VII. COMPETITIVE SAFEGUARDS

A. Code of Conduct

1. Positions of the Parties

Duquesne proposed a Code of Conduct which it maintained provided an adequate separation of the regulated and unregulated portions of its business. After reviewing the Company's filing, the OCA presented several specific proposals that the OCA's witness Alexander made to Duquesne's proposed Code of Conduct to supplement or clarify the Company's proposal.

OCA maintained that it is necessary that an appropriate Code of Conduct to address interaction between Duquesne's regulated and unregulated functions be put in place at this time, since it is anticipated that these rulemakings will not be concluded prior to the implementation of customer choice. The OCA contended that the Commission reached a similar decision in PECO Energy. Slip Op. at 129. As such, the OCA submitted that the Duquesne's proposed Code of Conduct should be modified as set forth in the OCA's Main Brief, as well as the OCA's witness Alexander's testimony.

The PRA asserted that an appropriate Code of Conduct is absolutely necessary for the development of a competitive retail generation market. According to the PRA, the use of a Code of Conduct places all market participants on notice as to inappropriate conduct thus providing a level of comfort to Duquesne's employees.

Enron maintained that, although complete divestiture or structural separation is the preferred safeguard, at a minimum, complete functional separation enforced by a strong Code of Conduct is critical to meaningful competitive development. Enron contended that it is critical that the Commission establish a Code of Conduct to govern the activities of Duquesne and its affiliates/divisions while a binding regulation is pending and that Duquesne's proposed code is not adequate, even on an interim basis. Enron stated that the PECO interim Code of Conduct is fully supported by the record in this proceeding and should be adopted pending codification of final regulations.

Enron reproduced the PECO interim Code in its brief as follows:[24]

1. The Company, in its role as the Electric Distribution Company ("PECO EDC"), shall not give a PECO Supplier preference over a non-affiliate in the provision of goods and services, such as processing requests for information, complaint processing and responses to service interruptions. PECO EDC shall provide comparable treatment without regard to the customer's chosen supplier.

2. PECO EDC shall supply services and apply the rules and other provisions of its Tariffs to non-affiliates in the same manner it applies them to a PECO Supplier.

3. PECO EDC shall not sell non-power goods or services to a PECO supplier at a price below the cost or market price, whichever is higher, for said goods or services. PECO EDC will not purchase non-power goods or services from a PECO Supplier at a price above the market price for said goods or services. No transaction between PECO EDC and a PECO Supplier shall

[24] An addition to Section 7 made by Enron is not reproduced here.

involve an anti-competitive cross-subsidy, and all such transactions shall apply with applicable law.

4. PECO EDC shall simultaneously make available to all EGSs any market information, not in the public domain, that it provides to a PECO Supplier.

5. Employees of PECO EDC who have responsibility for operating the distribution system, such as receiving requests for power, purchasing power, scheduling delivery, or billing and metering, shall not be shared with a PECO Supplier, and their offices shall be physically separated from the office(s) used by those working for the PECO Supplier. Such employees of PECO EDC may transfer to a PECO Supplier provided such transfer is not used as a means to circumvent this Interim Code of Conduct. Any PECO Supplier shall have its own direct line management. Any shared facilities shall be fully and transparently allocated between the PECO EDC function and the PECO Supplier function. PECO EDC accounts and records shall be maintained such that the costs a PECO Supplier incurs may be clearly identified.

6. PECO EDC shall not condition the provision of any PaPUC jurisdictional regulated services on the purchase of power from a PECO Supplier.

7. Neither PECO EDC nor a PECO Supplier may directly or by implication falsely and unfairly represent:

   - that the PaPUC jurisdictional regulated services provided by PECO EDC are of a superior quality when power is purchased from a PECO Supplier; or

- that the merchant services (for power) are being provided by PECO EDC rather than a PECO Supplier;

- that the power purchased from an EGS that is not a PECO Supplier may not be reliably delivered;

- that power must be purchased from a PECO Supplier to receive PECO EDC PaPUC jurisdictional regulated services.

8. PECO EDC shall establish and file with the Commission a dispute resolution procedure to address complaints alleging violations of these rules.

(Enron M.B. at 37-39).

Enron asserted that the most efficient course for the Commission would be to order the implementation of the Code it ordered be implemented in the PECO proceeding with some modification. Additionally, Enron noted, that the Commission barred EDCs from promoting their competitive affiliate any differently than non-affiliated suppliers. Enron argues Duquesne's code does not address this, and must be modified accordingly.

MAPSA stated that Duquesne has proposed a Code of Conduct in this proceeding, which would apply only if Duquesne offers unregulated services to customers within its own service territory. Duquesne's proposal ignores the reality that much of the expense of doing business is the start-up, and that it is at the start-up that the opportunity for improper exchange of resources is greatest. Duquesne also proposes to limit the applicability of its Code of Conduct to affiliate

transactions within its own service territory, although Duquesne presumably would not be required, under its proposal, to engage its Code of Conduct and protect ratepayers and competitors if it competes in the service territories of other utilities. MAPSA proposes an interim Code of Conduct that would apply until the Commission's final rules are implemented.

2. ALJ's Recommendation

The ALJ noted that in PECO Energy, Slip Op. at 128-129, the Commission recognized, that consistent with the dictates of the Act, the Commission must establish procedures so as to provide for a "fair and orderly transition." Therefore, it is incumbent upon this Commission to ensure that as a result of this decision a competitive market will be permitted to operate fairly in a manner that fulfills the statutory directives. Accordingly, the ALJ concluded that it is appropriate to adopt certain competitive safeguards.

The ALJ further noted that the Commission is in the process of adopting regulations concerning competitive safeguards in Docket L-0097 and Customer Supplier Interaction at Docket No. M-00960890F0011. The ALJ observed that, until those regulations are formulated, an interim Code of Conduct must be established in this proceeding. The ALJ stated that, in PECO Energy, the Commission accepted the EDC's proposed Code of Conduct with certain modifications. In order to bring Duquesne's proposed Code of Conduct within the parameters established in PECO Energy, the ALJ recommended that the Company modify it's proposed Code of Conduct in a number of respects including but not limited to: prohibitions against giving preferential treatment between affiliated and non-affiliated suppliers, anti-competitive pricing, and the tying of regulated and

unregulated services. (R.D. at 627-28). Additionally, the interim Code of Conduct should require all tariffed services to be offered in the same manner to affiliates and non-affiliates alike and require physical separation of employees, and must require segregated accounts and records or allocation of shared facilities. Id.

3. Arguments on Exception

Enron and MAPSA contend that, although the ALJ stated he was adopting the interim code of conduct which we approved in PECO Energy, the Recommended Decision actually fell short of matching the final code approved in that case. Enron and MAPSA agree that the interim code should mirror that approved for PECO, but that additional modifications are necessary to bring the Duquesne interim code, as already altered by the ALJ, into accord with the code adopted in PECO Energy.

4. Resolution

We believe that it is important to underscore our desire to establish state-wide consistency in this area. The Code of Conduct will be in effect until such time as we adopt regulations establishing a permanent Code of Conduct. Until those regulations are finalized in Docket L-980132, an interim Code of Conduct must be established in this proceeding. We also agree with the ALJ that in order to bring Duquesne's proposed Code of Conduct within the parameters established in PECO Energy, we must direct the Company to modify it in the following respects:

1. Duquesne's interim Code of Conduct must prohibit preferential treatment between affiliated and non-affiliated suppliers.

2. Duquesne's interim Code of Conduct must require all tariffed services to be offered in the same manner to affiliates and non-affiliates alike.

3. Duquesne's interim Code of Conduct must include a prohibition on anti-competitive pricing.

4. Duquesne's interim Code of Conduct must require it to make confidential market information available simultaneously to all suppliers, affiliated and non-affiliated alike.

5. Duquesne's interim Code of Conduct must require physical separation of employees, and must require segregated accounts and records or allocation of shared facilities.

6. Duquesne's interim Code of Conduct must prohibit the tying of regulated and unregulated services.

7. Duquesne's interim Code of Conduct must preclude the EDC from promoting "its competitive affiliate any differently than non-affiliated suppliers."

(R.D. at 627-28).

With respect to the exceptions of Enron and MAPSA, we are in agreement that the Recommended Decision is not completely consistent with the interim Code of Conduct we approved in PECO Energy. The Recommended Decision sets forth the following additional modifications and clarifications which Enron claimed, in its brief below and in brief on exceptions, will help to bring Duquesne's Code of Conduct into conformity with the code approved for PECO:

> In addressing the further modifications and clarifications required by the Commission, first the Commission further mandated that affiliate or divisional transactions "for all goods and services, including power, must not involve any anti-

competitive cross-subsidy." Second, the Commission barred an EDC from making available any goods and services to its supplier affiliate unless those goods and services are also made available to other suppliers on comparable terms and conditions. Such provisions appropriately preclude EDC promotion of its competitive business affiliate's efforts. Duquesne's proposed Code does not include such a prohibition on cross-subsidization.

Third, all EDC functions were required to be separately staffed from all competitive supplier functions, including management responsibility, and all employee transfers are made subject to functional separation requirements. While Duquesne has included rules on "Separation of Functions" and "Officers and Directors" in its proposed Code, the provisions are not broad enough to comply with the Commission's standard in that they do not contain appropriate restrictions on employee transfers, and do not apply at all to the individuals having management responsibility over such employees.

Fourth, the Commission additionally required that comparable treatment be provided to both affiliated and non-affiliated suppliers and supplier customers for all customer goods and services. The nondiscrimination provision in Duquesne's proposed Code of Conduct only prohibits "preferential treatment" of affiliated suppliers and "undue discrimination" against customers. This provision should be modified to clarify that, if necessary, positive efforts must be made in order to provide comparable treatment. Overall, the Commission established the general standard that the EDC must "treat all competitive suppliers in a comparable non-discriminatory manner with similar terms, conditions and access to information, goods and services." This Commission mandate provides for equal access, both in terms of timing and method of disseminating

> information, for all information, not just certain types of information as Duquesne has proposed.
>
> Fifth, the Commission went beyond the PECO proposal and prohibited the tying of the EDC service with any other goods or services both as a condition of the provision of service and as a condition on the availability of certain terms and conditions. Duquesne's Code of Conduct is silent on this subject, and should be modified appropriately.
>
> Sixth, the Commission required a provision which bars the EDC from using its name or any other method to imply, directly or indirectly, that EDC service will be superior if an affiliate is subscribed to, that the reliability of service is inferior if a non-affiliate is subscribed to or that generation services are in fact being provided by the EDC. Duquesne has no comparable provision in its proposed code, which must be modified to achieve compliance.
>
> Finally, the Commission barred EDCs from promoting their competitive affiliate any differently than non-affiliated suppliers. Again, Duquesne's code does not address this, and must be modified accordingly.

(R.D. at 622-24; footnotes and citations omitted). The interim Code of Conduct shall be based upon the Code we approved in our Order of February 5, 1998 at Docket Nos. R-00973953 and P-00971265 in PECO Energy.

We recognize that, at this point, EDCs are implementing codes of conduct that are interim to the implementation of a state-wide code. Nonetheless, the fundamental principles of open competition should not vary from one place to another or from one market to another. Therefore, in order to enhance competition wherever possible, it is necessary to keep the interim codes of conduct as consistent as possible. We are of the opinion that the modifications and

clarifications advocated by Enron will improve the proposed Duquesne Code of Conduct by making the standards of behavior more conducive to the creation of a free market for electricity where the distribution company will not be able to use its market power to enhance its own position or that of its affiliates. Therefore, the exceptions of Enron and MAPSA are granted as set forth above.

MAPSA also urges us to adopt the language we approved in the PECO Energy, Order on Revised Compliance Filing (Entered February 26, 1998) at page 21. (MAPSA Exc., p. 6). MAPSA provides us with no detailed discussion of how the issues discussed at page 21 of that Order would apply here. The matters discussed there appear to be subsumed within the additional modifications we have adopted above. Therefore, the exception of MAPSA will be denied as moot.

B. Pro Forma Tariffs

1. Positions of the Parties

The Company suggested that this section relates to another proposal by Enron that should be addressed by the Commission on a generic basis, not in this case. The proposal is for a new "Pro Forma Electric Generation Supplier Tariff." Duquesne says many of Enron witness Cole's assertions regarding the "inadequacies" of Duquesne's direct access proposal ignore the specifics of that proposal.

Enron has presented a Pro Forma Electric Generation Supplier Tariff, which it intends to define suppliers' jurisdiction and responsibilities in

relation to meeting customers' loads and all necessary involvement with the EDC. Enron asserted that this tariff should be adopted by the Commission for all Pennsylvania utilities. Enron argues the pro forma supplier tariff will establish a clear and enforceable set of rules and procedures to govern the multifaceted relationship between Duquesne and suppliers seeking to deliver power to customers using Duquesne's distribution system. The Commission endorsed the need for a supplier tariff in its Compliance Order in the PECO restructuring proceeding. (PECO Compliance Filing Order at 38).

Duquesne's response to the Enron call for the filing of a Supplier Services Tariff – now a PUC requirement – was to claim that such a tariff was "unnecessary," because many of the provisions are covered and controlled by Duquesne's FERC approved Open Access Tariff. While general topics suggested in the Enron Supplier Tariff may be contained in FERC-filed tariffs, many others, having to do specifically with retail distribution service, are not. In any event, suppliers would benefit by a comprehensive listing of functions, services, and procedures, to the extent that Duquesne's FERC tariff does not provide such rules and services.

In this regard, Enron's witness Coles detailed several, specific issues and services which, if they are not covered by FERC-jurisdictional tariffs, must be included in a reasonable manner in Duquesne's PUC-approved Supplier Tariff. These issues include:

Supplier obligation, energy balancing and load reconciliation.

To ensure reliable electric service to ultimate end-users there must be a clear, detailed understanding among all suppliers as to their obligations and balancing and reconciliation methods.

Energy Imbalance Service

Enron's Pro Forma Supplier Tariff provides a mechanism to handle energy imbalance service. Suppliers need a system to be in place which will determine a load aggregator's hourly responsibility for supply delivery to meet the needs of customers and a means of balancing supplies and actual loads.

Supply Planning and Planning Reserves

Enron's witness Coles sets forth a series of important factors that should be considered by the Company and the Commission in the process of conducting supply planning and accounting for planning reserves.

2. ALJ's Recommendation

For the reasons cited by the Company, the ALJ concluded that the issue of a Pro Forma Electric Generation Supplier Tariff is better suited for a generic proceeding.

3. Parties' Exceptions

Enron argues that the ALJ misconstrued the purpose of Enron's Pro Forma Supplier Tariff when he concluded that it was best addressed in a generic proceeding. Enron states that the tariff was intended as a starting point and that it could be amended to reflect the PECO Energy experience and circumstances unique to Duquesne.

4. Resolution

We agree with the Exceptions of Enron that implementation of retail direct access pursuant to the Act requires a comprehensive Supplier Tariff that includes all rules, procedures and protocols appropriate and necessary for the seamless and efficient implementation of retail access. Therefore, we direct Duquesne to include a specific Supplier Tariff as part of its compliance filing. Duquesne should use as a guide the Commission February 5 decision regarding PECO Energy at Docket R-984298, and prepare an EGS tariff consistent with the requirements of its service territory.

The Supplier Tariff is not a services agreement; it is a set of rules and procedures. It should include no fees or other charges except as have been approved by the Commission upon documentation of incremental cost. Thus, items rejected in our discussion of Ancillary Services, supra, should not be included in the tariff. The Supplier Tariff must address customer sign-up and switching, balancing, billing, and data exchange consistent with all applicable rules and regulations..

Additionally, we agree with Enron's exceptions concerning imbalances which are discussed earlier in the ALJ's Recommended Decision. (R.D. at 70-84). Inclusion of energy imbalances in the F.E.R.C. open access tariff does not preclude the development of supplemental rules, consistent with those of the F.E.R.C., but related to retail access. We agree with the ALJ's Decision and the exceptions of Enron and MAPSA that the Supplier Tariff must include procedures to permit trading such imbalances among suppliers to permit the efficient service of retail load.

C. Summary

We are in agreement that, to the greatest degree possible, an interim Code of Conduct should establish state-wide consistency. This makes it easier for consumers, suppliers and utilities to do business in Pennsylvania. We are granting the exceptions of Enron and MAPSA and directing the Company to conform its proposed Code of Conduct to that approved by the Commission in its February 5, 1998 Order concerning PECO Energy at Docket Nos. R-00973953 and P-00971265. We are also using our Order in that proceeding as a guide for a comprehensive Supplier Tariff which we direct Duquesne to include as part of its compliance filing.

VIII. DUTY TO SERVE

A. Service to Returning Customers

1. Positions of the Parties

The Company proposed that customers returning to "rate cap" service must remain with Duquesne for 12 months thereafter to address certain "gaming" opportunities. Duquesne argued that the proposal is necessary to protect it against customers leaving the system during low cost periods and returning to rate cap service during high cost periods (*e.g.*, the summer peak period).

The OCA submitted that the Company's arguments should be rejected. In short, the OCA contended that the Company's requirement that a customer returning to rate cap service remain with Duquesne for 12 months is unduly restrictive. The OCA asserted that there are many reasons why Duquesne customers may need to return to generation service that have nothing to do with an attempt to game the system. For example, the customer may be merely in between suppliers, a supplier may have refused the customer service or the supplier contract may have been canceled. (OCA St. 5, p. 52). The OCA also suggested that the 12 month minimum service requirement may hinder the development of the competitive market.

DII posited that this Commission must not eliminate the statutory right of all customers to return to service from Duquesne at the capped rate levels specified in the Act during the transition period. DII asserted that the rate cap is a necessary consumer protection that must not be impinged.

