

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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IRWINA. POPOWSKY  
Consumer Advocate

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December 29, 2010

Rosemary Chiavetta  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

RE: Joint Application for All of the Authority and the Necessary Certificate(s) of Public Convenience to Transfer the Interests and Shares in DQE Holdings LLC, currently owned by DUET Investment Holdings Limited, to Epsom Investment Pte Ltd, a subsidiary of GIC Infra Holdings Pte Ltd, and to Approve the Resulting Change in Control of Duquesne Light Company  
Docket No. A-2010-2213369

Dear Secretary Chiavetta:

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

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

Respectfully Submitted,

A handwritten signature in cursive script that reads "Jennedy S. Johnson".

Jennedy S. Johnson  
Assistant Consumer Advocate  
PA Attorney I.D. # 203098

Enclosures

cc: Administrative Law Judge  
Office of Special Assistants

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joint Application for All of the Authority	:	
and the Necessary Certificate(s) of Public	:	
Convenience to Transfer the Interests	:	
and Shares in DQE Holdings LLC, currently	:	Docket No. A-2010-2213369
owned by DUET Investment Holdings	:	
Limited, to Epsom Investment Pte Ltd,	:	
a subsidiary of GIC Infra Holdings Pte Ltd,	:	
and to Approve the Resulting Change in	:	
Control of Duquesne Light Company	:	

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PROTEST OF THE  
OFFICE OF CONSUMER ADVOCATE

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The Office of Consumer Advocate (OCA) files this Protest in the above-captioned Joint Application (Application) pursuant the notice published in the Pennsylvania Bulletin, 40 Pa.B. 7319, the provisions of the Rules of Practice and Procedure of the Pennsylvania Public Utility Commission (Commission), 52 Pa. Code §§ 5.51-5.53, and Chapter 11 of the Public Utility Code, 66 Pa.C.S. § 1101, *et seq.* Through its Application filed on December 2, 2010, Duquesne Light Company (Duquesne), Epsom Investment Pte Ltd (Epsom), DUET Investment Holdings Limited (DUET) and Diversified Utility and Energy Trust No. 3 (DUET3) (collectively, Applicants) request all necessary approvals from the Commission authorizing the transfer by sale of all DUET and DUET3 interests and shares in DQE Holdings LLC (DQE) to Epsom, a direct wholly-owned subsidiary of GIC Infra Holdings Pte Ltd (GIC Infra) and an indirect wholly-owned subsidiary of Government of Singapore Investment Corporation Pte Ltd (GIC Ventures). Joint Application at ¶ 1.

Duquesne Light is a certificated electric distribution company (EDC) and a default service provider (DSP) serving customers in western Pennsylvania. Duquesne Light is wholly-owned by Duquesne Light Holdings (DLH). Joint Application at ¶ 1. DQE Holdings, LLC (DQE) is the owner of DLH and consists of a group of six investment entities (collectively, the Investor Consortium). Joint Application at ¶¶ 7-10. DUET is a member of the Investment Consortium and is the largest individual shareholder in DQE with a 28.95% Class A ownership interest. Joint Application at ¶¶ 10-12. DUET's affiliate, DUET 3, owns rights as a lender to DQE under a \$201 million promissory note. Joint Application at ¶¶ 10-12. The Macquarie Group (Macquarie) manages 64.3% of the equity interests in DQE, including those held by DUET. If the proposed Application is approved, Epsom would acquire DUET's 28.95% equity interest in DQE as well the promissory note held by DUET3. Joint Application at ¶¶ 19-20. As a result, the Government of Singapore would become the indirect owner of the largest individual equity interest in Duquesne Light, and Macquarie would no longer manage this interest. Joint Application at ¶ 7.

The OCA files this Protest in order to ensure that the Application is approved only if it complies with applicable legal standards.

Specifically, the OCA avers as follows:

1. The Protestant is Irwin A. Popowsky, Consumer Advocate, 555 Walnut Street, 5th Floor, Forum Place, Harrisburg, PA 17101-1923. Protestant's attorneys for the purpose of receiving service of all documents in this proceeding are Tanya J. McCloskey, Senior Assistant Consumer Advocate and Jennedy S. Johnson, Assistant Consumer Advocate.

2. The OCA is authorized by law to represent the interests of utility ratepayers in all proceedings before the Commission. 71 P.S. §§ 309-1, *et seq.* This Protest is filed by the OCA to ensure that the interests of Duquesne ratepayers are protected in the proposed transactions.

