

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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December 6, 2012

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17105-3265

Re: Petition of Duquesne Light Company for  
Approval of its Act 129 Phase II Energy  
Efficiency and Conservation Plan  
Docket No. M-2012-2334399

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

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

Sincerely,

A handwritten signature in cursive script that reads "David T. Evrard".

David T. Evrard  
Assistant Consumer Advocate  
PA Attorney I.D. # 33870

Enclosures

cc: Hon. Dennis J. Buckley, ALJ  
Certificate of Service

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company :  
for Approval of its Act 129 Phase II : Docket No. M-2012-2334399  
Energy Efficiency and Conservation Plan :

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PREHEARING MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. §333, the Office of Consumer Advocate (OCA) provides the following information:

**I. INTRODUCTION**

On October 15, 2008, Act 129 of 2008 (“Act 129” or “the Act”) was signed into law by Governor Edward G. Rendell. Act 129 made numerous amendments to Chapter 28 of the Public Utility Code and required the seven major electric distribution companies (“EDCs”) to file energy efficiency and conservation plans (“EE&C Plans”), which occurred in the summer of 2009. These Phase I Plans expire on May 31, 2013. On August 3, 2012, the Pennsylvania Public Utility Commission (“Commission”) entered the *Phase II Implementation Order*, tentatively adopting EDC-specific targets for reducing energy consumption for the next EE&C Program term (June 1, 2013 – May 31, 2016). Each EDC was given an EDC-specific Phase II consumption reduction target (as a percentage of its expected sales for the June 1, 2009 through May 31, 2010 period). The Commission directed that: (1) 10% of overall consumption reductions come from the Government/Non-Profit/Institutional sector; (2) a Plan's portfolio of

measures include a proportionate number of low-income measures; and (3) EDCs obtain a minimum of 4.5% of their consumption reductions from the low-income sector. The Total Resource Cost Test (“TRC”) will continue to be used to evaluate each EDC’s Plan. The Act caps annual spending on the Plan at 2% of the EDC’s total revenues for calendar year 2006. The Act provides for full and current cost recovery of the Plan costs through an automatic adjustment rider, but it prohibits the recovery of lost revenues by the EDC. The costs incurred are to be allocated to the classes that directly benefit from the measures implemented, unless a system wide benefit can be shown.

The EDCs required to file plans under Act 129 are: PECO Energy Company (PECO); PPL Electric Utilities, Inc. (PPL); the FirstEnergy Companies (Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, West Penn Power Company); and Duquesne Light Company. The Pennsylvania Public Utility Commission stated that the plans must be ruled upon by February 28, 2013 for PECO and March 15, 2013 for the other six EDCs.

## **II. HISTORY OF THE PROCEEDING**

On November 15, 2012, Duquesne Light Company (“Duquesne” or “the Company”) filed a Petition for Approval of its Energy Efficiency and Conservation Phase II Plan (“Phase II Plan”) with the Pennsylvania Public Utility Commission, pursuant to Section 2806.1 of the Public Utility Code and the Implementation Order entered by the Commission at Docket No. M-2012-2289411 on August 3, 2012. Duquesne requests that the Commission approve its Plan, its proposed three-year plan budget of \$58,637,392, and the recovery via a surcharge of its costs to implement the Plan. Duquesne’s Plan proposes to address the requirements of Section 2806.1 for electricity consumption and peak load reductions through a variety of programs for

residential, commercial, and industrial customers. With respect to residential customers, Duquesne has proposed the following six programs: (1) a Residential Energy Efficiency Rebate Program, including upstream components; (2) a Schools Energy Pledge Program; (3) a Residential Appliance Recycling Program; a Residential Low Income Energy Efficiency Program; (4) a Residential Home Energy Reporting Program; (5) a Whole House Retrofit Program; and (6) Low-Income Sector Programs.

The Company's filing was assigned to the Office of Administrative Law Judge and further assigned to Administrative Law Judge Dennis J. Buckley for investigation. On December 10, 2012, a prehearing conference will be held in Harrisburg. Pursuant to the schedule proposed by Judge Buckley in the Prehearing Conference, a technical evidentiary hearing will be held on January 17, 2013.

On December 6, 2012, the Office of Consumer Advocate filed its Notice of Intervention, Public Statement, and this Prehearing Memorandum.

On December 21, 2012, the OCA will file Direct Testimony and Comments which will set forth the specific issues the OCA has identified.

### **III. ISSUES AND SUB-ISSUES**

Based upon a preliminary analysis of Duquesne's filing and participation in stakeholder meetings, the OCA has compiled a list of issues and sub-issues which it anticipates will be included in its investigation of Duquesne's filing. It is anticipated that other issues may arise and may be pursued during the course of this proceeding.