Enron asserted that service to returning customers must be offered by an EDC under regulated, tariffed rates, consistent with PECO Energy. While this Commission has stated it will consider and implement 66 Pa. C.S. §2807(e)(3) (which governs the rules under which service to returning customers must be provided after transition), by regulations at a later date, Enron asserted that it is important to consider that issue now as this Commission plans for the future. Consistent with the effect of the holding in PECO Energy with respect to the transition period, Enron argued that it is imperative that this Commission apply Section 2807(e)(3) in a manner that will not thwart electric competition after the phase-in period is over. According to Enron, although the Act does not define the phrases "prevailing market prices" and rates that "recover fully all reasonable costs" under §2807(e)(3), that rate should be interpreted to be the same as the generation credit determined by this Commission.

2. ALJ's Recommendation

The ALJ concluded that no evidence exists in this record to suggest that a problem will arise with returning customers engaging in "gaming" to the detriment of Duquesne. A 12-month "stay-in" provision appears, on its face, to be a serious impediment to competition. The ALJ concluded that this Commission should deny the Company's proposal until it can satisfactorily demonstrate that a serious problem exists.

3. Parties' Exceptions

Duquesne argues that the ALJ erred in that its customers will have an obvious incentive to leave Duquesne as a supplier during low-cost periods and return during high-cost periods because of the rate cap. (Duquesne Exc., p. 36-37). The Company states further that its customers will be able to "game" the system.

4. Resolution

We shall adopt the ALJ's recommendation that we deny the 12-month "stay in" provision offered by Duquesne. As OCA points out, there are real and legitimate concerns which could force a customer to return to Duquesne such as being refused service by a supplier, the cancellation of a supply contract or the simple situation of being in between suppliers. On the other hand, we believe that Duquesne's claim that its customers will attempt to game the system is speculative, particularly at this early stage of the unbundling process. As the ALJ correctly states, the record does not support the suggestion that a problem will arise with respect to returning customers engaging in "gaming" to the detriment of Duquesne. It is within our province to determine the weight and credibility of evidence presented. (Peoples Natural Gas v. Pa. PUC, 552 A.2d 1135, 1142 (Pa. Cmwlth 1989). Duquesne has not demonstrated that a serious problem exists, and, therefore, its exception is denied.

B. Provider of Last Resort

1. Positions of the Parties

Duquesne observed that the Environmentalists proposed the same "Better Choice Plan" that was rejected in PECO Energy, Slip Op., p. 135. Duquesne urges this Commission to reject it here.

Even as the market develops, the OCA suggested that there will be customers who choose not to shop, are unable to find an alternative provider to serve them, or who may return to Duquesne for service for a variety of reasons. The OCA

noted that Duquesne has, by statute, the "full obligation to serve" these provider of last resort ("POLR") customers, at least during the CTC or ITC collection period or until 100% of customers have choice, whichever is longer, unless an alternative supplier is approved by this Commission to provide this service. (66 Pa. C.S. §2807(e)(1)). The OCA argued that by the end of the phase-in period, the Act requires this Commission to develop regulations to govern the POLR service. (66 Pa. C.S. §2807(e)(2)).

In its restructuring filing, Duquesne proposed to provide POLR service by pricing the power supply portion of its unbundled bill based on prices obtained from a competitive RFP process. Although Duquesne proposes to explore competitive solicitation, the OCA submitted that more detail is required before this proposal is adopted. The OCA recommended that this Commission refrain from adopting Duquesne's proposal at this time.

The Environmentalists posited that a just and reasonable set of unbundled rates is an essential condition to creating a robust competitive market, but an adequate generation credit alone is not enough to ensure all customers have meaningful choices of electricity suppliers and services. The Environmentalists argue that this Commission must also address the problem of market domination by Duquesne by virtue of its status as the monopoly supplier in this region for the last century. To address the problem of market domination by Duquesne, the Environmentalists proposed a system for allocating non-choosing customers to alternative suppliers serving Duquesne's service territory. They called this the Better Choice Plan.

Under the Environmentalists' Better Choice Plan, suppliers can volunteer to participate in the default supplier group if they agree to seven conditions. These conditions are designed to protect the customers and to advance some important public

interest goals. This *quid pro quo* is fair and appropriate, the Environmentalists argue, because participation in the group is entirely voluntary and the participating suppliers receive from this Commission the private benefit of an allocation of default customers without incurring the costs and effort to recruit these customers.

The Environmentalists acknowledged that implementation of the Better Choice Plan is possible only after additional work to address some of the unresolved issues. However, the Environmentalists say this Commission should include it in the final Order to prevent the serious threat of market domination by the monopoly provider which would be fatal to the emergence of a competitive market.

Enron suggested that the OCA presents somewhat conflicting views of the approach that should be used to establish the rates applicable to POLR customers. As OCA noted, these include customers who: (i) choose not to shop; (ii) cannot find a supplier (presumably including those who legally are not yet permitted to shop); and (iii) those who may return to Duquesne for service for various reasons. As the OCA stated in its POLR discussion, the rates for such customers -- which include all but pilot customers prior to January 1, 1999, -- should be established in accordance with procedures that this Commission establishes in a POLR rulemaking. Enron agreed with this approach but noted that the rulemaking-derived generation rates that would have to be established pursuant to the Act would not reflect simply some derived market price for generation as the OCA implies.

2. ALJ's Recommendation

The ALJ found no reason to deviate from this Commission's position in PECO Energy.

(3) Resolution

We agree with the ALJ that there is no basis in this record to warrant reconsideration of PECO Energy and await consideration of the Environmentalist's proposal to make mandatory assignments of customers to suppliers. In PECO Energy, Slip Op., p. 135, we expressed doubt whether the Environmentalists' Better Choice Plan assignment of customers to suppliers is permissible under the Act. We stated our preference to consider this option when we promulgate regulations required by Sections 2808(e)(2) & (3). Nothing in this record convinces us to reconsider that decision.

As to the second issue raised here concerning the POLR providing electric service at "prevailing market prices," all parties apparently now agree that this matter should await the proposed POLR rulemaking. We agree that the decision as to whether such service should be provided at, "prevailing market prices," should await the proposed Provider of Last Resort Rulemaking. Moreover, we note that the statutory rate caps will continue to protect non-shopping customers pending the conclusion of the rulemaking.

C. ELECTRIC TRANSMISSION AND DISTRIBUTION SERVICE

1. Unbundling Other Customer Services

(a) Positions of the Parties

Duquesne suggested that the issues addressed in this section (the unbundling of "revenue cycle services") are principally matters of generic policy that this

Commission should decide on a fair and consistent basis for all EDCs and suppliers in the Commonwealth in a generic proceeding.

The OTS maintained that the Act requires Duquesne, in this case, to submit unbundled prices for generation, jurisdictional transmission, distribution, and other services.

The OCA has made recommendations regarding metering, billing and other customer services to assure that options for competitive provision of these services are not foreclosed. These recommendations are discussed below.

The IBEW posited that numerous provisions of the Public Utility Code and this Commission's regulations require that billing and metering for public utility services must be provided by a public utility and not by marketers. The IBEW did not dispute the ability of non-utilities to provide their own bills solely for the supply of electricity or for other non-utility services. The IBEW asserted that it is necessary to determine whether billing and metering services are part of the "distribution services" that are provided by a public utility. The IBEW contended that under the Public Utility Code, the metering and billing for the distribution of electricity are part of the provision of service by a public utility. As of this point in time, Duquesne is the only public utility that is authorized to provide electric distribution service within its service territory. The IBEW argued that it is unlawful for any entity other than Duquesne to provide a meter or render a bill for the electric distribution services that Duquesne provides.

As early as January 1997, the IBEW asked this Commission to establish a generic proceeding to resolve the important legal, policy, and factual issues concerning the provision of billing, metering, and meter reading services by Marketers and other non-

utilities. The IBEW believed that these issues were best decided before any of the utilities' specific restructuring plans were filed. The IBEW noted that this Commission preferred to decide these issues on a case-by-case basis in each restructuring plan, rather than in a generic proceeding.

Enron explained that the provision of non-wire services has nothing to do with the actual distribution of power and energy and is not part of a natural monopoly. Enron submitted that each of the non-wire services in Duquesne's service territory should be provided competitively in accordance with appropriate standards and protections to assure safety, reliability and consumer protection. In addition, Enron asserted that Duquesne's costs and prices for these services must be unbundled from Duquesne's charges for distribution-related services.

Duquesne opposed unbundling, claiming that it does not believe there are much savings to be offered to the customer through unbundling. Enron contended that there is good reason to unbundle non-wire services from distribution services at this time even if they are not immediately made competitive – so that the customer will know what the charges are for such services.

Enron noted that Duquesne suggests that resolution of these issues should be handled generically, relying principally on this Commission's rulemaking orders, such as the Customer Services Order and Advanced Meter Order (Advanced Meter Deployment for Electricity, Docket No. L-00970120, 28 Pa. Bull. 493 (Jan. 31, 1998)). Duquesne also relies on the PECO Restructuring Order, wherein this Commission determined not to require PECO to unbundle those services at this time based on the record before it. Enron addressed, in detail, this Commission's treatment of revenue cycle services in the PECO Restructuring Order and demonstrated why revenue cycle

services should now be unbundled in Duquesne's service territory based on the record of this proceeding.

Enron characterized the IBEW's position as a frontal attack on this Commission's legal authority to require the unbundling and competitive provisioning of non-wire services. Enron submitted that the IBEW improperly relies upon and misreads Section 2807(d) of the Act to assert that only an EDC may legally provide these services. But, Enron argued, this provision does not prohibit the unbundling or the competitive provision of these services (any more than it precludes the competitive provision of electric generation, or other services "traditionally provided by EDCs") by those same suppliers.

MAPSA explained that Duquesne's proposal does not allow for the competitive provision of the metering or billing functions. MAPSA's witness Russell testified that in order to have a truly competitive market, in which suppliers are permitted to provide all of the services that the utility can provide, it is necessary to allow suppliers the single bill option and to allow supplier provision of the metering function.

As an alternative to Duquesne's proposal, which allegedly allows Duquesne to further entrench its monopoly position, MAPSA urged that this Commission should consider adopting the Metering and Billing Principles which were proposed in this proceeding by MAPSA witness Russell.

The OCA recognized that there are several generic proceedings at this Commission that could potentially resolve some of the issues presented here. The OCA asserted that it is important to address certain issues during this proceeding so that

appropriate interim procedures are in place for the onset of competition, particularly since it appears that some of the generic rulemakings will not be completed by January 1, 1999.

The IBEW argued that even if the law did not prohibit the Marketers from metering and billing for electric distribution services, the evidence of record in this case demonstrates that it is not in the public interest for metering and billing services to be provided by the Marketers. The IBEW submitted that the Marketers' proposal cannot be adopted. The IBEW argued this proposal violates the provisions of the Act, citing Section 2807(c) which specifically states that the customer has "the right . . . to choose to receive separate bills" from the marketer and Duquesne. (66 Pa. C.S. §2807(c)). The IBEW claimed that customers will be reluctant to change suppliers if it means having to obtain a different electric meter. The IBEW further claimed that safety can be compromised if the meter is changed frequently or if several different meter suppliers must be contacted before a building can be serviced.

Enron postulated that billing and collection are competitive functions that an EGS should have the option of providing. To this end, Enron argued that Duquesne should be required to separate and unbundle its billing and collection functions as part of its restructuring, as this Commission has held it has legal authority to require. Otherwise, customers will be required to pay for the EDC's billing and collection activities even though they choose to receive billing services from their supplier as the Act permits.

NEV raised the matter of conjunctive billing within the context of customer billing. Under the current regulatory system, NEV claimed that many customers, who receive service on multiple meters throughout an EDC's service territory, are discriminated against when compared to customers with similar loads served through a single meter. In particular, a customer with multiple meters, who is on the same rate

schedule and who places the same type of non-distribution-related load on the system as a single-meter customer, is being charged more than that single-meter customer.

Although the Act is silent on this specific issue, NEV argued that the Act does give this Commission authority "to approve flexible pricing and flexible rates, including negotiated, contract-based tariffs designed to meet the specific needs of a utility customer and address competitive alternatives." Moreover, leveling the playing field for multiple-meter customers is in keeping with the Act's undisputed purposes, among others, of creating a competitive market and promoting economic development in the Commonwealth, according to NEV.

NEV further argued that this Commission's decision in PECO Energy is entirely consistent with NEV's testimony in this proceeding regarding the need to eliminate the current discriminatory effect on customers with multiple meters by permitting alternative generation providers to treat these customers as a single service for purposes of billing for transmission and CTC-related charges. In particular, when a customer has multiple metering locations, NEV argues that the customer should be permitted to elect to consolidate the bills for any or all of its meters served under the same rate. As a result, given NEV's proposal, transmission and CTC-related charges would not change with the number of installations or meters, as they currently do, but with the amount of load placed on the system.

(b) ALJ's Recommendation

On the subject of customer billing, the ALJ recounted that this Commission stated in PECO Energy, Slip Op., p. 139, as follows:

> Section 2807(c) of the Act provides that the EDC may be responsible for billing customers for all electric services while granting the customer the right to choose to receive a separate bill from its generation supplier. The manner and details of the interaction between customers, suppliers, and EDCs are governed by the rulemaking at Docket No. M-00960890, F0011. The Act explicitly specifies a presumption that the EDC shall have the duty to provide a single bill, including competitive generation services, to all customers unless the customer chooses to receive a separate bill directly from its EGS.
>
> Several parties have argued for a "third" billing option that would permit customers to choose to receive a single bill from their EGS that includes billing of the EDC charges. PECO and others conversely maintained that the EDC should be the entity responsible for billing except when a customer elects to receive one bill from the EDC and a separate bill for generation from the EGS.
>
> We recognize there may be potential benefits of such proposals but cannot conclude that it is appropriate to unbundle billing based on this record. Therefore, PECO shall provide all billing services, including billing for generation services, unless a customer indicates a preference to receive a separate bill directly from the supplier for generation services.

The ALJ recommended that Duquesne must provide all billing services, including billing for generation services, unless a customer indicates a preference to receive a separate bill directly from the supplier for generation services. The ALJ also recommended that the "third" billing option, permitting customers to opt to receive a single bill from their EGS that includes billing for the EDC charges, cannot be determined on the basis of this record and should await the results of this Commission's generic rulemaking on this subject. Finally, according to the ALJ, this Commission should permit billing consolidation for customers with multiple sites to aggregate their

load with a single EGS. (PECO Energy, Slip Op.. p. 140). This is consistent with the arguments put forward by NEV.

(c) Arguments on Exceptions

Enron has taken exception to the Recommended Decision, arguing that there are "substantial consumer benefits" to be gained by unbundling billing functions. (Enron Exc., pp. 27-29). It states that no party has offered persuasive reasons why customers should not receive those benefits now. At a minimum, Enron contends, this Commission should immediately open a rulemaking on this issue. The Environmentalists similarly take exception, arguing that costs to customers would be lower if customer billing were unbundled. (Environmentalists Exc., p. 7).

Additionally, Enron excepts to the ALJ's refusal to require Duquesne to permit customers to receive a single bill, including EDC charges, from their generation supplier. (Enron Exc., pp. 29-31). It is joined on this issue by MAPSA. (MAPSA Exc., pp. 6-7). Enron maintains that the ALJ erred by relying on the PECO Energy decision to reject supplier-only billing option. It states that there is no reason to deny customers the benefits of this option as competition commences. MAPSA makes the identical arguments, stating that adoption of this option will allow for "further development of competitive alternatives and bring additional value to customers who seek those alternatives."

(d) Resolution

We adopt the ALJ's recommendation that Duquesne must provide all billing services, including billing for generation services, unless a customer elects to receive a separate bill directly from the supplier for generation services. With respect to the

arguments made by Enron and MAPSA, we note that the mere fact that we can unbundle billing services does not mean that we should unbundle those services. As we noted in the PECO Energy, quoted by the ALJ at page 718 of the R.D. and reproduced earlier in this Order, "the manner and details of interaction between customers, suppliers and EDCs are governed by the rulemaking at Docket No. M-00960890, F0011." As in PECO Energy, we do not have a record before us which is adequate to support adoption of this proposal. We note that the proponent of a rule or order has the burden of proof in the matter pursuant to 66 Pa. C.S. §332(a). The advocates of unbundling all billing services have not met that burden in this proceeding.

Likewise, the "third" billing option which permits customers to receive a single bill from their EGS that includes billing for the EDC charges cannot be determined on the basis of this record and should await the results of this Commission's generic rulemaking. The fact, as Enron argues, that no party has presented evidence why we should not permit this option immediately is not a persuasive reason as to why we should approve Enron's proposal. We believe those arguments for these billing options, as well as those against the proposals, are best considered in a generic proceeding.

Finally, we shall also adopt the ALJ's recommendation that we allow billing consolidation for customers with multiple sites to aggregate their load to a single EGS as we did in PECO Energy. At page 140 of the slip opinion in that proceeding, we stated that:

> PECO has defined "customer" to include a single point of delivery. In challenging PECO's position, it was asserted that EGSs should be permitted to treat customers with multiple locations as a single service for purposes of billing for transmission and CTC-related charges. In other words, transmission and CTC-related charges would not change with

the number of installations or meters, as they currently do, but with the amount of load placed on the system.

PECO's restriction is inappropriate in a competitive generation market because it makes it more difficult for customers with multiple sites to aggregate their load with a single EGS. Accordingly, we shall permit billing consolidation. For administrative ease, billing consolidation should only apply to customers who have multiple meters on the same rate tariff. This change shall not apply to distribution charges because customers with multiple meters may impose a cost on the system that is different than a similar load from a single location associated with the distribution of the service.

We see no reason to deviate from that rationale and shall follow it here.

(2) Metering

(a) Positions of the Parties

The Company argued that the main issue here is whether to unbundle metering services, which several intervenors urge this Commission to do. Duquesne argues these proposals must fail under PECO Energy, Slip Op., p. 140 ("As indicated in our rulemaking at Docket No. L-00970120, we do not believe it is necessary to unbundle metering as a competitive service at this time").

