

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission et al.,	:	
	:	
	:	Docket No. R-2010-2179522
v.	:	
	:	
Duquesne Light Company	:	

**OFFICE OF TRIAL STAFF
STATEMENT IN SUPPORT OF
JOINT PETITION FOR
SETTLEMENT OF ALL ISSUES**

TO ADMINISTRATIVE LAW JUDGES MARK A. HOYER AND CONRAD A. JOHNSON:

INTRODUCTION

The Office of Trial Staff ("OTS") of the Pennsylvania Public Utility Commission, ("Commission") by and through its Prosecutor Adeolu A. Bakare and Senior Prosecutor Charles Daniel Shields hereby respectfully submits that the terms and conditions of the foregoing Joint Petition for Settlement of All Issues ("Settlement") is in the public interest and represent a fair, just, reasonable and equitable balance of the interest of Duquesne Light Company ("Duquesne" or "Company") and its customers.

BACKGROUND

1. OTS is charged with the representation of the public interest in proceedings relating to rates, rate-related services and application proceedings affecting the public interest held before the Commission. Consequently, in negotiated settlements, it is incumbent upon OTS to ensure that the public interest is served and to quantify to what extent amicable resolution of any such proceeding will benefit the public interest. Based upon the OTS analysis of the Company's filing, acceptance of this proposed Settlement is in the public interest and OTS recommends that Administrative Law Judges ("ALJs") Mark A. Hoyer and Conrad A. Johnson and the Commission approve the Settlement in its entirety.

2. The signatory active parties consist of the Duquesne, OTS, the Office of Consumer Advocate ("OCA"), Office of Small Business Advocate ("OSBA"), the Duquesne Industrial Intervenors ("DII"), and NRG Energy Center Pittsburgh ("NRG"). The remaining active parties, Citizen Power, Inc. ("Citizen Power") and the International Brotherhood of Electrical Workers, Local 29 ("IBEW") do not oppose the Settlement and will submit letters of non-opposition on or around the time of filing of the Settlement.

3. Prior to agreeing to the instant settlement, OTS (1) conducted a thorough review of the Company's filing and supporting information, discovery responses and submitted filing data and contributed to the forthright discussions amongst the parties during settlement talks. The provisions of this settlement represent a revenue increase

that OTS agrees is just and reasonable and in the public interest, but is not based upon any specific adjustments or ratemaking approach, except for the ones specifically indicated.

4. On July 23, 2010, Duquesne filed Supplement No. 35 to Duquesne's Tariff – Electric Pa. P.U.C. No. 24 ("Supplement No. 35"), to become effective September 21, 2010, containing proposed changes in rates, rules, and regulations calculated to produce approximately \$87.3 million in additional annual revenues based upon data for a pro forma future test year ending March 31, 2011.

5. OTS filed its notice of Appearance on September 16, 2010.

6. IBEW filed a Petition to Intervene on August 3, 2010.

7. OSBA filed a Notice of Appearance and Formal Complaint on August 12, 2010.

8. OCA filed a Notice of Appearance, Formal Complaint, and Public Statement on August 20, 2010.

9. Thirteen customers filed Formal Complaints.

10. By Order entered September 16, 2010, the Commission instituted an investigation to determine the lawfulness, justness and reasonableness of Duquesne Light's proposed rate increase. Additionally, the Commission outlined several issues to be addressed in the proceeding. Through the same Order, the Commission assigned the case to the Office of Administrative Law Judge for the prompt scheduling of such hearings and the issuance of a Recommended Decision.

11. Pursuant to 66 Pa. C.S. § 1308(d), the filing was suspended by operation of law on September 16, 2010, until April 21, 2011, unless permitted by Commission Order to become effective at an earlier date.

12. On September 17, 2010, the ALJs issued a Prehearing Order scheduling a prehearing conference to be held on September 24, 2010.

13. On September 21, 2010, Citizen Power filed a Petition to Intervene.

14. On September 23, 2010, DII filed a Complaint.

15. The ALJs presided over the Prehearing Conference on September 24, 2010. Counsel for Duquesne, OTS, OCA, OSBA, DII, IBEW and Citizen Power were in attendance. One customer complainant, Mary M. Chestnut, appeared pro se. Upon the agreement of the parties, the ALJs set a procedural schedule and the times and locations for public input hearings.

16. On October 8, 2010, Duquesne submitted Supplemental Direct Testimony addressing certain matters identified by the Commission in its Suspension Order.

17. On October 25, 2010, NRG filed a Petition to Intervene and a Notice of Complaint.

18. On October 26, 2010 the ALJs presided over two public input hearings. The first hearing was held in Beaver Falls, Pennsylvania at 2:00 p.m. The second hearing was held at the Allegheny County Courthouse, Pittsburgh, Pennsylvania at 7:00 p.m.

