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ORIGINAL

June 22, 1998

RECEIVED

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

JUN 22 1998

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Re: Joint Application of DQE, Inc., Allegheny Power System, Inc., and AYP Sub, Inc, for Approval of the Transfer by Merger of the Property and Rights of Duquesne Light Company to Allegheny Power System, Inc., Docket No. A-110150-F0015

Application of Duquesne Light Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code, Docket No. R-00974104

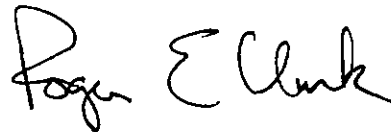
Application of West Penn Power Company for Approval of Its Restructuring Plan Under Section 2806 of the Public Utility Code, Docket No. R-00973981

Dear Mr. McNulty:

Enclosed please find the original and nine copies of the Petition of Citizen Power *et al.* for Recusal and for Further Discovery in the above-captioned proceedings.

This Petition is being served on all parties of record in accord with the attached Certificate of Service.

Sincerely,



Roger E. Clark  
Attorney for Citizen Power *et al.*

Enclosure: Petition of Citizen Power *et al.* for Recusal and for Further Discovery  
Certificate of Service

Copies: The Honorable John M. Quain  
The Honorable Robert K. Bloom  
The Honorable David W. Rolka  
The Honorable Nora Brownell  
The Honorable Aaron Wilson  
Office of Special Assistants  
All parties of record

DOCUMENT  
FOLDER

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED

JUN 22 1998

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

Docket No. R-00974104  
A PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Joint Application of DQE, Inc., Allegheny :  
Power System, Inc., and AYP Sub, Inc. :  
for Approval of the Transfer by Merger of :  
the Property and Rights of Duquesne Light :  
Company to Allegheny Power System, Inc. :

Docket No. A-110150-F0015

Application of West Penn Power Company :  
for Approval of Its Restructuring Plan :  
Under Section 2806 of the Public Utility Code :

Docket No. R-00973981

**CERTIFICATE OF SERVICE**

I hereby certify that I have served the Petition of Citizen Power *et al.* for Recusal and for Further Discovery in the above-referenced docket upon the following persons, in the manner specified and on the dates indicated:

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June 22, 1998

RECEIVED

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JUN 22 1998

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Application of Duquesne Light Company :  
for Approval of its Restructuring Plan : Docket No. R-00974104  
Under Section 2806 of the Public Utility Code :

Joint Application of DQE, Inc., Allegheny :  
Power System, Inc., and AYP Sub, Inc, :  
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Under Section 2806 of the Public Utility Code :

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Petition by Citizen Power *et al.* for Recusal  
and for Further Discovery

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ORIGINAL

Citizen Power, the Mon Valley Unemployed Committee, the Group Against Smog and Pollution, Pennsylvania Public Interest Group, Citizens Organizations on Utility Policies, Just Harvest, the Alliance for Progressive Action and Clean Water Action ("Citizen Power et al."), parties in each of the above-cited proceedings, hereby petition Chairman John M. Quain to recuse himself from further participation in all three proceedings noted above because staff subject to his direction (and possibly he himself) have violated the Public Utility Commission's Code of Conduct (66 Pa.C.S. §319) by engaging in ex parte communication in a matter pending before the Commission contrary to Section 334(c) of the Public Utility Code (66 Pa.C.S. §334(c)). Accompanying this request for recusal is a request for discovery for the production of

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certain documents and materials and the opportunity to depose the Chairman and other individuals to determine the full extent and nature of the *ex parte* communication which has occurred.

### **The Ex Parte Communication**

Attached to this Request for Recusal as Attachment 1 is a photocopy of a handwritten communication from Frank M. Nadolny, the director of regulatory affairs for the Duquesne Light Company, to Robert A. Rosenthal, the executive assistant for Chairman Quain and the eight additional pages of typed information which accompanied the handwritten note ("the Nadolny memo").<sup>1</sup> The thrust of the communication was that the Chairman's motion contained the wrong figures for the amortized return of taxes. The total impact of the "corrected" figures was to increase Duquesne's stranded cost recovery by \$281.6 million over the amount provided for in the Chairman's Motion.<sup>2</sup>

The Nadolny memo is dated May 6, 1998, which is after the Chairman's April 30, 1998 Motion to Dispense with Non-Binding Polling in the Duquesne restructuring case but prior to May 21, 1998, the date the Commission adopted its final order in the

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<sup>1</sup>The accompanying material consists of a single typewritten page of explanation, a one-page excerpt of Duquesne Witness Statement No. 2 (Mr. Clayton), three pages of figures from the original motions's version of Attachment C and three pages of a "corrected" version of Attachment C.

<sup>2</sup>In the Commission's Final Order, the totals for deferred taxes column of Attachment C was increased above the amount in the Chairman's Motion, but the increase was only \$1.7 million. Citizen Power is not alleging that the stranded cost figure changed in the Final Order because of the Nadolny memo. The ethical problem we raise is the *ex parte* communication shown by the mere existence of the Nadolny memo.

Duquesne restructuring proceeding.

The memo is an obvious attempt by Duquesne Light Company to influence the outcome of the proceeding and to increase their recovery by \$281.6 million. The Nadolny memorandum was not made part of the record, nor was it shared with the parties in the proceeding, which is the proper and normal procedure Commissioners follow when they receive *ex parte* communications in an active proceeding.

### **The Need for Further Discovery**

The Nadolny memorandum is compelling evidence that an *ex parte* communication has occurred. Citizen Power suggests that it is highly unlikely that this memorandum arrived in the Chairman's offices without any previous communication by Mr. Nadolny or others to pave the way. In order to discover the extent and nature of the *ex parte* communication which has occurred, Citizen Power requests that Chairman John M. Quain produce the following materials:

- (1) all telephone logs (or long distance telephone bills) maintained by himself and all persons on his staff from the period March 25, 1998 (the date of the first Recommended Decision in these cases) through May 21, 1998 (the date of the final Order in these cases);
- (2) all telephone logs (or long distance telephone bills) for the fax machines maintained by himself and all persons on his staff from the period March 25, 1998 through May 21, 1998;
- (3) all appointment calendars maintained by himself and all persons on

- his staff from the period March 25, 1998 through May 21, 1998;
- (4) all other memorandum or documents received by himself and all persons on his staff from any representative of the Duquesne Light Company from the period March 25, 1998 through May 21, 1998.

In addition, Citizen Power *et al.* request the opportunity to depose Chairman John M. Quain, Robert A. Rosenthal and Frank M. Nadolny to determine the full extent and nature of the *ex parte* communication which occurred.

### **The Legal Standard**

Section 319(a)(3) of the Public Utility Code (66 Pa.C.S. §319(a)(3)) directs that each Commissioner must “[a]void all *ex parte* communications prohibited in this part.”

*Ex parte* communications are defined in the Code in Section 334 (66 Pa.C.S. §334(c)):

**(c) Ex parte communications** - Ex parte communications prohibited in this section shall mean any off-the-record communications to or by any member of the commission, administrative law judge, or employee of the commission, regarding the merits or any fact in issue of any matter pending before the commission in any contested on-the-record proceeding.

Section 319(a)(5) of the Public Utility Code (66 Pa.C.S. §319(a)(5)) explicitly applies these standards to all Commissioner staff. This section states that each Commissioner shall “require staff and personnel subject to his direction to observe the standards of fidelity and diligence that apply to the commissioner ...”

### **The Need for Recusal**

Section 319(a)(7) of the Public Utility Code directs a Commissioner to "disqualify himself from proceedings in which his impartiality might be reasonably questioned." Citizen Power believes that this *ex parte* communication has and/or will cause it prejudice in these proceedings. The deferred tax issue raised in the NadoIny memo has not gone away. It has reappeared in Duquesne's Petition for Clarification or Reconsideration dated June 16, 1998. Knowing that Duquesne had an *ex parte* communication with the Chairman's office is enough to make a reasonable person question the impartiality of the Chairman on this issue. Recusal is the only appropriate response.

### **The Need for Recusal from all Three Dockets**

The *ex parte* communication documented in the NadoIny memo occurred in the Duquesne restructuring case, but Citizen Power contends that the only appropriate remedy is for the Chairman to recuse himself from further participation not only in the Duquesne restructuring case, but also from the merger case and the West Penn Power restructuring case.

The three proceedings are inexorably linked. The Duquesne restructuring case contains alternative resolutions of several issues, depending on the outcome of the merger case.<sup>3</sup> The economic value of the merger is linked to the outcome of both

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<sup>3</sup>The most recent example of the link between the two cases in Duquesne's filing of the Request for Reconsideration, which was filed with both case names and docket numbers in the header.

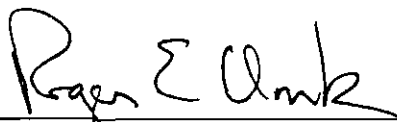
restructuring cases, linking the West Penn restructuring case to the other two. It is impossible to limit the impropriety or appearance of impropriety to only the Duquesne proceeding. The Commission's actions in all three have been tainted by this *ex parte* communication.

### Conclusion

Citizen Power *et al.* respectfully request that Chairman John M. Quain recuse himself from further participation in these proceedings as the appropriate remedy for the *ex parte* communications which has taken place.

Citizen Power *et al.* further requests the Commission investigate the extent of these off-the-record, back-channel communications do investigate whether these *ex parte* communications become an acceptable element of the Commission's culture.

Respectfully submitted,



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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Duquesne Light Company :  
for Approval of its Restructuring Plan : Docket No. R-00974104  
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**Petition of Citizen Power *et al.* for Recusal  
and for Further Discovery**

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**Attachment 1**

**The Nadolny Memo**



Duquesne Light

F.M. Nadolny

Re: Attachment "C" to  
Chairman QUAIN'S  
Motion on DLE Restructuring

Bob Rosenthal

Attached for consideration

- Memo explaining corrected Nos. to Attachment "C"
- Appropriate part of DLE Statement - 2 Clayton Testimony refers to regarding ~~cost~~ not deferred tax liability.
- Original Attachment "C" 4 pgs showing return both of and on the deferred tax balance of \$493,344,701
- corrected Attachment "C" 2 pgs with straightline amortization of \$493,344,701 unamortized deferred tax balance over 84 months, which is consistent with traditional rate making.

Frank

5-6-98



POOR ORIGINAL

Correction of Attachment C to Chairman Quain's Motion  
on Duquesne Light Company's Restructuring Plan

The schedule shown on Attachment C to Chairman Quain's Motion on Duquesne Light Company's Restructuring case setting forth the Total CTC Revenue Requirement is inconsistent with the intent of the Motion and with Duquesne's testimony.

Total CTC Revenue Requirement on Attachment C is defined as the sum of "Return Of and On Stranded + Return On Unamort. Deferred Tax Balance". Additionally, the Attachment caption states that "DLC gets return on unamortized Deferred Tax balance (See DLC Statement No. 2, Clayton Testimony)."

Duquesne did not petition for recovery of a return on its unamortized deferred tax balance. Rather, the claim was for recovery of its unamortized deferred tax balance, which is consistent with traditional ratemaking.

The testimony referenced on the schedule caption of Attachment C (See DLC Statement No. 2, Clayton Testimony) discusses the return on the regulatory asset related to FAS 109, which is distinct from and unrelated to the issue of the ultimate deferred tax balance. The misinterpretation of that portion of DLC's testimony has caused the schedule detailing Duquesne's Total CTC Revenue Requirement to be in error, by providing (in column four) for the recovery of a return on the unamortized deferred tax balance rather than the return of that deferral.

A supporting schedule entitled "Buildup of Deferred Tax Revenue Requirement" shows the return both of and on the deferred tax balance of \$493,344,701. However, only the return on that balance shown on this supporting schedule is incorporated into the Total CTC Revenue Requirement on Attachment C.

The corrected Attachment C shows a monthly recovery in the fourth column of \$5,873,151 (straight-line amortization of \$493,344,701 unamortized deferred tax balance over 84 months), rather than the return on that deferral. This change reflects both the intent of Chairman Quain's Motion as well as DLC's petition for recovery of deferred taxes. The caption on the corrected Attachment C is consistent with these changes.

Sl. 2

DLIC Statement No. 2  
Clayton Testimony

1 deferred Employee Costs, DOE Decontamination and decommissioning costs, pre-accrual  
2 of nuclear outage costs, deferred pilot program costs. A return as well as recovery is  
3 claimed for all of the Company's other regulatory assets.

4  
5

Q. Is it appropriate for the Company to earn a return on the regulatory asset related to FAS 1097

6 A. Yes. For purposes of estimating stranded costs as of 2005, the Company has reduced the  
7 book value of its generation assets by the full amount of its accumulated deferred tax and  
8 accumulated ITC balances. The Company proposes that the final market-based valuation  
9 should similarly account for deferred taxes and ITCs. Thus, customers will be credited with  
10 the full value of these balances against the book value of generation. Accordingly, it is  
11 appropriate for the Company to claim a return on the tax related asset. Since the Company  
12 is amortizing its tax related regulatory asset more rapidly than it is reversing its deferred tax  
13 balance (i.e., the regulatory asset is being amortized over the Transition Period while the  
14 deferred tax balance is being reversed over the remaining life of the Company's plants),  
15 Duquesne's customers will actually incur a lower total revenue requirement than they  
16 would under traditional ratemaking. Of course, both methods produce the same present  
17 value of revenue requirements. If a return were to be denied on the tax related assets, then  
18 an offsetting adjustment should be made to the generation related deferred tax balance.