The OTS posited that billing and metering costs should also be specifically delineated on the customers bills. These costs are borne by the ratepayers. The OTS submits that, if the generation supplier can offer billing and metering at a lower cost than the distribution company, the ratepayer should have the option of choosing the least

expensive alternative. According to the OTS, this can only be known and measured by the ratepayer if these costs are unbundled.

The OCA's witness Alexander made the following recommendations: (i) Duquesne's short term policies should be compatible with the possibility of increased competition in metering and metering services; (ii) Open architecture standards should be developed by the stakeholders and approved by this Commission; (iii) Duquesne should be prepared to unbundle the current cost of some features associated with metering and provide a credit to any customer who obtains an alternative meter or whose meter is electronically read by a supplier; (iv) Duquesne should be prepared for installation and billing for alternate meters by suppliers; (v) Standard load profiles used for low use residential and small commercial customers should be updated frequently and approved by this Commission; and (vi) Duquesne has not proposed any charges to provide usage or billing information to suppliers for access to customer-specific usage information, and, therefore, none should be imposed. The OCA requested that this Commission adopt these recommendations.

Enron argued that meters and billing should be provided competitively. Enron further argued that meter installation and repair must be conducted by properly trained personnel in accordance with appropriate standards. But, Enron continued, there is no merit to Duquesne's contention that only employees who work for an EDC are capable of being so trained. Enron noted that Duquesne's present metering system for residential customers has been "outsourced" to a non-utility company. Enron asserted that EDC concerns can and should be addressed by having this Commission establish minimum qualifications and training for installation personnel and to require EGS services to meet the same service standards as the EDC.

Enron urged this Commission, based on the record in this case, to allow EGSs not only to select the type of advanced meter, but to own it and provide it competitively. Enron concluded by saying that, following this Commission's ruling on the legality of unbundling billing and customer service functions, there is no rational or legal reason that would preclude the unbundling and competitive entry into metering and metering functions.

(b) ALJ's Recommendation

On the subject of metering, the ALJ observed that this Commission stated in PECO Energy, Slip Op., p. 140-141, as follows:

> As indicated in our rulemaking at Docket No. L-00970120, we do not believe that it is necessary to unbundle metering as a competitive service at this time. However, we do believe that advanced metering offers substantial opportunities for the development of competitive generation products and that this Commission must facilitate development of those products and services. The right to choose a competitive EGS is inherently related to the ability to choose alternative generation services and products made possible by advanced metering. Customers must have a reasonable choice of advanced meters in conjunction with the services offered by their chosen EGS. In our rulemaking, we have outlined the standards and procedures to ensure that customers have real options for competitive metering while retaining all physical work related to metering as a regulated EDC function.
>
> Therefore, all customers may, in conjunction with their EGS, request use of a "qualified meter" that has been approved by this Commission based on the recommendations of a working committee composed of interested parties. This Commission will ensure that the list of qualified meters includes all meters necessary to support market services such

> as two-way communication, remote readings, time-of-use capability, and net metering. While PECO, as a regulated EDC, shall be responsible for all physical work related to the meter, the customer and/or the EGS may select the qualified meter to be used and shall pay as a regulated rate any net incremental cost incurred by PECO as a result of the metering choice.

Accordingly, the ALJ recommended that Duquesne must allow customers the option, in conjunction with their EGS, to request the use of a "qualified meter" that has been approved by this Commission as stated in PECO Energy. Further, the ALJ recommended that, as the regulated EDC, Duquesne should be responsible for all physical work related to the meter and the customer should pay as a regulated rate any net incremental cost incurred by Duquesne as a result of the metering choice.

(c) Arguments on Exceptions

Enron takes exception to the ALJ's recommendation, arguing that Duquesne's situation among electric utilities is unique and that this Commission should permit unbundling of metering services. It states that Duquesne has planned to phase out its metering services and place a contract with a third party provider. (Enron Exc., pp. 31-34). Enron posits that the ALJ failed to recognize that metering services could be unbundled on an interim basis pending the outcome of the Advanced Metering rulemaking at Docket No. L-00979120. MAPSA also takes exception on this issue, arguing that an EGS should be able to own, supply and read a customer's meter at the customer's delivery point.

(d) Resolution

We will adopt the ALJ's recommendation that Duquesne must allow customers the option, in conjunction with their EGS, to request the use of a "qualified meter" that has been approved by this Commission. As the regulated EDC, Duquesne shall be responsible for all physical work related to the meter, and the customer shall pay as a regulated rate any net incremental cost incurred by Duquesne as a result of the customer's metering choice.

With regard to the exceptions of Enron and MAPSA, we note that these issues are governed by the Advanced Meter rulemaking at Docket No. L-00970120 in which we did not find it necessary to unbundle metering at this time in order to facilitate the deployment of advanced metering. Nothing in the record of this proceeding suggests that metering should be unbundled in Duquesne's service territory at this time. The fact that Duquesne planned to contract its metering services to a third party is in no way dispositive of this issue. As Enron points out, even Duquesne agreed that its plans for contracting out metering services were not in compliance with the Advanced Meter rulemaking. (Enron Exc., p. 32). Moreover, Duquesne has not asked, or received, a waiver of our regulations with regard to this matter.

3. Agency

(a) Positions of the Parties

Duquesne defined the issue as whether a supplier can act as an agent for the customer and provide a "total electric package," including billing and collection. Duquesne argued that Enron's proposal should be rejected because: (i) the Act does not

authorize this type of agency arrangement and this Commission's Customer Services Guidelines would appear to prohibit it; (ii) if the supplier were to act as agent, it would have to provide metering and disconnection services, but under the guidelines only the EDC, Duquesne, can provide metering services for customers; and (iii) agency is inextricably linked with the single supplier bill option, but this Commission has not yet endorsed the supplier bill option. (Customer Services Guidelines, 1997 Pa. PUC LEXIS 42 at *1, *26, & *51; PECO Energy, Slip Op., p. 139).

The OCA observed that Enron proposed a Supplier Complete Bill Option that would create an agency relationship between the customer and Enron, such that Enron could obtain all of the necessary services on the customer's behalf and provide a single bill for these services. OCA witness Alexander identified several concerns with Enron's proposal, particularly with regard to consumer protection issues. For these reasons, the OCA submited that Enron's proposal raises significant concerns that must be thoroughly explored before approval and should not be adopted here.

Enron observed that it is undisputed in marketing circles, regardless of the commodity, that the vast majority of consumers, if given the choice, will seek and subscribe to a provider that can offer a comprehensive service package to the customer. Enron argued that, in a competitive market, market pressures will require market participants to provide products and services which meet customers' needs. Given that fact, Enron argued that in a competitive electric generation market, most customers will want their preferred provider to serve not only as their supplier of electricity, but also as their "single point of contact" with the utility. Since transmission and distribution services will remain a monopoly under the Act, in order to ensure that consumers have complete freedom of choice, suppliers should be able to act as agent for the customer to procure distribution, transmission, generation, and revenue cycle services on behalf of

their principal-customers, and send them a single bill for these services as well as to bill and collect the CTC/ITC and transfer such payments to the utility or its agent.

Enron argued that, under any agency arrangement, suppliers would be able to accept orders for service from customers and, through contact with the EDC, initiate or continue service at the customer's location. Essentially, through the agency agreement, the supplier would become the customer of record and would be directly responsible for payment to Duquesne of the EDC's charges associated with distribution and transmission. Such an agency relationship is not new to this Commission or to Pennsylvania utilities. Enron suggested that, in the natural gas industry, consumers have this option available to them in those markets which have been subject to competition. Enron noted that industrial natural gas customers have been able to enter into an agency relationship with their utility to procure gas service for more than ten years.

Enron posited that there is no legal impediment which would prevent this Commission from approving the agency relationship between supplier and customer as proposed by Enron. Enron predicated that, if allowed to occur, agency holds the possibility of many benefits for both consumers and for the competitive market. Enron noted that Duquesne contends first that the Act does not authorize agency and that the Customer Services Order would appear to prohibit it. (Duquesne M.B., p. 84). Enron countered that Duquesne provided no citation for either of these propositions, because there are none. Enron suggested to the contrary, that this Commission explicitly acknowledged the right of an EGS to act as agent for an end use customer in the PECO Energy case.

(b) ALJ's Recommendation

The ALJ concluded that a number of unanswered consumer protection issues abound in Enron's agency proposal. One of these unanswered issues concerns the proper interface between the agency proposal and the protections accorded residential customers in Chapter 56 of this Commission's regulations. For these reasons, the ALJ concluded that any action on Enron's agency proposal should be delayed until a future proceeding can consider this subject in greater detail.

(c) Arguments on Exceptions

Enron excepts to the rejection of its proposal to permit an EGS to act as an agent for customers. It argues that agency is a necessary tool to compete in a competitive market. Enron states that the ALJ's concerns about consumer protection matters are "largely irrelevant at present" and could be based upon a misunderstanding of the agency proposal.

(d) Resolution

We agree with the ALJ that there are too many unanswered questions concerning Enron's proposal. For example, it appears that under this proposal the EGS would have to provide metering and disconnection services. Therefore, the exception of Enron must be denied.

4. Customer Advanced Reliability System

(a) Positions of the Parties

Duquesne explained that, prior to the Act, it entered into a 15-year contract requiring Itron, Inc., to install, operate and maintain an automated metering service, known as Customer Advanced Reliability System (CARS). At present, Itron has installed a substantial portion of the system, and it should be fully operational by December 31, 1998, according to Duquesne.

The Intervenors have three main objections to CARS: (i) CARS will not satisfy this Commission's Advanced Metering Guidelines; (ii) CARS may be "anti-competitive" and hinder retail competition; and (iii) this Commission should stop Duquesne from installing a "gold-plated" system, or alternatively, make Duquesne shareholders at risk for this investment.

Duquesne argued that this Commission has not yet finalized advanced metering standards. Once those standards are set, "Duquesne and Itron will work with the Metering Committee to qualify CARS, ensuring that distribution system benefits, etc. are accessible to competitive suppliers." Next, the Company stated, CARS is pro customer choice and will promote, not hinder, competition. Duquesne noted that CARS will support a more reliable and accurate supplier settlement process than programs based on estimated load profiles. Duquesne added that CARS will enable retail suppliers in Duquesne's service area to offer new value-added services to their customers, such as time-of-use pricing. Moreover, Duquesne asserted, CARS does not preclude the unbundling of billing or other services in the future. Finally, the Company argued that CARS is not a "gold plated" system. CARS streamlines the use of distribution system

assets, lowering overall service costs. These benefits will accrue to customers that choose alternative suppliers as well as customers that do not, according to Duquesne.

Enron argued that Duquesne claimed that it will provide retail suppliers equal access to the service offerings of the CARS system, but it is significant that in describing these services, Duquesne witness Allison speaks of Duquesne offering these services. Enron asserted that, to the extent that Duquesne provides these services to suppliers, they should be at cost and should be fully available to resell by the supplier.

Enron also stated that Duquesne must assure that its CARS system is fully open and capable of accommodating both this Commission's very limited metering proposed rule, as well as full competitive provision that this Commission has indicated it intends to implement in the future. The fact that Duquesne has signed a 15-year lease should not change the result. Enron argued that once this Commission mandates competition in non-wire services, this Commission should order a revision in the lease, if necessary, that would guarantee that ratepayers did not lose the advantages of competitive metering. Finally, Enron would have this Commission direct Duquesne to work with suppliers and others to implement modifications in CARS to allow supplier-provided meters, automatic meter reading and billing through an Independent Operator Agreement (IOA).

(b) ALJ's Recommendation

On the subject of metering, the ALJ concluded that Duquesne must allow customers the option, in conjunction with their EGS, to request the use of a "qualified meter" that has been approved by this Commission as stated in PECO Energy. As the regulated EDC, Duquesne would be responsible for all physical work related to the meter

and the customer would pay as a regulated rate any net incremental cost incurred by Duquesne as a result of the metering choice. The ALJ concluded that any further move to develop competition in this area should await further Commission rulemaking on this subject.

(c) Resolution

We are in agreement with the ALJ, as discussed in the previous section, that Duquesne must allow customers the option, in conjunction with the EGS, to request use of a qualified meter which has been approved by this Commission. Duquesne shall remain responsible for all physical work related to the meter whether it does the work itself or contracts out the work to another company. We have not in the past and are not now endorsing or approving the CARS program. The CARS program must not stand in the way of any future move to competition regarding these services. There being no exceptions to this determination, we adopt the ALJ's recommendation.

D. Consumer Protection and Service Issues

1. Termination

(a) Positions of the Parties

Duquesne affirmed it will not terminate a customer for failure to pay an alternative supplier's charges consistent with this Commission's Order in Licensing Requirements for Electric Generation Suppliers, Docket No. M-00960890, F0004, (February 13, 1997). (R.D., pp. 735-736).

The OCA observed that Duquesne's procedures regarding termination of a customer from the electricity grid for nonpayment of charges were unclear. (R.D., p. 735). The OCA, however, submitted that the Duquesne affirmation noted above is consistent with this Commission's Order and recommended that Duquesne's compliance filing should clearly set forth its procedures. (R.D., p. 736). The OCA also recommended that Duquesne should not be permitted to condition restoration or reconnection of service on the payment of past-due supplier charges unless those charges are owed to the customer's supplier of last resort. (R.D., p. 736).

Enron claimed that enabling suppliers to act as agents for customers will allow the supplier to act on behalf of the customer to request the cancellation of electric supply from one source and to replace it by ordering electric service from another supplier. (R.D., p. 736). Enron responded to concerns that suppliers could act in their capacity as agents to have the EDC physically disconnect customers by clarifying Enron neither claims that it can physically disconnect customers, nor desires to make this a prerogative as part of the supplier's agency responsibility. (R.D., p 736). Enron further

clarified its position that suppliers can "cancel service" in that they can stop providing service to a non-paying customer by terminating the contract with that customer, after complying with all applicable Chapter 56 requirements, including the sending of appropriate written notices to the customer and to the EDC. (R.D., pp. 736-737). At that point, the customer will either attempt to repair the relationship with the supplier or will default to the supplier of last resort. (R.D., p. 737). Enron contended that is the extent of the power of suppliers to stop service to a customer. (R.D., p. 737).

(b) ALJ's Recommendation

ALJ Corbett recommended that, given the apparent agreement of all parties and for the reasons cited by the OCA, Duquesne should be directed that, as an EDC, it cannot terminate service to a customer for failure of that customer to pay an alternative supplier's charges. (R.D., p. 737). For the same reasons, ALJ Corbett recommended that Duquesne should not be permitted to condition restoration or reconnection of service on the payment of past-due supplier charges unless those charges are owed to the customer's supplier of last resort. (R.D., p. 737). ALJ Corbett recommended Enron's agency proposal should be denied. (R.D., p. 737).

(c) Parties' Exceptions

Enron excepts to the ALJ's conclusions about reducing "consumer protections" as largely irrelevant at present because they involve concerns that arise only if the supplier is providing a single bill-or based upon a misunderstanding of the agency proposal. (Enron Exc., p. 36). Enron clarifies that the supplier-agent is agent for the customer. Accordingly, the supplier cannot reduce or eliminate consumer protections

mandated by Chapter 56 and which Duquesne, as the Delivery Service Company, is obligated to provide. (Enron Exc., p. 36).

(d) Resolution

We adopt the ALJ's recommendation. As agreed to by the parties, Duquesne, as an EDC, may not terminate service to a customer for that customer's failure to pay an alternate supplier's charges. Likewise, based upon the record before us, we adopt the ALJ's recommendation that, as an EDC, Duquesne may not condition restoration or reconnection on the payment of past-due supplier charges unless those charges are owed to the territory's provider of last resort. Finally, we adopt the ALJ's recommendation to reject Enron's agency proposal. These clarifications are consistent with the Act's Universal Service requirements and POLR directives. As noted, in PECO Energy, Slip. Op., p. 136, we will adopt regulations clarifying that POLR duties upon the conclusion of the transition period.

2. Switching Fees

(a) Positions of the Parties

Duquesne, in rebuttal testimony, stated that Duquesne will charge customers and/or suppliers the "net incremental cost" of providing such services as changing a customer's supplier of record, supplier settlement, customized billing, collection activities, customer payment processing, customer service, and other potential charges. (R.D., p. 738).

The OCA noted that Duquesne made no quantification during this proceeding of what these charges will be, or what their amount will be. (R.D., p. 738). The OCA argued that, since this proceeding was the proper forum to evaluate the need for such additional fees, Duquesne should not be permitted to implement such charges, without proper review and justification. (R.D., pp. 738-739).

Enron contended that, to the extent Duquesne is proposing any fee for switching suppliers, such fees should be prohibited in accordance with the policy articulated in PECO Energy and Duquesne's failure to support the fee.[25] (R.D., p. 740).

Regarding a customer's change of supplier, Duquesne proposed Tariff Rule 27, which allows for a change of supplier based on either oral or written confirmation from the customer but does not allow the supplier to contact Duquesne on behalf of the customer without written proof of authorization. (R.D., p. 739). The OCA distinguished between customer-initiated changes and marketer-initiated changes and recommended that:

> The Commission should allow customers to inform the distribution company directly of the identity of their preferred supplier as proposed by Duquesne Light and allow as well a supplier to notify the distribution company of the customer's selection as long as the customer's selection was either in writing or verified by an independent third party, or if accomplished via contact initiated by a marketer or supplier, accompanied by written authorization. However, if the customer initiates the contact, the requirement of a signature or the creation of an additional hurdle by requiring that the

[25] PECO Reconsideration Order, p. 17.

customer communicate directly with the distribution company is not reasonable.

(R.D., p. 739).

The OCA also submitted that the Company's proposed five day notice to switch suppliers is reasonable, but the requirement of a physical meter reading should not be necessary if a customer agrees to a prorated bill for the billing period. (R.D., p. 739). The OCA requested that these proposals be adopted. (R.D., p. 739).

