, 2009) (the “Smart Meter Plan” or “Plan”).

² *See, generally, Duquesne Light Company Testimony at Duquesne Petition, Exhibits C & D*, Commission Docket No. M-2009-2123948 (Aug. 14, 2009).

³ *Implementation Order*, Commission Docket No. M-2009-2092655 (entered June 24, 2009) (“Implementation Order”).

with aspects of the Implementation Order, represent the only issues that Constellation addresses herein.

Constellation submits that it is critical that each electric distribution company's ("EDC") Smart Meter plan includes sufficient detail with respect to the Commission's requirements regarding: (a) how a customer and/or its EGS or other TPSs will access data; and (b) what specific frequencies, types and formats of data will be provided through such EDC's Smart Meters. Adopting the Commission's minimum requirements along with Constellation's suggested improvements with respect to each of these topics will best ensure that Duquesne's Smart Meter Plan is likely to effectively meet the goals of the Commission's Implementation Order and *Act 129 of 2008* ("Act 129"),⁴ and will be in the public interest.

B. PROCEDURAL HISTORY

Duquesne on August 14, 2009 filed its Plan along with supporting testimony, in accordance with the Implementation Order. On October 7, 2009, a Prehearing Conference was held, with Administrative Law Judge Robert P. Meehan ("ALJ") presiding. At the Prehearing Conference, the ALJ adopted the procedural schedule ("Procedural Schedule") agreed to by the parties.

In addition to Duquesne, Appearances and/or Petitions to Intervene were filed by the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff,

⁴ *Press Release, Governor Rendell Signs Energy Conservation Bill to Save Consumers Millions on Electricity; Urges Legislature to Pass Rate Mitigation Bill*, Pennsylvania Office of the Governor (Oct. 15, 2008) (http://www.portal.state.pa.us/portal/server.pt?open=512&objID=2999&PageID=431162&mode=2&contentid=http://pubcontent.state.pa.us/publishedcontent/publish/global/news_releases/governor_s_office/news_releases/governor_rendell_signs_energy_conservation_bill_to_save_consumers_millions_on_electricity__urges_legislature_to_pass_rate_mitigation_bill.html).

the Commonwealth of Pennsylvania Department of Environmental Protection, the Duquesne Industrial Intervenors, the Pennsylvania Association of Community Organizations for Reform Now, Citizen Power, and Constellation.

On October 27, 2009, Administrative Law Judge Louis G. Cocheres presided over a Technical Conference in this matter.

Pursuant to the Procedural Schedule, direct testimony was submitted by intervening parties on October 29, 2009. Subsequently, rebuttal testimony was submitted by parties on November 6, 2009, and surrebuttal testimony was filed on November 12, 2009. Constellation submitted and circulated to parties only direct testimony for the Commission's consideration, in order to provide an analysis of the Smart Meter Plan.⁵ Duquesne submitted rebuttal testimony from Ruth A. DeLost related to the issues raised by Constellation.⁶

A one day hearing was held on November 3, 2009, at which time pre-filed written testimony and exhibits were admitted into the record, and parties conducted cross-examination of witnesses. Constellation's witness, David I. Fein, authenticated his Direct Testimony and was cross-examined by counsel for Duquesne.

⁵ See *Direct Testimony of David I. Fein on Behalf of Intervenors Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc.*, Commission Docket No. M-2009-2123948 (Oct. 29, 2009) ("Constellation St. 1").

⁶ See *Rebuttal Testimony of Ruth A. DeLost*, Commission Docket No. M-2009-2123948 (Oct. 26, 2009) ("Duquesne Exhibit C-R").