This is referring to a regulatory asset  
Not deferred tax liability

↑

19 Q. How were debt discounts and premiums included in your stranded cost claim?

20 A. Duquesne's cost of capital assumes that debt discounts and premiums will be amortized  
21 (and earn a return equal to the Company's cost of capital) over the average remaining life of  
22 its outstanding debt and preferred securities. Since the Transition Period is shorter than the  
23 remaining average life of the Company's securities, a shortfall would be experienced. As

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

1.5%

Original Attachment C

Month	Monthly kwh	Stranded		Stranded Revenue Requirement	Monthly Return:		Annual Return:		
		\$	1,331,388.299		\$	22,796.269	0.9167%	11.000%	
		Stranded			Deferred Tax	Total Monthly			
		Beg. Of Month			Revenue Req.	Revenue Req.			
1	1,098,149,000	\$	1,326,300,000	\$	22,796,269	\$	4,406,348	\$	27,282,617
2	1,098,149,000	\$	1,315,661,401	\$	22,796,269	\$	4,450,039	\$	27,246,309
3	1,098,149,000	\$	1,304,925,442	\$	22,796,269	\$	4,413,398	\$	27,209,667
4	1,098,149,000	\$	1,294,090,990	\$	22,796,269	\$	4,376,421	\$	27,172,690
5	1,098,149,000	\$	1,283,157,721	\$	22,796,269	\$	4,339,105	\$	27,135,374
6	1,098,149,000	\$	1,272,123,227	\$	22,796,269	\$	4,301,447	\$	27,097,716
7	1,098,149,000	\$	1,260,988,087	\$	22,796,269	\$	4,263,444	\$	27,059,713
8	1,098,149,000	\$	1,249,750,876	\$	22,796,269	\$	4,225,092	\$	27,021,361
9	1,098,149,000	\$	1,238,410,656	\$	22,796,269	\$	4,186,389	\$	26,982,690
10	1,098,149,000	\$	1,226,966,485	\$	22,796,269	\$	4,147,331	\$	26,943,600
11	1,098,149,000	\$	1,215,417,409	\$	22,796,269	\$	4,107,915	\$	26,904,184
12	1,098,149,000	\$	1,203,762,466	\$	22,796,269	\$	4,068,137	\$	26,864,406
13	1,116,406,000	\$	1,192,000,686	\$	22,796,269	\$	4,027,995	\$	26,824,264
14	1,116,406,000	\$	1,180,131,090	\$	22,796,269	\$	3,987,455	\$	26,783,754
15	1,116,406,000	\$	1,168,152,689	\$	22,796,269	\$	3,946,604	\$	26,742,873
16	1,116,406,000	\$	1,156,064,486	\$	22,796,269	\$	3,905,348	\$	26,701,617
17	1,116,406,000	\$	1,143,865,475	\$	22,796,269	\$	3,863,714	\$	26,659,983
18	1,116,406,000	\$	1,131,554,639	\$	22,796,269	\$	3,821,698	\$	26,617,967
19	1,116,406,000	\$	1,119,130,955	\$	22,796,269	\$	3,779,297	\$	26,575,566
20	1,116,406,000	\$	1,106,593,386	\$	22,796,269	\$	3,736,507	\$	26,532,776
21	1,116,406,000	\$	1,093,940,890	\$	22,796,269	\$	3,693,325	\$	26,489,594
22	1,116,406,000	\$	1,081,172,412	\$	22,796,269	\$	3,649,748	\$	26,445,617
23	1,116,406,000	\$	1,068,286,890	\$	22,796,269	\$	3,605,770	\$	26,402,039
24	1,116,406,000	\$	1,055,283,251	\$	22,796,269	\$	3,561,390	\$	26,357,659
25	1,134,810,500	\$	1,042,160,412	\$	22,796,269	\$	3,516,603	\$	26,312,872
26	1,134,810,500	\$	1,028,917,280	\$	22,796,269	\$	3,471,405	\$	26,267,674
27	1,134,810,500	\$	1,015,552,752	\$	22,796,269	\$	3,425,793	\$	26,222,062
28	1,134,810,500	\$	1,002,065,717	\$	22,796,269	\$	3,379,763	\$	26,176,032
29	1,134,810,500	\$	988,455,050	\$	22,796,269	\$	3,333,311	\$	26,129,980
30	1,134,810,500	\$	974,719,619	\$	22,796,269	\$	3,286,433	\$	26,082,702
31	1,134,810,500	\$	960,859,280	\$	22,796,269	\$	3,239,125	\$	26,035,394
32	1,134,810,500	\$	946,869,878	\$	22,796,269	\$	3,191,384	\$	25,987,653
33	1,134,810,500	\$	932,753,250	\$	22,796,269	\$	3,143,205	\$	25,939,474
34	1,134,810,500	\$	918,507,219	\$	22,796,269	\$	3,094,585	\$	25,890,854
35	1,134,810,500	\$	904,130,699	\$	22,796,269	\$	3,045,518	\$	25,841,787
36	1,134,810,500	\$	889,622,194	\$	22,796,269	\$	2,996,002	\$	25,792,271
37	1,153,829,667	\$	874,980,795	\$	22,796,269	\$	2,946,032	\$	25,742,302
38	1,153,829,667	\$	860,205,183	\$	22,796,269	\$	2,895,605	\$	25,691,874
39	1,153,829,667	\$	845,294,128	\$	22,796,269	\$	2,844,714	\$	25,640,983
40	1,153,829,667	\$	830,246,389	\$	22,796,269	\$	2,793,358	\$	25,589,627
41	1,153,829,667	\$	815,060,712	\$	22,796,269	\$	2,741,530	\$	25,537,799
42	1,153,829,667	\$	799,735,832	\$	22,796,269	\$	2,689,228	\$	25,485,497

43	1,153,829,667	\$	784,270,475	\$	22,796,269	\$	2,536,446	\$	25,432,715
44	1,153,829,667	\$	768,663,352	\$	22,796,269	\$	2,583,180	\$	25,379,449
45	1,153,829,667	\$	752,913,154	\$	22,796,269	\$	2,529,426	\$	25,325,625
46	1,153,829,667	\$	737,018,599	\$	22,796,269	\$	2,475,179	\$	25,271,448
47	1,153,829,667	\$	720,978,333	\$	22,796,269	\$	2,420,435	\$	25,216,704
48	1,153,829,667	\$	704,791,032	\$	22,796,269	\$	2,365,189	\$	25,161,458
49	1,173,544,000	\$	688,455,348	\$	22,796,269	\$	2,309,436	\$	25,105,706
50	1,173,544,000	\$	671,969,919	\$	22,796,269	\$	2,253,173	\$	25,049,442
51	1,173,544,000	\$	655,333,374	\$	22,796,269	\$	2,196,394	\$	24,992,683
52	1,173,544,000	\$	638,544,328	\$	22,796,269	\$	2,139,094	\$	24,935,363
53	1,173,544,000	\$	621,601,362	\$	22,796,269	\$	2,081,269	\$	24,877,538
54	1,173,544,000	\$	604,503,126	\$	22,796,269	\$	2,022,914	\$	24,819,183
55	1,173,544,000	\$	587,248,135	\$	22,796,269	\$	1,964,025	\$	24,760,294
56	1,173,544,000	\$	569,834,974	\$	22,796,269	\$	1,904,595	\$	24,700,864
57	1,173,544,000	\$	552,262,192	\$	22,796,269	\$	1,844,620	\$	24,640,889
58	1,173,544,000	\$	534,528,327	\$	22,796,269	\$	1,784,096	\$	24,580,365
59	1,173,544,000	\$	516,031,900	\$	22,796,269	\$	1,723,017	\$	24,519,285
60	1,173,544,000	\$	498,571,424	\$	22,796,269	\$	1,661,378	\$	24,457,647
61	1,194,297,000	\$	480,345,393	\$	22,796,269	\$	1,599,174	\$	24,395,443
62	1,194,297,000	\$	461,952,290	\$	22,796,269	\$	1,536,400	\$	24,332,669
63	1,194,297,000	\$	443,390,583	\$	22,796,269	\$	1,473,051	\$	24,269,320
64	1,194,297,000	\$	424,658,728	\$	22,796,269	\$	1,409,120	\$	24,205,389
65	1,194,297,000	\$	405,755,164	\$	22,796,269	\$	1,344,604	\$	24,140,873
66	1,194,297,000	\$	386,678,317	\$	22,796,269	\$	1,279,496	\$	24,075,765
67	1,194,297,000	\$	367,426,599	\$	22,796,269	\$	1,213,792	\$	24,010,061
68	1,194,297,000	\$	347,998,407	\$	22,796,269	\$	1,147,485	\$	23,943,754
69	1,194,297,000	\$	328,392,124	\$	22,796,269	\$	1,080,570	\$	23,876,839
70	1,194,297,000	\$	308,606,116	\$	22,796,269	\$	1,013,042	\$	23,809,311
71	1,194,297,000	\$	288,638,736	\$	22,796,269	\$	944,895	\$	23,741,164
72	1,194,297,000	\$	268,488,322	\$	22,796,269	\$	876,123	\$	23,672,393
73	1,214,002,901	\$	248,153,195	\$	22,796,269	\$	806,721	\$	23,602,990
74	1,214,002,901	\$	227,631,685	\$	22,796,269	\$	736,693	\$	23,532,952
75	1,214,002,901	\$	206,922,019	\$	22,796,269	\$	666,003	\$	23,462,272
76	1,214,002,901	\$	186,022,535	\$	22,796,269	\$	594,675	\$	23,390,944
77	1,214,002,901	\$	164,931,473	\$	22,796,269	\$	522,692	\$	23,318,962
78	1,214,002,901	\$	143,647,076	\$	22,796,269	\$	450,051	\$	23,246,320
79	1,214,002,901	\$	122,167,571	\$	22,796,269	\$	376,743	\$	23,173,012
80	1,214,002,901	\$	100,491,172	\$	22,796,269	\$	302,763	\$	23,099,632
81	1,214,002,901	\$	78,616,072	\$	22,796,269	\$	228,105	\$	23,024,374
82	1,214,002,901	\$	56,540,450	\$	22,796,269	\$	152,763	\$	22,949,032
83	1,214,002,901	\$	34,262,468	\$	22,796,269	\$	76,730	\$	22,872,999
84	1,214,002,901	\$	11,780,272	\$	22,796,269	\$	0	\$	22,796,269
				\$	1,331,368,299				

**Buildup of Deferred Tax Revenue Requirement**

See page 1 of Attachment C for Revenue Requirement result

Month	Monthly kwh	\$ 493,344,701	Return:	Return Of + On:	Def. Tax	Running Total:
		Def. Tax Principal	11.000%	\$ 8,447,263	Amort.	
1	1,098,149,000	489,410,764	4,522,326	\$ 8,447,263	3,924,937	
2	1,098,149,000	485,458,849	4,486,348	\$ 8,447,263	3,960,915	7,885,852
3	1,098,149,000	481,461,625	4,450,039	\$ 8,447,263	3,997,224	11,883,076
4	1,098,149,000	477,427,760	4,413,398	\$ 8,447,263	4,033,865	15,916,941
5	1,098,149,000	473,356,918	4,376,421	\$ 8,447,263	4,070,842	19,987,783
6	1,098,149,000	469,248,759	4,339,105	\$ 8,447,263	4,108,158	24,095,942
7	1,098,149,000	465,102,943	4,301,447	\$ 8,447,263	4,145,816	28,241,758
8	1,098,149,000	460,919,123	4,263,444	\$ 8,447,263	4,183,820	32,425,578
9	1,098,149,000	456,696,952	4,225,092	\$ 8,447,263	4,222,171	36,647,749
10	1,098,149,000	452,436,078	4,186,389	\$ 8,447,263	4,260,875	40,908,623
11	1,098,149,000	448,136,145	4,147,331	\$ 8,447,263	4,299,933	45,208,556
12	1,098,149,000	443,796,796	4,107,915	\$ 8,447,263	4,339,349	49,547,905
13	1,116,406,000	439,417,670	4,068,137	\$ 8,447,263	4,379,126	53,927,031
14	1,116,406,000	434,998,402	4,027,995	\$ 8,447,263	4,419,268	58,346,299
15	1,116,406,000	430,538,625	3,987,465	\$ 8,447,263	4,459,778	62,806,076
16	1,116,406,000	426,037,965	3,946,604	\$ 8,447,263	4,500,659	67,306,735
17	1,116,406,000	421,496,050	3,905,348	\$ 8,447,263	4,541,915	71,848,651
18	1,116,406,000	416,912,501	3,863,714	\$ 8,447,263	4,583,549	76,432,200
19	1,116,406,000	412,286,935	3,821,698	\$ 8,447,263	4,625,565	81,057,766
20	1,116,406,000	407,618,969	3,779,297	\$ 8,447,263	4,667,966	85,725,732
21	1,116,406,000	402,908,213	3,736,507	\$ 8,447,263	4,710,756	90,436,488
22	1,116,406,000	398,154,275	3,693,325	\$ 8,447,263	4,753,938	95,190,426
23	1,116,406,000	393,356,759	3,649,748	\$ 8,447,263	4,797,515	99,987,942
24	1,116,406,000	388,515,266	3,605,770	\$ 8,447,263	4,841,483	104,829,425
25	1,134,810,500	383,629,393	3,561,390	\$ 8,447,263	4,885,873	109,715,298
26	1,134,810,500	378,698,732	3,516,603	\$ 8,447,263	4,930,661	114,645,960
27	1,134,810,500	373,722,874	3,471,405	\$ 8,447,263	4,975,858	119,621,818
28	1,134,810,500	368,701,404	3,425,793	\$ 8,447,263	5,021,470	124,643,288
29	1,134,810,500	353,633,903	3,379,763	\$ 8,447,263	5,067,500	129,710,788
30	1,134,810,500	358,519,951	3,333,311	\$ 8,447,263	5,113,953	134,824,741
31	1,134,810,500	353,359,120	3,286,433	\$ 8,447,263	5,160,830	139,985,571
32	1,134,810,500	348,150,892	3,239,125	\$ 8,447,263	5,208,138	145,193,709
33	1,134,810,500	342,895,103	3,191,304	\$ 8,447,263	5,255,879	150,449,588
34	1,134,810,500	337,591,045	3,143,205	\$ 8,447,263	5,304,058	155,753,646
35	1,134,810,500	332,238,366	3,094,585	\$ 8,447,263	5,352,679	161,106,325
36	1,134,810,500	326,836,621	3,045,518	\$ 8,447,263	5,401,745	166,508,070
37	1,153,829,667	321,385,360	2,996,002	\$ 8,447,263	5,451,261	171,959,331
38	1,153,829,667	315,884,129	2,946,032	\$ 8,447,263	5,501,231	177,460,562
39	1,153,829,667	310,332,471	2,895,605	\$ 8,447,263	5,551,659	183,012,221
40	1,153,829,667	304,729,922	2,844,714	\$ 8,447,263	5,602,549	188,614,770
41	1,153,829,667	299,076,016	2,793,358	\$ 8,447,263	5,653,906	194,268,676
42	1,153,829,667	293,370,283	2,741,530	\$ 8,447,263	5,705,733	199,974,409
43	1,153,829,667	287,612,247	2,689,228	\$ 8,447,263	5,758,036	205,732,445
44	1,153,829,667	281,801,430	2,636,446	\$ 8,447,263	5,810,810	211,543,255