(b) ALJ's Recommendation

ALJ Corbett recommended that, since no substantial evidence exists in this record to support the Company's claim for a fee for switching suppliers, this Commission should deny this claim until such time as Duquesne can substantiate the cost-basis for this charge. On the other hand, the Company's proposed Tariff Rule 27, which allows for a change of supplier based upon either an oral or written confirmation from the customer, but does not allow the supplier to contact Duquesne on behalf of the customer without written proof of authorization, appears to be a reasonable attempt to prevent "slamming" and should be approved until such time as this Commission approves a rulemaking on this subject. Further, the ALJ recommended that the Company's five day notice requirement to switch suppliers and obtain a meter reading should be approved as presented by Duquesne without further modification. (R.D., p. 740).

(c) Parties' Arguments on Exception

Duquesne does not except to the ALJ finding that Duquesne not be entitled to charge certain fees "until such time as Duquesne can substantiate the cost-basis" for them, provided that it is interpreted to permit a subsequent filing that specifies the fees and provides the cost basis for them. (Duquesne Exc., p. 37).

(d) Resolution

We adopt the ALJ's recommendation to deny Duquesne's claim for a fee for switching suppliers. Duquesne has not met its burden to establish such a fee in this record. In regard to Duquesne's proposed Tariff Rule 27, we adopt the ALJ's recommendation to approve this rule subject to modification to conform with the final IRRC-approved Commission rulemaking at Order Establishing Standards for Changing a Customer's Electric Supplier, Docket No. L-00970121. We also adopt the ALJ's recommendation regarding Duquesne's five day notice requirement to switch suppliers and obtain a meter reading.

E. Partial Payments

1. Positions of the Parties

Duquesne committed to apply customer payments "in the consolidated bill scenario consistent with the Guidelines for Maintaining Customer Services," thus implementing the partial payment procedures. (R.D., pp. 740-741).

The OCA stated that this commitment by Duquesne resolves this issue. (R.D., p. 741).

Enron requested that this Commission, in its determination of the distribution of partial payments received by the EDC, assure that payment application be fair and nondiscriminatory. (R.D., p. 741). Enron argued that the only reasonable way to assure equitable application of partial payments is to apply payments on a *pro rata* basis. (R.D., p. 741). Enron contended that, if payments are not applied on a *pro rata* basis, a disproportionate amount of delinquencies will be allocated to suppliers likely, leading to early discontinuance of service by the supplier and, through return to the POLR, elimination of competitive benefits to those customers – customers who may most need the price reductions offered by the competitive environment. (R.D., pp. 741-742). Enron further argued that since EDCs, including Duquesne, are already recovering all uncollectibles, including those uncollectibles associated with the generation portion of the bill, in current rates, assigning a disproportionate amount of potential uncollectibles to suppliers will result in double recovery of uncollectible expense by Duquesne.[26] (R.D., p. 742).

2. ALJ's Recommendation

ALJ Corbett recommended that, since the Company has committed to apply customer payments in the consolidated bill scenario consistent with this Commission's Guidelines for Maintaining Customer Services, no further action appears warranted to modify Duquesne's proposal for handling partial payments. (R.D., p. 742).

[26] Enron St. 4.0, pp. 18-19.

3. Parties' Exceptions

Enron excepts to the ALJ's refusal to recommend that partial payments be applied on a *pro rata* basis. (Enron Exc., p. 37). Enron argues that, notwithstanding the Customer Services Order, the ALJ erred by failing to recognize *pro rata* application of partial payments as the only reasonable way to assure that a disproportionate amount of delinquencies are not allocated to suppliers, and to prevent double recovery of uncollectible expenses by Duquesne. (Enron Exc., p. 37).

4. Resolution

We agree with and adopt the ALJ's recommendation regarding application of partial payments. The concern that the "priority" method will result in a disproportionate amount of delinquencies allocated to suppliers is mitigated by the policy that, unlike the EDC, suppliers can address and control delinquencies more quickly through cancellation of contract. Additionally, the adoption of this order of priority for partial payments is consistent with the applicable guideline in the Customer Services Order, and, therefore, reflects our general desire that regulations and Orders pertaining to customer service issues shall control these issues. This will ensure that utilities, competitive suppliers, and consumers receive fair treatment across Pennsylvania.

F. Summary

We are rejecting the Company's proposal to require customers who return to its sales service to "stay in" that service for 12 months. We agree with OCA that there may be good reasons for consumers to need to switch back to Duquesne and we believe that the Company's claim that customers may game the system is speculative. We also reject the "Better Choice Plan" put forward by the Environmentalists with respect to the

Provider of Last Resort. That option will be examined when we promulgate regulations required by Section 2808(e)(2) and (3). As to the provision of electric service by the POLR at prevailing market rates, we believe the matter is best considered in a generic rulemaking.

We are also directing that Duquesne provide all billing services, including billing for generation services, unless a customer elects to receive a separate bill directly from the supplier for generation services. Additionally, we shall allow billing consolidation for customers with multiple sites to aggregate their load to a single EGS as we did in PECO Energy.

With respect to metering, we are declining to require Duquesne to unbundle metering services at this time. However, we have decided that the Company shall allow consumers, in conjunction with their EGS, to request the use of a, "qualified meter," that has been approved by this Commission. Duquesne shall be responsible for all physical work related to the meter, and the customer shall pay as a regulated rate any net incremental cost incurred by Duquesne as a result of the customer's metering choice.

We are also rejecting Enron's proposal to allow an EGS to act as an agent for its customers. As OCA points out, there are still too many unanswered questions concerning this proposal. Enron has not met is burden of proof with respect to convincing us that this plan will work.

With regard to termination of service, Duquesne, as an EDC, may not terminate service to a customer for that customer's failure to pay an alternate supplier's charges. Likewise, based upon the record before us, we adopt the ALJ's recommendation that, as an EDC, Duquesne may not condition restoration or reconnection on the payment

of past-due supplier charges unless those charges are owed to the territory's provider of last resort. Finally, we adopt the ALJ's recommendation to reject Enron's agency proposal.

We reject Duquesne's claim for a fee for switching suppliers on the basis that Duquesne has not met its burden to establish such a fee in this record. In regard to Tariff Rule 27, we adopt the ALJ's recommendation to approve this rule subject to modification to conform with the final IRRC-approved Commission rulemaking at Order Establishing Standards for Changing a Customer's Electric Supplier, Docket No. L-00970121. We also adopt the ALJ's recommendation regarding Duquesne's five day requirement to switch suppliers and obtain a meter reading.

Concerning application of partial payments, we adopt the recommended requirement that Duquesne's procedures comply with the guideline relating to partial payments found in the Final Order Re: Guidelines for Maintaining Customer Services at the Same Level of Quality Pursuant to 66 Pa. C.S. §2807(d), and Assuring Conformance with 52 Pa. Code Chapter 56 Pursuant to 66 Pa. C.S. §2809(e) and (f), Docket No. M-00960890F0011 (July 10, 1997) (Appendix B, Guideline H).

IX. UNIVERSAL SERVICE AND ENERGY CONSERVATION

Duquesne's application for approval of its restructuring plan included, pursuant to §2806(e), a proposed universal service and energy conservation cost-recovery mechanism. Duquesne also addressed how it intends to satisfy the universal service and energy conservation obligations under the Act. Duquesne Witness Flynn presented testimony regarding the Company's proposed universal service program. Duquesne's two principal low-income assistance programs are the Customer Assistance Program (CAP) and Smart Comfort or Low-Income Usage Reduction Program (LIURP). The CAP provides payment assistance and Smart Comfort provides funding for energy conservation measures. (R.D., pp. 556-760).

A. Specific Programs

Duquesne requested the Commission to accept the design of its CAP plan. Duquesne submitted that in its rebuttal testimony the Company addressed in detail the numerous design recommendations of OCA witness Brockway and City witness Mr. Colton. Duquesne stated that it had either incorporated these recommendations or addressed their concerns by the plan's design. Duquesne asserted the primary differences between the intervenors and the Company center on program eligibility criteria and levels of funding. (R.D., p.796).

Duquesne proposed to maintain the following annual funding and enrollment levels for each universal service program: CAP funding at $550,000 for 1,600 participants; Smart Comfort (LIURP) funding at $700,000 for 700 participants; CARES funding at $60,000 for approximately 4,500 participants; Consumer Credit Counseling Service funding at $6,000 for approximately 710 participants. The Company disagreed

with the intervenors who advocated a broader definition of need than Duquesne, thus expanding the pool of persons eligible for assistance. Duquesne argued its use of additional eligibility criteria is consistent with PECO, which approved PECO's use of additional eligibility criteria. (R.D., pp.756-760).

Duquesne explained that Smart Comfort is its LIURP program and has evolved from strictly a weatherization program into an "end use" strategy. Usage reduction measures include cost-effective appliance and lighting replacements. The primary disputes between the Company and intervenors regarding this program centered on eligibility and funding levels. Duquesne agreed with Environmentalists' witness Colton about the need to further link its Smart Comfort and CAP programs and is taking steps to do that. (R.D., pp. 800).

Duquesne disagreed with the intervenors who advocated a broader definition of need than Duquesne, thus expanding the pool of persons eligible for Smart Comfort. Duquesne argued its use of additional eligibility criteria is consistent with PECO, which approved PECO's use of additional eligibility criteria. (R.D., pp.756-760).

Duquesne does not have, and did not propose, a specific renewable program. Duquesne indicated that it continuously evaluates new technologies for its Smart Comfort program and will incorporate promising technologies into its programs. Duquesne pointed out that the OCA witness Brockway's suggestion for a photovoltaic program is not cost-effective. (R.D., pp. 801-802).

The OCA submitted the following design changes to CAP: reduce payments, expand the size of the program, expand eligibility, reduce arrearage payments, implement a more detailed evaluation plan, and provide portable universal service

benefits. The OCA noted that Duquesne stated that their plan incorporated a number of OCA witness Brockway's recommendations, or the plan is already sufficient. The OCA disputed Duquesne's claim and requested the Commission to direct Duquesne to incorporate the OCA's recommendations in a detailed compliance filing. (R.D., pp. 796-799).

The OCA argued that Duquesne's proposed CAP budget of $550,000 does not meet the need of Duquesne's service territory. The OCA recommended that the Commission approve a CAP budget of 0.5% of gross revenues or $5,725,000 to serve 24,000 participants. (R.D., pp. 757-759). The OCA supported a full-scale CAP program that makes reasonable efforts to serve 50% of the eligible households. The OCA estimated the number of eligible CAP households as high as 117,000. Because of budget constraints, the OCA recommended that the Commission require Duquesne to set a goal for its CAP program of providing bill assistance to 24,000 eligible customers by the end of three years.

The OCA's witness Brockway stated that Duquesne's LIURP program primarily addresses baseload uses and is delivered free to eligible customers. (R.D., pp. 800-801). OCA witness Brockway recommended that Duquesne ramp up the funding for the LIURP program to 0.2% of its gross operating revenues, or approximately $2.2 million, over four years. Witness Brockway explained that ramping up beyond the capacity to maintain the hands-on involvement of current managers would jeopardize the intangible qualities that make Smart Comfort successful. (R.D., p.760).

The OCA contended that the Company's eligibility criteria are too limited to meet the needs of the low income community and ensure that the goals of the Act are met. The OCA's witness Brockway recommended that Duquesne broaden its eligibility

requirements to include non-delinquent, high-risk customers, consistent with PP&L's proposal to extend eligibility to customers who are at risk of not being able to maintain service. (R.D., pp. 757, 761).

The OCA recommended that Duquesne issue an RFP to solicit proposals to install ten units of photovoltaic ("PV") electricity panels at 1 kW in 1999, and 20 units of PV in 2000. Additionally, OCA noted that in PECO, the Commission directed that a renewable pilot be included, consistent with OCA witness Brockway's recommendation. (R.D., pp. 802).

The Environmentalists stated that Duquesne's CAP is generally well designed, except for the funding and eligibility levels. The Environmentalists recommended that the Company modify the program to ensure that CAP operates closely with the other universal service programs and suggested that Duquesne refer all CAP recipients to LIURP. The Environmentalists also opposed the use of prepaid meters. (R.D., pp. 799-780).

The Environmentalists recommended a universal service budget of $17.49 million that includes a CAP budget of $14.75 million. The Environmentalists argued that Duquesne violates the Commission's universal service guidelines by adding eligibility criteria for CAP. The Environmentalists argued that it is improper for Duquesne to use the "prioritization" factors in the Commission's guidelines as eligibility criteria. The Environmentalists argued that the Company improperly rejects 95% of the eligible households because it uses improper eligibility criteria. (R.D., pp. 763-767). The Environmentalists recommended that the Commission direct Duquesne to revise its

universal service plan to include the policies, protections and services[27] cited in the Guidelines. (R.D., p. 767).

The Environmentalists believed that Duquesne's LIURP is seen as one of the state's most cost effective programs. (R.D., pp. 801). The Environmentalists supported the testimony of Roger Colton and his estimate of an "appropriately funded and available" annual LIURP budget of $2.21 million . (R.D., pp. 766-767). The Environmentalists contended that the most serious deficiency in the Duquesne universal service program is that it imposes improper eligibility criteria, which greatly decrease the number of households which are to be served by the program. The number of customers estimated to be eligible for LIURP is 21,226. (R.D., pp. 763, 765).

The Environmentalists urged the Commission to direct Duquesne to develop and offer a renewable energy pilot program as a component of its universal service program. The Environmentalists recommended that the pilot include renewable technologies such as domestic water heating, solar photovotaics, wood-fired water and/or space heating. (R.D., pp. 805).

CAAP recommended that the Commission direct Duquesne to develop and implement a full scale CAP designed to serve 13,251 low income households annually with funding set at $10,459,556 annually. CAAP maintained that Duquesne's proposed CAP underestimates annual households in need by 11,921 and annual funding requirements by $9,221,812. CAAP argued that the US Census data for Duquesne's

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[27] Final Order Re: Guidelines for Universal Service and Energy Conservation Programs (Order entered July 11, 1998), Docket No. M-00960890F0010, Section B(1), at 29-30 and Appendix C.

service territory shows that as many as 104,057 households are income eligible for CAP. (R.D. 767-775).

CAAP supported an annual LIURP budget of $4.5 to serve 3,949 households. CAAP argued that Duquesne's proposed LIURP underestimates annual households in need by 3,249 and annual funding requirements by $3,800,845. CAAP determined its proposed participation levels by using 1990 US Census data and the Commission's 40% participation goal. (R.D., pp. 770-772).

CAAP recommended that the Commission direct Duquesne to establish the following annual budgets: $50,000 for training and technical assistance for its network of service providers, $100,000 to fund a central research and development program to seek out new techniques, evaluate national trends, and $300,000 to develop and institute a low income renewables pilot program. (R.D., pp. 774-775).

B. Cost Allocation and Rate Design

1. Positions of the Parties

Duquesne proposed to allocate and collect the universal service charge by rate class on a cents per kWh basis based on allocated distribution costs for each rate class. Duquesne disagreed with the OTS suggestion that this charge be unbundled from the Distribution Charge because it is contrary to PECO. (R.D., p. 776).

The OTS disagreed with the Company's proposed application of the universal service charge and its presentation on customers' bills. The OTS also opposed the position of DII. The OTS recommended that this charge should be on a customer

basis, rather than on a per kilowatt basis. The OTS reasoned that by applying a universal service charge based upon kilowatt usage, and applying the charge to all rate classes, high volume users would bear an excessive burden which would be discriminatory. The OTS proposed a formula to apply a flat universal service charge ($1.76) to all customers in all classes. Finally, the OTS recommended that the universal service charge should appear as a line item on the customers' bills. (R.D., pp.777-780).

The OCA recommended that all customer classes contribute equitably to universal service programs. The OCA recommended that the Commission adopt an non-production revenue allocation of universal service costs. (R.D., pp. 782-783). The OCA disagreed with the OTS position that the universal service charge should appear as a separate line item on a customer's bill. The OCA argued that in PECO, the Commission approved PECO's proposal to embed the universal service charge in the distribution charges and to separate it for accounting purposes only. (R.D., pp. 786).

The OSBA argued that the universal service charge as proposed by the Company is in violation of the Competition Act. The OSBA recommended that the Commission order the Company to amend its filing such that universal service costs are allocated in a manner that is consistent with the rate treatments contained in the Company's most recent base rate case. The OSBA also disagreed with the OCA recommendation for use of a non-production revenue allocator, and requested the Commission to reject it. The OSBA asserted the allocation of universal service costs should be consistent with the Company's last rate case. The OSBA also asserted that its proposal would properly allocate 83% of the universal service costs to the residential class. (R.D., pp. 786-790).

DII supported Duquesne's proposal to allocate universal service costs to classes based on the allocation currently embedded in each rate class bundled rates in the last base rate proceeding. DII opposed the OCA recommendation to allocate universal service costs or a non-production demand basis. DII argued that the Commission reiterated the need for consistency with the prior rate case allocation of universal service costs in PECO. (R.D., pp. 790-793)

The Environmentalists supported Duquesne's proposal to collect the costs of its universal service programs in the rates of all ratepayers. (R.D., pp. 793-795).

Enron disagreed with Duquesne's proposal to retain all universal service support towards payment of universal service customer bills so that no portion would be allocated to suppliers serving eligible customers. Enron supported allocating universal service benefits to each component of a customer's bill. Enron supported the Commission's approach in the PECO order. In PECO, the Commission approved PECO's proposed universal service plan that included portable support. (R.D., pp. 755-757).

C. ALJ's Recommendations

ALJ Corbett agreed with the Company's proposed eligibility and funding levels for its universal service and conservation programs. The ALJ reasoned the funding and eligibility levels appear to comply with the requirements of the Act and the Commission's Guidelines on Universal Service and Energy Conservation and recommended that the Commission accept these levels without modification. (R.D., p.776).

The ALJ agreed with the Company's proposal to allocate universal service costs on a cents per kWh to classes based on the allocation currently embedded in each rate class' bundled rates in the last base rate proceeding. The ALJ reasoned the Company's proposal conforms with the Act, the Commission's Universal Service Guidelines and PECO. The ALJ recommended that the Commission accept this proposal without modification. (R.D., p.795).

