

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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January 19, 2010

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

RE: Petition of Duquesne Light Company for  
Approval of a Time-of-Use Plan  
Docket No. P-2009-2149807

Dear Secretary McNulty:

Enclosed for filing is the Answer of the Office of Consumer Advocate, in the above-referenced proceeding.

Copies have been served as indicated on the Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script that reads "David T. Evrard".

David T. Evrard  
Assistant Consumer Advocate  
PA Attorney I.D. # 33870

Enclosures

cc: Administrative Law Judge  
Office of Special Assistants

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company : Docket No. P-2009-2149807  
for Approval of a Time-of-Use Plan :

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ANSWER OF  
THE OFFICE OF CONSUMER ADVOCATE

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I. INTRODUCTION

On December 28, 2009, Duquesne Light Company (Duquesne or Company) filed with the Pennsylvania Public Utility Commission (Commission) its proposed Time-of-Use and Real Time Pricing Plan (Plan or TOU Plan) together with its Petition seeking approval of the Plan. In doing so, Duquesne was fulfilling the requirement of Section 2807(f)(5) of the Public Utility Code, which directed that a default service provider whose generation rate cap has expired must submit to the Commission for approval one or more time-of-use rates and real-time price plans by January 1, 2010. 66 Pa.C.S. § 2807(f)(5).

Duquesne's proposed Plan is based on the fact that the Company's existing residential meters and their related systems are not capable of supporting time-of-use (TOU) pricing at this time. Petition at 3. As a result, Duquesne has put forward a four-phase plan covering the years 2010 to 2013. The Plan moves in stepwise fashion through those years in anticipation of the Company's broad deployment of smart meters beginning in 2014, at which time it expects to be in position to offer TOU rates to all customers. Petition at 5.

In 2010, the Company proposes to conduct customer and market research to identify likely participants in its proposed TOU pilot programs. The Company will also study effective rate structures, metering and other resource needs, implementation costs and estimated impacts of TOU pricing on demand and energy. Plan at 4.

In 2011, the Company will begin to develop two residential pilot programs. The first will be a time-of-week pilot that will enroll up to 1,000 customers and will run during the months of July and August. It will be a conservation-oriented program in which customers will be given an incentive to reduce their weekday consumption below a predetermined, customer-specific, baseline level. Because the program will not require hourly usage data, the Company's existing meter reading system will be able to be modified for those enrolled in the pilot. Plan at 4; Petition at 5-6.

The second pilot will be a time-of-day program enrolling 100 participants who will be encouraged to move weekday usage from on-peak hours to off-peak hours during the months of June through August. The Company will have both an on-peak and an off-peak rate and will attempt to motivate participants to shift usage by setting the on-peak rate differential between 1.5 and 2.5 times the off-peak rate. This pilot will require that interval meters be installed in participants' homes and that bills be manually generated, hence the small number of participants. The Company expects this pilot to yield valuable information that will assist in development of its third pilot in 2013. Plan at 4; Petition at 6-7.

The third phase of the Company's Plan will take place in 2012 when the time-of-week and time-of-day pilots will actually be implemented during the summer months. Plan at 4.

The fourth phase will occur in 2013 when Duquesne will implement a third TOU pilot program, which will coincide with the first roll-out of the Company's smart meters. This pilot

will be built upon information gained in the 2012 pilots and will be offered to the 8,000 customers expected to receive smart meters beginning in late 2012 and 2013. Plan at 4; Petition at 7-8. Participation in this pilot as with the two 2012 pilots will be voluntary. Petition at 7.

Much of the Company's Plan is preliminary at this point and Duquesne proposes to make supplemental filings to the Commission as it moves through the phases of its Plan. The Plan indicates that supplemental filings are anticipated in 2011 – in which further details of the 2012 pilots will be proposed; in 2012 – in which the results of the 2012 pilots will be presented and the details of the 2013 pilot will be proposed; and in 2013 – in which the 2013 pilot results will be reviewed and the TOU proposals for 2014 will be put forth. Plan at 5. It is in 2014 that full deployment of smart meters in Duquesne's territory will begin.

The Company's Plan acknowledges the importance of customer education relative to its TOU efforts. It intends to develop its educational materials during 2010 and 2011 prior to the start of its pilot programs in 2012. Plan at 29; Petition at 8.

Duquesne seeks Commission permission to collect and recover its costs associated with developing and implementing its TOU Plan. It proposes to collect these costs through its existing Consumer Education Surcharge, which it considers an appropriate mechanism for recovering the costs associated with the market research, development and implementation of the Plan. Petition at 8.

## II. ANSWER

The OCA has reviewed Duquesne's Plan and finds it to be a reasonable and workable proposal given the status of the Company's existing metering system. Recognizing that much of the Plan is at this point preliminary, the OCA looks forward to working with the Company as it develops the further details of its pilot programs, the structure of its pilot pricing offerings, its

educational materials and the details of its ultimate TOU offerings to smart meter customers. To that end, the OCA recommends that an appropriate forum for gathering input on these topics from interested stakeholders would be the Company's existing smart meter stakeholder process. There is no question that smart metering and TOU pricing are highly interrelated and it would simply make sense to combine discussion of the two topics within the smart metering stakeholder process.

One aspect of Duquesne's proposal with which the OCA disagrees is its requested method for recovery of the cost of developing and implementing the TOU Plan. Unlike the Public Utility Code provisions that mandated Energy Efficiency and Conservation programs and Smart Meter deployment, both of which specifically authorized recovery of related costs, there is no comparable explicit authorization in the Code provision regarding TOU rates. Absent express statutory authorization for recovery, the OCA submits that the type of costs the company will incur in designing and implementing its TOU rate offerings are not the type of costs for which surcharge recovery is normally allowed. Costs associated with developing and testing new rate designs are typical costs incurred in the normal course of business for a public utility. They are not costs that are volatile or beyond the utility's control that would give rise to automatic rate adjustment under Section 1307 of the Code. *See, e.g., Popowsky v. Pa. Pub. Util. Comm'n*, 869 A.2d 1144 (2005). ("A § 1307 (a) automatic rate adjustment is appropriate where expressly authorized, as in § 1307(g), or for easily identifiable expenses that are beyond a utility's control, such as tax rate changes or changes in the costs of fuel.") As such, the OCA submits that the costs of this program should be recovered as part of the normal base rate process.

Even if such costs were properly collected through a surcharge, the OCA submits that recovering such costs through the Consumer Education Surcharge would be inappropriate. Apart from the consumer education materials that will be developed to explain and promote the TOU pilot programs to customers, all other costs associated with developing and implementing the TOU Plan are not being incurred in furtherance of consumer education, but rather are research, design and development costs that are unrelated to consumer education and should therefore not be recovered through the Consumer Education Surcharge.

### III. CONCLUSION

The OCA submits that Duquesne's Plan is generally acceptable, but the OCA objects to the cost recovery method proposed by the Company.

Respectfully Submitted,



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Dated: January 19, 2010

CERTIFICATE OF SERVICE

Petition of Duquesne Light Company : Docket No. P-2009-2149807  
for Approval of a Time-of-Use Plan :

I hereby certify that I have this day served a true copy of the foregoing document, Answer of the Office of Consumer Advocate, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 19<sup>th</sup> day of January 2010.

SERVICE BY E-MAIL and INTEROFFICE MAIL

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