45	1,153,829,667	275,937,346	2,583,180	\$	8,447,263	5,864,084	217,407,355
46	1,153,829,667	270,019,508	2,529,426	\$	8,447,263	5,917,838	223,325,193
47	1,153,829,667	264,047,424	2,475,179	\$	8,447,263	5,972,084	229,297,277
48	1,153,829,667	258,020,595	2,420,435	\$	8,447,263	6,026,829	235,324,105
49	1,173,544,000	251,938,521	2,365,189	\$	8,447,263	6,082,074	241,405,180
50	1,173,544,000	245,800,694	2,309,436	\$	8,447,263	6,137,827	247,544,007
51	1,173,544,000	239,606,804	2,253,173	\$	8,447,263	6,194,090	253,730,097
52	1,173,544,000	233,355,734	2,196,394	\$	8,447,263	6,250,869	259,980,967
53	1,173,544,000	227,047,565	2,139,094	\$	8,447,263	6,308,169	266,297,136
54	1,173,544,000	220,681,571	2,081,269	\$	8,447,263	6,365,994	272,663,130
55	1,173,544,000	214,257,223	2,022,914	\$	8,447,263	6,424,349	279,087,478
56	1,173,544,000	207,773,984	1,964,025	\$	8,447,263	6,483,239	285,570,717
57	1,173,544,000	201,231,315	1,904,595	\$	8,447,263	6,542,668	292,113,366
58	1,173,544,000	194,628,672	1,844,620	\$	8,447,263	6,602,643	298,716,029
59	1,173,544,000	187,985,505	1,784,096	\$	8,447,263	6,663,167	305,379,196
60	1,173,544,000	181,241,259	1,723,017	\$	8,447,263	6,724,246	312,103,442
61	1,194,297,000	174,455,374	1,661,378	\$	8,447,263	6,785,885	318,889,327
62	1,194,297,000	167,607,285	1,599,174	\$	8,447,263	6,848,089	325,737,416
63	1,194,297,000	160,696,422	1,536,400	\$	8,447,263	6,910,863	332,648,279
64	1,194,297,000	153,722,209	1,473,051	\$	8,447,263	6,974,213	339,622,492
65	1,194,297,000	146,684,066	1,409,120	\$	8,447,263	7,038,143	346,660,635
66	1,194,297,000	139,581,407	1,344,604	\$	8,447,263	7,102,659	353,763,294
67	1,194,297,000	132,413,640	1,279,486	\$	8,447,263	7,167,767	360,931,061
68	1,194,297,000	125,180,168	1,213,792	\$	8,447,263	7,233,472	368,164,533
69	1,194,297,000	117,880,390	1,147,485	\$	8,447,263	7,299,778	375,464,311
70	1,194,297,000	110,513,697	1,080,570	\$	8,447,263	7,366,693	382,831,004
71	1,194,297,000	103,079,476	1,013,042	\$	8,447,263	7,434,221	390,255,225
72	1,194,297,000	95,577,108	944,895	\$	8,447,263	7,502,368	397,767,593
73	1,214,002,901	88,005,908	876,123	\$	8,447,263	7,571,140	405,338,733
74	1,214,002,901	80,365,426	806,721	\$	8,447,263	7,640,542	412,979,275
75	1,214,002,901	72,654,846	736,683	\$	8,447,263	7,710,580	420,689,855
76	1,214,002,901	64,873,585	666,003	\$	8,447,263	7,781,261	428,471,116
77	1,214,002,901	57,020,996	594,675	\$	8,447,263	7,852,589	436,323,705
78	1,214,002,901	49,095,426	522,692	\$	8,447,263	7,924,571	444,248,275
79	1,214,002,901	41,099,213	450,051	\$	8,447,263	7,997,212	452,245,488
80	1,214,002,901	33,028,692	376,743	\$	8,447,263	8,070,520	460,316,009
81	1,214,002,901	24,884,192	302,763	\$	8,447,263	8,144,500	468,460,509
82	1,214,002,901	16,665,034	229,105	\$	8,447,263	8,219,158	476,679,667
83	1,214,002,901	8,370,533	152,763	\$	8,447,263	8,294,500	484,974,168
84	1,214,002,901	0	76,730	\$	8,447,263	8,370,533	493,344,701
				\$	493,344,701	493,344,701	

Corrected Attachment C

Amortization of DLC Rev. Tax  
No Return on...

Total CTC Revenue Requirement: Return Of & On Stranded + Return Of Unamort. Deferred Tax Balance							
DLC gets return of unamortized Deferred Tax balance of \$403,344,701 over 84 months (straight-line amortization)							
Month	Monthly kwh	Stranded Beg. Of Month	\$	22,796,269	\$	Deferred Tax Revenue Req.	Annual Return:
							\$
1	1,098,149,000	\$ 1,328,300,000	\$	22,796,269	\$	5,873,151	\$ 28,669,420
2	1,098,149,000	\$ 1,315,661,481	\$	22,796,269	\$	5,873,151	\$ 28,669,420
3	1,098,149,000	\$ 1,304,925,442	\$	22,796,269	\$	5,873,151	\$ 28,669,420
4	1,098,149,000	\$ 1,294,090,890	\$	22,796,269	\$	5,873,151	\$ 28,669,420
5	1,098,149,000	\$ 1,283,157,221	\$	22,796,269	\$	5,873,151	\$ 28,669,420
6	1,098,149,000	\$ 1,272,123,227	\$	22,796,269	\$	5,873,151	\$ 28,669,420
7	1,098,149,000	\$ 1,260,988,087	\$	22,796,269	\$	5,873,151	\$ 28,669,420
8	1,098,149,000	\$ 1,249,750,876	\$	22,796,269	\$	5,873,151	\$ 28,669,420
9	1,098,149,000	\$ 1,238,410,656	\$	22,796,269	\$	5,873,151	\$ 28,669,420
10	1,098,149,000	\$ 1,226,968,485	\$	22,796,269	\$	5,873,151	\$ 28,669,420
11	1,098,149,000	\$ 1,215,417,409	\$	22,796,269	\$	5,873,151	\$ 28,669,420
12	1,098,149,000	\$ 1,203,762,466	\$	22,796,269	\$	5,873,151	\$ 28,669,420
13	1,116,406,000	\$ 1,192,000,686	\$	22,796,269	\$	5,873,151	\$ 28,669,420
14	1,116,406,000	\$ 1,180,131,090	\$	22,796,269	\$	5,873,151	\$ 28,669,420
15	1,116,406,000	\$ 1,168,152,689	\$	22,796,269	\$	5,873,151	\$ 28,669,420
16	1,116,406,000	\$ 1,156,084,486	\$	22,796,269	\$	5,873,151	\$ 28,669,420
17	1,116,406,000	\$ 1,143,885,475	\$	22,796,269	\$	5,873,151	\$ 28,669,420
18	1,116,406,000	\$ 1,131,554,639	\$	22,796,269	\$	5,873,151	\$ 28,669,420
19	1,116,406,000	\$ 1,119,130,955	\$	22,796,269	\$	5,873,151	\$ 28,669,420
20	1,116,406,000	\$ 1,106,593,386	\$	22,796,269	\$	5,873,151	\$ 28,669,420
21	1,116,406,000	\$ 1,093,840,890	\$	22,796,269	\$	5,873,151	\$ 28,669,420
22	1,116,406,000	\$ 1,081,172,412	\$	22,796,269	\$	5,873,151	\$ 28,669,420
23	1,116,406,000	\$ 1,068,288,890	\$	22,796,269	\$	5,873,151	\$ 28,669,420
24	1,116,406,000	\$ 1,055,283,251	\$	22,796,269	\$	5,873,151	\$ 28,669,420
25	1,134,810,500	\$ 1,042,180,412	\$	22,796,269	\$	5,873,151	\$ 28,669,420
26	1,134,810,500	\$ 1,028,917,280	\$	22,796,269	\$	5,873,151	\$ 28,669,420
27	1,134,810,500	\$ 1,015,552,752	\$	22,796,269	\$	5,873,151	\$ 28,669,420
28	1,134,810,500	\$ 1,002,085,717	\$	22,796,269	\$	5,873,151	\$ 28,669,420
29	1,134,810,500	\$ 988,455,050	\$	22,796,269	\$	5,873,151	\$ 28,669,420
30	1,134,810,500	\$ 974,719,819	\$	22,796,269	\$	5,873,151	\$ 28,669,420
31	1,134,810,500	\$ 960,858,280	\$	22,796,269	\$	5,873,151	\$ 28,669,420
32	1,134,810,500	\$ 946,869,878	\$	22,796,269	\$	5,873,151	\$ 28,669,420
33	1,134,810,500	\$ 932,753,260	\$	22,796,269	\$	5,873,151	\$ 28,669,420
34	1,134,810,500	\$ 918,507,219	\$	22,796,269	\$	5,873,151	\$ 28,669,420
35	1,134,810,500	\$ 904,130,599	\$	22,796,269	\$	5,873,151	\$ 28,669,420
36	1,134,810,500	\$ 889,822,194	\$	22,796,269	\$	5,873,151	\$ 28,669,420
37	1,153,829,667	\$ 874,980,795	\$	22,796,269	\$	5,873,151	\$ 28,669,420
38	1,153,829,667	\$ 860,205,183	\$	22,796,269	\$	5,873,151	\$ 28,669,420
39	1,153,829,667	\$ 845,294,128	\$	22,796,269	\$	5,873,151	\$ 28,669,420
40	1,153,829,667	\$ 830,246,389	\$	22,796,269	\$	5,873,151	\$ 28,669,420
41	1,153,829,667	\$ 815,060,712	\$	22,796,269	\$	5,873,151	\$ 28,669,420
42	1,153,829,667	\$ 799,735,832	\$	22,796,269	\$	5,873,151	\$ 28,669,420

43	1,153,829,667	\$	784,270,475	\$	22,798,269	\$	5,873,151	\$	28,669,420
44	1,153,829,667	\$	768,663,352	\$	22,798,269	\$	5,873,151	\$	28,669,420
45	1,153,829,667	\$	752,913,164	\$	22,798,269	\$	5,873,151	\$	28,669,420
48	1,153,829,667	\$	737,018,599	\$	22,798,269	\$	5,873,151	\$	28,669,420
47	1,153,829,667	\$	720,978,333	\$	22,798,269	\$	5,873,151	\$	28,669,420
48	1,153,829,667	\$	704,791,032	\$	22,798,269	\$	5,873,151	\$	28,669,420
49	1,173,544,000	\$	688,455,348	\$	22,798,269	\$	5,873,151	\$	28,669,420
50	1,173,544,000	\$	671,969,919	\$	22,798,269	\$	5,873,151	\$	28,669,420
51	1,173,544,000	\$	655,333,374	\$	22,798,269	\$	5,873,151	\$	28,669,420
52	1,173,544,000	\$	638,544,328	\$	22,798,269	\$	5,873,151	\$	28,669,420
53	1,173,544,000	\$	621,601,382	\$	22,798,269	\$	5,873,151	\$	28,669,420
54	1,173,544,000	\$	604,503,128	\$	22,798,269	\$	5,873,151	\$	28,669,420
55	1,173,544,000	\$	587,248,135	\$	22,798,269	\$	5,873,151	\$	28,669,420
56	1,173,544,000	\$	569,834,874	\$	22,798,269	\$	5,873,151	\$	28,669,420
57	1,173,544,000	\$	552,282,192	\$	22,798,269	\$	5,873,151	\$	28,669,420
58	1,173,544,000	\$	534,528,327	\$	22,798,269	\$	5,873,151	\$	28,669,420
59	1,173,544,000	\$	516,831,900	\$	22,798,269	\$	5,873,151	\$	28,669,420
60	1,173,544,000	\$	498,571,424	\$	22,798,269	\$	5,873,151	\$	28,669,420
61	1,194,297,000	\$	480,345,393	\$	22,798,269	\$	5,873,151	\$	28,669,420
62	1,194,297,000	\$	461,952,290	\$	22,798,269	\$	5,873,151	\$	28,669,420
63	1,194,297,000	\$	443,390,583	\$	22,798,269	\$	5,873,151	\$	28,669,420
64	1,194,297,000	\$	424,658,728	\$	22,798,269	\$	5,873,151	\$	28,669,420
65	1,194,297,000	\$	405,755,184	\$	22,798,269	\$	5,873,151	\$	28,669,420
66	1,194,297,000	\$	388,878,317	\$	22,798,269	\$	5,873,151	\$	28,669,420
67	1,194,297,000	\$	387,426,599	\$	22,798,269	\$	5,873,151	\$	28,669,420
68	1,194,297,000	\$	347,988,407	\$	22,798,269	\$	5,873,151	\$	28,669,420
68	1,194,297,000	\$	328,382,124	\$	22,798,269	\$	5,873,151	\$	28,669,420
70	1,194,297,000	\$	308,608,116	\$	22,798,269	\$	5,873,151	\$	28,669,420
71	1,194,297,000	\$	288,638,738	\$	22,798,269	\$	5,873,151	\$	28,669,420
72	1,194,297,000	\$	268,488,322	\$	22,798,269	\$	5,873,151	\$	28,669,420
73	1,214,002,901	\$	248,153,196	\$	22,798,269	\$	5,873,151	\$	28,669,420
74	1,214,002,901	\$	227,631,685	\$	22,798,269	\$	5,873,151	\$	28,669,420
75	1,214,002,901	\$	208,922,019	\$	22,798,269	\$	5,873,151	\$	28,669,420
76	1,214,002,901	\$	186,022,535	\$	22,798,269	\$	5,873,151	\$	28,669,420
77	1,214,002,901	\$	184,931,473	\$	22,798,269	\$	5,873,151	\$	28,669,420
78	1,214,002,901	\$	143,647,076	\$	22,798,269	\$	5,873,151	\$	28,669,420
79	1,214,002,901	\$	122,187,571	\$	22,798,269	\$	5,873,151	\$	28,669,420
80	1,214,002,901	\$	100,491,172	\$	22,798,269	\$	5,873,151	\$	28,669,420
81	1,214,002,901	\$	78,616,072	\$	22,798,269	\$	5,873,151	\$	28,669,420
82	1,214,002,901	\$	56,540,450	\$	22,798,269	\$	5,873,151	\$	28,669,420
83	1,214,002,901	\$	34,282,468	\$	22,798,269	\$	5,873,151	\$	28,669,420
84	1,214,002,901	\$	11,780,272	\$	22,798,269	\$	5,873,151	\$	28,669,420
				\$	1,331,368,289				

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JUN 22 1998

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Pennsylvania Public Utility )  
Commission, )  
v. )  
Duquesne Light Company )  
Application to approve )  
restructuring plan pursuant )  
to 66 Pa. C.S. § 2806(d) )

Docket No. R-00974104

**DOCKETED**

JUN 24 1998

**ANSWER TO PETITION FOR RECONSIDERATION**

Pursuant to 52 Pa. Code § 5.572(e) (1997), Duquesne Light Company ("Duquesne") hereby submits an answer to the Petition for Reconsideration of Hospital Shared Services and Administrative Resources, Inc. ("HSS"). The petition should be rejected because it fails to present any "new or novel" arguments not previously raised or considered. Duick v. PG&W, 56 Pa. P.U.C. 553, 559 (Dec. 17, 1982). Instead, the petition simply rehashes arguments previously advanced by HSS but rejected by the Commission and, in most instances, the Presiding Judge, as well. Duquesne nevertheless will briefly respond to the merits of the petition.