The ALJ agreed that with the Company's proposals for the CAP, LIURP, renewables, and energy conservation. The ALJ reasoned the Company's proposals conform with the Act, the Commission's Guidelines on Universal Service and PECO Energy. The ALJ recommended that the Commission approve these proposals without modification. (R.D., p.805).

D. Arguments on Exceptions

The OTS excepts to the ALJ's decision to reject the OTS position that the universal service charge be recovered by applying a uniform fixed charge of $1.85/month to all customers in all classes of service. The OTS argues that historical experience shows that a flat universal service charge is most fair. The OTS also argues that basing a universal service charge on energy usage is unfair and penalizes high volume users. The OTS argues all customers and customer classes should evenly share the burden. (OTS Exc., pp. 19-21).

The OTS excepts to the ALJ's failure to recommend that Duquesne's proposal concerning universal service cost recovery be shown as a separate line item on

customer bills. The OTS argues that the primary reason to show this charge separately is to inform customers of the composition of their bills. (OTS Exc., pp. 21-22).

The OSBA agrees with the ALJ's conclusion that the universal service costs should be allocated on a cents per kWh basis consistent with the allocation currently embedded is each rate class' bundled rates from the Company's last base rate proceeding. However, the OSBA excepts to the ALJ's conclusion that Duquesne's proposal for allocating universal service costs is consistent with the methodology employed in Duquesne's last base rate proceeding. No company witness claimed that its approach would replicate the methodology employed in Duquesne's last rate base proceeding.

The OSBA constructed a table that shows in the last base rate proceeding the residential class was allocated 83.2% compared with 46.8% in Duquesne's current proposal and, and the non-residential class was allocated 16.8% of the universal service compared with 53.2% in the current proposal. The OSBA argues that the proposed increase to the non-residential class is discriminatory. Section 2804(7) prohibits unreasonable discriminatory treatments against one class to the benefits of another. In Universal Service Order, the Commission recognized §2804(7) prohibits cost shifting among classes. The OSBA recommends that the Commission reject the ALJ's conclusion and direct Duquesne to modify its proposed allocation so that it confirms with the currently embedded costs in each rate class from the Company's last base rate proceeding. (OSBA Exc., pp. 8-12).

The OCA excepts to the ALJ's decision that Duquesne's proposed eligibility and funding levels for its universal service programs comply with the Act and Commission Guidelines. For several reasons, the OCA submits that Duquesne's

proposal does not meet the requirements of the Act, and is not consistent with the Guidelines or PECO. The OCA argues that:

1. Duquesne's definition of eligibility for universal service programs is too narrow to meet the needs of the low-income community and recommends that Duquesne broaden its eligibility criteria to include non-delinquent high risk customers because this group is unable to work outside the home to increase their family income;

2. Duquesne's low-income customers pay a higher percentage of their monthly incomes (25% for general use customers and 38% for heating customers) compared with average income customers (3% for general use customers and 4% for heating customers);

3. Duquesne's own estimates show a need to expand services beyond the current levels. Census data shows that about 117,000 households in Duquesne's service territory have incomes below 150% of the federal poverty guidelines; and

4. Although the Commission approved PECO's proposal, it also noted that the level of participation may not be enough because the latest census data showed that PECO serves 250,000 low-income households.

The OCA recommends that the Commission adopt the OCA proposal to expand eligibility and to establish specific enrollment levels for universal service programs. The OCA recommends the Commission direct Duquesne to establish the following annual funding levels: CAP funding at $5,525,00 to service 24,000 households and LIURP funding at $2.2 million. (OCA Exc., pp. 22-27).

The OCA excepts to the ALJ's decision that Duquesne's proposal for its CAP design conforms with the Act, the Guidelines and PECO. The OCA argues that its design recommendations for change are necessary to effectively promote the goal of

universal service. The OCA recommends that the Commission direct Duquesne to do the following: increase funding and eligibility levels, reduce payments, relax eligibility criteria, reduce arrearage repayments, conduct a full impact evaluation, and provide portability of eligibility. (OCA Exc., pp. 27-29).

The OCA excepts to the ALJ's decision that Duquesne's proposal for its LIURP design conforms with the Act, the Guidelines and PECO. The OCA recommends that the Commission direct Duquesne to increase funding and eligibility levels. (OCA Exc., pp. 29-30).

The OCA excepts to the ALJ's decision that Duquesne's renewable proposal is adequate. The OCA submits that Duquesne did not include a renewables pilot as part of its restructuring plan. The OCA argues that the General Assembly intended to test the viability of renewable resources by including renewables in the list of potential universal service programs contained in the Act. In PECO, the Commission ordered PECO to implement the renewables pilot proposed by OCA witness Brockway. The OCA requests the Commission to direct Duquesne to implement the renewables pilot proposed by OCA witness Brockway. (OCA Exc., pp. 30-32).

The Environmentalists except to the ALJ's decision to accept Duquesne's eligibility criteria, funding levels and program design of its universal service programs. The Environmentalists argue that Duquesne violates the Commission's universal service guidelines by adding eligibility criteria for CAP. The Environmentalists argue that it is improper for Duquesne to use the "prioritization" factors in the Commission's guidelines as eligibility criteria. Duquesne identified 115,055 low-income, payment troubled households. Because of Duquesne's additional eligibility criteria, Duquesne suggests that only 5,731 customers appear eligible for CAP. The Environmentalists argue that the

Company rejects 95% of the eligible households because it uses improper eligibility criteria. The Environmentalists recommend that the Commission direct Duquesne to fund its universal service programs at $17.49 million. (Environmentalists Exc., pp. 7-8).

The Environmentalists except to the ALJ's decision to accept Duquesne's proposal not to include a renewables pilot as part of its universal service plan. The Environmentalists urge the Commission to direct Duquesne to develop and offer a renewable energy pilot program as a component of its universal service program. (Environmentalists Exc., pp. 8).

Enron excepts to the ALJ's failure to recommend that Duquesne offer portable universal service support and pro rata allocation to each component of a low-income customer's bill. The ALJ errs by failing to follow the Commission's precedent in PECO and recommend that Duquesne modify its universal service program to require portable support and pro rata allocation. Enron recommends the Commission require Duquesne to modify its universal service plan to provide portable support and pro rata allocation. (Enron Exc., pp. 37-38).

CAAP excepts to the ALJ's decision to establish a funding level for CAP at $500,000 to serve 1,600 customers and a funding level for LIURP at $700,000 to serve 700 customers. CAAP argues that these levels are insufficient to meet the Act and the Commission's Universal Service Guidelines. CAAP argues that CAAP, the OCA, and the Environmentalists provided expert testimony that established the level of need for CAP and LIURP. CAAP recommends that the Commission adopt the following annual funding and enrollment levels: $5.57-$10.5 million for CAP to serve 13,251-24,000 households and $2.2-$4.5 million for LIURP to serve 2,200-3,950 households. (CAAP Exc., p. 1-3).

E. Resolution

The Act includes many provisions designed to ensure that electric service is universally available in Pennsylvania as we make the transition to a competitive generation market. Section 2802(9) declares that "electric service is essential to the health and well-being of residents, to public safety, and to orderly economic development, and electric service should be available to all customers on reasonable terms and conditions." Section 2802(10) declares that "the Commonwealth must, at a minimum, continue the protections, policies and services that now assist customers who are low- income to afford electric service." Section 2803 defines "universal service and energy conservation" as "policies, protections and services that help low-income customers to maintain electric service. The term includes customer assistance programs, termination of service protection and policies and services that help low-income customers to reduce or manage energy consumption in a cost-effective manner, such as the low-income usage reduction programs, application of renewable resources and consumer education."

Section 2804(9) of the Act requires that "the Commission shall ensure that universal service and energy conservation policies, activities and services are appropriately funded and available in each electric distribution service territory. Section 2804(15) requires the restructuring plan to include an initial proposal indicating how the EDC's universal service and energy conservation responsibility will be met. On July 10, 1997, the Commission issued a Final Order establishing Universal Service and Energy Conservation Guidelines (Guidelines) for such programs as part of each utility restructuring plan.

1. Funding and Eligibility.

Duquesne requested the Commission to accept the design of its CAP plan. Duquesne proposed to maintain the following annual funding and enrollment levels for each universal service program: CAP funding at $550,000 for 1,600 participants; Smart Comfort (LIURP) funding at $700,000 for 700 participants; CARES funding at $60,000 for approximately 4,500 participants; Consumer Credit Counseling Service funding at $6,000 for approximately 710 participants.

The record includes several assessments of the low-income population and the need for Universal Service and Energy Conservation programs in Duquesne's service territory. OCA used census data to document that there are approximately 117,000 customers below 150% of the federal poverty guidelines in Duquesne's service territory. This is the number meeting the income eligibility standards in the Guidelines. Duquesne stated it has 115,000 low-income households who are payment-troubled and identified 26,000 low-income customers whose arrearages are three times the average residential bill. In addition, Duquesne indicated that it had identified 25,334 low income customers on payment agreements. As CAAP indicated, our Guidelines indicate a general target for Universal Service programs of serving 40% of eligible households.

a. CAP

The OCA supported a full-scale program that makes a reasonable effort to serve 50% of the eligible households. Because of budget constraints, the OCA suggested that a more appropriate target is about 24,000 households. The OCA proposed a three-year expansion of the CAP program to serve 24,000 customers annually at an annual cost of $5,725,000, or approximately $238 per customer. The OCA bases its funding proposal for

CAP on a budget of 0.5% of gross revenues. We find that OCA's proposal, however, does not reflect the fact that generation will be competitive, and gross revenues will decline to reflect only transmission, distribution, and CTC revenues.

The CAAP proposed that the Company can realistically expand its CAP program to serve 13,500 customers. The Environmentalists proposed that the Company's universal service programs be funded at $17.49 million annually.

A CAP provides alternatives to traditional collection methods for low-income payment troubled customers. A CAP is designed to be a more cost-effective approach for dealing with issues of customer inability to pay than are traditional collection methods. The overall goal of the CAP program is to secure more revenue from the affected customers at lower cost by providing a bill that a poor customer can fully pay. Currently, Duquesne expends funds on traditional collection methods and for write-offs of uncollectible amounts. The Company spends in excess of $12 million in these efforts. We find that the redirection of existing low-income uncollectible and other collection expenses can substantially fund increased CAP participation.

The Commission finds that Duquesne's CAP proposal does not meet the level of need in its service territory. Based upon a review of the record and the contentions of the parties, we direct the Company to expand CAP. So that Duquesne can adequately address administrative issues raised by expanding enrollment, we believe it is reasonable to take a measured approach and to expand the program over four years. Using an average gross cost of $343 per customer, we direct Duquesne to increase the CAP program to serve 15,000 customers with a budget of $5,275,000. We find that the average cost of $343 per customer is a gross program cost that does not include any of the avoided costs of traditional collections, such as uncollectible expense, payment agreements and similar costs.

The scheduled impact evaluation should provide net costs of serving a CAP customer as well as recommendations for improving the cost-effectiveness of the program. The net costs consider the avoided costs of traditional collections. We conclude that a funding level of $5,275,000 will make universal service appropriately available and funded as required by the Act, while considering the need for service, existing funding levels, administrative concerns and budget constraints.

Consistent with the four-year schedule specified herein, the Company should expand the CAP program to meet the community's needs. The Company could enroll as many as 4000 new customers in its first year of operation post-restructuring. This would correspond to the CAP expansion supported by the Company's proposed merger partner, Allegheny Power.

b. LIURP

The Company's LIURP program has been in place for a number of years and serves 700 customers annually at an average program cost of $1,000 per customer. The Company proposed to continue to fund LIURP services at the same annual level of $700,000. Duquesne estimated that 21,226 households need LIURP services. (DLC universal service proposal, p. 5). This LIURP program is unique in its emphasis on base consumption reduction due to the lack of heating customers in the territory. Natural gas companies primarily provide LIURP services for heating in DQE's territory.

The OCA and the Environmentalists have proposed to expand the annual funding of this program to $2,200,000. CAAP supported an annual LIURP budget of $4.5 million to serve 3,949 households. CAAP argued that Duquesne's proposed LIURP

funding and enrollment levels underestimates annual households in need. CAAP stated that it determined its proposed participation level by using 1990 US Census data and the Commission's 40% participation goal as stated in the Guidelines.

Unlike CAP, which assumes that a customer is in the program for a multi-year period, LIURP is a program that serves a customer once and then moves on to serve other customers. For this reason the program needs to serve a smaller number of customers in a given year to achieve a comparable level of program availability as CAP.

The Commission finds that LIURP has been one of the Commonwealth's most successful programs for assisting low income customers. The Commission has found that LIURP reduces bad debt by reducing customers' bills. Customers who receive LIURP services are able to pay their entire bill plus contribute to their arrearage. LIURP services also increase the health and safety of the household and neighborhood. The Commission finds that Duquesne's LIURP proposal does not meet the level of need in its service territory as required by the Act.

Based upon a review of the record and the contentions of the parties, we direct the Company to expand its LIURP, over the next four years to serve 1750 customers annually at a cost of $1,000 per customer. Because of the benefits that LIURP provides and the existing need, we find that enlarging the service provided by the LIURP program over four years to the higher level of funding of $1,750,000 is reasonable. This schedule should accommodate the need for improved program capacity without sacrificing quality while meeting program needs and budgetary considerations.

In summary, we direct Duquesne to fund its LIURP and CAP programs according to the following schedule.

Year	CAP Dollars	LIURP Dollars
1999	$1 million	$1 million
2000	$2.245 million	$1.25 million
2001	$3.85 million	$1.5 million
2002	$5.275 million	$1.75 million

2. Cost Recovery

Section 2804(8) requires the Commission to establish "an appropriate cost recovery mechanism which is designed to fully recover the electric utility's universal service and energy conservation costs over the life of these programs." The Commission's Guidelines do not permit the funding for Universal service to be the last priority after rate cap or CTC considerations. The record is insufficient to conclude that implementation of the required funding levels requires any particular amount of additional funding in any given year or whether the targeted funding can be achieved within the rate caps during any year in which rates remain capped.

Consistent with the ALJ's discussion and recommended decision, we accept the Company's cost allocation and rate design for universal service charges. As we directed in PECO, the Commission also directs that the Universal Service Fund Charge (USFC) shall be reconcilable pursuant to Section 1307(f). The reconciliation will be based on all program costs as indicated in the Guidelines. The ALJ rejected the OTS' argument to direct the Company to allocate universal service charges on a per customer basis rather than on a cents per kWh basis as proposed by Duquesne. The Commission

finds that the OTS' proposal would shift current costs of the universal service charges. Under the OTS' proposal, the Company's largest customers would pay the same as its smallest customer. The ALJ also rejected the OTS proposal to show the universal service charge as a separate line item on the customer bill. The Commission finds that the ALJ's treatment of this issue is consistent with PECO Energy.

In PECO Energy, the universal service charge is separate for accounting purposes, but included in the distribution portion of the customer bill. Finally, the ALJ rejected the OSBA argument that Duquesne's proposal for allocating universal service costs is not consistent with the methodology used in the Company's last base rate proceeding. The Commission finds that under the OSBA's proposal the non-residential class may be allocated a lesser percentage of universal service costs, but the distribution rates of the non-residential class will be the same under both methods. Each class' distribution rate is reached by subtracting the universal service cost allocation from each class' share of the total distribution costs. Thus, if the universal service cost allocation percentage for the non-residential class rises, the distribution rate is reduced, and if the allocation percentage lowers, the class distribution rate is higher. However, the Commission concludes that the total costs paid by the class remains the same.

3. Programs

The Commission adopts the Company's universal service program design. The Company's design complies with the Act and the Commission's Guidelines on Universal Service as modified herein. Although the eligibility rules should be designed to be consistent with the Commission's Guidelines, the Company may prioritize enrollment pursuant to the Guidelines as well.

Enron excepted to the ALJ's rejection of its proposal that Duquesne offer "portable universal service support" and a pro rata allocation to each component of a low-income customer's bill. We believe Enron misunderstood the Judge's recommendation. The Judge stated that the Commission agreed with the Enron position. The ALJ explained that the PECO's proposed restructuring plan included portable support within its universal service plan proposal. The Judge stated, "In PECO Energy, the Commission approved PECO's proposed universal service program without modification on this point." (R.D., pp. 756). The Commission finds that the universal service benefits should be portable so that a customer may choose a competitive supplier without losing benefits. Consistent with the ALJ's discussion and recommended decision, we adopt the Judge's recommendation without modification.

The OCA and the Environmentalists recommended that the Commission adopt the renewables pilot proposed by the OCA's witness Brockway. The Environmentalists also recommended that Duquesne participate in the Department of Energy and Utility Photovoltaic Group collaborative program known as "Million Solar Roof Program". This national program is specifically designed to accelerate commercialization of photovoltaic systems by increasing the economy of scale of production. The program includes federal grants and consumer loans to finance customer installation of photovoltaic system on their roofs. Loans are offered by participating companies at an interest rate 0.5% higher than the participating company's cost of capital.

This program has the potential to encourage the use of solar power and to facilitate its commercial application as a renewable resource in the DQE territory. The Act at §2803 specifically includes renewable programs as a provision of universal service. The Commission directs Duquesne to examine this partnership program and assess its

incremental costs for participation as an alternative to the OCA's renewable Pilot. We agree that the program has potential and the Company should develop a loan level of $250,000 for the DQE territory. We permit Duquesne to recover the Company's costs under their proposed Universal Service cost recovery mechanism.