II. ARGUMENT

A. LEGAL STANDARDS

1. Burden of Proof.

Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), provides that the party seeking a rule or order from the Commission has the burden of proof in that proceeding. Further, it is axiomatic that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.”⁷

2. Standards Applicable to Smart Meter Plans.

The requirements for utilities’ Smart Meter technology Implementation Plans can be found in the Commission’s June 2009 Implementation Order and Act 129’s revisions to Section 2807, *Duties of Electric Distribution Companies*, of Title 66 of the Pennsylvania Consolidated Statutes (66 Pa.C.S. § 2807). With respect to Smart Meter technology and its capabilities for data access, forms and frequency in each EDC’s plan, Act 129 provides that Smart Meter technology:

- (a) “means technology, including metering technology and network communications technology capable of bidirectional communication, that records electricity usage on at least an hourly basis, including related electric distribution system upgrades to enable the technology;”⁸
- (b) “shall provide customers with direct access to and use of price and consumption information;”⁹ and

⁷ *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A. 2d 600, 602 (Pa. Cmwlth. 1990).

⁸ Act 129 at 66 Pa.C.S. § 2807(g).

⁹ Act 129 at 66 Pa.C.S. § 2807(g).

(c) "shall also:

- (1) Directly provide customers with information on their hourly consumption.
- (2) Enable time-of-use rates and real-time price programs.
- (3) Effectively support the automatic control of the customer's electricity consumption by one or more of the following as selected by the customer:
 - (i) the customer;
 - (ii) the customer's utility; or
 - (iii) a third party engaged by the customer or the customer's utility."¹⁰

With respect to these same issues, the Commission's Implementation Order provides additional details, laying out, in part, that "[t]he Commission believes that the smart meter capability requirements set out in Act 129 are minimal requirements,"¹¹ and that:

a covered EDC's smart meter technology *must* support the following capabilities:

1. Bidirectional data communications capability.
2. Remote disconnection and reconnection.
3. Ability to provide 15 minute or shorter interval data to customers, EGSs, third parties and the regional transmission organization ("RTO") on a daily basis, consistent with the data availability, transfer and security standards adopted by the RTO.
4. A minimum of hourly reads delivered at least once per day.
5. On board meter storage of meter data that complies with nationally recognized non proprietary standards such as ANSI C12.19 and C12.22 tables.

¹⁰ Act 129 at 66 Pa.C.S. § 2807(g).

¹¹ Implementation Order at p.16.

6. Open standards and protocols that comply with nationally recognized non proprietary standards, such as IEEE 802.15.4.
7. Ability to upgrade these minimum capabilities as technology advances and becomes economically feasible.
8. Ability to monitor voltage at each meter and report data in a manner that allows EDC to react to the information.
9. Remote programming capability.
10. Communicate outages and restorations.
11. Ability to support net metering of customer generators.
12. Support automatic load control by EDC, customer and third parties, with customer consent.
13. Support time of use and real time pricing programs.
14. Provide customer direct access to consumption and pricing information.¹²

B. THE COMMISSION SHOULD AFFIRM THAT THE GOALS AND PROVISIONS OF ACT 129 AND THE IMPLEMENTATION ORDER ARE REQUIREMENTS THAT SHOULD HAVE MUST BEEN MET IN DUQUESNE'S PLAN, AND MUST NEVERTHELESS BE MET IN SUBSEQUENT DUQUESNE FILINGS.

Act 129 and the Commission's Implementation Order specifically lay out requirements and goals for all EDCs' Smart Meter technologies, including the way in which customers and their TPS designees may access data, and the granularity of the data that can be accessed. For instance, Act 129 states that Smart Meter technologies *must* provide "direct access to and use of price and consumption information,"¹³ and *must* "[d]irectly provide customers with information

¹² Implementation Order at pp.16-17 (*emph. added*).

¹³ Act 129 at 66 Pa.C.S. § 2807(g).

on their hourly consumption.”¹⁴ The Implementation Order adds that Smart Meter technology implemented by an EDC *must* include the “[a]bility to provide 15 minute or shorter interval data to customers, EGSs, third parties and the [RTO] on a daily basis,”¹⁵ and *must* be able to provide “[a] minimum of hourly reads delivered at least once per day.”¹⁶ Moreover, the Implementation Order makes clear that these are only “*minimum capabilities*” and suggests that Smart Meters should provide additional capabilities if it is technologically and economically feasible.¹⁷

Through direct testimony, Constellation – as an EGS and TPS familiar with retail customers’ needs as they shop and look for new and well-tailored products – sought additional detail with respect to data access and frequency, and provided suggestions as to the level of granularity that Duquesne’s Smart Meters should provide to customers in order to empower them in a developing competitive marketplace. Some of Constellation’s inquiries and suggestions were with respect to the minimal requirements set out in the Commission’s Implementation Order; only certain limited suggestions by Constellation were improvements that went *beyond* the Implementation Order’s minimum requirements.

