

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	Docket Nos. R-2010-2179522
Office of Small Business Advocate	:	C-2010-2193322
Office of Consumer Advocate	:	C-2010-2194660
Linda L. Sullivan	:	C-2010-2153066
Janet Vento	:	C-2010-2196479
Mary M. Chestnut	:	C-2010-2196790
Donald W. Killmeyer	:	C-2010-2199926
Sarah Divilly	:	C-2010-2199945
Delores D. White	:	C-2010-2200548
Vicki Courie	:	C-2010-2201179
Rebecca Nesvet	:	C-2010-2202732
Marie Rubottom	:	C-2010-2202837
Duquesne Industrial Intervenors	:	C-2010-2203197
Carolina Ursitti	:	C-2010-2203912
Donald J. Gilbert	:	C-2010-2204100
NRG Energy Center Pittsburgh, LLC	:	C-2010-2206586
Jay Folkens	:	C-2010-2213076
John and Sherry Urban	:	C-2010-2214197
	:	
Complainants,	:	
	:	
v.	:	
	:	
Duquesne Light Company,	:	
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Respondent	:	

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**STATEMENT OF THE DUQUESNE INDUSTRIAL INTERVENORS  
IN SUPPORT OF SETTLEMENT**

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Duquesne Light Company ("Duquesne" or "Company"), the Office of Trial Staff ("OTS") of the Pennsylvania Public Utility Commission ("PUC" or "Commission"), the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), the Duquesne Industrial Intervenors ("DII"), and NRG Energy Center Pittsburgh LLC ("NRG"), parties to the above captioned proceeding have filed with the Commission a settlement ("Settlement") to

resolve all issues in Duquesne's second post-rate cap distribution base rate proceeding. This Settlement has been agreed to or unopposed by all non-customer complainants in this proceeding. As set forth in more detail below, DII supports the proposed Settlement as a reasonably-balanced resolution of this matter, while emphasizing that more progress must be made toward achieving distribution cost of service in the next distribution base rate proceeding.

## **I. REASONS FOR SUPPORT OF SETTLEMENT**

DII's Complaint filed in this proceeding on September 23, 2010 ("Complaint") set forth the following issues:

- a) Whether the size of the requested rate increase is appropriate;
- b) Whether the expenses claimed by Duquesne were prudently incurred;
- c) Whether the allocation of the proposed distribution rate increase between and among customer classes is just, reasonable and non-discriminatory;
- d) Whether Duquesne's proposed rate structure and rate design are appropriate, just, reasonable and not unduly discriminatory, specifically including the proposed rate design changes for Rates GL, L and HVPS;
- e) Whether the 11.25% return on equity proposed by Duquesne and other aspects of the Company's proposal result in a fair rate of return; and
- f) Whether Duquesne's claimed cost of service is accurate, legitimate and appropriately allocated.

Complaint at 3. For reasons discussed below, the Settlement adequately resolves these issues.

First, under the Settlement Duquesne will retain Tariff Rule 4, which allows the Company to enter into special contracts with industrial and commercial customers with loads of at least 100 kW. Settlement, Paragraph 36. DII disagreed with the Company's initial proposal to

eliminate the Company's ability to enter such special contracts, which address "changing business needs or operating conditions." DII Statement No. 1, p. 14. As DII witness Baudino testified, despite the Company's concerns that such discounts to larger customers "post restructuring" are no longer appropriate, "[s]ince there is no obligation to enter a Rule 4 contract, it would appear to be beneficial to maintain the option in the event that the Company, the affected Rule 4 customer and other Duquesne customers could benefit from such a contract." DII Statement No. 1, pp. 13-14. The Settlement will allow for such beneficial contracts.

Second, the Settlement provides that the Untransformed Service Credit under Rate L will be increased by the amount of the percentage increase to Rate L distribution rates. Settlement, Paragraph 34. This credit recognizes that some customers taking service on the Company's Rate L do so at voltages exceeding 11,500 volts. DII Statement No. 1, p. 13. The current credit is \$.70 per kW for customers taking service above 11,500 volts and who furnish their own equipment necessary to take untransformed service. Id. The Company had proposed that this credit remain unchanged, but DII asserted that given the increases in demand charges for Schedule L, the credit should be increased accordingly. Id. The Settlement provides for an appropriate increase in this credit commensurate with the overall increase for Rate Schedule L.