19. OTS, OCA, OSBA and DII served their direct testimony on October 22, 2010.

20. Duquesne, the OCA, OSBA, and DII submitted rebuttal testimony on November 17, 2010.

21. On December 1, 2010, OTS, OCA, OSBA and DII submitted surrebuttal testimony.

22. An evidentiary hearing was held on December 7, 2010 in accordance with the procedural schedule adopted at the prehearing conference. At the hearing the parties informed the ALJs of a settlement of all revenue issues and a potential settlement on all remaining issues. To accommodate ongoing settlement discussions, the ALJs accepted the parties' proposal to waive cross-examination on revenue requirement and stipulate all parties' testimony and exhibits into the record subject to cross examination on unsettled issues. The ALJs cancelled the December 8, 2010 hearing but reserved the December 9, 2010 hearing for cross-examination on unsettled issues.

23. The parties continued settlement discussions and reached a Settlement in Principle on all issues on December 8, 2010. Accordingly, the ALJs cancelled the December 9, 2010 hearing and parties waived all remaining cross-examination.

24. OTS considers Commission approval of the terms and conditions of the Settlement to have the same binding effect upon the Company full and complete litigation

and further recognizes that final resolution of this proceeding by approval of the Settlement shall result in Commission-made rates.

SETTLEMENT TERMS

25. OTS agrees that the terms and conditions of the Settlement are in the public interest for a number of reasons, including the following:

- a. The Settlement provides for an increase in distribution revenues of \$45.7 million annually, a level of additional operating revenues that OTS, as one of the Joint Petitioners, agrees is reasonable and lawful, (Settlement, p. 7).
- b. The Settlement avoids the necessity of further administrative and possible appellate court proceedings, that would have been at substantial cost to the involved parties and the Company's jurisdictional ratepayers and thereby represents a conservation of time and saving of expenses for all involved.
- c. The Settlement maintains the current recovery of all consumer education costs through the Consumer Education Surcharge, thus removing all consumer education costs from base rates in order to eliminate the possibility for duplicative cost recovery, (Settlement, p.8-9).
- d. The Settlement eliminates the rate decreases proposed for particular customer classes in the Company's originally proposed rates and ensures that rates will be allocated pursuant to an equitable revenue allocation and rate design agreed to by the Joint Petitioners, (Settlement, p. 8).

- e. The Settlement affords ratepayers an opportunity to exercise greater control over their electricity expenses by preserving the customer charge for Rates RS, RH and RA at be the current rate of \$7.00 per month, as opposed to the customer charge of \$8.50 per month proposed in the Company's original filing, (Settlement, p. 8).
- f. Similarly, the Settlement preserves the customer charge for Rate GS will at the current rate of \$7.00 per month. The customer charge for Rate GM will be \$30.00 per month for customers with monthly demands less than 25 kW and \$43.00 per month for those customers with monthly demands greater than or equal to 25 kW, (Settlement p. 8).
- g. The Settlement provides Duquesne with adequate funding for its pension trust contributions, requiring the Company to deposit \$55,000,000 into its pension trusts as of calendar year 2011. Under the terms of the Settlement, Duquesne may recover the expense component of \$27,500,000 (50% of cash contributions) of projected future pension contributions. Duquesne is also permitted to include the other 50% of actual pension contributions dating from January 1, 2007, net of related accumulated deferred income taxes, in its rate base with necessary adjustments to the SFAS capitalized pension amounts as detailed in the Settlement, (Settlement, p. 9-10).

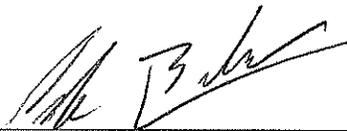
- h. The Settlement provides assurances that Duquesne will meet its pension trust contribution requirements, including requiring Commission approval to contribute a lesser amount and requiring annual reporting to the Commission, with copies provided to OTS, OCA and OSBA. (Settlement, p. 10).
- i. The Settlement incorporates modifications to Duquesne's CAP Program designed to preserve universal service for low-income customers without overburdening the Company's non-CAP ratepayers. Notably, the Settlement provides that (1) an auto-enrolled customer is not considered to be a CAP participant until the customer has completed the CAP enrollment process, (2) CAP discounts will be credited back to non-CAP ratepayers to the extent that monthly CAP enrollment exceeds 35,700, (3) Duquesne must review its CAP auto-enrollment process to determine the impact upon program costs and participation levels of auto-enrollment, (4) Duquesne must implement a CAP Plus Plan to comply with the Department of Public Welfare's changes to the LIHEAP grants without unduly increasing the CAP discount, and (5) that Duquesne will observe Commission guidelines and limit eligibility for its CAP program to customers with income at or below 150% of the Federal Poverty Level. (Settlement, p. 10-12).

- j. The Settlement provides a 10% return on common equity and a capital structure with a maximum common equity ratio of 46% for establishing the Company's smart meter surcharge in accordance with the Commission Order entered May 11, 2010 at Docket No. M-2009-2123948. (Settlement, p. 12-13).

CONCLUSION

26. In conclusion, the Office of Trial Staff has been thoroughly involved in Duquesne Light Company's instant base rate proceeding. OTS reiterates that it fully supports the Settlement as being in the public interest and respectfully requests that Administrative Law Judges Mark A. Hoyer and Conrad A. Johnson recommend and the Commission subsequently grant approval the Settlement as set forth in the Joint Petition and accompanying appendices.

Respectfully submitted,



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Dated: January 7, 2011