Through additional testimony, however, it became clear that Duquesne’s Smart Meter Plan failed to provide certain valuable characteristics that were *required* pursuant to the Implementation Order, and that could benefit Duquesne’s customers. In response to Constellation’s suggestions that were consistent with the Commission’s minimal requirements in

¹⁴ Act 129 at 66 Pa.C.S. § 2807(g).

¹⁵ Implementation Order at pp.16-17.

¹⁶ Implementation Order at pp.16-17.

¹⁷ Implementation Order at pp.16-17 (stating that EDCs should be able “to upgrade these minimum capabilities as technology advances and becomes economically feasible”) (*emph. added*).

the Implementation Order, Duquesne witness Ruth Ann DeLost explained Duquesne's belief that the Commission's minimal requirements were not requirements at all, but only characteristics that Duquesne was required to *evaluate*, but could ignore in its initial Smart Meter Plan filing.¹⁸

Ms. DeLost stated that:

[Constellation witness] Mr. Fein may misunderstand the iterative process that Duquesne believes is contemplated by the Commission's Implementation Order and certainly in Duquesne's [Plan]. Duquesne Light has tried to be very clear in all of its documents filed before the Commission in this proceeding that this [Plan] is a plan to analyze and assess various elements, including infrastructure options, customer and technological needs, vendors, network meters, components, software, hardware, etc. . . . While Duquesne understands Constellation's desire for such information, this request is premature, given the preliminary stage of the analysis and assessment.

* * *

Duquesne has tried to be very clear in stating that it will analyze the costs and benefits of the minimum statutory meter capability requirements set forth in Act 129, and the extended meter technology capabilities set forth in the Implementation Order, and will file such analysis on or before July 1, 2010 . . . Duquesne anticipates that after such filing is made by Duquesne and other EDCs, that the Commission will make a final ruling on mandatory smart meter capabilities, and Duquesne will act accordingly.¹⁹

In this way, Ms. DeLost and Duquesne believe that certain requirements of the Implementation Order are not requirements at all. This belies the Commission's own language, which states that:

The Commission believes that the smart meter capability requirements *set out in Act 129 are minimal* requirements. The Commission also recognizes that smart meter technology can support more than demand response and pricing programs. Smart meters have the ability to support

¹⁸ See, generally, Duquesne Exhibit C-R at pp.2 (line 23) – 5 (line 5).

¹⁹ Duquesne Exhibit C-R at pp.2 (line 23) – 5 (line 5).

maintenance and repair functions, theft detection, system security, consumer assistance programs, customer generator net metering, and other programs that increase an EDC's efficiencies and reduce operating costs. Therefore, the Commission *directs* that a covered EDC's smart meter technology *must support* the following capabilities²⁰

The Commission goes on to list *additional* requirements that the Smart Meters included in all EDCs' Smart Meter Plans *must* support, including capabilities that are the subject of Constellation's testimony in this proceeding, namely the ability to provide for (a) "15 minute or shorter interval data to customers, EGSs, third parties and the [RTO] on a daily basis,"²¹ and (b) "[a] minimum of hourly reads delivered at least once per day."²²

As Duquesne's Smart Meter Plan does not include these and other minimum capabilities that are *required* by the Implementation Order, and as it is too late for Duquesne to amend its original Smart Meter Plan documents, Constellation asks that the Commission affirm that the Smart Meter minimum capabilities outlined in the Implementation Order are indeed required aspects of a Smart Meter Plan, and proposes the following Ordering Paragraph:

The Commission hereby **REQUIRES** that Duquesne include in its final Smart Meter Plan the minimum capabilities required of all smart meters, as outlined in the Implementation Order at pp.16-17.