Third, the Settlement reduces Duquesne's distribution revenue increase from its original request of \$87.3 million in additional annual distribution rate revenues to an increase of \$45.7 million. Settlement, Paragraph 26. This reduced amount is inclusive of future test year universal service costs that will be recovered under the Company's Universal Service Charge Rider, and consumer education costs to be recovered through the Consumer Education Surcharge. Id. This reduction of \$41.6 million from the rate increase requested by the Company provides an adequate resolution to the issue of whether the Company's requested rate increase is appropriate.

Fourth, the Settlement maintains a customer charge for Rate GLH. Settlement, Paragraph 8. DII proposed that the rate design continue to include such a customer charge. DII Statement No. 1, p. 12. While the Company had proposed eliminating the customer charge during heating months and going to a kWh-only charge, DII found "no sound basis" in eliminating this charge. Id. The Settlement rate designs for Rates GL, L and HVPS are also appropriate.

Fifth, the Settlement continues to move all rate schedules closer to cost of service. DII witness Baudino testified concerning the need to move toward cost of service, stating:

[i]n the current proceeding, Rates GL and L are continuing to pay significant subsidies to other rate classes and [Company witness] Pfrommer's recommended increases of 16.4% and 14.8% for these classes are excessive and unjustified. Equity and fairness calls for significantly lower increases to GL and L and continued movement toward cost of service for all classes.

DII Statement No. 1, p. 10. In the settlement resolving the Company's 2006 distribution rate case, Rates GL and L received increases of 85.3% and 83.9%, while the total system increase was only 41.8%. DII Statement No. 1, p. 10. The Settlement's movement towards cost of service provides for a more equitable rate allocation for these rate classes than that of the 2006 settlement, as well as the allocation originally proposed by the Company in this proceeding. See Settlement Paragraphs 31-32.

While DII supports the Settlement, distribution base rates have yet to reach full cost of service levels despite two base rate proceedings. It is crucial that more progress toward cost of service, if not complete cost of service, be achieved by Duquesne in the next distribution base rate proceeding. Notably, in its 2010 distribution base rate proceeding, PPL Electric Utilities Corporation ("PPL") moved its rates for all major rate classes to "at or near" full cost of service, with PPL's entire proposed rate increase being allocated to residential customers in order to achieve this goal. *Pa. PUC v. PPL Electric Utilities Corporation*, Docket No. R-2010-2161694

(Order entered December 21, 2010) at 36. This goal is mandated by *Lloyd v. Pennsylvania Public Utility Commission*, in which the Commonwealth Court of Pennsylvania declared achieving cost of service to be the "polestar" of utility ratemaking. *Lloyd v. Pa. PUC*, 904 A.2d 1010 at 1020 (Pa. Cmwlth. 2006) *appeal denied* 591 Pa. 676, 916 A.2d 1104, fn. 10 (2007). The Commonwealth Court held that while gradualism concerns may be considered, they do not outweigh the need to bring a timely end to cross-subsidization among rate classes:

However, while permitted, gradualism is but one of many factors to be considered and weighed by the Commission in determining rate designs, and principles of gradualism cannot be allowed to trump all other valid ratemaking concerns and do not justify allowing one class of customers to subsidize the cost of service for another class of customers over an extended period of time.

Id. PPL was able to achieve rates "at or near" full cost of service in its three rate cases since passage of the Electric Competition Act, 66 Pa. C.S. § 2801 *et seq.*, and it is vital that the cross-subsidization by Duquesne's large and industrial customer classes end with the Company's third post-rate cap distribution case.

## II. CONCLUSION

**WHEREFORE**, the Duquesne Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission approve the Joint Petition for Settlement of All Issues submitted in this proceeding.

Respectfully submitted,

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