1. Phillips and Brunot Island. HSS argues that the Commission should have "disallowed" the deferred taxes associated with the cold reserved units at Phillips Power Station and Brunot Island Power Station. HSS Pet. at 3-4. As Duquesne explained in its Reply Exceptions, however, there is no dispute over this issue because the deferred taxes associated with these units will not be included in

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93

the stranded cost balance used to set the CTC. DLC Reply Exc. at 6-7. Duquesne made this clear again in its compliance filing for the merger restructuring plan, which itemizes the deferred taxes associated with each stranded cost item. DLC Compliance Filing at 2 n.2; Appendix A (workpaper on Deferred Taxes in PaPUC Decision, Note 1). The request for reconsideration therefore should be denied as unnecessary.

2. Prior Capital Expenditures. HSS continues to assert that all of Duquesne's capital expenditures in generation, transmission and distribution plant over the past ten years should be disallowed or, in the alternative, that 50% of those costs be disallowed. HSS Pet. at 4, 12. The Final Order rejected that contention, finding that HSS "confuses the issue of a utility's 'burden of proof' with the issue of an intervenor's burden of going forward with 'credible evidence' to contest the reasonableness of particular cost items." Final Order at 138. HSS now contends, however, that "the burden of going forward with evidence never shifted to intervenors" because Duquesne "put in no evidence" describing prior capital expenditures and the reasonableness of such investments. HSS Pet. at 6-7.

The rule, however, is that a utility need only (i) meet the Commission's filing requirements, and (ii) thereafter respond to "credible issues" raised by intervenors challenging particular cost items.<sup>1</sup> HSS refuses to recognize that the

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<sup>1</sup> Pennsylvania Pub. Util. Comm'n v. Equitable Gas Co., 57 PaPUC 423, 444  
(continued...)

Commission, not Duquesne, specifies the filing requirements for a case-in-chief in a restructuring proceeding.<sup>2</sup> Here, Duquesne followed all such filing requirements, submitting 9 volumes of supporting cost and other data and, having done so, the burden then shifted to the intervenors to respond with "credible issues." See Sunshine Hills (see supra n. 1). Because HSS did not contest any particular cost item, its request for reconsideration must fail.

3. Regulatory Assets.

(a) SFAS 109 Deferred Taxes. HSS claims that Duquesne should not recover its SFAS 109 deferred taxes because "Duquesne chose not to file a rate case [since] 1986." HSS Pet. at 9. This is a meritless argument. First, the timing of Duquesne's last rate case has no bearing on whether costs were properly

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<sup>1</sup>(...continued)

n.37 (1983); Pennsylvania Pub. Util. Comm'n v. Fawn Lake Forest Water Co., 1992 Pa. PUC LEXIS 100, at \*18 (1992) ("where a party has raised a credible issue concerning an element at issue, the affirmative burden of proving the justness and reasonableness of its claim is upon the utility"); Pennsylvania Pub. Util. Comm'n v. Sunshine Hills Water Co., R-912023, 1992 Pa. PUC LEXIS 85 (1992) ("[w]hen a utility files for a rate increase, the Commission's regulations delineate the supporting data necessary to establish a prima facie case that the proposed rates are just and reasonable. Thereafter, if a party raises a credible issue as to a given claim, then the utility has the burden of producing evidence to support that contested claim").

<sup>2</sup> Re Electric Utility Restructuring Filings, Docket No. M-00960890F0003, 176 PUR 4<sup>th</sup> 45 (1997).

deferred during that period. If HSS' claim were accepted, no regulatory asset could be recovered because, of necessity, they all represent deferrals "between rate cases."

Second, the claim that Duquesne "chose not to file a rate case" over the last ten years, or that ratepayers were somehow harmed by that decision, is wrong. Duquesne was prohibited from filing a base rate case prior to 1993, Petition of Duquesne Light Company for Order Approving Final Distribution, 1989 Pa PUC LEXIS 124, 70 Pa. PUC 336 (1989), and in 1996 another rate freeze period was established as part of the Ft. Martin agreement. Even more importantly, any failure to "file a rate case" actually benefitted customers, as Duquesne was earning below its authorized rate of return during the entire period. Ex. DJC-2 at 2. The request for reconsideration should therefore be denied.<sup>3</sup>

(b) Deferred Rate Synchronization Costs. HSS opposes recovery of Duquesne's claim for deferred rate synchronization (or "early window") costs on the ground that "there never has been a Commission finding that the costs are in fact just and reasonable." HSS Pet. at 10. But HSS did not claim that the costs were incurred unreasonably; rather, its claim was based entirely on the mistaken

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<sup>3</sup> HSS also raises a new objection, contending that the deferred taxes should be disallowed because another item, called "SFAS 109 plant," was supposedly "disallowed." HSS Pet. at 9. HSS is confused. The "SFAS 109 Plant" item (\$62.94 million) was reclassified as plant to be consistent with the OCA method. DLC Main Br. at 45 n.37. The item was not "disallowed." HSS Pet. at 9.

theory that the Commission had "twice" rejected recovery of the costs. HSS Exc. at 22. That assertion was clearly false (DLC Reply Exc. at 13) and HSS does not repeat it here. The request for reconsideration should be rejected.<sup>4</sup>

(c) Warwick Mine Costs. HSS argues that Warwick Mine costs should be disapproved because "recovery of [the] costs was never assured." HSS Pet. at 11. But the future recovery of a cost does not have to be "assured" for it to be properly deferred as a regulatory asset. DLC Main Br. at 43-44. In any event, the Commission previously held that "Duquesne shall recover and reconcile Warwick Mine costs as part of its Energy Cost Rate procedure." Petition of Duquesne Light Company for Order Establishing a New Coal Cost Standard, No. P-890386, slip op. at 3 (emphasis added). The request for reconsideration should therefore be denied.

4. HSS "Market Valuation". HSS argues that the Commission should reject the OCA market price analysis and rely instead on excerpts from documents obtained by HSS in discovery. HSS Pet. at 13. HSS, however, failed to submit any evidence in rebuttal to the OCA's market price analysis (see DLC Main Br. at 28 n.14) and therefore has waived any ability to contest them now. In any

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<sup>4</sup> HSS also argues that recovery should not be allowed "under the Commission's decision in PECO" (HSS Pet. at 11), but fails to recognize that a similar regulatory asset was approved in PECO Energy, slip op. at 74-75.

event, the "studies" relied on by HSS each show that, under certain price scenarios, Duquesne's plants have no value at all. DLC St. 2-R at 54. Indeed, the Metzler study (the most detailed of the group) concluded that the "valuations likely to be more accurate" show no value for Duquesne's units. HSS Ex. RBW-9 at 4. The request for reconsideration should be denied.

5. Life Extension. HSS argues that the OCA life extension projections should be accepted. HSS Pet. at 14. This matter was thoroughly briefed by Duquesne in prior submissions (see, e.g., DLC Exc. at 15) and there is no need to repeat those arguments here. Suffice it to say that OCA itself conceded that there is "inherent uncertainty" in such projections (OCA St. 1 at 36); they cannot therefore satisfy the known and measurable standard. The request for reconsideration should be rejected.<sup>5</sup>

6. Capital Additions. HSS argues that, because Duquesne has "overprojected" certain budgets in the past, the Commission should make large cuts in its projected operating and capital expenditures. HSS Pet. at 16.17. HSS claims this was "precisely the type" of adjustment approved in PECO Energy. Id. at 17. HSS is mistaken. There, the Commission adopted OCA witness Mr. Smith's forecast of future operating and capital expenditures based, in part, on a finding by Mr. Smith

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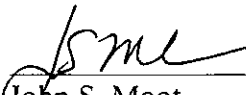
<sup>5</sup> HSS' attempt to bootstrap this issue to its argument regarding generation-related capital additions is transparent and should be rejected for the same reasons provided in the next section.

that PECO had made such overprojections. PECO Energy, slip op. at 82. Here, however, Mr. Smith expressed no similar opinion and his projections were accepted by the Judge. In addition, here, unlike PECO Energy, Duquesne (i) projected reductions in operating and capital expenditures from historic levels, and (ii) agreed to flow through \$500 million in merger synergies. DLC St. 1 at 21. The request for reconsideration should be rejected.

WHEREFORE, the request for reconsideration should be denied for the reasons set forth above.

Respectfully submitted,

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Dated: June 22, 1998


BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility )  
Commission )  
 )  
v. ) Docket No. R-00974104  
 )  
Duquesne Light Company )  
Application for Approval of )  
a Restructuring Plan Pursuant )  
to 66 Pa. C.S. § 2806(d) )

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document, by first-class mail, upon the participants on the attached service list in accordance with Section 1.54 of the Commission's regulations.

Dated this 22<sup>nd</sup> day of June, 1998.

  
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June 22, 1998

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James J. McNulty  
Secretary's Bureau  
PA Public Utility Commission  
Room B-20, North Office Bldg.  
Harrisburg, PA 17105-3265

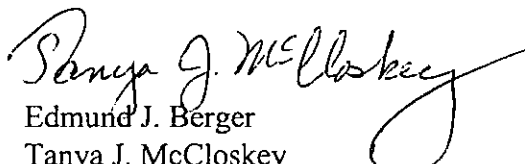
Re: Application of Duquesne Light Company  
For Approval of its Restructuring Plan Under  
Section 2806 of the Public Utility Code  
Docket No. R-00974104

Dear Mr. McNulty:

Enclosed please find for filing an original and three (3) copies of the Office of Consumer Advocate's Answer to Duquesne Light Company's Petition for Reconsideration in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely,

  
Edmund J. Berger  
Tanya J. McCloskey  
Assistant Consumer Advocates

Enclosures

cc: All parties of record  
Hon. John Corbett, Jr., ALJ

EEF

19

**ORIGINAL**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

Docket No. R-00974104

**DOCUMENT  
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ANSWER OF THE  
OFFICE OF CONSUMER ADVOCATE  
TO THE PETITION FOR RECONSIDERATION  
OF DUQUESNE LIGHT COMPANY

**DOCKETED  
JUN 23 1998**

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The Office of Consumer Advocate (OCA) is in receipt of the Petition for Clarification Or Reconsideration of Duquesne Light Company Regarding Stand-Alone Restructuring Plan. As Duquesne notes, the principal purpose of its Petition its to correct computational errors prior to the filing of its Compliance Filing. Petition, p. 1-2. Duquesne recognizes that the Commission may choose to resolve these issues in the context of the Compliance Filing. Petition, p.2, fn. 4.

The OCA appreciates the opportunity to review these proposed corrections prior to the filing of the compliance filing. The OCA submits, however, that the Commission should resolve the details of these corrections in the compliance filing phase rather than in this Petition for Reconsideration. While the OCA does not conceptually or theoretically disagree with the majority of Duquesne's proposed corrections, the OCA anticipates that implementation of these corrections may be detailed, and must be thoroughly reviewed, to assure compliance with the intent of the Commission's Order.

The OCA would note two areas of concern that should be addressed in the compliance filing phase. First, at paragraphs 1 and 2 of its Petition, Duquesne indicates that the rates contained in Attachment A reflect Duquesne's proposed roll-in of its ECR at a level of 14.7 mills/kwh. The OCA would note that the Commission did not directly address Duquesne's proposed ECR roll-in at a rate of 14.7 mills/kwh, an *increase* in the ECR rate, and thus an increase in rates that were in effect on the effective date of the Act. The ALJ, however, explicitly rejected Duquesne's request to roll its ECR into base rates at the higher level. R.D. at 557. Thus, the OCA is unclear whether the Commission intended that the 8.93¢/kwh figure on Attachment A was to include the ECR roll-in at the higher level.

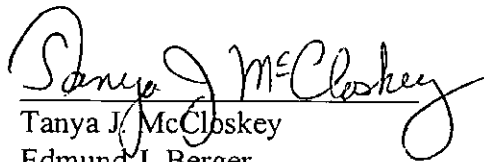
Duquesne also proposes to adjust the column marked "Bundled Rate Today" by dividing 1996 revenues by 1999 sales volumes to arrive at a bundled rate of 8.75¢/kwh. It was the OCA's understanding of Attachment A that the column marked "Bundled Rate Today" was to reflect current rates. That is to say, the 8.93¢/kwh was to reflect rates in effect on the effective date of the Act. Thus, adjusting this number by 1999 sales volumes was not necessary, or intended by the Commission.

The OCA would also note a concern regarding the adjustment for the lower transmission revenue requirement discussed by Duquesne in Paragraph 4. While the OCA agrees that the lower FERC-approved transmission revenue requirement should be utilized, the use of a simple "residual" methodology to establish the distribution rate, i.e. subtracting the lower transmission revenue requirement from the total revenue requirement presented in the case-in-chief for transmission and distribution, may not be appropriate, particularly given the Commission's Order that the universal service charges be reconcilable. Under the Company's proposal, as the transmission rate decreases from the level in effect at the time of the case, the distribution rate

increases from the level in effect at the time of the case. Although this offsetting adjustment does not violate the non-generation charges rate cap of the Act, the OCA submits that the increase in distribution revenue requirement from that found in the case should be attributed to offsetting the increased universal service charges approved by the Commission. The OCA submits that this issue should be explored in the context of Duquesne's compliance filing when the amount of the transmission revenue requirement reduction, as well as the time period over which this reduction will be in effect, are identified.

Wherefore, the OCA recommends that the Commission defer ruling on Duquesne's request for clarification until its review of the compliance filing. The issues raised by Duquesne are more in the manner of corrections or implementation issues, and can more properly be addressed after a review of the details of implementation of these corrections and clarifications.

Respectfully submitted,



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Dated: June 22, 1998

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Re: Application of Duquesne Light Company for  
Approval of its Restructuring Plan Under  
Section 2806 of the Public Utility Code  
Docket No. R-00974104

I hereby certify that I have this day served a true copy of the foregoing document, OCA's Answer to Duquesne Light Company's Petition for Reconsideration upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 22nd day of June, 1998.