The following list sets forth the issues that the OCA anticipates it will examine:

- (1) Reasonableness of the Company's proposed energy conservation plan and the individual program design for meeting the requirements of Section 2806.1 of the Code and the Commission's Phase II Implementation Order;
- (2) Reasonableness of the balance of the portfolio of programs proposed and whether the programs are equitably distributed across rate classes;
- (3) Whether the Company's Plan meets the requirements of Section 2806.1 and the Phase II Implementation Order for low-income and non-profit customers;
- (4) Reasonableness of the Company's proposed program costs, including the proposed budgets;
- (5) Reasonableness of the Company's proposed cost recovery mechanisms and the allocation of overhead and common costs;
- (6) Reasonableness and cost effectiveness of the proposed programs, including whether the Plan meets the requirements of the Total Resource Cost test;
- (7) Reasonableness of the Company's proposed measurement and verification and evaluation plans; and
- (8) The need for an on-going stakeholder group.

The OCA specifically reserves the right to raise additional issues as may be necessary.

#### **IV. WITNESSES**

The OCA intends to present the direct, rebuttal, and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding to accompany the OCA's Comments. In order to expedite the resolution of this proceeding, the OCA requests that copies of all

interrogatories, comments, and answers to interrogatories be mailed directly to the expert witness as well to counsel for the OCA.

**EE&C Plan and Cost Recovery**

David G. Hill, Ph.D.  
Senior Project Manager  
Vermont Energy Investment Corporation  
255 South Champlain Street, Suite 7  
Burlington, VT 05401-4894  
(802) 658-6060, Ext. 1034  
dhill@veic.org

The OCA specifically reserves the right to call additional witnesses, as necessary. If the OCA determines that an additional witness or witnesses will be necessary for any portion of its case, the OCA will promptly notify the Presiding Officer and all parties of record.

**V. PUBLIC INPUT HEARINGS**

The OCA does not anticipate that a public input hearing will be necessary in this proceeding.

**VIII. PROPOSED SCHEDULE**

Your Honor proposed a procedural schedule for this case in the Prehearing Conference Order and in doing so noted the compressed time-frame for resolution of this proceeding. Recognizing that compressed time-frame and concerned that additional time may be needed for non-company parties to engage in meaningful discovery and produce well-considered testimony, the OCA wishes to propose an alternative schedule. The key differences between this schedule and that proposed by Your Honor are that the OCA would: (1) forego the Surrebuttal phase of the proceeding and (2) provide additional time for non-company parties to file their Direct Testimony. Elimination of Surrebuttal comports with the process agreed to by the parties in the PECO Energy Phase II EE&C proceeding (Docket No. M-2012-2333992). The OCA submits

that such a process will not materially impair the due process rights of the parties and will allow additional time for non-company parties to produce meaningful testimony. Accordingly, the OCA's alternative proposal is as follows:

December 21	Other Parties' Comments
January 3	Other Parties' Direct Testimony
January 15	Rebuttal
January 18	Evidentiary Hearing
January 28	Main Briefs
February 7	Reply Comments/Revised Plan
February 14	Certification of the Record
March 14	Commission Order

#### **VII. SERVICE ON THE OFFICE OF CONSUMER ADVOCATE**

The OCA will be represented in this case by Assistant Consumer Advocate David T. Evrard and Assistant Consumer Advocate Brandon J. Pierce. Two copies of all documents should be served on the OCA as follows:

David T. Evrard  
Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut St., 5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
Telephone: (717) 783-5048  
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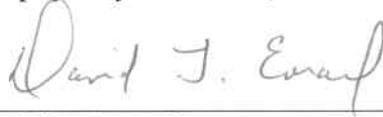
As a courtesy, the OCA would appreciate it if the following email addresses would also be included on any electronic correspondence: [BPierce@paoca.org](mailto:BPierce@paoca.org) and [CShoen@paoca.org](mailto:CShoen@paoca.org).

#### **VIII. PROCEDURAL RULES / DISCOVERY**

The OCA will work with Judge Buckley and the parties to expedite discovery by

pursuing informal discovery to the fullest extent possible, and will supplement this with formal discovery when appropriate.

Respectfully Submitted,



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Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

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Dated: December 6, 2012

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CERTIFICATE OF SERVICE

Petition of Duquesne Light Company :  
For Approval of its Act 129 Phase II : Docket No. M-2012-2334399  
Energy Efficiency and Conservation Plan :

I hereby certify that I have this day served a true copy of the foregoing, the Office of Consumer Advocate's Prehearing Memorandum, 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 6th day of December 2012.

SERVICE BY E-MAIL and INTEROFFICE MAIL

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SERVICE BY E-MAIL and FIRST CLASS MAIL

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