**BEFORE THE**

 **PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company :

for Approval of its Energy Efficiency : M-2009-2093217

and Conservation and Demand Response Plan :

**(Petition for Approval of Modifications to** :

**its Demand Response Programs)** :

**THIRD PREHEARING ORDER**

 On May 9, 2011, Duquesne Light Company (“Duquesne” or “Company”) filed a Petition for Modification of its Energy Efficiency and Conservation and Demand Response Plan. The Petition proposes modifications to Duquesne’s Demand Response Programs, which, by prior Order entered January 28, 2011 at this docket number, was approved by the Pennsylvania Public Utility Commission (“Commission”). Answers to Duquesne’s Petition were filed by the Office of Consumer Advocate (“OCA”) and the Duquesne Industrial Intervenors (“DII”) on May 19, 2011. By Opinion and Order entered on June 30, 2011, the Commission referred this matter to the Office of Administrative Law Judge for expedited evidentiary hearings and the issuance of a Recommended Decision.

 To date, the following entities have intervened in this proceeding: the Office of Trial Staff (“OTS”); the Office of Consumer Advocate (“OCA”); the Office of Small Business Advocate (“OSBA”); the Commonwealth of Pennsylvania Department of Environmental Protection (“DEP”); Duquesne Industrial Intervenors (“DII”); Field Diagnostic Services, Inc. (“FDSI”); Direct Energy Business, LLC (“Direct Energy”); Equitable Gas Company, LLC (“Equitable”); ClearChoice Energy (“ClearChoice”); Columbia Gas of Pennsylvania (“Columbia”); the Peoples Natural Gas Company, d/b/a Dominion Peoples (“Peoples”); EnerNOC, Inc. (“EnerNOC”); Natural Gas Distribution Companies (“NGDC”); Constellation New Energy (“Constellation”); and Comverge, Inc. (“Comverge”). A prehearing conference was held on July 28, 2011. This Order memorializes the matters decided and agreed upon by the parties attending that conference.

Litigation Schedule

 The parties agree upon the following litigation schedule:

|  |  |
| --- | --- |
| Date | Event |
| July 28, 2011 | Prehearing Conference |
| August 12, 2011 | Written Direct Testimony of the Company Due In-Hand |
| August 22, 2011 | Written Direct Testimony of Other Parties Due In-Hand |
| August 30, 2011 | Evidentiary Hearing in Harrisburg Beginning at 9:30 a.m. |
| September 9, 2011 | Main Briefs Due In-Hand |
|  |  |
| September 16, 2011 | Reply Briefs Due In-Hand |

The parties are reminded of the Commission’s requirements for the preparation and filing of written testimony. 52 Pa. Code §5.412. Written testimony must be accompanied by all exhibits to which it relates. The above-stated dates are in-hand dates for service on the parties and the Presiding Administrative Law Judge (“ALJ”). The parties and the Presiding ALJ agree to accept email transmission of such material, so long as the subject email is received by 5:00 p.m. on the date due and provided the email is followed by sending a hard copy of the same material by first class mail postage prepaid on the same business day. The email address of the Presiding ALJ is: johcorbett@pa.gov. The Presiding ALJ will not accept facsimile transmissions greater than ten pages in length without prior authorization. If in doubt, please call the office of the Presiding ALJ (412‑565-3550).

 The hearing scheduled for Harrisburg will begin promptly at 9:30 a.m. The parties must confer before commencement of the hearing to schedule their witnesses so as to avoid “holes” or “dead time” during the hearing.

Parties

 As of the date of this Order, the entities named above are the only parties involved in this case. A Service List of these parties is appended to this Order.

Public Input Hearing

 At present, no party has identified a need to conduct a public input hearing in the Company’s service territory. If consumer interest arises however, the parties are hereby directed to give this matter their prompt attention and notify the Presiding ALJ immediately of the change in circumstances.

Issues

 In their respective prehearing memoranda, the parties identified various issues they may wish to pursue. The reader is directed to these documents to review a recitation of these issues. Additional issues may arise as the discovery process unfolds.

Discovery

 The parties shall engage in informal discovery whenever and wherever possible in an attempt to resolve any discovery disputes amicably. 52 Pa. Code §5.322. If this process fails, the parties have recourse to the Commission’s procedures for formal discovery. 52 Pa. Code §§5.321, *et* *seq*. Except as herein allowed, the parties must not send the Presiding ALJ discovery material or cover letters, unless attached to a motion to compel or a motion for sanctions. All such motions must contain a certification of counsel of the informal discovery undertaken and

their efforts to resolve their discovery disputes informally. If a motion to compel fails to contain such certification, the Presiding ALJ will contact the parties and direct them to pursue informal discovery.