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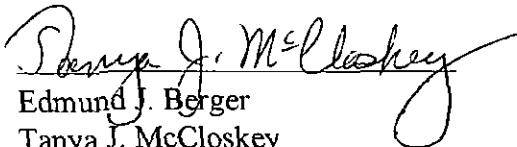
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Re: Application of Duquesne Light Company  
For Approval of its Restructuring Plan Under  
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Docket No. R-00974104

Dear Mr. McNulty:

Enclosed please find for filing an original and three (3) copies of the Office of Consumer Advocate's Answer to HSS/ARI Petition for Reconsideration in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely,

Edmund J. Berger  
Tanya J. McCloskey  
Assistant Consumer Advocates

Enclosures

cc: All parties of record  
Hon. John Corbett, Jr., ALJ

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**ORIGINAL**

BEFORE THE  
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Application of Duquesne Light Company :  
For Approval of its Restructuring Plan :  
Under Section 2806 of the Public Utility Code :

Docket No. R-00974104

**DOCKETED**

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ANSWER OF THE  
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TO THE PETITION OF HSS/ARI

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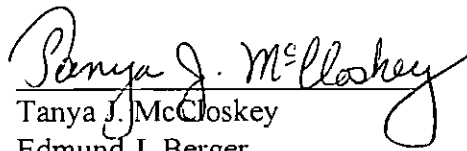
The Office of Consumer Advocate (OCA) is in receipt of the Petition for Reconsideration of Hospital Shared Services and Administrative Resources, Inc. (HSS/ARI) in the above-captioned proceeding. The OCA only wishes to respond to one point in that Petition as it pertains to the evidence presented by the OCA in this proceeding. Specifically, at page 14 of its Petition, HSS/ARI object to the use of the OCA administratively determined market price analysis presented by OCA witness Doug Smith using the ENPRO model, rather than a direct market-based valuation study.

Initially, the OCA would note its agreement that a market-based determination of stranded costs, based on actual divestiture, is the better method for determining stranded cost. The OCA shares the concern of HSS/ARI that any administrative determination may understate the true market value of the utility's generating plants that would be revealed through an actual market sale of those assets.

In the absence of divestiture, however, the Commission must make an administrative

determination of stranded cost. The OCA submits that the market valuation study performed by OCA witness Doug Smith using the ENPRO model provides a reasonable and consistent basis for an administrative determination of stranded cost. The Commission has adopted Mr. Smith's analysis in each of the litigated restructuring cases, finding it to be balanced, credible and reasonable. As such, the OCA submits that if stranded costs are to be based on an administrative determination, the Commission should continue to use the ENPRO analysis submitted by OCA witness Smith as a starting point for that analysis.

Respectfully submitted,



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Dated: June 22, 1998

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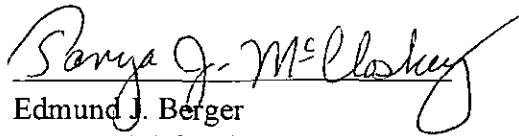
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DOCUMENT  
FOLDER

June 22, 1998

**DOCKETED**

JUN 25 1998

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Application of Duquesne Light Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code, Docket No. R-00974104

Dear Mr. McNulty:

The Environmentalists submit this letter in lieu of a formal Answer to the Petition for Clarification or Reconsideration filed by Duquesne Light Company ("Duquesne"). The Environmentalists believe that the Commission's May 29, 1998 Order in the Duquesne restructuring case is a well-supported, legally-sound, balanced and fair-minded resolution of the complex issues and competing interests in this proceeding. The final Order is good policy and sound law. We ask the Commission to deny the Petition for Reconsideration in its entirety.

The Environmentalists found Duquesne's objections to be without merit. Any reasonable order in a complex proceeding involving many diverse interests can always be assailed by parties who want more. The Final Order achieved a good balance of benefit and pain. That balance should not be shattered by granting the relief requested in Duquesne's Petition for Reconsideration. The Commission was on the right track with the Final Order. The Environmentalists recommend that the Commission stay on track by rejecting Duquesne's Petition for Reconsideration.

This letter is being served on all parties of record in accord with the attached Certificate of Service.

Sincerely,

Roger E. Clark  
Attorney for the Environmentalists

98 JUN 25 AM 11:51  
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SECRETARY'S BUREAU

Enclosure: Certificate of Service

Copies: The Honorable John M. Quain  
The Honorable David W. Rolka  
The Honorable Aaron Wilson  
All parties of record

The Honorable Robert K. Bloom  
The Honorable Nora Brownell  
Office of Special Assistants

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Duquesne Light :  
Company for Approval of its : Docket No. R-00974104  
Restructuring Plan :

CERTIFICATE OF SERVICE

I hereby certify that I have served the Environmentalists' letter response to the Petition for Reconsideration in the above-referenced docket upon the following persons, in the manner specified and on the dates indicated:

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June 22, 1998

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June 22, 1998

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Application of West Penn Power Company for Approval of Its Restructuring Plan  
Under Section 2806 of the Public Utility Code, Docket No. R-00973981

Dear Mr. McNulty:

The Environmentalists submit this letter in lieu of a formal Answer to the Petition for Clarification or Reconsideration filed by West Penn Power Company ("West Penn"). The Environmentalists believe that the Commission's May 29, 1998 Order in the West Penn restructuring case is a well-supported, legally-sound, balanced and fair-minded resolution of the complex issues and competing interests in this proceeding. The final Order is good policy and sound law. We ask the Commission to deny the Petition for Reconsideration in its entirety.

The Environmentalists found West Penn's objections to be without merit. Any reasonable order in a complex proceeding involving many diverse interests can always be assailed by parties who want more. The Final Order achieved a good balance of benefit and pain. That balance should not be shattered by granting the relief requested in West Penn's Petition for Reconsideration. The Commission was on the right track with the Final Order. The Environmentalists recommend that the Commission stay on track by rejecting West Penn's Petition for Reconsideration.

This letter is being served on all parties of record in accord with the attached Certificate of Service.

Sincerely,

Roger E. Clark  
Attorney for the Environmentalists

Enclosure: Certificate of Service

Copies: The Honorable John M. Quain      The Honorable Robert K. Bloom  
The Honorable David W. Rolka      The Honorable Nora Brownell  
The Honorable Aaron Wilson      Office of Special Assistants  
All parties of record

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of West Penn Power :  
Company for Approval of its :  
Restructuring Plan :

Docket No. R-00973981

**CERTIFICATE OF SERVICE**

I hereby certify that I have served the Environmentalists' letter response to the Petitions for Reconsideration in the above-referenced docket upon the following persons, in the manner specified and on the dates indicated:

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June 22, 1998

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
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Harrisburg, PA 17105-3265

Re: Joint Application of DQE, Inc., Allegheny Power System, Inc., and AYP Sub, Inc,  
for Approval of the Transfer by Merger of the Property and Rights of Duquesne  
Light Company to Allegheny Power System, Inc., Docket No. A-110150-F0015

Application of Duquesne Light Company for Approval of its Restructuring Plan  
Under Section 2806 of the Public Utility Code, Docket No. R-00974104

Application of West Penn Power Company for Approval of Its Restructuring Plan  
Under Section 2806 of the Public Utility Code, Docket No. R-00973981

Dear Mr. McNulty:

Enclosed please find the original and nine copies of the Petition of Citizen Power  
*et al.* for Recusal and for Further Discovery in the above-captioned proceedings.

This Petition is being served on all parties of record in accord with the attached  
Certificate of Service.

Sincerely,

Roger E. Clark  
Attorney for Citizen Power *et al.*

Enclosure: Petition of Citizen Power *et al.* for Recusal and for Further Discovery  
Certificate of Service

Copies: The Honorable John M. Quain  
The Honorable Robert K. Bloom  
The Honorable David W. Rolka  
The Honorable Nora Brownell  
The Honorable Aaron Wilson  
Office of Special Assistants  
All parties of record

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Duquesne Light Company :  
for Approval of its Restructuring Plan : Docket No. R-00974104  
Under Section 2806 of the Public Utility Code :

Joint Application of DQE, Inc., Allegheny :  
Power System, Inc., and AYP Sub, Inc, :  
for Approval of the Transfer by Merger of : Docket No. A-110150-F0015  
the Property and Rights of Duquesne Light :  
Company to Allegheny Power System, Inc. :

Application of West Penn Power Company :  
for Approval of Its Restructuring Plan : Docket No. R-00973981  
Under Section 2806 of the Public Utility Code :

DOCUMENT  
FOLDER

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Petition by Citizen Power *et al.* for Recusal  
and for Further Discovery

---

**DOCKETED**  
JUN 25 1998

Citizen Power, the Mon Valley Unemployed Committee, the Group Against Smog and Pollution, Pennsylvania Public Interest Group, Citizens Organizations on Utility Policies, Just Harvest, the Alliance for Progressive Action and Clean Water Action ("Citizen Power *et al.*"), parties in each of the above-cited proceedings, hereby petition Chairman John M. Quain to recuse himself from further participation in all three proceedings noted above because staff subject to his direction (and possibly he himself) have violated the Public Utility Commission's Code of Conduct (66 Pa.C.S. §319) by engaging in *ex parte* communication in a matter pending before the Commission contrary to Section 334(c) of the Public Utility Code (66 Pa.C.S. §334(c)). Accompanying this request for recusal is a request for discovery for the production of

certain documents and materials and the opportunity to depose the Chairman and other individuals to determine the full extent and nature of the *ex parte* communication which has occurred.

### **The Ex Parte Communication**

Attached to this Request for Recusal as Attachment 1 is a photocopy of a handwritten communication from Frank M. Nadolny, the director of regulatory affairs for the Duquesne Light Company, to Robert A. Rosenthal, the executive assistant for Chairman Quain and the eight additional pages of typed information which accompanied the handwritten note ("the Nadolny memo").<sup>1</sup> The thrust of the communication was that the Chairman's motion contained the wrong figures for the amortized return of taxes. The total impact of the "corrected" figures was to increase Duquesne's stranded cost recovery by \$281.6 million over the amount provided for in the Chairman's Motion.<sup>2</sup>

The Nadolny memo is dated May 6, 1998, which is after the Chairman's April 30, 1998 Motion to Dispense with Non-Binding Polling in the Duquesne restructuring case but prior to May 21, 1998, the date the Commission adopted its final order in the

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<sup>1</sup>The accompanying material consists of a single typewritten page of explanation, a one-page excerpt of Duquesne Witness Statement No. 2 (Mr. Clayton), three pages of figures from the original motions's version of Attachment C and three pages of a "corrected" version of Attachment C.

<sup>2</sup>In the Commission's Final Order, the totals for deferred taxes column of Attachment C was increased above the amount in the Chairman's Motion, but the increase was only \$1.7 million. Citizen Power is not alleging that the stranded cost figure changed in the Final Order because of the Nadolny memo. The ethical problem we raise is the *ex parte* communication shown by the mere existence of the Nadolny memo.

Duquesne restructuring proceeding.

The memo is an obvious attempt by Duquesne Light Company to influence the outcome of the proceeding and to increase their recovery by \$281.6 million. The Nadolny memorandum was not made part of the record, nor was it shared with the parties in the proceeding, which is the proper and normal procedure Commissioners follow when they receive *ex parte* communications in an active proceeding.

### **The Need for Further Discovery**

The Nadolny memorandum is compelling evidence that an *ex parte* communication has occurred. Citizen Power suggests that it is highly unlikely that this memorandum arrived in the Chairman's offices without any previous communication by Mr. Nadolny or others to pave the way. In order to discover the extent and nature of the *ex parte* communication which has occurred, Citizen Power requests that Chairman John M. Quain produce the following materials:

- (1) all telephone logs (or long distance telephone bills) maintained by himself and all persons on his staff from the period March 25, 1998 (the date of the first Recommended Decision in these cases) through May 21, 1998 (the date of the final Order in these cases);
- (2) all telephone logs (or long distance telephone bills) for the fax machines maintained by himself and all persons on his staff from the period March 25, 1998 through May 21, 1998;
- (3) all appointment calendars maintained by himself and all persons on

- his staff from the period March 25, 1998 through May 21, 1998;
- (4) all other memorandum or documents received by himself and all persons on his staff from any representative of the Duquesne Light Company from the period March 25, 1998 through May 21, 1998.

In addition, Citizen Power *et al.* request the opportunity to depose Chairman John M. Quain, Robert A. Rosenthal and Frank M. Nadolny to determine the full extent and nature of the *ex parte* communication which occurred.

### **The Legal Standard**

Section 319(a)(3) of the Public Utility Code (66 Pa.C.S. §319(a)(3)) directs that each Commissioner must “[a]void all *ex parte* communications prohibited in this part.”

*Ex parte* communications are defined in the Code in Section 334 (66 Pa.C.S. §334(c)):

**(c) *Ex parte* communications** - *Ex parte* communications prohibited in this section shall mean any off-the-record communications to or by any member of the commission, administrative law judge, or employee of the commission, regarding the merits or any fact in issue of any matter pending before the commission in any contested on-the-record proceeding.

Section 319(a)(5) of the Public Utility Code (66 Pa.C.S. §319(a)(5)) explicitly applies these standards to all Commissioner staff. This section states that each Commissioner shall “require staff and personnel subject to his direction to observe the standards of fidelity and diligence that apply to the commissioner ...”

### **The Need for Recusal**

Section 319(a)(7) of the Public Utility Code directs a Commissioner to "disqualify himself from proceedings in which his impartiality might be reasonably questioned." Citizen Power believes that this *ex parte* communication has and/or will cause it prejudice in these proceedings. The deferred tax issue raised in the Nadolny memo has not gone away. It has reappeared in Duquesne's Petition for Clarification or Reconsideration dated June 16, 1998. Knowing that Duquesne had an *ex parte* communication with the Chairman's office is enough to make a reasonable person question the impartiality of the Chairman on this issue. Recusal is the only appropriate response.

### **The Need for Recusal from all Three Dockets**

The *ex parte* communication documented in the Nadolny memo occurred in the Duquesne restructuring case, but Citizen Power contends that the only appropriate remedy is for the Chairman to recuse himself from further participation not only in the Duquesne restructuring case, but also from the merger case and the West Penn Power restructuring case.

The three proceedings are inexorably linked. The Duquesne restructuring case contains alternative resolutions of several issues, depending on the outcome of the merger case.<sup>3</sup> The economic value of the merger is linked to the outcome of both

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<sup>3</sup>The most recent example of the link between the two cases in Duquesne's filing of the Request for Reconsideration, which was filed with both case names and docket numbers in the header.

restructuring cases, linking the West Penn restructuring case to the other two. It is impossible to limit the impropriety or appearance of impropriety to only the Duquesne proceeding. The Commission's actions in all three have been tainted by this *ex parte* communication.

### Conclusion

Citizen Power *et al.* respectfully request that Chairman John M. Quain recuse himself from further participation in these proceedings as the appropriate remedy for the *ex parte* communications which has taken place.

Citizen Power *et al.* further requests the Commission investigate the extent of these off-the-record, back-channel communications do investigate whether these *ex parte* communications become an acceptable element of the Commission's culture.