4. Resolution Summary

The Commission directs Duquesne to increase the CAP program to serve 15,000 customers at a funding level of $5,275,000 and to increase the LIURP program to serve 1750 customers at a funding level of $1,750,000. We direct Duquesne to expand these programs over a four-year period to reach the maximum enrollment and funding levels. The Commission adopts the Company's cost allocation and rate design for universal service charges. The Commission also adopts the Company's universal service program design although the eligibility rules and enrollment prioritization must be consistent with the Commission's Guidelines. Finally, we have ensured that universal service benefits are portable and directed Duquesne to develop a loan level of $250,000 to participate in the "Million Solar Roof Program".

X. CUSTOMER EDUCATION

Pursuant to 66 Pa. C.S. §2807(d)(3), each electric distribution company (EDC), in conjunction with the Commission, prior to the implementation of any restructuring plan under Section 2806 of the Act, shall implement a consumer education program informing customers of the changes in the electric industry. Section 2807 (d)(3) specifies that "The program shall provide consumers with information necessary to help them make appropriate choices as to their electric service."

A. Scope of Customer Education

1. Positions of the Parties

All parties agree that a statewide approach to consumer education is the best method of ensuring that customers have the knowledge to make informed choice in the marketplace. Duquesne proposed that there should be statewide customer education as well as local, Company-specific education; and argued that the resultant duties should be shared between the Commission and the EDC. (Duquesne St. 6-R at 27, See, also, PECO Energy, Slip Op. at 156).

The OCA's witness Ms. Alexander noted that Duquesne's plan has a number of deficiencies. She stated that the plan omitted substantive information on goals, objectives and budget for consumer education. Some deficiencies include: Duquesne's materials do not motivate, their research only measures awareness, focus groups mainly explored their company image, no timelines or interim goals, does not describe how the company will work with community based organizations, does not describe their evaluation, and does not propose a budget. The Environmentalists stated that consumer

information are important components of the Act. Enron contended that consumer education should be conducted on a statewide basis. (R.D., pp. 807-810).

2. ALJ's Recommendation

The ALJ recommended that the Commission should direct Duquesne, as part of its compliance filing, to submit a customer education plan that conforms to the PECO Energy Order. (R.D., pp. 814-815).

3. Arguments on Exception

At pages 8-9 of their Exceptions, the Environmentalists contend that the Company failed to present details about the goals, objectives, strategies, programs and procedures as part of their education plan. Instead of leaving details to the compliance filing, the Environmentalists assert that the Commission should specify elements to be addressed by the Company's plan. They further support greater direction on the budget and proposed a budget for the four year program of at least $5 per customer.

No replies were filed to the Environmentalists' Exception regarding scope of customer education.

4. Resolution

In considering this matter, we note that we adopted an Order, entered February 27, 1998, for the Creation and Implementation of a Statewide Consumer Education Program for Electric Restructuring in the Commonwealth of Pennsylvania, Docket No. M-00981036. That Order established a Consumer Education Board (CEB)

which will address the details of the EDC's individual education plans. Each EDC has been asked to submit their education plan to the Commission's CEB according to a schedule beginning in May 1998. The CEB will make any recommendations to the EDC. A majority vote of the CEB is necessary in order to obtain approval of each EDC plan. If there are no objections to the plan approved by the CEB, then it will be deemed approved five days after the Board acts. Although the CEB will have review and advisory authority, the Commission will retain authority over the final content of all consumer education.

B. Funding Levels and Recovery

1. Positions of the Parties

Duquesne contended that if the Commission directed it to increase education funding during the transition period, as proposed by some, then Duquesne should be permitted to recover those expenses as transition costs. The OCA did not dispute such recovery. The Environmentalists argued that Duquesne should have an education budget of at least $5 per customer, noting that PECO's education budget is $5.33 pursuant to PECO Energy. The Environmentalists further argued that funding this budget should be allocated 65% (statewide education) and 35% (local education), which the Commission adopted in PECO Energy. (R.D., pp. 818-819).

2. The ALJ's Recommendation

The ALJ recommended that the Commission should direct Duquesne to provide a budget in its compliance filing, and that the 65%/35% allocation ratio used in PECO Energy should be used for Duquesne as well.

3. Arguments on Exceptions

The Environmentalists except to the ALJ's failure to provide more direction for Duquesne's customer education plan, as well as his failure to recommend that the education budget be funded at a level of at least $5 per customer. (Environmentalists' Exc., p. 9). There were no replies to this Exception.

4. Resolution

In considering this matter, we note that the precise cost for Duquesne's consumer education program will be determined through the CEB. Until that figure is determined, Duquesne will assume funding at $5 per residential customer for 4 years, for a total of $15.5 million. We will adopt a final number upon acceptance of Duquesne's compliance filing. We authorize full recovery of this amount as a transition cost.

XI. MISCELLANEOUS ISSUES

A. Uniform Environmental Standards

1. Environmental Comparability

In order to create a level playing field for all market participants, the Environmentalists contended that the Commission should implement uniform environmental standards that all retail suppliers must meet in order to sell power in Pennsylvania.[28] The Environmentalists asserted that at present there is considerable disparity between the emission standards applied to generating units of different vintages or located in different states or regions. Furthermore, the Environmentalists argued that restructuring could have a dramatic impact on the air quality in Pennsylvania if it encourages generators of relatively dirty power who are subject to less stringent environmental regulations to increase production. The Commission must ensure that the introduction of competition to the electric industry in Pennsylvania does not result in dirtier air and the attendant harm to the environment and public health. (R.D. p. 828).

2. DII

DII was of the opinion that this requirement is unnecessary and could hinder development of a robust competitive market. DII further stated that one of the goals of the Act is to provide businesses with a cost-effective market in which to operate, 66 Pa. C.S. §§2802 (4)-(7), and that businesses in Pennsylvania will not be provided with a cost-effective environment if restrictions are levied on

[28] Env. St. 1.0 at 3-5.

electricity supply that surrounding states do not place on that supply. DII argued that this proposal must be rejected. (DII R.B. at 49).

B. Aggregation

1. PRA

The PRA noted that this Commission should ensure and require Duquesne to permit aggregation of customer load. As indicated by PRA's witness Albrecht, aggregation is a means of permitting smaller customers to replicate larger customers so as to attract the largest number of alternative, competitive generation suppliers for their service needs. PRA argued that a failure to require Duquesne to permit aggregation will frustrate the intent of the Legislature and the Act. The PRA further argued that Duquesne should be required to affirmatively permit customers who have multiple sites to aggregate their load. The PRA also asserted that since at a future date Duquesne will be required to fully unbundle its services and to require and to permit 100% direct access to the competitive generation market, now is the time to start that process. (PRA M.B. at 71).

C. Consumer Information

The Environmentalists argued that under the terms of the Act, the Commission is required to facilitate informed customer choice by issuing regulations ensuring that the information supplied to consumers is in an understandable format that enables consumers to compare prices and services on a uniform basis.[29]

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[29] 66 Pa. C.S. §2807(d)(2).

In sum, the Environmentalists argued that the Commission should require all retail suppliers to provide accurate, verifiable and uniform information about the sources and environmental impacts of the power they sell. The generation of electricity has tremendous impacts on the environment and customers are interested in the environmental implications of their electricity purchases. Only by requiring the provision of relevant information can the Commission ensure that customers can make informed and meaningful choices in a competitive marketplace. (R.D. pp. 822-825).

D. The Sustainable Development Fund

Since the PECO securitization proceeding, the Environmentalists have been advancing a proposal to the Commission for a Sustainable Development Fund to finance and promote energy conservation and efficiency, renewable energy and other clean-energy technologies. The Environmentalists contend that Pennsylvania should be making a modest investment in its sustainable energy future. (R.D. pp. 826-827). The Environmentalists proposed that the Sustainable Development Fund be financed by all suppliers through an annual contribution equal to one percent (1%) of their gross revenues. On a statewide basis, this would provide annual funding of approximately $22 million.

E. The Conservation Loan Fund

The Environmentalists recommended that Duquesne establish an energy loan program to help its residential customers make energy efficiency improvements to their existing or new facilities. The Environmentalist's asserted

that loans would be given priority on the basis of electricity savings, system reliability benefits, customer class contributions and need. The Loan Fund would receive an initial capitalization from Duquesne at a level equal to 2% of the Company's stranded cost recovery.[30]

F. ALJ's Recommendation

The ALJ concluded that the various miscellaneous issues raised in this Section either are not strictly required by the Act or are inappropriate for consideration in this restructuring application. The ALJ added that, of course, the Commission may decide that a particular issue deserves further scrutiny, in which case a generic proceeding may determine the merits of the matter.

G. Parties' Exceptions

The Environmentalists argued on exception that the testimony that they presented speaks to the need to address additional aspects of informed customer choice, namely, the need for disclosure of key air and other waste emissions to consumers in a standard and easy to comprehend label. The Environmentalists asserted that in this connection electricity generation has a tremendous environmental footprint. Notably, many electricity suppliers are positioning themselves to fill the "green power" niche, and many suppliers are interested in marketing a clean product, while, unfortunately, others will be green in name alone. The Environmentalists averred that the mandatory disclosure of environmental attributes will: (1) allow verification of the claims; (2) provide

[30] Env. St. 1.0 at 9.

customers with information on "dirty" suppliers; and (3) make comparisons between suppliers easier.

Finally, the Environmentalists excepted to the ALJ's failure to recommend adoption of the following of their proposals: (1) the Million Solar Roof proposal; (2) the Conservation Loan Fund, and (3) the Environmental Comparability Requirement. (Env. Exc., pp. 9-12).

H. Resolution

While we accept many of the concerns raised by the Environmentalists, we cannot agree that we should adopt several of its proposals in this proceeding. As discussed, we have adopted the Environmentalists recommendation that Duquesne participate in the DOE Million Solar Roof Program. The federal Environmental Protection Agency and Pennsylvania's Department of Environmental Protection establish emission regulations and it would be inappropriate for this Commission to do so. Many of the concerns raised by the Environmentalists concerning consumer information are addressed in the Rulemaking that governs these issues. We do not agree that the record supports consumer funding of the proposed sustainable development or Conservation Loan Fund at this time.

Lastly, we agree with PRA that Duquesne may not inappropriately restrict aggregation. As discussed, we have required Duquesne to facilitate consolidated billing.

XII. CONCLUSION

On the basis of the reasoning set forth in this Opinion and Order, as supported by the record in this proceeding, we conclude that Duquesne's stranded costs is $1.332 billion. Using an 11-percent return on the unamortized balance, this computes to a CTC initially estimated to be 2.58 cents per kwh for 1999. This rate will be reconciled each year for system sales. Our transmission and distribution calculations result in a 1999 rate of 2.37 cents per kwh. This rate declines to 2.24 cents per kwh in the year 2000 due to the merger reduction. Duquesne currently provides service at a bundled rate of 8.93 cents per kwh. The recovery of the CTC and the transmission and distribution charges should yield a 1999 shopping credit of 4.00 cents per kwh. Attachments A through E appended to this Opinion and Order provide the details for these calculations.

We further determine that the ALJ and the parties to this proceeding have compiled a thorough record that allows us to make a reasoned decision regarding the restructuring of Duquesne. Therefore, we conclude that the restructuring requirements of the Act have been met. Finally, we emphasize the vital importance of membership for Duquesne and APS in a functional Independent System Operator which meets the standards of the FERC as well as those of this Commission.

XIII. ORDER

THEREFORE, IT IS ORDERED:

1. That the Exceptions filed by the various Parties to the Recommended Decision of Administrative Law Judge John H. Corbett, Jr., herein, which was issued on March 25, 1998, are hereby granted or denied, consistent with this Opinion and Order.

2. That the Recommended Decision of Administrative Law Judge John H. Corbett, Jr., which was issued herein on March 25, 1998, is adopted, as modified by this Opinion and Order.

3. That the Application of Duquesne Light Company for approval of its restructuring plan pursuant to Section 2806(d) of the Public Utility Code, 66 Pa. C.S. §2806(d), filed on August 1, 1997 and docketed with the Pennsylvania Public Utility Commission at No. R-00974104, is hereby approved, as modified, by this Opinion and Order.

4. That Duquesne Light Company shall remain the provider of last resort consistent with the determinations made herein and the requirements of 66 Pa. C.S. §2802(16).

5. That Duquesne Light Company shall phase-in direct access to alternative generation suppliers in the manner specified in this Opinion and Order, pursuant to the following schedule:

a. 33% of the peak load of each customer class shall have the opportunity for direct access as of January 1,1999;

b. 66% of the peak load of each customer class shall have direct access as of January 2, 1999;

c. All customers shall have direct access as of January 2, 2000.

6. That, beginning on July 1, 1998, Duquesne Light Company shall conduct an open enrollment period for residential customers on a first come first served basis. If less than 33% enrollment occurs by August 14, 1998, Duquesne Light Company shall notify all volunteers of their participation in the phase-in beginning January 1, 1999. If more than 33% enrollment occurs, Duquesne Light Company shall have a Commission approved independent party conduct a lottery to determine which customers may participate in the January 1, 1999 phase-in.

7. That in the event the proposed merger of DQE, Inc., Allegheny Power System, Inc., et al., at Docket No. A-110150F00015, is not consummated within eighteen months of entry of this Opinion and Order, Duquesne Light Company must divest itself of its generating assets to determine the value of its stranded assets in the following manner:

a. Within ninety days of entry of this Opinion and Order, Duquesne Light Company shall file with the Commission a plan of divestiture, together with a proposal for addressing its continuing obligation to serve under the rate cap.

c. Pursuant to Commission direction, all interested Parties shall have an opportunity to respond to either or both proposals.

d. Commencing January 1, 1999, Duquesne Light Company is permitted to collect an interim competitive transition charge from customers applying the same rates and credits approved in the pilot program for customers electing direct access during this interim period.

e. The interim CTC shall expire upon replacement by the CTC developed based on the results of divestiture of Duquesne generation assets as specified herein. Duquesne Light Company shall calculate a competitive transition charge to recover any remaining stranded costs until December 31, 2005. Depending upon the result of the divestiture, the time period for recovery of stranded costs may be adjusted. The general approach used in the Application of PECO Energy Company at Docket No. P-00973953 (Opinion and Order entered December 23, 1997) will be used herein as consistent with the above determinations and findings.

f. The competitive transition charge may be collected from January 1, 1999 until December 31, 2005 or for such other period of time as the Commission deems appropriate upon adoption of the CTC following divestiture.

8. That in the event the merger is consummated or no divestiture plan is filed and approved by the Commission, and consistent with the determinations and findings herein, the interim CTC shall not be used and Duquesne Light Company is permitted to recover, through the application of a competitive transition charge to customers' bills, the amount of stranded costs, subject to its compliance filing, as specified herein.

9. That the competitive transition charge authorized in the preceding Ordering Paragraph is subject to the following requirements:

a. The competitive transition charge may be collected from January 1, 1999 until December 31, 2005.

b. The competitive transition charge shall be calculated and applied consistent with the directives contained herein.

c. The competitive transition charge shall be reconciled based on actual sales and may be modified on an annual basis as required by 66 Pa. C.S. §2808(f).

d. Any reconciliation and modification of the competitive transition charge shall be done on a customer class basis.

e. The competitive transition charge shall be calculated in a manner recognizing monthly receipt of competitive transition charge revenues.

10. That Duquesne Light Company shall modify its transmission and distribution revenue requirement and rate structure to incorporate the adjustments, including cost allocation method, as directed in this Opinion and Order.

11. That Duquesne Light Company shall continue to provide service to existing customers through existing tariffs throughout the transition period, and all special contracts shall remain in force, on their terms and consumers shall be protected by applicable rate cap except as modified herein.

12. That Duquesne Light Company shall comply with the determinations contained herein relating to customer billing and metering and that Duquesne Light Company reflect this action in its compliance filing.

13. That Duquesne Light Company shall include a net metering, consistent with this Opinion and Order.

14. That, pending the outcome of the Commission's rulemaking proceeding on a generic Code of Conduct, Duquesne Light Company shall modify its proposed Code of Conduct as herein directed.

15. That Duquesne Light Company's proposed Universal Service and Energy Conservation Programs are approved as modified by this Opinion and Order.

16. That Duquesne Light Company participate in the state-wide consumer education initiative, which the Commission established in its decision in

the Application of PECO Energy Company at Docket No. P-00973953 (Opinion and Order entered December 23, 1997); that in its compliance filing, Duquesne Light Company include a comprehensive plan for consumer education with an associated budget for both mass media and local educational efforts and set forth its proposals for its role in consumer education; and that Duquesne Light Company recover the costs of its consumer education program from its ratepayers.

17. That Duquesne Light Company shall, within twenty (20) days of entry of this Opinion and Order, submit a compliance filing that incorporates all of the conclusions and directives contained in this Opinion and Order, including, but not limited to:

a. For each tariff class or schedule, the compliance filing shall:

1. Identify the unbundled charges for generation, transmission and distribution service;

2. Identify all other adjustments necessary to the terms and conditions of service to reflect a competitive generation market as provided herein, including the identification of the tariff specific shopping credits, CTC rate, and T&D Rate.

18. That Duquesne Light Company shall unbundle its contracts for distribution, transmission, and generation charges.

19. That Duquesne Light Company shall file an original and eight (8) copies of its compliance filing to the Commission. An electronic version (in Microsoft Word 6.0) shall accompany the filing.

20. That Duquesne Light Company serve a copy of its compliance filing together with any required supporting data and analysis on all Parties of Record to this proceeding by hard copy and with electronic versions attached consistent with prior Commission directives relative to electronic versions (in Microsoft Word 6.0) on the same date that it is filed with the Commission.

21. That all Parties to this proceeding may file written comments concerning non-compliance with this Opinion and Order within seven (7) days after the filing of Duquesne Light Company's compliance filing.

22. That, in addition to the specific requirements contained in the foregoing Ordering Paragraphs, Duquesne Light Company shall comply with all other directives contained in this Opinion and Order.

23. That the complaints filed by the Office of Consumer Advocate (at Docket No. R-00974104C0001), the City of Pittsburgh (at Docket No. R-00974104C0002), the Community Action Association of Pennsylvania (at Docket No. R-00974104C0003), the Duquesne Industrial Intervenors (at Docket No. R-00974104C0004), the Low Income Advocate Parties, the Environmentalists, and the Pittsburgh Chapter of the NAACP at this docket are granted or denied consistent with in this Opinion and Order.

