

PENNSYLVANIA UTILITY LAW PROJECT

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December 23, 2010

Via E-Filing

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg , PA 17105-3265

**Re: Duquesne Light Company Universal Service and Energy Conservation Plan
for 2011-2013
Docket No. M-2010-2161220**

Dear Secretary Chiavetta:

Please accept for filing in the above captioned proceeding the following Comments of the Pennsylvania Utility Law Project (PULP). A Certificate of Service is attached.

Thank you for your assistance, and please feel free to contact me directly should you have any questions.

Very truly yours,



Harry S. Geller, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Duquesne Light Company Universal Service
and Energy Conservation Plan for 2011 through
2013

Docket No. M-2010-2161220

CERTIFICATE OF SERVICE

I hereby certify that I have today served a true copy of the Comments of the Pennsylvania Utility Law Project upon the parties listed below, in accordance the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL

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Dated: December 23, 2010

I. Background and Introduction

In accordance with the Pennsylvania Public Utility Commission's ("Commission" or "PUC") regulations at 52 Pa. Code §§ 62.1-62.8, on February 25, 2010, Duquesne Light Company ("Duquesne" or "Company") filed with the Secretary the Duquesne Light Company Universal Service and Energy Conservation Plan for 2011-2013 ("Plan"). The Company subsequently filed three amendments to the Plan on the following dates: March 31, May 13 and August 5, 2010, which is the final version. On November 23, 2010, the Commission entered a Tentative Order approving Duquesne's Plan and solicited comments from interested parties.

The Pennsylvania Utility Law Project ("PULP"), as part of the nonprofit Pennsylvania Legal Aid Network, provides statewide representation, advice, and support in energy and utility matters on behalf of low-income, residential utility customers. PULP respectfully submits these Comments on behalf of the low-income consumers we represent in response to the Commission's request.

Approval by the Commission of Duquesne's proposed 2011-2013 Universal Service Plan is subject to the Plan meeting the requirements set forth in the Electricity Generation Customer Choice and Competition Act ("Competition Act" or "Act"), 66 Pa. C.S. § 2801 *et seq.* which became effective on January 1, 1997; the *Universal Service and Energy Conservation Reporting Requirements* (USEC Reporting Requirements) at 52 Pa. Code §§ 54.1-54.9; the LIURP regulations at 52 Pa. Code §§ 58.1-58.18; the directives articulated by the Commission in the CAP Policy Statement at 52 Pa. Code §§ 69.261-69.267; the Final Investigatory Order entered December 18, 2006 to Docket No. M-00051923; as well as in other relevant Secretarial letters, Commission rules, policies and Orders.

The universal service provisions of the Competition Act tie the affordability of electric service to a customer's ability to pay for that service and place the responsibility to ensure that such service is appropriately funded and available in each electric distribution territory upon the Commission. 66 Pa. C.S. § 2804(9). The statutory goals of universal service are to be achieved through the enactment, establishment and maintenance of policies, practices and services that help low-income customers maintain their electric service. Universal service includes customer assistance programs, usage reduction programs, service termination protections and consumer education. 66 Pa. C.S. § 2803.

The *Universal Service and Energy Conservation Reporting Requirements* at 52 Pa. Code §§ 54.1-54.9 require an electric distribution company (EDC) to submit an updated universal service and energy conservation plan every three years to the Commission for approval. 52 Pa. Code § 74(a)(1). The regulations place the responsibility upon the Commission to determine if the EDC's plan meets the goals of universal service. 52 Pa. Code § 54.73. The Commission may approve, reject or modify the plan. 52 Pa. Code 54.74(a)(5).

The 52 Pa. Code §§ 54.1-54.9 triennial submission and review is the only regulatory opportunity for the Commission to analyze the universal service program in its entirety. This complete program review is needed in order to determine if the Company's universal service program adheres to all legal and policy requirements; is structured and administered in a manner which achieves universal service goals; is appropriately funded and available; and provides an affordable payment structure which enables low income customers to maintain essential utility service. Although during the intervening three years between triennial program approvals it is not uncommon for modifications of individual program segments to occur as a result of regulatory or statutory changes or other factors, it is during the triennial review and *only* during

the triennial review when the entire universal service program is reviewed and approved as an integrated whole. It is, therefore, during the triennial review period most important for the Commission to permit full and complete participation of the public.

II. PULP Recommendations on Duquesne's Proposed Modifications

The Duquesne Light Universal Service and Energy Conservation Plan for 2011-2013 indicates that the Company is requesting proposed program modification to the current Plan in several areas:

1. The Company proposes to initiate an automatic enrollment component as part of its Customer Assistance Program ("CAP"). Under this new program component, any customer who receives a Low Income Home Energy Assistance Program (LIHEAP) Cash grant will be enrolled provisionally in CAP, pending submission of household residency and income information. This proposed modification is in the public interest and in compliance with universal service requirements. PULP supports this modification and the Commission's approval of this action.
2. Duquesne Light proposes to change the manner in which it applies LIHEAP Cash grants to CAP customers' accounts, in order to comply with the Pennsylvania Department of Public Welfare's (DPW) new policy requiring that LIHEAP Cash grants be applied to a CAP customer's "asked to pay amount." This proposed modification is in the public interest and is in compliance with Federal and state LIHEAP requirements. Duquesne has committed to DPW to follow this policy through its signed vendor agreement. PULP supports this modification and the Commission's approval of this action.