Respectfully submitted,

Date: June 22, 1998

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Duquesne Light Company :  
for Approval of its Restructuring Plan : Docket No. R-00974104  
Under Section 2806 of the Public Utility Code :

Joint Application of DQE, Inc., Allegheny :  
Power System, Inc., and AYP Sub, Inc, :  
for Approval of the Transfer by Merger of : Docket No. A-110150-F0015  
the Property and Rights of Duquesne Light :  
Company to Allegheny Power System, Inc. :

Application of West Penn Power Company :  
for Approval of Its Restructuring Plan : Docket No. R-00973981  
Under Section 2806 of the Public Utility Code :

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**Petition of Citizen Power *et al.* for Recusal  
and for Further Discovery**

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**Attachment 1**

**The Nadoiny Memo**



Duquesne Light

F.M. Nadolny

Re: Attachment "c" to  
Chairman QUAINS  
Motion on DLC Restructuring

Bob Rosenthal

Attached for consideration

- Memo explaining corrected Nos. to Attachment "c"
- Appropriate part of DLC Statement-2 Clayton Testimony refers to ~~regulating~~ asset - not deferred tax liability.
- Original Attachment "c" 4 pgs showing return both of and on the deferred tax balance of \$493,344,701
- corrected Attachment "c" 2 pgs with straightline amortization of \$493,344,701 unamortized deferred tax balance over 84 months, which is consistent with traditional ratemaking.

Frank

5-6-98



Correction of Attachment C to Chairman Quain's Motion  
on Duquesne Light Company's Restructuring Plan

The schedule shown on Attachment C to Chairman Quain's Motion on Duquesne Light Company's Restructuring case setting forth the Total CTC Revenue Requirement is inconsistent with the intent of the Motion and with Duquesne's testimony.

Total CTC Revenue Requirement on Attachment C is defined as the sum of "Return Of and On Stranded + Return On Unamort. Deferred Tax Balance ". Additionally, the Attachment caption states that "DLC gets return on unamortized Deferred Tax balance (See DLC Statement No. 2, Clayton Testimony)."

Duquesne did not petition for recovery of a return on its unamortized deferred tax balance. Rather, the claim was for recovery of its unamortized deferred tax balance, which is consistent with traditional ratemaking.

The testimony referenced on the schedule caption of Attachment C (See DLC Statement No. 2, Clayton Testimony) discusses the return on the regulatory asset related to FAS 109, which is distinct from and unrelated to the issue of the ultimate deferred tax balance. The misinterpretation of that portion of DLC's testimony has caused the schedule detailing Duquesne's Total CTC Revenue Requirement to be in error, by providing (in column four) for the recovery of a return on the unamortized deferred tax balance rather than the return of that deferral.

A supporting schedule entitled "Buildup of Deferred Tax Revenue Requirement" shows the return both of and on the deferred tax balance of \$493,344,701. However, only the return on that balance shown on this supporting schedule is incorporated into the Total CTC Revenue Requirement on Attachment C.

The **corrected** Attachment C shows a monthly recovery in the fourth column of \$5,873,151 (straight-line amortization of \$493,344,701 unamortized deferred tax balance over 84 months), rather than the return on that deferral. This change reflects both the intent of Chairman Quain's Motion as well as DLC's petition for recovery of deferred taxes. The caption on the corrected Attachment C is consistent with these changes.

1 deferred Employee Costs, DOE Decontamination and decommissioning costs, pre-accrual  
2 of nuclear outage costs, deferred pilot program costs. A return as well as recovery is  
3 claimed for all of the Company's other regulatory assets.

4 Q. Is it appropriate for the Company to earn a return on the regulatory asset related to FAS  
5 109?

6 A. Yes. For purposes of estimating stranded costs as of 2005, the Company has reduced the  
7 book value of its generation assets by the full amount of its accumulated deferred tax and  
8 accumulated ITC balances. The Company proposes that the final market-based valuation  
9 should similarly account for deferred taxes and ITCs. Thus, customers will be credited with  
10 the full value of these balances against the book value of generation. Accordingly, it is  
11 appropriate for the Company to claim a return on the tax related asset. Since the Company  
12 is amortizing its tax related regulatory asset more rapidly than it is reversing its deferred tax  
13 balance (i.e., the regulatory asset is being amortized over the Transition Period while the  
14 deferred tax balance is being reversed over the remaining life of the Company's plants),  
15 Duquesne's customers will actually incur a lower total revenue requirement than they  
16 would under traditional ratemaking. Of course, both methods produce the same present  
17 value of revenue requirements. If a return were to be denied on the tax related assets, then  
18 an offsetting adjustment should be made to the generation related deferred tax balance.

19 Q. How were debt discounts and premiums included in your stranded cost claim?

20 A. Duquesne's cost of capital assumes that debt discounts and premiums will be amortized  
21 (and earn a return equal to the Company's cost of capital) over the average remaining life of  
22 its outstanding debt and preferred securities. Since the Transition Period is shorter than the  
23 remaining average life of the Company's securities, a shortfall would be experienced. As

This is referring to a Regulatory Asset  
Not Deferred Tax Liability



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

Original Attachment C

Month	Monthly kwh	Stranded		Stranded Revenue Requirement	Monthly Return:		Annual Return:		
		\$	1,331,368,299		\$	22,796,269		0.9167%	11.000%
		Stranded	Beg. Of Month		Deferred Tax	Total Monthly	Revenue Req.		
1	1,098,149,000	\$	1,326,300,000	\$	22,796,269	\$	4,486,348	\$	27,282,617
2	1,098,149,000	\$	1,315,661,401	\$	22,796,269	\$	4,450,039	\$	27,246,309
3	1,098,149,000	\$	1,304,925,442	\$	22,796,269	\$	4,413,398	\$	27,209,667
4	1,098,149,000	\$	1,294,090,990	\$	22,796,269	\$	4,376,421	\$	27,172,690
5	1,098,149,000	\$	1,283,157,221	\$	22,796,269	\$	4,339,105	\$	27,135,374
6	1,098,149,000	\$	1,272,123,227	\$	22,796,269	\$	4,301,447	\$	27,097,716
7	1,098,149,000	\$	1,260,988,087	\$	22,796,269	\$	4,263,444	\$	27,059,713
8	1,098,149,000	\$	1,249,750,876	\$	22,796,269	\$	4,225,092	\$	27,021,361
9	1,098,149,000	\$	1,238,410,656	\$	22,796,269	\$	4,186,389	\$	26,982,658
10	1,098,149,000	\$	1,226,966,485	\$	22,796,269	\$	4,147,331	\$	26,943,600
11	1,098,149,000	\$	1,215,417,409	\$	22,796,269	\$	4,107,915	\$	26,904,184
12	1,098,149,000	\$	1,203,762,466	\$	22,796,269	\$	4,068,137	\$	26,864,406
13	1,116,406,000	\$	1,192,000,686	\$	22,796,269	\$	4,027,995	\$	26,824,264
14	1,116,406,000	\$	1,180,131,090	\$	22,796,269	\$	3,987,485	\$	26,783,754
15	1,116,406,000	\$	1,168,152,689	\$	22,796,269	\$	3,946,604	\$	26,742,873
16	1,116,406,000	\$	1,156,064,486	\$	22,796,269	\$	3,905,348	\$	26,701,617
17	1,116,406,000	\$	1,143,865,475	\$	22,796,269	\$	3,863,714	\$	26,659,983
18	1,116,406,000	\$	1,131,554,639	\$	22,796,269	\$	3,821,698	\$	26,617,967
19	1,116,406,000	\$	1,119,130,955	\$	22,796,269	\$	3,779,297	\$	26,575,566
20	1,116,406,000	\$	1,106,593,386	\$	22,796,269	\$	3,736,507	\$	26,532,776
21	1,116,406,000	\$	1,093,940,890	\$	22,796,269	\$	3,693,325	\$	26,489,594
22	1,116,406,000	\$	1,081,172,412	\$	22,796,269	\$	3,649,748	\$	26,446,017
23	1,116,406,000	\$	1,068,285,890	\$	22,796,269	\$	3,605,770	\$	26,402,039
24	1,116,406,000	\$	1,055,283,251	\$	22,796,269	\$	3,561,390	\$	26,357,659
25	1,134,810,500	\$	1,042,160,412	\$	22,796,269	\$	3,516,603	\$	26,312,872
26	1,134,810,500	\$	1,028,917,280	\$	22,796,269	\$	3,471,405	\$	26,267,674
27	1,134,810,500	\$	1,015,552,752	\$	22,796,269	\$	3,425,793	\$	26,222,062
28	1,134,810,500	\$	1,002,065,717	\$	22,796,269	\$	3,379,763	\$	26,176,032
29	1,134,810,500	\$	988,455,050	\$	22,796,269	\$	3,333,311	\$	26,129,580
30	1,134,810,500	\$	974,719,619	\$	22,796,269	\$	3,286,433	\$	26,082,702
31	1,134,810,500	\$	960,858,280	\$	22,796,269	\$	3,239,125	\$	26,035,394
32	1,134,810,500	\$	946,869,878	\$	22,796,269	\$	3,191,384	\$	25,987,653
33	1,134,810,500	\$	932,753,250	\$	22,796,269	\$	3,143,205	\$	25,939,474
34	1,134,810,500	\$	918,507,219	\$	22,796,269	\$	3,094,585	\$	25,890,854
35	1,134,810,500	\$	904,130,599	\$	22,796,269	\$	3,045,518	\$	25,841,787
36	1,134,810,500	\$	889,622,194	\$	22,796,269	\$	2,996,002	\$	25,792,271
37	1,153,829,667	\$	874,980,795	\$	22,796,269	\$	2,946,032	\$	25,742,302
38	1,153,829,667	\$	860,205,183	\$	22,796,269	\$	2,895,605	\$	25,691,874
39	1,153,829,667	\$	845,294,128	\$	22,796,269	\$	2,844,714	\$	25,640,983
40	1,153,829,667	\$	830,246,389	\$	22,796,269	\$	2,793,358	\$	25,589,627
41	1,153,829,667	\$	815,060,712	\$	22,796,269	\$	2,741,530	\$	25,537,799
42	1,153,829,667	\$	799,735,832	\$	22,796,269	\$	2,689,228	\$	25,485,497

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

DLC gets return of unamortized Deferred Tax balance of \$493,344,701 over 84 months (straight-line amortization)

Month	Monthly kwh	Stranded	Stranded Beg. Of Month	\$ 22,796,269 Stranded Revenue Requirement	\$ Deferred Tax Revenue Req.	Annual Return:
		\$ 1,331,368,299				11.000%
						Total Monthly Revenue Req.
1	1,098,149,000	\$ 1,326,300,000	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
2	1,098,149,000	\$ 1,315,661,481	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
3	1,098,149,000	\$ 1,304,925,442	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
4	1,098,149,000	\$ 1,294,090,990	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
5	1,098,149,000	\$ 1,283,157,221	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
6	1,098,149,000	\$ 1,272,123,227	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
7	1,098,149,000	\$ 1,260,988,087	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
8	1,098,149,000	\$ 1,249,750,876	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
9	1,098,149,000	\$ 1,238,410,656	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
10	1,098,149,000	\$ 1,226,968,485	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
11	1,098,149,000	\$ 1,215,417,409	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
12	1,098,149,000	\$ 1,203,762,466	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
13	1,116,406,000	\$ 1,192,000,686	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
14	1,116,406,000	\$ 1,180,131,090	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
15	1,116,406,000	\$ 1,168,152,689	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
16	1,116,406,000	\$ 1,156,064,486	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
17	1,116,406,000	\$ 1,143,865,475	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
18	1,116,406,000	\$ 1,131,554,639	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
19	1,116,406,000	\$ 1,119,130,955	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
20	1,116,406,000	\$ 1,106,593,386	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
21	1,116,406,000	\$ 1,093,940,890	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
22	1,116,406,000	\$ 1,081,172,412	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
23	1,116,406,000	\$ 1,068,286,890	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
24	1,116,406,000	\$ 1,055,283,251	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
25	1,134,810,500	\$ 1,042,160,412	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
26	1,134,810,500	\$ 1,028,917,280	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
27	1,134,810,500	\$ 1,015,552,752	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
28	1,134,810,500	\$ 1,002,065,717	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
29	1,134,810,500	\$ 988,455,050	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
30	1,134,810,500	\$ 974,719,610	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
31	1,134,810,500	\$ 960,858,280	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
32	1,134,810,500	\$ 946,869,878	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
33	1,134,810,500	\$ 932,753,250	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
34	1,134,810,500	\$ 918,507,219	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
35	1,134,810,500	\$ 904,130,599	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
36	1,134,810,500	\$ 889,622,194	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
37	1,153,829,667	\$ 874,980,795	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
38	1,153,829,667	\$ 860,205,183	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
39	1,153,829,667	\$ 845,294,128	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
40	1,153,829,667	\$ 830,246,389	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
41	1,153,829,667	\$ 815,060,712	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	
42	1,153,829,667	\$ 799,735,832	\$ 22,796,269	\$ 5,873,151	\$ 28,669,420	