24. That the complaint of David Hughes v. Duquesne Light Company, filed with the Commission at Docket No. C-00945953, is hereby denied.

25. That Duquesne Light Company shall segment the Rate GS/GM class into "Small Rate GS/GM" and "Large Rate GS/GM" using 40 kw load as a breakpoint unless a more appropriate breakpoint is established via a detailed billing frequency analysis of all Rate GS/GM accounts.

BY THE COMMISSION,

James J. McNulty
Secretary

SEAL

ORDER ADOPTED: MAY 21 1998

ORDER ENTERED: MAY 29 1998

Duquesne Light Company
CTC, T&D and Shopping Credit in Cents per kwh
Level CTC Revenue Requirement with kwh consumption as indicated (See Notes)
Stranded: $ 1,331,567,100
Pre-Tax Return: 11.00%

Year	kwh consumed	CTC Revenue Requirement	CTC Rate With GRT	T&D Rate	Bundled Rate Today	Shopping Credit
1999	13,177,788,000	$ 325,379,610	2.58	2.345	8.93	**4.00**
2000	13,396,872,000	$ 319,546,841	2.50	2.219	8.93	**4.22**
2001	13,617,726,000	$ 313,038,414	2.40	2.219	8.93	**4.31**
2002	13,845,956,000	$ 305,776,838	2.31	n/a	n/a	**4.40**
2003	14,082,528,000	$ 297,674,961	2.21	n/a	n/a	**4.50**
2004	14,331,564,000	$ 288,635,545	2.11	n/a	n/a	**4.61**
2005	14,816,469,501	$ 278,550,098	1.97	n/a	n/a	**4.75**

Notes:

GRT Gross up is 1/(1-GRT), or 1.0460251, to reflect payment of GRT on the GRT revenue receipt.

Annual kwh is taken from Duquesne Light Co. Exceptions, and 2005 is extrapolated from this exhibit.

The ECR roll-in is included in the determination of bundled rates.

Attachment A

Stranded Cost Allowance
($Millions)

Duquesne Light Restructuring

Category/Item:		Amount
Book Value:		
Generating Plant Book Value	$	852.03
Beaver Valley 2 Lease PV	$	300.35
M&S Fuel Related Sunk Costs		-
Working Capital	$	61.53
Costs Independent of Operation		-
Generation Market Value	$	(110.95)
Merger Savings	$	(152.28)
Total Stranded Generation:	**$**	**950.68**
Decommissioning:		
Nuclear Decommissioning	$	42.96
Fossil Decommissioning		-
Total Decommissioning	**$**	**42.96**
Regulatory Assets:		
FAS 109 (including Plant reversal)	$	179.00
Post '05 Unamortized Debt Costs	$	18.67
Pre '06 Unamortized Debt Costs	$	9.61
Deferred Rate Synch. (Early Window)	$	23.50
Deferred Employee Costs	$	14.24
Deferred Nuclear Maintenance	$	1.90
US DOE Decommissioning	$	3.25
Deferred Coal Costs		-
Deferred Caretaker Costs		-
Pre-Accrued Nuclear Outage		-
BV2 Training Costs	$	1.58
Low Level Radioactive Waste	$	2.27
Coal Cost Equalization	$	0.12
Transition Costs	$	10.59
SFAS 106 Deferral	$	1.97
Deferred Fuel Costs	$	6.73
Other Regulatory Assets	$	0.53
Consumer Education	$	10.00
Sale-Leaseback Tax Effect (Gain)	$	55.13
Deferred Rate Synch. Costs		-
BV2 Tax Effect	$	0.17
Total Regulatory Assets:	**$**	**339.26**
PA Jurisdictional % (1-FERC Allocation)		99.900%
TOTAL STRANDED, WITH MERGER AND JURISDICTIONAL ALLOCATION	**$**	**1,331.567**

Attachment B

Total CTC Revenue Requirement

Total CTC Revenue Requirement: Return Of & On Stranded + Return On Unamort. Deferred Tax Balance

DLC gets return on unamortized Deferred Tax Balance (See DLC Statement No. 2, Clayton Testimony).

				Monthly Return:	Annual Return:
	Stranded	$ 1,331,567,100	$ 22,799,673	0.9167%	11.000%
Month	Monthly kwh	Stranded Beg. of Month	Stranded Revenue Requirement	Deferred Tax Revenue Req.	Total Monthly Revenue Req.
1	1,098,149,000	$ 1,331,567,100	$ 22,799,673	$ 4,522,326	$ 27,321,999
2	1,098,149,000	$ 1,320,973,459	$ 22,799,673	$ 4,486,348	$ 27,286,021
3	1,098,149,000	$ 1,310,282,709	$ 22,799,673	$ 4,449,408	$ 27,249,081
4	1,098,149,000	$ 1,299,493,961	$ 22,799,673	$ 4,412,129	$ 27,211,802
5	1,098,149,000	$ 1,288,606,316	$ 22,799,673	$ 4,374,508	$ 27,174,181
6	1,098,149,000	$ 1,277,618,867	$ 22,799,673	$ 4,336,543	$ 27,136,216
7	1,098,149,000	$ 1,266,530,701	$ 22,799,673	$ 4,298,230	$ 27,097,903
8	1,098,149,000	$ 1,255,340,892	$ 22,799,673	$ 4,259,565	$ 27,059,238
9	1,098,149,000	$ 1,244,048,511	$ 22,799,673	$ 4,220,546	$ 27,020,219
10	1,098,149,000	$ 1,232,652,616	$ 22,799,673	$ 4,181,169	$ 26,980,842
11	1,098,149,000	$ 1,221,152,258	$ 22,799,673	$ 4,141,432	$ 26,941,105
12	1,098,149,000	$ 1,209,546,481	$ 22,799,673	$ 4,101,330	$ 26,901,003
13	1,116,406,000	$ 1,197,834,317	$ 22,799,673	$ 4,060,860	$ 26,860,533
14	1,116,406,000	$ 1,186,014,792	$ 22,799,673	$ 4,020,020	$ 26,819,693
15	1,116,406,000	$ 1,174,086,922	$ 22,799,673	$ 3,978,805	$ 26,778,478
16	1,116,406,000	$ 1,162,049,712	$ 22,799,673	$ 3,937,212	$ 26,736,885
17	1,116,406,000	$ 1,149,902,161	$ 22,799,673	$ 3,895,238	$ 26,694,911
18	1,116,406,000	$ 1,137,643,258	$ 22,799,673	$ 3,852,880	$ 26,652,553
19	1,116,406,000	$ 1,125,271,982	$ 22,799,673	$ 3,810,133	$ 26,609,806
20	1,116,406,000	$ 1,112,787,302	$ 22,799,673	$ 3,766,994	$ 26,566,667
21	1,116,406,000	$ 1,100,188,179	$ 22,799,673	$ 3,723,460	$ 26,523,133
22	1,116,406,000	$ 1,087,473,564	$ 22,799,673	$ 3,679,526	$ 26,479,199
23	1,116,406,000	$ 1,074,642,399	$ 22,799,673	$ 3,635,190	$ 26,434,863
24	1,116,406,000	$ 1,061,693,615	$ 22,799,673	$ 3,590,448	$ 26,390,121
25	1,134,810,500	$ 1,048,626,133	$ 22,799,673	$ 3,545,295	$ 26,344,968
26	1,134,810,500	$ 1,035,438,866	$ 22,799,673	$ 3,499,729	$ 26,299,402
27	1,134,810,500	$ 1,022,130,716	$ 22,799,673	$ 3,453,744	$ 26,253,417
28	1,134,810,500	$ 1,008,700,575	$ 22,799,673	$ 3,407,339	$ 26,207,012
29	1,134,810,500	$ 995,147,324	$ 22,799,673	$ 3,360,508	$ 26,160,181
30	1,134,810,500	$ 981,469,834	$ 22,799,673	$ 3,313,247	$ 26,112,920
31	1,134,810,500	$ 967,666,968	$ 22,799,673	$ 3,265,554	$ 26,065,227
32	1,134,810,500	$ 953,737,576	$ 22,799,673	$ 3,217,423	$ 26,017,096
33	1,134,810,500	$ 939,680,497	$ 22,799,673	$ 3,168,851	$ 25,968,524
34	1,134,810,500	$ 925,494,562	$ 22,799,673	$ 3,119,834	$ 25,919,507
35	1,134,810,500	$ 911,178,589	$ 22,799,673	$ 3,070,367	$ 25,870,040
36	1,134,810,500	$ 896,731,386	$ 22,799,673	$ 3,020,447	$ 25,820,120
37	1,153,829,667	$ 882,151,751	$ 22,799,673	$ 2,970,069	$ 25,769,743
38	1,153,829,667	$ 867,438,469	$ 22,799,673	$ 2,919,230	$ 25,718,903
39	1,153,829,667	$ 852,590,315	$ 22,799,673	$ 2,867,925	$ 25,667,598
40	1,153,829,667	$ 837,606,054	$ 22,799,673	$ 2,816,149	$ 25,615,822
41	1,153,829,667	$ 822,484,436	$ 22,799,673	$ 2,763,899	$ 25,563,572
42	1,153,829,667	$ 807,224,204	$ 22,799,673	$ 2,711,169	$ 25,510,842
43	1,153,829,667	$ 791,824,086	$ 22,799,673	$ 2,657,957	$ 25,457,630
44	1,153,829,667	$ 776,282,800	$ 22,799,673	$ 2,604,256	$ 25,403,929

Attachment C

Total CTC Revenue Requirement

Total CTC Revenue Requirement: Return Of & On Stranded + Return On Unamort. Deferred Tax Balance
DLC gets return on unamortized Deferred Tax Balance (See DLC Statement No. 2, Clayton Testimony).

				Monthly Return:	Annual Return:
	Stranded	$ 1,331,567,100	$ 22,799,673	0.9167%	11.000%
Month	Monthly kwh	Stranded Beg. of Month	Stranded Revenue Requirement	Deferred Tax Revenue Req.	Total Monthly Revenue Req.
45	1,153,829,667	$ 760,599,053	$ 22,799,673	$ 2,550,064	$ 25,349,737
46	1,153,829,667	$ 744,771,538	$ 22,799,673	$ 2,495,374	$ 25,295,047
47	1,153,829,667	$ 728,798,937	$ 22,799,673	$ 2,440,183	$ 25,239,856
48	1,153,829,667	$ 712,679,921	$ 22,799,673	$ 2,384,487	$ 25,184,160
49	1,173,544,000	$ 696,413,147	$ 22,799,673	$ 2,328,279	$ 25,127,952
50	1,173,544,000	$ 679,997,262	$ 22,799,673	$ 2,271,557	$ 25,071,230
51	1,173,544,000	$ 663,430,897	$ 22,799,673	$ 2,214,315	$ 25,013,988
52	1,173,544,000	$ 646,712,674	$ 22,799,673	$ 2,156,547	$ 24,956,220
53	1,173,544,000	$ 629,841,200	$ 22,799,673	$ 2,098,251	$ 24,897,924
54	1,173,544,000	$ 612,815,071	$ 22,799,673	$ 2,039,420	$ 24,839,093
55	1,173,544,000	$ 595,632,870	$ 22,799,673	$ 1,980,049	$ 24,779,722
56	1,173,544,000	$ 578,293,165	$ 22,799,673	$ 1,920,135	$ 24,719,808
57	1,173,544,000	$ 560,794,512	$ 22,799,673	$ 1,859,671	$ 24,659,344
58	1,173,544,000	$ 543,135,456	$ 22,799,673	$ 1,798,653	$ 24,598,326
59	1,173,544,000	$ 525,314,524	$ 22,799,673	$ 1,737,075	$ 24,536,748
60	1,173,544,000	$ 507,330,235	$ 22,799,673	$ 1,674,934	$ 24,474,607
61	1,194,297,000	$ 489,181,089	$ 22,799,673	$ 1,612,222	$ 24,411,895
62	1,194,297,000	$ 470,865,576	$ 22,799,673	$ 1,548,936	$ 24,348,609
63	1,194,297,000	$ 452,382,170	$ 22,799,673	$ 1,485,069	$ 24,284,742
64	1,194,297,000	$ 433,729,334	$ 22,799,673	$ 1,420,617	$ 24,220,290
65	1,194,297,000	$ 414,905,513	$ 22,799,673	$ 1,355,575	$ 24,155,248
66	1,194,297,000	$ 395,909,141	$ 22,799,673	$ 1,289,936	$ 24,089,609
67	1,194,297,000	$ 376,738,635	$ 22,799,673	$ 1,223,695	$ 24,023,368
68	1,194,297,000	$ 357,392,399	$ 22,799,673	$ 1,156,847	$ 23,956,520
69	1,194,297,000	$ 337,868,823	$ 22,799,673	$ 1,089,387	$ 23,889,060
70	1,194,297,000	$ 318,166,281	$ 22,799,673	$ 1,021,308	$ 23,820,981
71	1,194,297,000	$ 298,283,132	$ 22,799,673	$ 952,605	$ 23,752,278
72	1,194,297,000	$ 278,217,721	$ 22,799,673	$ 883,272	$ 23,682,945
73	1,214,002,901	$ 257,968,377	$ 22,799,673	$ 813,304	$ 23,612,977
74	1,214,002,901	$ 237,533,414	$ 22,799,673	$ 742,694	$ 23,542,367
75	1,214,002,901	$ 216,911,131	$ 22,799,673	$ 671,437	$ 23,471,110
76	1,214,002,901	$ 196,099,810	$ 22,799,673	$ 599,527	$ 23,399,200
77	1,214,002,901	$ 175,097,719	$ 22,799,673	$ 526,957	$ 23,326,630
78	1,214,002,901	$ 153,903,108	$ 22,799,673	$ 453,723	$ 23,253,396
79	1,214,002,901	$ 132,514,213	$ 22,799,673	$ 379,817	$ 23,179,490
80	1,214,002,901	$ 110,929,254	$ 22,799,673	$ 305,233	$ 23,104,906
81	1,214,002,901	$ 89,146,432	$ 22,799,673	$ 229,966	$ 23,029,639
82	1,214,002,901	$ 67,163,935	$ 22,799,673	$ 154,009	$ 22,953,682
83	1,214,002,901	$ 44,979,931	$ 22,799,673	$ 77,356	$ 22,877,029
84	1,214,002,901	$ 22,592,574	$ 22,799,673	$ -	$ 22,799,673

Attachment C

Buildup of Deferred Tax Revenue Requirement
See page 1 of Attachment C for Revenue Requirement result

Month	Monthly kwh	$ 493,344,701 Def. Tax Principal	Return: 11.000%	Return Of + On $ 8,447,263	Def. Tax Amort.	Running Total:
1	1,098,149,000	493,344,701	4,522,326	$ 8,447,263	3,924,937	
2	1,098,149,000	489,419,764	4,522,326	$ 8,447,263	3,992,680	7,917,617
3	1,098,149,000	485,389,926	4,486,348	$ 8,447,263	4,029,838	11,947,455
4	1,098,149,000	481,323,149	4,449,408	$ 8,447,263	4,066,778	16,014,233
5	1,098,149,000	477,219,092	4,412,129	$ 8,447,263	4,104,057	20,118,289
6	1,098,149,000	473,077,415	4,374,508	$ 8,447,263	4,141,677	24,259,966
7	1,098,149,000	468,897,772	4,336,543	$ 8,447,263	4,179,643	28,439,609
8	1,098,149,000	464,679,816	4,298,230	$ 8,447,263	4,217,956	32,657,565
9	1,098,149,000	460,423,196	4,259,565	$ 8,447,263	4,256,621	36,914,185
10	1,098,149,000	456,127,556	4,220,546	$ 8,447,263	4,295,640	41,209,825
11	1,098,149,000	451,792,540	4,181,169	$ 8,447,263	4,335,016	45,544,841
12	1,098,149,000	447,417,786	4,141,432	$ 8,447,263	4,374,754	49,919,595
13	1,116,406,000	443,002,931	4,101,330	$ 8,447,263	4,414,856	54,334,451
14	1,116,406,000	438,547,605	4,060,860	$ 8,447,263	4,455,325	58,789,776
15	1,116,406,000	434,051,439	4,020,020	$ 8,447,263	4,496,166	63,285,942
16	1,116,406,000	429,514,059	3,978,805	$ 8,447,263	4,537,381	67,823,322
17	1,116,406,000	424,935,086	3,937,212	$ 8,447,263	4,578,973	72,402,296
18	1,116,406,000	420,314,138	3,895,238	$ 8,447,263	4,620,947	77,023,243
19	1,116,406,000	415,650,832	3,852,880	$ 8,447,263	4,663,306	81,686,549
20	1,116,406,000	410,944,780	3,810,133	$ 8,447,263	4,706,053	86,392,602
21	1,116,406,000	406,195,588	3,766,994	$ 8,447,263	4,749,192	91,141,793
22	1,116,406,000	401,402,862	3,723,460	$ 8,447,263	4,792,726	95,934,519
23	1,116,406,000	396,566,203	3,679,526	$ 8,447,263	4,836,659	100,771,179
24	1,116,406,000	391,685,207	3,635,190	$ 8,447,263	4,880,995	105,652,174
25	1,134,810,500	386,759,470	3,590,448	$ 8,447,263	4,925,738	110,577,912
26	1,134,810,500	381,788,579	3,545,295	$ 8,447,263	4,970,890	115,548,802
27	1,134,810,500	376,772,122	3,499,729	$ 8,447,263	5,016,457	120,565,259
28	1,134,810,500	371,709,681	3,453,744	$ 8,447,263	5,062,441	125,627,700
29	1,134,810,500	366,600,835	3,407,339	$ 8,447,263	5,108,847	130,736,547
30	1,134,810,500	361,445,157	3,360,508	$ 8,447,263	5,155,678	135,892,224
31	1,134,810,500	356,242,219	3,313,247	$ 8,447,263	5,202,938	141,095,163
32	1,134,810,500	350,991,587	3,265,554	$ 8,447,263	5,250,632	146,345,794
33	1,134,810,500	345,692,824	3,217,423	$ 8,447,263	5,298,763	151,644,557
34	1,134,810,500	340,345,490	3,168,851	$ 8,447,263	5,347,335	156,991,892
35	1,134,810,500	334,949,138	3,119,834	$ 8,447,263	5,396,352	162,388,244
36	1,134,810,500	329,503,319	3,070,367	$ 8,447,263	5,445,818	167,834,062
37	1,153,829,667	324,007,581	3,020,447	$ 8,447,263	5,495,738	173,329,800
38	1,153,829,667	318,461,465	2,970,069	$ 8,447,263	5,546,116	178,875,916
39	1,153,829,667	312,864,510	2,919,230	$ 8,447,263	5,596,955	184,472,872
40	1,153,829,667	307,216,249	2,867,925	$ 8,447,263	5,648,261	190,121,133
41	1,153,829,667	301,516,212	2,816,149	$ 8,447,263	5,700,037	195,821,169
42	1,153,829,667	295,763,925	2,763,899	$ 8,447,263	5,752,287	201,573,456
43	1,153,829,667	289,958,909	2,711,169	$ 8,447,263	5,805,016	207,378,472
44	1,153,829,667	284,100,680	2,657,957	$ 8,447,263	5,858,229	213,236,701

