**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company :

For Approval of Its Energy Efficiency : M-2009-2093217

and Conservation and Demand :

Response Plan :

**PREHEARING ORDER**

On July 1, 2009 Duquesne Light Company (Duquesne) filed its Energy Efficiency and Conservation (EE&C) Plan with the Commission pursuant to the requirements of Act 129 of 2008 (Act 129), P.L. 1492, 66 Pa. C.S.A. §§2806.1 and 2806.2.

Notice of the filing was published in the Pennsylvania Bulletin on July 18, 2009. Included in the notice was information that an initial prehearing conference would be held on July 28, 2009 before the undersigned presiding officer and that petitions of intervention should be filed with the Secretary and myself before the scheduled hearing. A public input hearing was scheduled consistent with the Commission’s Implementation Order at PUC Docket No. M‑2008‑2069887 (Order entered January 16, 2009).

Notices of Intervention have been received from the Office of Small Business Advocate (OSBA); Office of Consumer Advocate (OCA); and Office of Trial Staff (OTS).

Timely Petitions to Intervene were received by the undersigned from:

Commonwealth of Pennsylvania Department of Environmental

Protection (DEP)

Duquesne Industrial Intervenors (DII)

ClearChoice Energy

Pennsylvania Association of Community Organizations For

Reform Now (ACORN)

Field Diagnostic Services, Inc. (FDSI)

Direct Energy Business, LLC (Direct Energy)

Equitable Gas Company, LLC (Equitable)

The prehearing conference was held as scheduled, and the following counsel were present: Gary A. Jack, Esq. and Kelly L. Geer, Esq. for Duquesne; Sharon E. Webb, Esq. for OSBA; Tanya J. McCloskey, Esq. and David T. Evrard, Esq. for OCA; Charles Daniel Shields, Esq. and Adeolu Bakare, Esq. for OTS; Scott Perry, Esq. and Aspassia V. Staevska, Esq. for DEP; Shelby A. Linton-Keddie, Esq. for DII; Harry S. Geller, Esq. for ACORN; Christopher R. Sharp, Esq. for FDSI; and finally, Charles E. Thomas, Jr., Esq. and Thomas T. Niesen, Esq. for Equitable.

Six of the seven petitions to intervene were not opposed and will be granted. The seventh petition, that of ClearChoice Energy, will not be considered until a notice of appearance is entered on behalf of the petitioner. Said notice must be in conformance with the Commission regulations of 52 Pa. Code §§1.21-1.25 regarding representation before the Commission. An amended petition signed by duly admitted counsel must also be filed with the Secretary.

THEREFORE,

IT IS ORDERED:

1. That the following petitions to intervene are granted without opposition: Commonwealth of Pennsylvania, Department of Environmental Protection; Duquesne Industrial Intervenors; Pennsylvania Association of Community Organizations for Reform Now; Field Diagnostic Services, Inc.; Direct Energy Business, LLC; and Equitable Gas Company, LLC.
2. That the following schedule is adopted:

Public Input hearings in Pittsburgh August 5, 2009 at

2:00 p.m. and 7:00 p.m.

Direct testimony of parties other than Duquesne August 7, 2009

Rebuttal testimony August 14, 2009

Surrebuttal testimony (in writing) August 18, 2009

Hearings in Harrisburg August 19 and 20, 2009

Main Briefs August 31, 2009

Reply Briefs September 10, 2009

Close of Record September 10, 2009

Certification to Commission after September 10, 2009

Completion of Commission Review October 29, 2009

1. That the following modifications to the Commission’s rules of discovery are adopted for discovery propounded after July 28, 2009:

(a) Answers to written interrogatories shall be served in-hand within seven (7) calendar days of service.

(b) Objections to interrogatories shall be communicated orally within three (3) calendar days of the service of interrogatories; unresolved objections shall be served to the ALJ in writing within five (5) days of service of the interrogatories.

(c) Motions to dismiss objections and/or direct the answering of interrogatories shall be filed within three (3) calendar days of service of the written objections.

(d) Answers to motions to dismiss objections and/or answering of interrogatories shall be filed within three (3) calendar days of service of such motions.

(e) Ruling over such motions shall be issued promptly.

(f) Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within seven (7) calendar days.

(g) Requests for admissions will be deemed admitted unless answered within seven (7) calendar days or objected to within five (5) calendar days of service.

1. That due dates are in-hand, service of discovery requests, testimony, exhibits and briefs may be by electronic means on the due date if transmission occurs before 4:00 p.m. and hard copies follow, unless otherwise noted in the litigation schedule. Oversize exhibits or photos or attachments may be served by hard copy only but must be sent by overnight mail if the submission is sent electronically on the due date. Discovery served after 4:00 p.m. shall be deemed to be served the following business day. Discovery served on Friday after noon shall be deemed to be served the following business day.
2. That the Commission’s regulations regarding discovery at 52 Pa. Code

§5.342(d) are modified for the purposes of this proceeding to provide that objections to discovery are in lieu of answers, and not in addition to answers.

1. That discovery disputes may be resolved via telephone conference with the presiding officer without need of a motion to compel, although the propounding party may choose to file a formal motion to compel.
2. All parties must serve me directly (electronically at fnene@state.pa.us and by hard copy) with any document you file in this proceeding. If you send me any document or correspondence, you must send a copy to all other parties in the case. The current service list is attached to this order. The correct address is Administrative Law Judge Fred R. Nene, 1103 Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.
3. That the parties shall copy the Office of Special Assistants, specifically Kathryn Sophy, Esquire and Jonathan Nase, Esquire, on all future documents and filings including testimony, comments, briefs and reply briefs.
4. That the parties should comply with the briefing requirements set forth in 52 Pa. Code §5.501. The Generic Outline of Briefs is attached as Appendix A to this Order and shall be used by the parties when submitting a brief or reply brief. Please provide the undersigned with two printed copies and one electronic copy of each brief in a format compatible with Word. An attachment to e-mail is preferred. All briefs should provide the specific citation to the location of evidence in the record when referring to the record. In addition, if a party has no comment on a specific topic in the outline, they should state “no comment” or “not applicable” in that section of the briefs in order. Likewise, if an outlined issue is covered elsewhere in the briefs, the reference to where it is covered should be included under the listed topic.

Date: July 30, 2009 Fred R. Nene

Administrative Law Judge

**M-2009-2093217 - Petition of Duquesne Light Company For Approval of Its**

**Energy Efficiency and Conservation and Demand side Response Plan**

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**Act 129**

**Generic Outline of Briefs**

1. Introduction
2. Procedural History
3. Description of EDC Plan
4. Summary of Argument
5. Argument

A. Act 129 Conservation and Demand Reduction Requirements

1. Overall Conservation Requirements

* 1. 2011 Requirements
  2. 2013 Requirements

2. Overall Demand Reduction Requirements

1. Requirements for a Variety of Programs Equitably Distributed
2. 10% Government/Non-Profit Requirement
3. Low Income Program Requirements
4. Issues Relating to Individual Conservation and Demand Reduction Programs
   1. Residential
   2. Commercial
   3. Industrial
5. Proposals for Improvement of EDC Plan
   1. Residential
   2. Commercial
   3. Industrial
6. Cost Issues

1. Plan Cost Issues

2. Cost Effectiveness/Cost-Benefit Issues

3. Cost Allocation Issues

4. Cost Recovery Issues

1. CSP Issues
2. Implementation and Evaluation Issues
   1. Implementation Issues
   2. QA Issues
   3. Monitoring and Reporting Issues
   4. Evaluation Issues
3. Other Issues

VI. Conclusion