

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DOCKETED
DEC 11 1997

Pennsylvania Public Utility Commission :

v. :

Docket No. R-00974104

Duquesne Light Company
Application for approval of a
Restructuring Plan pursuant to
66 Pa. C.S. §2806(d)

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FOURTH INTERIM ORDER
SUR
MOTION TO STRIKE
CERTAIN TESTIMONY OF WHITFIELD A. RUSSELL

On November 19, 1997, Duquesne Light Company ("Duquesne Light") filed a motion to strike certain portions of the pre-filed direct written testimony of Whitfield A. Russell on behalf of the Mid-Atlantic Power Supply Association ("MAPSA") pursuant to 52 Pa. Code §§1.4(e) & 5.103. MAPSA responded on November 24, 1997. The point of contention between the parties focuses upon those portions of Mr. Russell's testimony concerning the impacts of the proposed merger between DQE, Inc. and Allegheny Power Systems, Inc. Because the Commission has convened a separate proceeding at Docket No. A-110150F0015 to address the public interest of the proposed merger, the parties contest the relevancy of any testimony relating to the merger in the case sub judice.

Upon due consideration of the motion and the answer thereto, I conclude the challenged testimony possesses possible relevancy to the issues involved in the present case. Through its own witnesses, Duquesne Light has submitted pre-filed direct written testimony purporting to show how various aspects of the proposed merger will mitigate costs for its

ratepayers. While Mr. Russell's testimony at times appears to be a direct attack upon the merger itself, that testimony, nevertheless, can be interpreted to address the earlier testimony of Duquesne Light. Therefore, the motion to strike portions of this testimony will be denied.

Moreover, no bright line distinction exists between the merger case and the present one. In fact, both Duquesne Light and West Penn Power Company have stressed during the prehearing conferences the importance of litigating their restructuring cases and the merger case on concurrent schedules, because of the interrelated nature of the questions involved. For this reason also, Mr. Russell's testimony may be relevant in the present case.

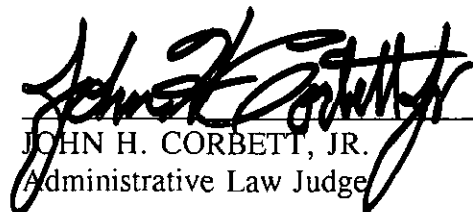
However, all parties are hereby advised that all testimony presented in this case relating to the proposed merger will be closely scrutinized to determine if it directly relates to issues proper for consideration under the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. §§2801, et seq., (the "Act"). Any testimony, which touches upon the proposed merger, must be shown to relate directly to issues of concern under the Act. If the connection is not made directly by the testimony and it is properly objected to, it will be stricken or otherwise dismissed. Whether a party in this case is also a party in the merger application is entirely irrelevant. Merger testimony not related directly to issues cognizable under the Act will receive no consideration in the present case.

AND NOW, in consideration of the foregoing,

The motion of Duquesne Light Company to strike certain testimony of Whitfield

A. Russell is hereby denied.

Dated: November 24, 1997



JOHN H. CORBETT, JR.
Administrative Law Judge

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