Buildup of Deferred Tax Revenue Requirement
See page 1 of Attachment C for Revenue Requirement result

Month	Monthly kwh	$ 493,344,701 Def. Tax Principal	Return: 11.000%	Return Of + On $ 8,447,263	Def. Tax Amort.	Running Total:
45	1,153,829,667	278,188,751	2,604,256	$ 8,447,263	5,911,929	219,148,630
46	1,153,829,667	272,222,629	2,550,064	$ 8,447,263	5,966,122	225,114,752
47	1,153,829,667	266,201,818	2,495,374	$ 8,447,263	6,020,811	231,135,564
48	1,153,829,667	260,125,816	2,440,183	$ 8,447,263	6,076,002	237,211,566
49	1,173,544,000	253,994,117	2,384,487	$ 8,447,263	6,131,699	243,343,265
50	1,173,544,000	247,806,211	2,328,279	$ 8,447,263	6,187,906	249,531,171
51	1,173,544,000	241,561,582	2,271,557	$ 8,447,263	6,244,629	255,775,799
52	1,173,544,000	235,259,711	2,214,315	$ 8,447,263	6,301,871	262,077,670
53	1,173,544,000	228,900,073	2,156,547	$ 8,447,263	6,359,638	268,437,308
54	1,173,544,000	222,482,138	2,098,251	$ 8,447,263	6,417,935	274,855,243
55	1,173,544,000	216,005,372	2,039,420	$ 8,447,263	6,476,766	281,332,009
56	1,173,544,000	209,469,236	1,980,049	$ 8,447,263	6,536,136	287,868,145
57	1,173,544,000	202,873,185	1,920,135	$ 8,447,263	6,596,051	294,464,196
58	1,173,544,000	196,216,671	1,859,671	$ 8,447,263	6,656,515	301,120,711
59	1,173,544,000	189,499,138	1,798,653	$ 8,447,263	6,717,533	307,838,243
60	1,173,544,000	182,720,028	1,737,075	$ 8,447,263	6,779,110	314,617,353
61	1,194,297,000	175,878,776	1,674,934	$ 8,447,263	6,841,252	321,458,605
62	1,194,297,000	168,974,813	1,612,222	$ 8,447,263	6,903,963	328,362,569
63	1,194,297,000	162,007,563	1,548,936	$ 8,447,263	6,967,250	335,329,818
64	1,194,297,000	154,976,447	1,485,069	$ 8,447,263	7,031,116	342,360,935
65	1,194,297,000	147,880,879	1,420,617	$ 8,447,263	7,095,568	349,456,503
66	1,194,297,000	140,720,268	1,355,575	$ 8,447,263	7,160,611	356,617,113
67	1,194,297,000	133,494,018	1,289,936	$ 8,447,263	7,226,250	363,843,363
68	1,194,297,000	126,201,528	1,223,695	$ 8,447,263	7,292,490	371,135,854
69	1,194,297,000	118,842,190	1,156,847	$ 8,447,263	7,359,338	378,495,192
70	1,194,297,000	111,415,391	1,089,387	$ 8,447,263	7,426,799	385,921,990
71	1,194,297,000	103,920,513	1,021,308	$ 8,447,263	7,494,878	393,416,868
72	1,194,297,000	96,356,932	952,605	$ 8,447,263	7,563,581	400,980,449
73	1,214,002,901	88,724,019	883,272	$ 8,447,263	7,632,914	408,613,363
74	1,214,002,901	81,021,137	813,304	$ 8,447,263	7,702,882	416,316,245
75	1,214,002,901	73,247,645	742,694	$ 8,447,263	7,773,492	424,089,736
76	1,214,002,901	65,402,896	671,437	$ 8,447,263	7,844,749	431,934,485
77	1,214,002,901	57,486,237	599,527	$ 8,447,263	7,916,659	439,851,144
78	1,214,002,901	49,497,009	526,957	$ 8,447,263	7,989,228	447,840,372
79	1,214,002,901	41,434,546	453,723	$ 8,447,263	8,062,463	455,902,835
80	1,214,002,901	33,298,177	379,817	$ 8,447,263	8,136,369	464,039,204
81	1,214,002,901	25,087,225	305,233	$ 8,447,263	8,210,952	472,250,156
82	1,214,002,901	16,801,006	229,966	$ 8,447,263	8,286,219	480,536,375
83	1,214,002,901	8,438,830	154,009	$ 8,447,263	8,362,176	488,898,552
84	1,214,002,901	0	77,356	$ 8,447,263	8,438,830	497,337,381

Attachment D

Buildup of Duquesne Light's T&D Rate

Setp:		
1	Lahtinen Distribution (Duquesne Statement 5)	$ 253,687,253
	remove: *Losses*	$ (10,432,197)
2	Lahtinen Transmission (Duquesne Statement 5) with ancillary services included:	$ 50,315,742
3	Merger related Distribution savings per OCA witness Kahal:	$ (15,800,000)
	Total T&D Revenue Requirement with Merger Savings	$ 277,770,798
	Total T&D Revenue Requirement w/out Merger Savings	$ 293,570,798
4	OCA's retail kwh for 1999	12,519,000,000

Total T&D Rate, cents/kwh, with Merger Savings	**2.219**
Total T&D Rate, cents/kwh, w/out Merger Savings	**2.345**

Attachment E

R-00974104

64

LARRY R CRAYNE
RICHARD S HERSKOVITZ
DUQUESNE LIGHT COMPANY
411 SEVENTH AVENUE 16-006
PITTSBURGH PA 15230-1930

VID HUGHES
37 LUDWICK STREET
PITTSBURGH PA 15217

ISA SIFONTES
EDMUND J BERGER
OFFICE OF CONSUMER ADVOCATE
1425 STRAWBERRY SQUARE
HARRISBURG PA 17120
MESSENGER

JIM FERLO COUNCILMAN
510 CITY-COUNTY BLDG
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TIMOTHY MORAN
986 GREENTREE ROAD
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P O BOX 891
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GORDON J SMITH ESQUIRE
JOHN & HENGERER
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MICHAEL L KURTZ ESQUIRE
BOEHM KURTZ & LOWRY
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THOMAS THOMAS ARMSTRONG & NIESEN
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JACQUELINE R MORROW ESQUIRE
RODNEY R AKERS ESQUIRE
CITY OF PITTSBURGH
313 CITY-COUNTY BLDG
414 GRANT STREET
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ALLEGHENY ELECTRIC COOPERATIVE INC
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HARRISBURG PA 17108-1266

STEVEN BAICKER-MCKEE
WANDA SCHILLER
BABST CALLAND CLEMENTS & ZOMNIR PC
TWO GATEWAY CENTER 8TH FL
PITTSBURGH PA 15222

ROBERT WEISENMILLER
MRW & ASSOCIATES INC
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SUITE 1440
OAKLAND CA 94612-3517

JOHN R ORR ESQUIRE
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HOUSTON TX 77042

BRIAN A RIDER
PENNSYLVANIA RETAILERS'
224 PINE STREET
HARRISBURG PA 17101-1325

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PA PUC OFFICE OF TRIAL STAFF
PO BOX 3265
HARRISBURG PA 17105-3265
MESSENGER

MICHAEL REID DIR MATERIALS MGMT SVCS
ADMINISTRATIVE RESOURCES INC
500 COMMONWEALTH DRIVE
WARRENDALE PA 15086-7513

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KENNETH L WISEMAN ESQUIRE
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JOHN HORTON
EMMITT HOUSE
MIDCON CORPORATION
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LOMBARD IL 60148

MARK MCGUIRE ESQUIRE
RONALD CARROLL ESQUIRE
JENNER & BLOCK
601 THIRTEENTH STREET N W
12TH FLOOR
WASHINGTON DC 20005

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ELECTRIC CLEARINGHOUSE INC
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HOUSTON TX 77002-5050

CRAIG NIFONG
MIDCON CORPORATION
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HOUSTON TX 77027

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READING PA 196740-0001

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[redacted]ENNETH L WISEMAN ESQUIRE
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STE 200
WASHINGTON DC 20006-4805

[redacted]RGARET PETERS ESQUIRE
PEOPLES NATURAL GAS COMPANY
625 LIBERTY AVENUE
PITTSBURGH PA 15222-3197

STEPHEN BARON
J KENNENY & ASSOCIATES INC
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SUITE 475
ATLANTA GA 30325

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3700 VARTAN WAY
HARRISBURG PA 17110

MARY MCFALL HOPPER ESQUIRE
PECO ENERGY COMPANY
2301 MARKET STREET
PO BOX 8699
PHILADELPHIA PA 19101-8699

SCOTT J RUBIN ESQUIRE
INT'L BROTHERHD ELEC WORKERS
3 LOST CREEK DRIVE
SELINSGROVE PA 17870-9357

PAUL E RUSSELL ESQUIRE
PENNSYLVANIA POWER & LIGHT
TWO NORTH NINTH STREET
ALLENTOWN PA 18101-1179

DONALD KAPLAN ESQUIRE
PRESTON GATES ELLIS &
ROUVELAS MEEDS
1735 NEW YORK AVE NW
STE 500
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MATTHEW KAHAL
EXETER ASSOCIATES INC
12510 PROSPERITY DRIVE
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DANIEL CLEARFIELD ESQUIRE
GERALD GORNISH ESQUIRE
ALAN KOHLER ESQUIRE
WOLF BLOCK SHORR & SOLIS-
COHEN
STE 300 LOCUST STREET
HARRISBURG PA 17101

ANGELA JONES ESQUIRE
SMALL BUSINESS ADVOCATE
COMMERCE BLDG STE 1102
300 N SECOND STREET
HARRISBRUG PA 17101
MESSENGER

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KEVIN MCKEON ESQUIRE
JANET MILLER ESQUIRE
TODD STEWART ESQUIRE
MALATESTA HAWKE & MCKEON
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GARY JEFFRIES ESQUIRE
CNG ENERGY SERVICES
ONE PARK RIDGE CENTER
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MARY ANN RALLS ESQUIRE
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ONE LOGAN SQUARE 12TH FLOOR
PHILADELPHIA PA 19103

JOHN WILSON DIRECTOR
COMMUNITY ACTION ASSOC
222 PINE STREET
HARRISBURG PA 17101

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KURT BILAS ESQUIRE
VICTOR A CONTRACE
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HOWARD LOUIK ESQUIRE
300 FORT PITT COMMONS
445 FORT PITT BLVD
PITTSBURGH PA 15219

DENEICE COVERT ZEVE ESQUIRE
TERRY LUPIA ESQUIRE
14TH FLOOR STRAWBERRY SQUARE
HARRISBURG PA 17120

ROBERT STEFANKO ESQUIRE
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PITTSBURGH PA 15213

CINDY DATIG ESQUIRE
DOLLAR ENEERGY FUND
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ROGER CLARK ESQUIRE
THE ENVIRONMENTALISTS
905 DENSTON DRIVE
ANDLER PA 19002-3901

[redacted]BERT BENINCASA ESQUIRE
[redacted] 9TH AVENUE
SEA CLIFF NY 11579

[redacted]VID M DESALLE ESQUIRE
TERRANCE FITZPATRICK ESQ
RYAN RUSSELL OGDEN &
SELTZER
800 N THIRD STREET STE 101
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THOMAS GADSDEN ESQUIRE
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2000 ONR LOGAN SQUARE
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1845 WALNUT STREET
SUITE 2525
PHILADELPHIA PA 19103

BRIAN KALCIC
225 SOUTH MERAMEC AVENUE
SUITE 720-5
ST LOUIS MO 63105

JOHN O'BRIEN ESQUIRE
50 CHARLES LINDBURGH BLVD
SUITE 207
UNIONDALE NY 11553

JAMES STEFFERS
ENRON POWER MARKETING INC
1400 SMITH STREET
P O BOX 4428
HOUSTON TX 77002

KENNETH ZIELONIS ESQUIRE
208 NORTH 3RD STREET
SUITE 310
P O BOX 12090
HARRISBURG PA 17108-2090

LAWRENCE E MONCRIEF ESQUIRE
1364 SILVERTON AVENUE
PITTSBURGH PA 15206

BRUCE A AMERICUS
SAMUEL W BRAVER
ONE OXFORD CENTER
20TH FLOOR
BUCHANAN INGERSOL
PITTSBURGH PA 15219

LOU SAUERS
BCS 7TH FLOOR
BARTO BUILDING
P O BOX 3265
HARRISBURG PA 17105-3265

DARLENE WESTFALL AGENT
OFFICE OF ATTORNEY GENERAL
564 FORBES AVENUE
PITTSBURGH PA 15219

HARVEY MARCUS
OFFICE OF ATTORNEY GENERAL
5644 HEMPSTEAD ROAD
PITTSBURGH PA 15217

KEITH M SAPPENFIELD II
DIRECTOR OF MARKETING
SUPPORT
NORAM ENERGY MANAGEMENT INC
P O BOX 2628
HOUSTON TX 654-5864

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 12th day of June, 1998,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of May 29, 1998 at Docket No. R-00974104 & R-00974104C0001-C0004 on behalf of:

MARISA SIFONTES & EDMUND J BERGER

OFFICE OF CONSUMER ADVOCATE

555 WALNUT STREET

FORUM PLACE 5TH FLOOR

RECEIVED
98 JUN 12 PM 4:06
PA.P.U.C.
SECRETARY'S BUREAU

KJR

Signature

Kindly sign and date this acceptance of service and acknowledgement of receipt, and, return the same for filing to:

SECRETARY'S BUREAU FILE ROOM
PA PUBLIC UTILITY COMMISSION
B-20, North Office Building
Harrisburg, PA 17105-3265

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

May 29, 1998

R-00974104 &
R-00974104C0001-C0004

TO ALL PARTIES

Application of Duquesne Light Company
for Approval of its Restructuring Plan
Under Section 2806 of the Public Utility Code

To Whom It May Concern:

This is to advise you that an Opinion and Order has been adopted by the Commission in Public Meeting on May 21, 1998 in the above entitled proceeding.

An Opinion and Order has been enclosed for your records.

Very truly yours,

James J. McNulty,
Secretary

encls
cert. mail
law

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

98 JUN 10 PM 2:52

PA.P.U.C.
SECRETARY'S BUREAU

AND NOW, to wit, this _____ day of_____, 19__ ,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of May 29, 1998 at Docket No. R-00974104 & R-00974104C0001-C0004 on behalf of:

ANGELA JONES ESQUIRE

OFFICE OF SMALL BUSINESS ADVOCATE

COMMERCE BLDG SUITE 1102

OFFICE OF SMALL
BUSINESS ADVOCATE

JUN 2 - 1998

RECEIVED

DOCUMENT FOLDER

C Lipdeapaff
Signature

Kindly sign and date this acceptance of service and acknowledgement of receipt, and, return the same for filing to:

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B-20, North Office Building
Harrisburg, PA 17105-3265

SRB

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 29th day of May, 1998,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of May 29, 1998 at Docket No. R-00974104 & R-00974104C0001-C0004 on behalf of:

MARISA SIFONTES & EDMUND J BERGER

OFFICE OF CONSUMER ADVOCATE

555 WALNUT STREET

FORUM PLACE 5TH FLOOR

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98 JUN -1 PM 4:03
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Harrisburg, PA 17105-3265

DOCUMENT DOCKETED
FOLDER JUN 03 1998

SRB

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 2nd day of June, 1998,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of May 29, 1998 at Docket No. R-00974104 & R-00974104C0001-C0004 on behalf of:

DENEICE COVERT ZEVE & TERRY LUPIA ESQUIRES

ATTORNEY GENERAL

14TH FLOOR STRAWBERRY SQUARE

DOCKETED

JUN 03 1998

Deneice Covert Zeve
Signature

Kindly sign and date this acceptance of service and acknowledgement of receipt, and, return the same for filing to:

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150638

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98 JUN -3 AM 9:18

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ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 29th day of May, 1998,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of May 29, 1998 at Docket No. R-00974104 & R-00974104C0001-C0004 on behalf of:

KANDACE F MELILLO & WAYNE T SCOTT ESQUIRES

OFFICE OF TRIAL STAFF

3RD FLOOR PLITNICK BLDG

KJR

98 MAY 29 PM 2:03
RECEIVED
SECRETARY'S BUREAU

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JUN 01 1998

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PA PUC
OFFICE OF TRIAL STAFF

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Signature

Kindly sign and date this acceptance of service and acknowledgement of receipt, and, return the same for filing to:

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Harrisburg, PA 17105-3265

149941

END