3. The Company proposes to establish consumption limits for CAP customers in accordance with 52 Pa. Code § 69.265(3)(iii). The consumption limits proposed will be generally set at 110% of the customer's historical average usage. PULP strongly disagrees with this proposed change as unneeded; however, in the event limits are imposed, PULP submits that the Commission should set the level at 125%, in accord with the Final Investigatory Order, and its proposed policy revisions. The Commission should take this opportunity to follow the rationale and policy it has articulated since the original promulgation of 52 Pa. Code § 69.265(3)(iii).

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Accordingly, it is our view that allowable increase in consumption after enrollment in CAP should be increased to 125% of previous usage from the current level of 110%. We also note that Action Alliance and the OCA are correct that no universal service evaluation has shown that CAP customers increase usage after enrollment in CAP. Final Investigatory Order, Docket No. M-00051923, at 47.

4. The Company proposes to establish maximum CAP credits in accordance with 52 Pa. Code § 69.265(3)(v) in which maximum CAP credits are currently set at \$560 per year for non-heating accounts and \$1400 per year for heating accounts. PULP strongly disagrees with this proposed change and submits that to the extent that the Commission approves the establishment of maximum CAP credits, that the maximum amount for 2011-2013 should not be set at a level established in 1992, twenty years prior. PULP submits that the Commission should set the maximum CAP credit level in accord with the Commission's Final Investigatory Order, and its proposed policy revisions. The Commission should take this opportunity to follow the rationale and policy it has articulated far more recently than when 52 Pa. Code § 69.265(3)(v) was originally

promulgated. The levels set in 1992 should be keyed to inflationary increases as represented by the Consumer Price Index since 1992. As the Commission stated:

We agree that maximum CAP credits should be revised to reflect changes in prices since 1992 and will consider adopting a method that recognizes fluctuations in the price of energy. In the interim, we will recommend that utilities consider revising their maximum CAP credits to match PPL's recommendation that maximum CAP credits be increased to \$1800 for electric heat, \$700 for nonheat, and \$1000 for natural gas heat. These levels track closely with the changes reflected to the Consumer Price Index since 1992. Final Investigatory Order, Docket No. M-00051923 at 50.

III. Additional Recommendations: Duquesne Smart Comfort Low Income Usage Reduction Program (LIURP) Must Serve More Households Each Year.

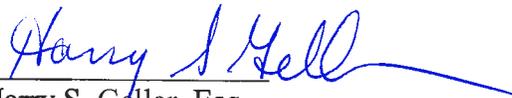
LIURP is critical to assisting low-income households obtain the benefits of universal service. PULP is particularly concerned about the absence of a full LIURP Needs Assessment in the Proposed Plan. Duquesne states that Smart Comfort enrollment levels for 2011-2013 are based on annual program funding levels and settlement agreements in 2006. PULP respectfully submits that this method of determining and planning for LIURP enrollment is flawed. One of the key responsibilities in planning for the future scope of a universal service program is to determine the level of need and the level of effectiveness of the program in assisting a low-income customer to afford and maintain electric service. Determining the scope of LIURP based upon budget amounts and settlements entered into outside of the universal service plan approval process thwarts the purpose of intelligent program planning aimed at fulfilling the intent of universal service. This is particularly true in regard to Duquesne's LIURP proposal which indicates flat enrollments and budgets for 2011-2013 and no attempt to correlate program production levels to the needs of the low-income population within its service territory. PULP respectfully requests that prior to approving the Duquesne proposal for its Smart Comfort Plan,

the Commission require the Company to provide a detailed needs assessment and analysis of the appropriate LIURP enrollment levels for 2011-2013.

IV. Conclusion

PULP thanks the Commission for this opportunity to submit comments concerning the Duquesne Light Universal Service Plan for 2011-2013 and respectfully requests that the Commission approve the Company's proposals to initiate an automatic enrollment component as part of its Customer Assistance Program ("CAP") and change the manner in which it applies LIHEAP Cash grants to CAP customers' accounts, in order to comply with the Pennsylvania Department of Public Welfare's (DPW) new policy requiring that LIHEAP Cash grants be applied to a CAP customer's "asked to pay amount." PULP further requests that the Commission, prior to final approval, require Duquesne to modify its Plan by setting consumption limits at 125% of historic usage; setting maximum CAP Credit levels at Consumer Price Index adjusted levels; and completing a full LIURP needs Assessment with recommendations for LIURP program growth based upon need.

Respectfully submitted,



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