**Buildup of Deferred Tax Revenue Requirement**

See page 1 Attachment C for Revenue Requirement result

Month	Monthly kwh	\$ 493,344,701	Return:	Return Of + On:	Def. Tax	
		Def. Tax Principal	11.000%	\$ 8,447,263	Amort.	Running Total:
1	1,098,149,000	489,419,764	4,522,326	\$ 8,447,263	3,924,937	
2	1,098,149,000	485,458,849	4,486,348	\$ 8,447,263	3,960,915	7,885,852
3	1,098,149,000	481,461,625	4,450,039	\$ 8,447,263	3,997,224	11,883,076
4	1,098,149,000	477,427,760	4,413,398	\$ 8,447,263	4,033,865	15,916,941
5	1,098,149,000	473,356,918	4,376,421	\$ 8,447,263	4,070,842	19,987,783
6	1,098,149,000	469,248,759	4,339,105	\$ 8,447,263	4,108,158	24,095,942
7	1,098,149,000	465,102,943	4,301,447	\$ 8,447,263	4,145,816	28,241,758
8	1,098,149,000	460,919,123	4,263,444	\$ 8,447,263	4,183,820	32,425,578
9	1,098,149,000	456,696,952	4,225,092	\$ 8,447,263	4,222,171	36,647,749
10	1,098,149,000	452,436,078	4,186,389	\$ 8,447,263	4,260,875	40,908,623
11	1,098,149,000	448,136,145	4,147,331	\$ 8,447,263	4,299,933	45,208,556
12	1,098,149,000	443,796,796	4,107,915	\$ 8,447,263	4,339,349	49,547,905
13	1,116,406,000	439,417,670	4,068,137	\$ 8,447,263	4,379,126	53,927,031
14	1,116,406,000	434,998,402	4,027,995	\$ 8,447,263	4,419,268	58,346,299
15	1,116,406,000	430,538,625	3,987,485	\$ 8,447,263	4,459,778	62,806,076
16	1,116,406,000	426,037,965	3,946,604	\$ 8,447,263	4,500,659	67,306,736
17	1,116,406,000	421,496,050	3,905,348	\$ 8,447,263	4,541,915	71,848,651
18	1,116,406,000	416,912,501	3,863,714	\$ 8,447,263	4,583,549	76,432,200
19	1,116,406,000	412,286,935	3,821,698	\$ 8,447,263	4,625,565	81,057,766
20	1,116,406,000	407,618,969	3,779,297	\$ 8,447,263	4,667,966	85,725,732
21	1,116,406,000	402,908,213	3,736,507	\$ 8,447,263	4,710,756	90,436,488
22	1,116,406,000	398,154,275	3,693,325	\$ 8,447,263	4,753,938	95,190,426
23	1,116,406,000	393,356,759	3,649,748	\$ 8,447,263	4,797,516	99,987,942
24	1,116,406,000	388,515,266	3,605,770	\$ 8,447,263	4,841,493	104,829,435
25	1,134,810,500	383,629,393	3,561,390	\$ 8,447,263	4,885,873	109,715,308
26	1,134,810,500	378,698,732	3,516,603	\$ 8,447,263	4,930,661	114,645,969
27	1,134,810,500	373,722,874	3,471,405	\$ 8,447,263	4,975,858	119,621,827
28	1,134,810,500	368,701,404	3,425,793	\$ 8,447,263	5,021,470	124,643,297
29	1,134,810,500	363,633,903	3,379,763	\$ 8,447,263	5,067,500	129,710,798
30	1,134,810,500	358,519,951	3,333,311	\$ 8,447,263	5,113,953	134,824,750
31	1,134,810,500	353,359,120	3,286,433	\$ 8,447,263	5,160,830	139,985,581
32	1,134,810,500	348,150,982	3,239,125	\$ 8,447,263	5,208,138	145,193,719
33	1,134,810,500	342,895,103	3,191,384	\$ 8,447,263	5,255,879	150,449,598
34	1,134,810,500	337,591,045	3,143,205	\$ 8,447,263	5,304,058	155,753,656
35	1,134,810,500	332,238,366	3,094,585	\$ 8,447,263	5,352,679	161,106,335
36	1,134,810,500	326,836,621	3,045,518	\$ 8,447,263	5,401,745	166,508,080
37	1,153,829,667	321,385,360	2,996,002	\$ 8,447,263	5,451,261	171,959,341
38	1,153,829,667	315,884,129	2,946,032	\$ 8,447,263	5,501,231	177,460,572
39	1,153,829,667	310,332,471	2,895,605	\$ 8,447,263	5,551,659	183,012,230
40	1,153,829,667	304,729,922	2,844,714	\$ 8,447,263	5,602,549	188,614,779
41	1,153,829,667	299,076,016	2,793,358	\$ 8,447,263	5,653,906	194,268,685
42	1,153,829,667	293,370,283	2,741,530	\$ 8,447,263	5,705,733	199,974,418
43	1,153,829,667	287,612,247	2,689,228	\$ 8,447,263	5,758,036	205,732,454
44	1,153,829,667	281,801,430	2,636,446	\$ 8,447,263	5,810,818	211,543,271

45	1,153,829,667	275,937,346	2,583,180	\$	8,447,263	5,864,084	217,407,355
46	1,153,829,667	270,019,508	2,529,426	\$	8,447,263	5,917,838	223,325,193
47	1,153,829,667	264,047,424	2,475,179	\$	8,447,263	5,972,084	229,297,277
48	1,153,829,667	258,020,595	2,420,435	\$	8,447,263	6,026,829	235,324,106
49	1,173,544,000	251,938,521	2,365,189	\$	8,447,263	6,082,074	241,406,180
50	1,173,544,000	245,800,694	2,309,436	\$	8,447,263	6,137,827	247,544,007
51	1,173,544,000	239,606,604	2,253,173	\$	8,447,263	6,194,090	253,736,097
52	1,173,544,000	233,355,734	2,196,394	\$	8,447,263	6,250,869	259,988,967
53	1,173,544,000	227,047,565	2,139,094	\$	8,447,263	6,308,169	266,297,136
54	1,173,544,000	220,681,571	2,081,269	\$	8,447,263	6,365,994	272,663,130
55	1,173,544,000	214,257,223	2,022,914	\$	8,447,263	6,424,349	279,087,478
56	1,173,544,000	207,773,984	1,964,025	\$	8,447,263	6,483,239	285,570,717
57	1,173,544,000	201,231,315	1,904,595	\$	8,447,263	6,542,668	292,113,386
58	1,173,544,000	194,628,672	1,844,620	\$	8,447,263	6,602,643	298,716,029
59	1,173,544,000	187,965,505	1,784,096	\$	8,447,263	6,663,167	305,379,196
60	1,173,544,000	181,241,259	1,723,017	\$	8,447,263	6,724,246	312,103,442
61	1,194,297,000	174,455,374	1,661,378	\$	8,447,263	6,785,885	318,889,327
62	1,194,297,000	167,607,285	1,599,174	\$	8,447,263	6,848,089	325,737,416
63	1,194,297,000	160,696,422	1,536,400	\$	8,447,263	6,910,863	332,648,279
64	1,194,297,000	153,722,209	1,473,051	\$	8,447,263	6,974,213	339,622,492
65	1,194,297,000	146,684,066	1,409,120	\$	8,447,263	7,038,143	346,660,635
66	1,194,297,000	139,581,407	1,344,604	\$	8,447,263	7,102,659	353,763,294
67	1,194,297,000	132,413,640	1,279,496	\$	8,447,263	7,167,767	360,931,061
68	1,194,297,000	125,180,168	1,213,792	\$	8,447,263	7,233,472	368,164,533
69	1,194,297,000	117,880,390	1,147,485	\$	8,447,263	7,299,778	375,464,311
70	1,194,297,000	110,513,697	1,080,570	\$	8,447,263	7,366,693	382,831,004
71	1,194,297,000	103,079,476	1,013,042	\$	8,447,263	7,434,221	390,265,225
72	1,194,297,000	95,577,108	944,895	\$	8,447,263	7,502,368	397,767,593
73	1,214,002,901	88,005,968	876,123	\$	8,447,263	7,571,140	405,338,733
74	1,214,002,901	80,365,426	806,721	\$	8,447,263	7,640,542	412,979,275
75	1,214,002,901	72,654,846	736,683	\$	8,447,263	7,710,580	420,689,855
76	1,214,002,901	64,873,585	666,003	\$	8,447,263	7,781,261	428,471,116
77	1,214,002,901	57,020,996	594,675	\$	8,447,263	7,852,589	436,323,705
78	1,214,002,901	49,096,426	522,692	\$	8,447,263	7,924,571	444,248,275
79	1,214,002,901	41,099,213	450,051	\$	8,447,263	7,997,213	452,245,488
80	1,214,002,901	33,028,692	376,743	\$	8,447,263	8,070,520	460,316,009
81	1,214,002,901	24,884,192	302,763	\$	8,447,263	8,144,500	468,460,509
82	1,214,002,901	16,665,034	228,105	\$	8,447,263	8,219,158	476,679,667
83	1,214,002,901	8,370,533	152,763	\$	8,447,263	8,294,500	484,974,168
84	1,214,002,901	0	76,730	\$	8,447,263	8,370,533	493,344,701
				\$	493,344,701	493,344,701	

43	1,153,829,667	\$	784,270,475	\$	22,796,269	\$	2,636,446	\$	25,432,715
44	1,153,829,667	\$	768,663,352	\$	22,796,269	\$	2,583,180	\$	25,379,449
45	1,153,829,667	\$	752,913,164	\$	22,796,269	\$	2,529,426	\$	25,325,695
46	1,153,829,667	\$	737,018,599	\$	22,796,269	\$	2,475,179	\$	25,271,448
47	1,153,829,667	\$	720,978,333	\$	22,796,269	\$	2,420,435	\$	25,216,704
48	1,153,829,667	\$	704,791,032	\$	22,796,269	\$	2,365,189	\$	25,161,458
49	1,173,544,000	\$	688,455,348	\$	22,796,269	\$	2,309,436	\$	25,105,706
50	1,173,544,000	\$	671,969,919	\$	22,796,269	\$	2,253,173	\$	25,049,442
51	1,173,544,000	\$	655,333,374	\$	22,796,269	\$	2,196,394	\$	24,992,663
52	1,173,544,000	\$	638,544,328	\$	22,796,269	\$	2,139,094	\$	24,935,363
53	1,173,544,000	\$	621,601,382	\$	22,796,269	\$	2,081,269	\$	24,877,538
54	1,173,544,000	\$	604,503,126	\$	22,796,269	\$	2,022,914	\$	24,819,183
55	1,173,544,000	\$	587,248,135	\$	22,796,269	\$	1,964,025	\$	24,760,294
56	1,173,544,000	\$	569,834,974	\$	22,796,269	\$	1,904,595	\$	24,700,864
57	1,173,544,000	\$	552,262,192	\$	22,796,269	\$	1,844,620	\$	24,640,889
58	1,173,544,000	\$	534,528,327	\$	22,796,269	\$	1,784,096	\$	24,580,365
59	1,173,544,000	\$	516,631,900	\$	22,796,269	\$	1,723,017	\$	24,519,286
60	1,173,544,000	\$	498,571,424	\$	22,796,269	\$	1,661,378	\$	24,457,647
61	1,194,297,000	\$	480,345,393	\$	22,796,269	\$	1,599,174	\$	24,395,443
62	1,194,297,000	\$	461,952,290	\$	22,796,269	\$	1,536,400	\$	24,332,669
63	1,194,297,000	\$	443,390,583	\$	22,796,269	\$	1,473,051	\$	24,269,320
64	1,194,297,000	\$	424,658,728	\$	22,796,269	\$	1,409,120	\$	24,205,389
65	1,194,297,000	\$	405,755,164	\$	22,796,269	\$	1,344,604	\$	24,140,873
66	1,194,297,000	\$	386,678,317	\$	22,796,269	\$	1,279,496	\$	24,075,765
67	1,194,297,000	\$	367,426,599	\$	22,796,269	\$	1,213,792	\$	24,010,061
68	1,194,297,000	\$	347,998,407	\$	22,796,269	\$	1,147,485	\$	23,943,754
69	1,194,297,000	\$	328,392,124	\$	22,796,269	\$	1,080,570	\$	23,876,839
70	1,194,297,000	\$	308,606,116	\$	22,796,269	\$	1,013,042	\$	23,809,311
71	1,194,297,000	\$	288,638,736	\$	22,796,269	\$	944,895	\$	23,741,164
72	1,194,297,000	\$	268,488,322	\$	22,796,269	\$	876,123	\$	23,672,393
73	1,214,002,901	\$	248,153,196	\$	22,796,269	\$	806,721	\$	23,602,990
74	1,214,002,901	\$	227,631,665	\$	22,796,269	\$	736,683	\$	23,532,952
75	1,214,002,901	\$	206,922,019	\$	22,796,269	\$	666,003	\$	23,462,272
76	1,214,002,901	\$	186,022,535	\$	22,796,269	\$	594,675	\$	23,390,944
77	1,214,002,901	\$	164,931,473	\$	22,796,269	\$	522,692	\$	23,318,962
78	1,214,002,901	\$	143,647,076	\$	22,796,269	\$	450,051	\$	23,246,320
79	1,214,002,901	\$	122,167,571	\$	22,796,269	\$	376,743	\$	23,173,012
80	1,214,002,901	\$	100,491,172	\$	22,796,269	\$	302,763	\$	23,099,032
81	1,214,002,901	\$	78,616,072	\$	22,796,269	\$	228,105	\$	23,024,374
82	1,214,002,901	\$	56,540,450	\$	22,796,269	\$	152,763	\$	22,949,032
83	1,214,002,901	\$	34,262,468	\$	22,796,269	\$	76,730	\$	22,872,999
84	1,214,002,901	\$	11,780,272	\$	22,796,269	\$	0	\$	22,796,269
				\$	1,331,368,299				

43	1,153,829,667	\$	784,270,475	\$	22,796,269	\$	5,873,151	\$	28,669,420
44	1,153,829,667	\$	768,663,352	\$	22,796,269	\$	5,873,151	\$	28,669,420
45	1,153,829,667	\$	752,913,164	\$	22,796,269	\$	5,873,151	\$	28,669,420
46	1,153,829,667	\$	737,018,599	\$	22,796,269	\$	5,873,151	\$	28,669,420
47	1,153,829,667	\$	720,978,333	\$	22,796,269	\$	5,873,151	\$	28,669,420
48	1,153,829,667	\$	704,791,032	\$	22,796,269	\$	5,873,151	\$	28,669,420
49	1,173,544,000	\$	688,455,348	\$	22,796,269	\$	5,873,151	\$	28,669,420
50	1,173,544,000	\$	671,969,919	\$	22,796,269	\$	5,873,151	\$	28,669,420
51	1,173,544,000	\$	655,333,374	\$	22,796,269	\$	5,873,151	\$	28,669,420
52	1,173,544,000	\$	638,544,326	\$	22,796,269	\$	5,873,151	\$	28,669,420
53	1,173,544,000	\$	621,601,382	\$	22,796,269	\$	5,873,151	\$	28,669,420
54	1,173,544,000	\$	604,503,126	\$	22,796,269	\$	5,873,151	\$	28,669,420
55	1,173,544,000	\$	587,248,135	\$	22,796,269	\$	5,873,151	\$	28,669,420
56	1,173,544,000	\$	569,834,974	\$	22,796,269	\$	5,873,151	\$	28,669,420
57	1,173,544,000	\$	552,262,192	\$	22,796,269	\$	5,873,151	\$	28,669,420
58	1,173,544,000	\$	534,528,327	\$	22,796,269	\$	5,873,151	\$	28,669,420
59	1,173,544,000	\$	516,631,900	\$	22,796,269	\$	5,873,151	\$	28,669,420
60	1,173,544,000	\$	498,571,424	\$	22,796,269	\$	5,873,151	\$	28,669,420
61	1,194,297,000	\$	480,345,393	\$	22,796,269	\$	5,873,151	\$	28,669,420
62	1,194,297,000	\$	461,952,290	\$	22,796,269	\$	5,873,151	\$	28,669,420
63	1,194,297,000	\$	443,390,583	\$	22,796,269	\$	5,873,151	\$	28,669,420
64	1,194,297,000	\$	424,658,728	\$	22,796,269	\$	5,873,151	\$	28,669,420
65	1,194,297,000	\$	405,755,184	\$	22,796,269	\$	5,873,151	\$	28,669,420
66	1,194,297,000	\$	388,878,317	\$	22,796,269	\$	5,873,151	\$	28,669,420
67	1,194,297,000	\$	367,426,599	\$	22,796,269	\$	5,873,151	\$	28,669,420
68	1,194,297,000	\$	347,988,407	\$	22,796,269	\$	5,873,151	\$	28,669,420
69	1,194,297,000	\$	328,392,124	\$	22,796,269	\$	5,873,151	\$	28,669,420
70	1,194,297,000	\$	308,608,116	\$	22,796,269	\$	5,873,151	\$	28,669,420
71	1,194,297,000	\$	288,638,736	\$	22,796,269	\$	5,873,151	\$	28,669,420
72	1,194,297,000	\$	268,488,322	\$	22,796,269	\$	5,873,151	\$	28,669,420
73	1,214,002,901	\$	248,153,196	\$	22,796,269	\$	5,873,151	\$	28,669,420
74	1,214,002,901	\$	227,631,665	\$	22,796,269	\$	5,873,151	\$	28,669,420
75	1,214,002,901	\$	206,922,019	\$	22,796,269	\$	5,873,151	\$	28,669,420
76	1,214,002,901	\$	186,022,535	\$	22,796,269	\$	5,873,151	\$	28,669,420
77	1,214,002,901	\$	164,931,473	\$	22,796,269	\$	5,873,151	\$	28,669,420
78	1,214,002,901	\$	143,647,076	\$	22,796,269	\$	5,873,151	\$	28,669,420
79	1,214,002,901	\$	122,167,571	\$	22,796,269	\$	5,873,151	\$	28,669,420
80	1,214,002,901	\$	100,491,172	\$	22,796,269	\$	5,873,151	\$	28,669,420
81	1,214,002,901	\$	78,616,072	\$	22,796,269	\$	5,873,151	\$	28,669,420
82	1,214,002,901	\$	56,540,450	\$	22,796,269	\$	5,873,151	\$	28,669,420
83	1,214,002,901	\$	34,262,468	\$	22,796,269	\$	5,873,151	\$	28,669,420
84	1,214,002,901	\$	11,780,272	\$	22,796,269	\$	5,873,151	\$	28,669,420
				\$	1,331,368,289				