C. EGSS' AND OTHER TPSS' ACCESS TO CUSTOMER DATA FROM Duquesne'S SMART METERS.

Adopting a Smart Meter Plan including the minimum capabilities as described above, along with Constellation's limited and narrow suggested improvements discussed below, will be in the public interest.

²⁰ Implementation Order at p.16.

²¹ Implementation Order at pp.16-17.

²² Implementation Order at pp.16-17.

1. The Commission Should Approve the Electronic Access Capabilities of the Smart Meter Plan, as Clarified by Duquesne Witness DeLost.

Act 129 and the Implementation Order both require that Smart Meter technology provide Duquesne's customers with direct access to and use of price and consumption information.²³ Constellation witness David I. Fein recommends that "any Smart Meter Plan should allow a customer to electronically grant access to [TPSs],"²⁴ and "would support . . . develop[ing] a standard form of web interface for use by all of the Commonwealth's utilities, consumers, EGSS and other [TPSs], as long as such standard web interface, at a minimum, incorporates my suggestions herein and meets all of the requirements of the Commission's Implementation Order and Act 129."²⁵

Duquesne witness Ruth A. DeLost explains that:

Duquesne has committed to use the Grace Period to work 11 with Electronic Data Exchange Working Group ("EDEWG") to evaluate solutions for 12 EDI and Web data access and will provide a report to the Commission in the June 30, 13 2011 milestone report.²⁶

However, Ms. DeLost and the Plan do not go so far as to say that Duquesne will in fact offer such web access to customers absent a solution developed through the EDEWG.

²³ See Act 129 at 66 Pa.C.S. § 2807(g) (stating that Smart Meter technology "shall provide customers with direct access to and use of price and consumption information"); see also Implementation Order at p.17 (stating that Smart Meter technology should "[p]rovide customer direct access to consumption and pricing information").

²⁴ Constellation St. 1 at p.7 (lines 15-16).

²⁵ Constellation St. 1 at p.8 (lines 4-8).

²⁶ Duquesne Exhibit C-R at p.5 (lines 11-14).

As Duquesne's Smart Meter Plan was unclear on these details, and Duquesne has not committed to meeting the Implementation Order requirements regarding customer web access, Constellation proposes the following Ordering Paragraph:

The Commission hereby **REQUIRES** Duquesne to comply with the minimum electronic access provisions of the Implementation Order, whether through a uniform system developed through the EDEWG or, if unavailable, through an independent system developed based on stakeholder input and approved by the Commission.

2. The Commission Should Require Duquesne to Provide for All Commercial and Industrial Customers 15-Minute Interval Data Updated and Made Available on an Hourly Basis or, at a Minimum, on a Daily (24-Hour) Basis.

The Implementation Order states specifically that each EDC's Smart Meter technology must support the:

[a]bility to provide 15 minute or shorter interval data to customers, EGSs, third parties and the [RTO] on a daily basis, consistent with the data availability, transfer and security standards adopted by the RTO.²⁷

In addition, the Commission states that such technology should provide “[a] minimum of hourly reads delivered at least once per day,”²⁸ and that Smart Meters should provide additional capabilities – over and above these requirements – if it is technologically and economically feasible.²⁹

It seems clear, then, that a minimum, the Implementation Order requires that Duquesne's Smart Meter Plan provide for the implementation of Smart Meters that “provide 15 minute . . .

²⁷ Implementation Order at p.16.

²⁸ Implementation Order at p.16.

²⁹ Implementation Order at pp.16-17 (stating that EDCs should be able “to upgrade these minimum capabilities as technology advances and becomes economically feasible”).

interval data . . . on a daily basis,” as noted above. Despite this language, Duquesne in its Plan does not state that it will provide to all customers meters with these capabilities .