Settlement and Stipulations

 The parties are reminded it is the Commission’s policy to encourage settlements. 52 Pa. Code §5.231(a). The parties are strongly urged to seriously explore this possibility. Submission of a Joint Settlement Petition executed by representatives of all parties, together with all parties’ Statements In Support of Settlement, must be filed with the Secretary for the Commission and served in-hand upon the Presiding ALJ. In addition to a hard copy, the Secretary must receive these documents on a CD Rom in searchable PDF format. Where possible, the parties must submit to the Presiding ALJ one hard copy of these documents and one copy by email. The electronic version of the documents served on the Presiding ALJ must be prepared on an IBM compatible system in Microsoft Office Word 2007 format or in an earlier version of this software application.

 If settlement is not feasible, the parties are encouraged to stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all parties and conserve precious administrative hearing resources. 52 Pa. Code §§5.232 and 5.234. All stipulations entered into by the parties must be reduced to writing, signed by the parties to be bound thereby, and moved into the record during the hearing in this case. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.

Cross-Examination

 Friendly cross-examination or cumulative cross-examination will not be permitted. 52 Pa. Code §§5.76 & 5.243.

Briefs

 The parties must comply with 52 Pa. Code §§5.501, *et* *seq*., regarding the preparation and filing of briefs. Page limitations on briefs will be discussed at the hearing. Where possible, the parties shall submit to the Presiding ALJ one hard copy of their briefs and one copy by email. If a party cannot provide a copy by email, it must submit two hard copies of briefs. The electronic version of a brief must be prepared on an IBM compatible system in Microsoft Office Word 2007 format or in an earlier version of this software application. If in doubt, please call the office of the Presiding ALJ for clarification.

Modification

 Any of the provisions of this Prehearing Order may be modified upon motion and good cause shown by any party in interest.

Date: July 28, 2011 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 John H. Corbett, Jr.

 Administrative Law Judge

**M-2009-2093217 - Petition of Duquesne Light Company For Approval of Its Energy Efficiency and Conservation and Demand Response Plan**

*revised 7/28/11*

MICHAEL W GANG ESQUIRE

ANDREW S TUBBS ESQUIRE

POST & SCHELL PC

17 NORTH SECOND STREET

12TH FLOOR

HARRISBURG PA 17101-1601

(717) 731-1970

(717) 731-1985 (fax)

mgang@postschell.com

atubbs@postschell.com

GARY A JACK ESQUIRE

KELLY L GEER ESQUIRE

DUQUESNE LIGHT COMPANY

411 SEVENTH AVENUE 16-1

PITTSBURGH PA 15219

(412) 393-1541

(412) 393-1418 (fax)

gjack@duglight.com

kgeer@duqlight.com

SHELBY A LINTON-KEDDIE ESQUIRE

PAMELA C POLACEK ESQUIRE

BARRY A NAUM ESQUIRE

MCNEES WALLACE & NURICK LLC

100 PINE STREET

PO BOX 1166

HARRISBURG PA 17108-1166

(717) 232-8000

(717) 237-5300 (fax)

skeddie@mwn.com

ppolacek@mwn.com

bnaum@mwn.com

DAVID T EVRARD ESQUIRE

TANYA J MCCLOSKEY ESQUIRE

OFFICE OF CONSUMER ADVOCATE

555 WALNUT STREET

5TH FLOOR FORUM PLACE

HARRISBURG PA 17101-1923

(717) 783-5048

(717) 783-7152 (fax)

devrard@paoca.org

tmccloskey@paoca.org

SHARON E WEBB ESQUIRE

OFFICE OF SMALL BUSINESS ADVOCATE

1102 COMMERCE BUILDING

300 NORTH SECOND STREET

HARRISBURG PA 17101

(717) 783-2525

(717) 783-2831 (fax)

swebb@state.pa.us

CHARLES DANIEL SHIELDS ESQUIRE

ADEOLU A BAKARE ESQUIRE

PA PUC OFFICE OF TRIAL STAFF

PO BOX 3265

HARRISBURG PA 17105-3265

(717) 787-1976

(717) 772-2677

chshields@state.pa.us

abakare@state.pa.us

GEORGE JUGOVIC JR ESQUIRE

ASSISTANT COUNSEL

DEPARTMENT OF ENVIRONMENTAL PROTECTION

400 WATERFRONT DRIVE

PITTSBURGH PA 15222-4745

(412) 442-4262

(412) 442-4267 (fax)

gjugovic@state.pa.us

SCOTT PERRY ESQUIRE

ASPASSIA V STAEVSKA ESQUIRE

ASSISTANT COUNSEL

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RCSOB 9TH FLOOR

400 MARKET STREET

HARRISBURG PA 17101-2301

(717) 787-7060

(717) 783-7911 (fax)