3. The Joint Application must be examined pursuant to Chapters 11 and 28 of the Public Utility Code.

4. Section 1102 of the Public Utility Code requires that the Commission issue a Certificate of Public Convenience as a legal prerequisite to offering service, abandoning service and certain property transfers by public utilities or their affiliated interests. 66 Pa.C.S. § 1102(a)(1)-(3). It is the position of the OCA that this Commission has jurisdiction over this transaction under Section 1102 of the Public Utility Code and that this transaction must be examined by the Commission. The Commission also must examine this transaction under the provisions of Chapter 28 of the Code.

5. The Code requires that a certificate shall only be granted upon findings that the granting of such certificate is “necessary or proper for the service, accommodation, convenience or safety of the public.” 66 Pa.C.S. § 1103(a); *see also* City of York v. Pa.P.U.C., 295 A.2d 825, 828 (Pa. 1973); Irwin A. Popowsky v. Pa.P.U.C., 937 A.2d 1040 (Pa. 2007).

6. Additionally, Section 1103 explicitly allows the Commission to impose conditions upon the issuance of a Certificate of Public Convenience. 66 Pa.C.S. § 1103(a). Section 1103(a) of the Code provides: “The Commission, in granting such a certificate, may impose such conditions as it may deem to be just and reasonable.”

7. Pursuant to Section 2811 of the Public Utility Code, enacted as a provision of the Electricity Generation Customer Choice and Competition Act, the Commission has responsibility to consider the impact of transactions such as this on the operation of the retail electric market in Pennsylvania.

8. Based upon the OCA's preliminary review, the Joint Application raises important issues that must be resolved by the Commission before granting approval of this Application and issuing Certificates of Public Convenience to Epsom and GIC Infra.

9. Based on its preliminary review of the Application, the OCA has identified two areas of concern that require further consideration by the Commission and must be resolved prior to Commission approval of this Application. First, the approval of this Application would make a foreign government (the Government of Singapore), through its wholly-owned subsidiaries, the owner of the largest individual equity interest in Duquesne Light. Although the Applicants state that "the Government of Singapore neither directs nor interferes in GIC's investment decisions," the Government does "hold the GIC Board accountable for the overall portfolio performance." Joint Application at ¶ 10. The Applicants also state that it is the Government of Singapore that sets the terms of appointment, investment objectives, investment horizon, risk parameters and investment guidelines for managing the portfolio. Joint Application at ¶ 10. The extent of the Government of Singapore's involvement in the business of its subsidiaries must be explored, as must the potential for the Government's creditors to seek recompense from DQE. If necessary, proper protections must be put into place to ensure that Duquesne Light's customers are not negatively affected by changes in regimes, finances, or investment policies.

Second, while Macquarie is currently managing 64.3% of the equity interests in DQE, after the merger it will manage only 35.39%. Joint Application at ¶ 7. This shift from majority to minority decision making capabilities could result in conflict between the investment entities or a change in the management strategy of DQE as a whole. Duquesne's ratepayers must be protected from the potential consequences of such changes.

10. The OCA reserves the right to raise additional issues as the case proceeds and further information is obtained from the Applicants.

**WHEREFORE**, the Office of Consumer Advocate respectfully requests that the Pennsylvania Public Utility Commission investigate and hold full hearings regarding the above-captioned Application. The OCA further requests that the Commission not approve this Application unless it finds that the Application complies with applicable legal standards. Additionally, the OCA requests that the Commission impose such terms and conditions upon the proposed acquisition as are necessary to ensure that the Application meets the requirements set forth above.

Respectfully Submitted,



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Dated: December 29, 2010

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CERTIFICATE OF SERVICE

Joint Application for All of the Authority :  
and the Necessary Certificate(s) of Public :  
Convenience to Transfer the Interests :  
and Shares in DQE Holdings LLC, currently : Docket No. A-2010-2213369  
owned by DUET Investment Holdings :  
Limited, to Epsom Investment Pte Ltd, :  
a subsidiary of GIC Infra Holdings Pte Ltd, :  
and to Approve the Resulting Change in :  
Control of Duquesne Light Company :

I hereby certify that I have this day served a true copy of the foregoing document, the Protest 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 29<sup>th</sup> day of December 2010.

SERVICE BY E-MAIL and INTEROFFICE MAIL

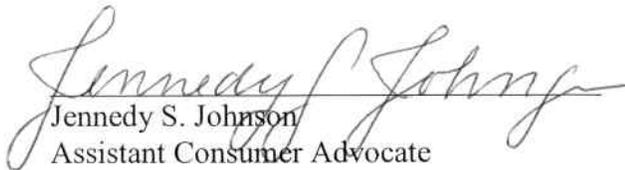
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