First, with respect to the availability of 15-minute interval data, Duquesne witness DeLost claims without appropriate reference that:

The Implementation Order required Duquesne to do a cost benefit analysis comparing the minimum requirements of Act 129, which requires the hourly data, and the additional requirements of the Order, which provides for 15-minute interval data. Duquesne will conduct this analysis as part of its July 1, 2010 filing, and will determine its course of action based upon the Commission’s findings of such analysis.³⁰

Duquesne has not provided any evidence – economic or otherwise – as to why such capabilities are not being utilized and made available at least to all commercial and industrial (“C&I”)customers under the Smart Meter Plan. Absent any evidence to the contrary, the Commission should find that it is in the public interest to provide this 15-minute interval data access to all C&I customers.

Next, with respect to the timeliness of making such 15-minute interval data available, though the Implementation Order states that such data *at a minimum* should be made available on a *daily* basis, Duquesne’s Smart Meter Plan includes no proposal to provide such data.³¹ Moreover, Duquesne has not provided any evidence proving why it would not be in the public interest to provide such data on a *daily* basis, as laid out in the Implementation Order. Meanwhile, Constellation witness Fein explains in detail why 15-minute data on an hourly basis, as provided for in the Implementation Order, is important to all C&I customers, and provides

³⁰ Duquesne Exhibit C-R at p.6 (lines 14-18).

³¹ See Constellation St. 1 at p.8 (lines 19-23) (explaining that Duquesne has not included a proposal to meet this requirement in the Implementation Order).

evidence as to why going beyond the Implementation Order's minimum frequency -- providing 15-minute data *on an hourly basis* rather than only on the Commission's minimum daily basis recommendation -- is also in the public interest for all C&I customers, stating that:

In today's competitive business environment, all sizes of [C&I] customers are thinking about energy as a strategic asset integral to every aspect of the bottom line. The capacity to actively monitor and manage usage and adjust operations accordingly reflects the increasingly sophisticated energy strategies now available. Load response solutions, for instance, are particularly attractive to businesses that have already invested in intelligent building designs, and wish to leverage the full spectrum of the energy chain to maximize these energy investment decisions. [Constellation] and other EGSs are helping customers adapt successfully to this new energy paradigm and positioning them to make the most of the opportunity to participate in the emerging energy marketplace of the 21st Century. Overlaying Smart Meter technologies onto existing open platforms makes it possible to more successfully harness and shape load whether the load is distributed across a single facility, college campus, or retail chain with multiple locations throughout a large geographic area. This ability to shift and shape load across multiple buildings is going to reveal itself to be the smartest and most efficient way to create the virtual peaking plants and intelligent buildings of the greener energy grid of the future. Innovations of this magnitude in our built environment, by virtue of its role in consumption, have the potential to shift our understanding of energy generation, demand and load allocation in an entirely new direction. This shift in direction, however, while *possible* is only *likely* to occur if the proper access to data is available to customers and their EGSs in quick, easy and straightforward manners, and if the data provided by such new Smart Meter technologies is as specific and frequent as possible.³²

In this way, providing 15-minute data *on a daily basis at a minimum* will encourage new innovation and efficiencies in energy use, but providing such 15-minute data *on an hourly basis* will go even further to allow all C&I customers to take advantage of new energy infrastructure and shape new energy and resource management innovation.

³² Constellation St. 1 at pp.9 (line 14) – 10 (line 12).

As Duquesne's Smart Meter Plan does not meet its burden of proof to support its failure to include the Implementation Order's stated minimum goal of providing 15-minute data on a daily basis, and as Constellation has provided sufficient evidence to support going beyond the Implementation Order's *minimum* goal, Constellation proposes the following Ordering Paragraph:

The Commission hereby **ORDERS** Duquesne to revise its Smart Meter Plan to provide to all Commercial and Industrial customers and their designated EGSs and TPSs 15-minute interval data on an hourly basis.