scperry@state.pa.us

astaevska@state.pa.us

KATHRYN G SOPHY ESQUIRE

JONATHAN NASE ESQUIRE

PA PUC OFFICE OF SPECIAL ASSISTANTS

PO BOX 3265

HARRISBURG PA 17105-3265

(717) 787-1827

(717) 783-6324 (fax)

ksophy@state.pa.us

jnase@state.pa.us

CHARLES E THOMAS JR ESQUIRE

THOMAS T NIESEN ESQUIRE

THOMAS LONG NIESEN & KENNARD

212 LOCUST STREET

PO BOX 9500

HARRISBURG PA 17108-9500

(717) 255-7615

(717) 236-8278 (fax)

cthomasjr@thomaslonglaw.com

tneisen@thomaslonglaw.com

HARRY S GELLER ESQUIRE

JOHN C GERHARD ESQUIRE

PENNSYLVANIA UTILITY LAW PROJECT

118 LOCUST STREET

HARRISBURG PA 17101-1414

(717) 232-2719

(717) 233-4088 (fax)

hgellerpulp@palegalaid.net

jgerhardpulp@palegalaid.net

CHRISTOPHER A LEWIS ESQUIRE

CHRISTOPHER R SHARP ESQUIRE

MELANIE J TAMBOLAS ESQUIRE

BLANK ROME LLP

ONE LOGAN SQUARE

PHILADELPHIA PA 19103

(215) 569-5793

(215) 832-5793 (fax)

Lewis@blankrome.com

Sharp@blankrome.com

Tambolas@blankrome.com

CAROLYN PENGIDORE PRESIDENT/CEO

CLEARCHOICE ENERGY

180 FORT COUCH ROAD SUITE 265

PITTSBURGH PA 15241

(724) 825-5391

Carolyn@ClearChoice-Energy.com

DANIEL CLEARFIELD ESQUIRE

KEVIN J MOODY ESQUIRE

ECKERT SEAMANS CHERIN & MELLOTT

213 MARKET STREET 8TH FLOOR

PO BOX 1248

HARRISBURG PA 17108-1248

(717) 237-7160

(717) 237-6019 (fax)

dclearfield@eckertseamans.com

kmoody@eckertseamans.com

DANIEL L FRUTCHEY ESQUIRE

EQUITABLE DISTRIBUTION

225 NORTH SHORE DRIVE

PITTSBURGH PA 15212-5861

(412) 395-3202

(412) 395-3155

dfrutchey@eqt.com

LILLIAN S HARRIS ESQUIRE

HAWKE MCKEON & SNISCAK LLP

HARRISBURG ENERGY CENTER

PO BOX 1778

HARRISBURG PA 17105-1778

(717) 236-1300

lsharris@hmslegal.com

SCOTT H DEBROFF ESQUIRE

ALICIA R PETERSON ESQUIRE

RHOADS & SINON LLP

ONE SOUTH MARKET SQUARE

PO BOX 1146

HARRISBURG PA 17108-1146

(717) 233-5731

(717) 231-6626 (fax)

sdebroff@rhoads-sinon.com

apetersen@rhoads-sinon.com

RUBEN S BROWN PRESIDENT

THE E CUBED COMPANY LLC

1700 YORK AVENUE B1

NEW YORK NY 10128

(212) 987-1095

(212) 987-1096 (fax)

ruben.brown.ecubedllc@gmail.com

Lillian S Harris Esquire

Katherine E Lovette Esquire

Hawke McKeon & Sniscak LLP

100 N Tenth Street

PO Box 1778

Harrisburg, PA 17105

(717) 236-1300

(717) 236-4841 (fax)

lsharris@hmslegal.com

kelovette@hmslegal.com

SUSAN E BRUCE ESQUIRE

VASILIKI KARANDRIKAS ESQUIRE

MCNEES WALLACE & NURICK LLC

PO BOX 1166

HARRISBURG PA 17108-1166

(717) 232-8000

(717) 237-5300 (fax)

sbruce@mwn.com

vkarandrikas@mwn.com

LAWRENCE B NYDES ESQUIRE

6608 ROUTE 22

PO BOX 300

DELMONT PA 15626-0300

(724) 468-8232

KENNETH L MICKENS ESQUIRE

316 YORKSHIRE DRIVE

HARRISBURG PA 17111-6933

(717) 343-3338

(717) 657-0938 (fax)

kmickens11@verizon.net

PATRICK L GREGORY ESQUIRE

MCNEES WALLACE & NURICK LLC

100 PINE STREET

PO BOX 1166

HARRISBURG PA 17108-1166

(717) 232-8000

(717) 237-5300 (fax)

pgregory@mwn.com