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Duquesne Light Company :  
for Approval of its Restructuring Plan : Docket No. R-00974104  
Under Section 2806 of the Public Utility Code :

Joint Application of DQE, Inc., Allegheny :  
Power System, Inc., and AYP Sub, Inc, :  
for Approval of the Transfer by Merger of : Docket No. A-110150-F0015  
the Property and Rights of Duquesne Light :  
Company to Allegheny Power System, Inc. :

Application of West Penn Power Company :  
for Approval of Its Restructuring Plan : Docket No. R-00973981  
Under Section 2806 of the Public Utility Code :

**CERTIFICATE OF SERVICE**

I hereby certify that I have served the Petition of Citizen Power *et al.* for Recusal and for Further Discovery in the above-referenced docket upon the following persons, in the manner specified and on the dates indicated:

Service by FedEx on June 22, 1998

The Honorable John M. Quain  
PA Public Utility Commission  
104 North Office Building  
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The Honorable David W. Rolka  
PA Public Utility Commission  
110 North Office Building  
Harrisburg, PA 17105-3265

The Honorable Aaron Wilson  
PA Public Utility Commission  
116 North Office Building  
Harrisburg, PA 17105-3265

The Honorable Robert K. Bloom  
PA Public Utility Commission  
112 North Office Building  
Harrisburg, PA 17105-3265

The Honorable Nora Brownell  
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Service by fax on June 23, 1998

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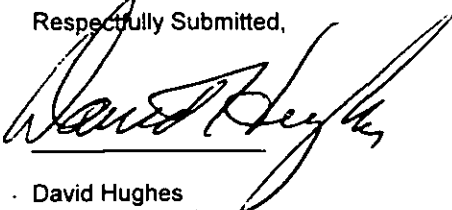
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**ORIGINAL**

June 22, 1998

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**JUN 22 1998**

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
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**PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

Re: Application of Duquesne Light Company for Approval of its Restructuring Plan  
Under Section 2806 of the Public Utility Code, Docket No. R-00974104

Dear Mr. McNulty:

The Environmentalists submit this letter in lieu of a formal Answer to the Petition for Clarification or Reconsideration filed by Duquesne Light Company ("Duquesne"). The Environmentalists believe that the Commission's May 29, 1998 Order in the Duquesne restructuring case is a well-supported, legally-sound, balanced and fair-minded resolution of the complex issues and competing interests in this proceeding. The final Order is good policy and sound law. We ask the Commission to deny the Petition for Reconsideration in its entirety.

The Environmentalists found Duquesne's objections to be without merit. Any reasonable order in a complex proceeding involving many diverse interests can always be assailed by parties who want more. The Final Order achieved a good balance of benefit and pain. That balance should not be shattered by granting the relief requested in Duquesne's Petition for Reconsideration. The Commission was on the right track with the Final Order. The Environmentalists recommend that the Commission stay on track by rejecting Duquesne's Petition for Reconsideration.

This letter is being served on all parties of record in accord with the attached Certificate of Service.

**DOCKETED**  
JUN 25 1998

Sincerely,

Roger E. Clark  
Attorney for the Environmentalists

**DOCUMENT  
FOLDER**

Enclosure: Certificate of Service

Copies: The Honorable John M. Quain  
The Honorable David W. Rolka  
The Honorable Aaron Wilson  
All parties of record

The Honorable Robert K. Bloom  
The Honorable Nora Brownell  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

JUN 22 1998

Application of Duquesne Light :  
Company for Approval of its :  
Restructuring Plan :

Docket No. R-00974104 PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that I have served the Environmentalists' letter response to the Petition for Reconsideration in the above-referenced docket upon the following persons, in the manner specified and on the dates indicated:

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*1st David Hughes*

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June 22, 1998

SRB

COMMONWEALTH OF PENNSYLVANIA

DATE: June 23, 1998

SUBJECT: R-00974104, A-110150F0015, R-00973981

TO: Law Bureau

FROM: *WJZ* James J. McNulty, Secretary

APPLICATION OF DUQUESNE LIGHT COMPANY FOR APPROVAL  
OF ITS RESTRUCTURING PLAN (R-00974104)

JOINT APPLICATION OF DQE, INC., ALLEGHENY POWER SYSTEM,  
INC., AND AYP SUB, INC. FOR APPROVAL OF THE TRANSFER BY  
MERGER OF THE PROPERTY AND RIGHTS OF DUQUESNE LIGHT  
COMPANY TO ALLEGHENY POWER SYSTEM, INC. (A-110150F0015)

APPLICATION OF WEST PENN POWER COMPANY FOR APPROVAL OF  
ITS RESTRUCTURING PLAN (R-00973981)

---

Attached is copy of a Petition for Recusal and for  
Further Discovery of Citizen Power et al. filed in  
connection with the above docketed proceedings.

This matter is assigned to your Bureau for  
appropriate action.

**DOCKETED**  
JUN 23 1998

Attachment

**DOCUMENT  
FOLDER**

wjz

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REP

DIRECT DIAL  
371-7310

June 23, 1998

VIA FEDERAL EXPRESS

James J. McNulty  
Office of the Prothonotary  
Pennsylvania Public Utility Commission  
North Office Building  
North St. & Commonwealth Ave.  
Harrisburg, PA 17105-3265

Re: Duquesne Light Company  
Application for Approval of a Restructuring  
Plan Pursuant to 66 Pa. C.S. § 2806(d)

Dear Mr. McNulty:

Pursuant to the Commission's Order entered May 29, 1998 in Docket R-00974104 enclosed are the diskettes pertaining to the compliance filings made by Duquesne Light Company on June 19<sup>th</sup>, 1998 in Docket Nos. A-110150F.0015 and R-00974104.

DOCUMENT  
FOLDER

Sincerely,

*Denise M. Buffington*  
Denise M. Buffington  
(Legal Assistant)

DOCKETED

Enclosure

JUN 24 1998

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JUN 23 1998

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

37

DOCUMENT  
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PENNSYLVANIA PUBLIC UTILITY  
COMMISSION, ET. AL.

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

DOCKETED  
JUN 2 1998

DOCKET NO. R-00974104

v.

DUQUESNE LIGHT COMPANY

APPLICATION FOR APPROVAL OF ITS  
RESTRUCTURING PLAN UNDER SECTION  
2806 OF THE PUBLIC UTILITY CODE

DOCKETED  
JUN 22 1998

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**ANSWER OF THE DUQUESNE INDUSTRIAL INTERVENORS  
TO THE PETITION FOR CLARIFICATION OR  
RECONSIDERATION OF DUQUESNE LIGHT COMPANY  
REGARDING STAND-ALONE RESTRUCTURING PLAN**

---

On May 29, 1998, the Pennsylvania Public Utility Commission ("Commission") issued a Final Order in the above-captioned proceeding (hereinafter "Final Order"). On June 15, 1998, Duquesne Light Company ("Duquesne") filed a Petition for Clarification or Reconsideration of portions of the Final Order that dealt with Duquesne's stand-alone restructuring plan (hereinafter "Duquesne Petition"). The stand-alone restructuring plan applies to the implementation of electricity generation choice in Duquesne's service territory in the event the merger between Duquesne and Allegheny Energy, Inc., is not consummated. Pursuant to 52 Pa. Code § 5.571(e), the Duquesne Industrial Intervenors hereby submits this Answer to the Duquesne Petition.<sup>1</sup>

---

<sup>1</sup>Duquesne also filed a petition for reconsideration regarding the merger and joint  
(continued...)

Duquesne's Petition raises issues regarding alleged "computational errors that appear in the attachments to the Final Order." Duquesne Petition, p. 1. Duquesne requests reconsideration or clarification on the following issues:

1. The ECR roll-in (id. ¶ 1);
2. The system-average bundled rate (id. ¶ 2);
3. The distribution revenue requirement (id. ¶ 3);
4. The transmission revenue requirement and rates for transmission services and ancillary services (id. ¶ 4);
5. The rate of return for transmission and distribution revenue requirements (id. ¶ 5);
6. The separation of the "Total T&D Rate" in Attachment E of the Final Order into transmission and distribution components (id. ¶ 6);
7. The sales volumes to calculate total transmission and distribution rates (id. ¶ 7);
8. Class universal service charge calculations and yearly reconciliation (id. ¶ 8);
9. The treatment of deferred taxes in the stranded cost calculation (id. ¶ 9);
10. The purported necessity to update the deferred fuel balance (id. ¶ 10);
11. The inclusion of merger synergies in the compliance filing (id. ¶ 11); and
12. Commission action on the claimed deferred rate synchronization cost tax effect regulatory asset (id. ¶ 12).

---

<sup>1</sup>(...continued)

restructuring plan in both the merger docket (Docket No. A-110150F0015) and the instant docket. That petition raises issues applicable only if the merger is consummated. DII will not respond to the claims in that petition; the industrial energy users group (the APS Energy Users Group) in the merger proceeding is responding to that petition for reconsideration. See Answer of the APS Energy Users Group in Opposition to Petitions for Expedited Reconsideration, Recission or Amendment and Request for Oral Argument of Allegheny Energy, Inc., and DOE, Inc., Docket No. A-110150F0015, Answer filed on June 22, 1998.

In Duquesne's prayer for relief, the Company requests reconsideration or clarification on these issues, or, in the alternative, a finding that "these matters are more appropriate[ly] addressed in Duquesne's compliance filing." Duquesne Petition, p. 8.

DII respectfully submits that the issues raised in Duquesne's Petition should be addressed in the compliance filing. DII intends to examine the "errors" explained by Duquesne in its Petition and to address those matters and other issues, as appropriate, in the DII Comments to the compliance filing. DII takes no position in this pleading regarding the validity of any of Duquesne's allegations of "errors" on the part of the Commission. To the extent the Commission entertains the substantive portions of the Duquesne Petition, DII hereby incorporates its comments to the compliance filings by reference.

**WHEREFORE**, because the issues raised in Duquesne's Petition for Reconsideration or Clarification are more appropriately addressed in the compliance filing context, the Duquesne Industrial Intervenors respectfully requests that the Duquesne Petition be denied.

Respectfully submitted,

McNEES, WALLACE & NURICK

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Dated: June 23, 1998

A013172:

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

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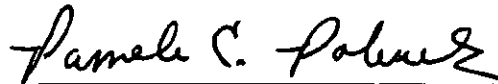
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Dated this 23rd day of June 1998, in Harrisburg, Pennsylvania.

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**ORIGINAL**

June 23, 1998

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Room B-20, North Office Building  
Harrisburg, PA 17120

**VIA HAND DELIVERY**

**Re: Pennsylvania Public Utility Commission v. Duquesne Light Company;  
Docket No. R-00974104**

**Joint Application of DQE, Inc., Allegheny Power System, Inc., and AYP Sub,  
Inc., for Approval of the Transfer by Merger of the Property and Rights of  
Duquesne Light Company to Allegheny Power System, Inc.;  
Docket No. A-110150F.0015**

Dear Secretary McNulty:

On June 15, 1998, the Duquesne Light Company filed the Petition for Expedited Reconsideration of DQE, Inc. and Duquesne Light Company Regarding Merger and Joint Restructuring Plan in both the above-referenced dockets. The Duquesne Industrial Intervenors ("DII") are an active party in the stand-alone docket (R-00974104), but are not a party of record in the merger docket (A-110150F0015). Because the Petition for Expedited Reconsideration deals with issues that appear to apply solely within the context of the merger, DII will not be responding to the Petition. The industrial energy users group in the merger proceeding, the APS Energy Users Group, submitted an answer in opposition to the Petition on June 22, 1998. See Answer in Opposition to

**DOCKETED**  
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James J. McNulty, Secretary  
June 23, 1998  
Page 2

Petitions for Expedited Reconsideration, Recission or Amendment and Request for Oral Argument of Allegheny Energy, Inc., and DOE, Inc., Docket No. A-110150F005. DII hereby endorses the positions of APSEUG as stated in that Answer.

Very truly yours,

McNEES, WALLACE & NURICK

By *Pamela C. Polacek/eee*  
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James P. Dougherty  
Pamela C. Polacek

Counsel to the Duquesne Industrial Intervenors

PCP/clc

c: Chairman John M. Quain (via hand delivery)  
Vice Chairman Robert K. Bloom (via hand delivery)  
Commissioner David W. Rolka (via hand delivery)  
Commissioner Nora Mead Brownell (via hand delivery)  
Commissioner Aaron Wilson, Jr. (via hand delivery)  
Cheryl Walker Davis, Office of Special Assistants (via hand delivery)  
Certificate of Service in Docket No. R-00974104  
Certificate of Service in Docket No. A-110150F0015

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of Section 1.54 (relating to service by a participant).

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