Alternatively, if the Commission does not move to require Duquesne to provide 15-minute data on an hourly basis, despite the evidence in the record, Constellation proposes the following Ordering Paragraph:

The Commission hereby **ORDERS** Duquesne to revise its Smart Meter Plan to provide to all Commercial and Industrial customers and their designated EGSs and TPSs 15-minute interval data on a daily (24-hour) basis.

D. DEFAULT SERVICE WHOLESALE SUPPLIER ACCESS TO UP-TO-DATE, AGGREGATE, CLASS-BY-CLASS DATA DURING AND AFTER IMPLEMENTATION OF DUQUESNE'S SMART METER PLAN.

With respect to the Smart Meter requirements under Act 129, Governor Rendell's office explains that:

A smart meter gives consumers the information they need to better control their energy consumption, such as the current cost of power or whether they are in a peak rate period. Armed with this information, consumers can

choose to use energy when it is cheapest and cut back at times when it is most expensive.³³

In this way, as Constellation witness Fein explains, “it is clear that one intention of Smart Meter proliferation is to *change* the way that consumers use energy from the manner in which they typically may use it today – i.e., to change customers’ usage patterns and profiles.”³⁴ In order to help Duquesne’s Default Service suppliers to best predict and accordingly plan for new patterns in energy usage, Mr. Fein recommended “that Duquesne provide to such suppliers the most up-to-date and accurate information available with respect to both its progress in implementing its Smart Meter Plan,” and the amount of energy used by each customer class – in the aggregate.³⁵

Specifically, Constellation recommended that Duquesne provide:

- Monthly updates on the numbers of Smart Meters installed by customer class pursuant to Duquesne’s Smart Meter Plan; and
- As soon in time as possible, but no later than after 48 hours (as required under the Implementation Order with respect to customer access to Smart Meter data), validated aggregate customer consumption data, by customer class, for every hour of every day.³⁶

In response to Mr. Fein’s suggestions, Duquesne witness DeLost stated only that:

[w]hile current and accurate meter data is important for a variety of reasons, Mr. Fein’s positions with respect to such data for wholesale suppliers is beyond the scope of this proceeding and is more appropriate for EDC POLR proceedings³⁷

³³ See Constellation St. 1 at p.11 (quoting *Governor Rendell Signs Energy Conservation Bill to Save Consumers Millions on Electricity; Urges Legislature to Pass Rate Mitigation Bill*, Press Release, Pennsylvania Office of the Governor (issued Oct. 15, 2008)).

³⁴ Constellation St. 1 at p.11 (lines 12-14).

³⁵ Constellation St. 1 at pp.11 (line 22) – 12 (line 2).

³⁶ Constellation St. 1 at p.12 (lines 11-16).

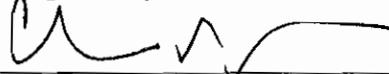
³⁷ Duquesne Exhibit C-R at p.7 (lines 11-13).

In light of Duquesne witness DeLost's testimony, Constellation will raise its data access requests for wholesale supplier's in the proceeding for Duquesne's recently filed Default Service Plan at Commission Docket No. P-2009-2135500.

IV. CONCLUSION

Constellation's proposed improvements to data access and frequency herein, is supported by substantial evidence in the record before the Commission. A Smart Meter Plan, including both the minimum requirements in the Implementation Order and improved access to and frequency of customer data as suggested herein, will encourage customers to adapt successfully to the new energy paradigm in the Commonwealth and, in turn, will better assure that Duquesne's customers are well positioned to make the most of the opportunity to participate in the emerging energy marketplace of the 21st Century.

Respectfully Submitted,



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*On Behalf of Intervenors Constellation Energy
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December 8, 2009

CERTIFICATE OF SERVICE

I hereby certify that this day I have served a copy of the foregoing Main Brief filed on behalf of Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc. upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code § 1.54.

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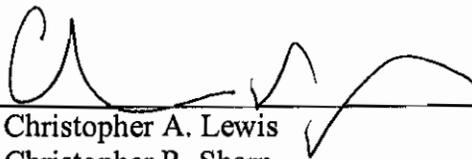
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