

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Uniform Cover and Calendar Sheet

1. REPORT DATE: October 6, 1998	2. BUREAU AGENDA NO. OCT-98-FUS-1120* Second Revised
3. BUREAU: Fixed Utility Services	
4. SECTION(S): Energy	5. PUBLIC MEETING DATE: October 16, 1998
6. APPROVED BY: Director: Muth 3-5242 Supervisor: Bennett 7-5553 Law Bureau:	DOCKETED OCT 26 1998
7. PERSONS IN CHARGE: Sivulich 7-5865	
8. DOCKET NO.: R-00974104	

- 9. (a) CAPTION (abbreviate if more than 4 lines)**
(b) Short summary of history & facts, documents & briefs
(c) Recommendation

- (a) Duquesne Light Company (Duquesne) - Revised Compliance Tariff Filing.
- (b) On September 12, 1998, Duquesne made its revised Compliance Tariff Filing, in accordance with a Commission Order entered on August 13, 1998.
- (c) The Bureau of Fixed Utility Services recommends that the Commission adopt the attached proposed draft Opinion and Order which deals with the above mentioned filing.

KJK

10. MOTION BY: Commissioner Chm. Quain
SECONDED: Commissioner Bloom

Commissioner Rolka - Yes
 Commissioner Brownell - Yes
 Commissioner Wilson - Yes

CONTENT OF MOTION: Staff recommendation adopted.

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

IN REPLY PLEASE
REFER TO OUR FILE

October 16, 1998

R-00974104

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

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

To Whom It May Concern:

This is to advise you that an Opinion and Order has been adopted by the Commission in Public Meeting on October 16, 1998 in the above entitled proceeding.

An Opinion and Order has been enclosed for your records.

Very truly yours,

James J. McNulty,
Secretary

encls
cert. mail
law

See attached
for additional
parties of record

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PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA. 17105-3265

Public Meeting held October 16, 1998

Commissioners Present:

John M. Quain, Chairman
Robert K. Bloom, Vice Chairman
David W. Rolka
Nora Mead Brownell
Aaron Wilson, Jr.

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

R-00974104

OPINION AND ORDER
(Order on Compliance Filing)

I. INTRODUCTION

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A. History of the Proceeding

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By motion adopted on May 21, 1998, and by Opinion and Order entered on May 29, 1998 (Final Order), the Commission approved a Restructuring Plan for Duquesne Light Company (Duquesne or Company) based upon modifications to Duquesne's original application in this proceeding. The Commission's Order further directed that Duquesne submit a Compliance Filing within twenty days of the entry date of the Order. The Compliance Filing was to incorporate all of the conclusions and directives contained in the order. The filing was due on or before June 18, 1998. The Commission further directed that the Compliance Filing in

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hard copy and electronic versions be served together with any supporting data and analysis on the parties of record on the same date that it is filed with the Commission. All parties were permitted to file comments within seven (7) days of the date that Duquesne's Compliance Filing was filed with the Commission, or by June 25, 1998.

On June 16, 1998, Duquesne filed a Petition for Clarification or Reconsideration, of the Commission's May 29, 1998 Order. By motion adopted June 26, 1998 and by Order entered July 16, 1998, the Commission denied Duquesne's Petition for Clarification or Reconsideration.

On June 18, 1998, in accordance with the Commission's Final Order, Duquesne filed Electric Service Tariff - Pa. P.U.C. No. 18 (Stand-Alone Restructuring Plan), Electric Service Tariff - Pa. P.U.C. No. 19 (Merger Restructuring Plan), and a proposed "Electric Generation Suppliers Services Tariff" (Supplier Tariff). On June 25, 1998, comments were filed by Duquesne Industrial Intervenors (DII), Mid-Atlantic Power Supply Association (MAPSA), Strategic Energy Limited (SEL), New Energy Ventures (NEV), and the Office of Small Business Advocate (OSBA).

On June 24, 1998, the Community Action Association of Pennsylvania (CAAP) filed comments. The Office of Consumer Advocate (OCA) filed comments on June 26, 1998.

Reply comments were filed by Duquesne on July 6, 1998.

By Opinion and Order entered on August 13, 1998 (Order on Compliance Filing), the Commission modified, clarified and corrected the May 29, 1998 Order. The August 13, 1998 Order directed as follows:

1. That this Commission's May 29, 1998 Opinion and Order addressing Duquesne Light Company's proposed Restructuring Plan is modified, in part, consistent with this Opinion and Order, and affirmed in all other respects.

2. That Duquesne is directed to engage in discussions with licensed Electric Generation Suppliers and other interested parties to resolve the matters presented in the proposed suppliers' tariff.

3. That the Bureau of Consumer Services and the Bureau of Audits are directed to develop a standardized reporting format and process to be used for the application and reconciliation of the Universal Service Fund Charge (USFC) and that the Company is directed to cooperate with the Bureaus. Upon completion of this collaborative effort, the Bureaus are further directed to prepare, for the Commission's consideration, a report detailing the USFC application and reconciliation process.

4. That Duquesne is directed to file with the Commission revised stand-alone case and merged case compliance tariffs, including a suppliers' tariff, together with all necessary data and analyses, on or before September 12, 1998, which must actually be received at the Commission's Office of the Secretary by the close of business on that date.

5. That comments relative to Duquesne's Compliance Filing are due on or before September 19, 1998, which must actually be received at the Commission's Office of the Secretary by the close of business on that date.

6. That the Compliance Filing and comments thereto are to be filed with the Commission's Office of the Secretary, with copies to each Commissioner's Office and to the Commission's Bureau of Fixed Utility Services and the Office of Special Assistants. Such filings are to be by hard copy with electronic versions attached consistent with prior directives relative to electronic versions.

7. That Duquesne Light Company's Compliance Filing, together with all necessary data and analyses, shall be served on all active parties of record to this proceeding. Such service shall be in hand to all the parties on the same date as the Compliance Filing is filed with the Commission.

On September 12, 1998, the Company filed its revised Compliance Filing.

On September 18, 1998 comments were filed by SEL. On September 21, 1998, comments were filed by OSBA, OCA, DII, MAPSA, and Green Mountain Energy Resources (GMER).

Reply comments were filed by Duquesne on September 30, 1998.

Supplemental Comments were filed by DII on October 8, 1998.

On August 28, 1998, Duquesne filed a Petition For Clarification And Reconsideration of Duquesne Light Company Regarding Stand-Alone Restructuring Plan of our August 13, 1998 Order. DII and the OCA filed answers

to Duquesne's August 28, 1998 petition on September 8 and 9, 1998, respectively. In addition, CAAP filed an answer to the petition on September 14, 1998.

The Commission has reviewed Duquesne's revised Compliance Filing and has carefully considered the comments, supplemental comments, and reply comments that have been filed. The Commission appreciates the time and effort that was expended in preparing the comments and thanks the commenters for their assistance.

B. Procedural Issues

SEL, which was not a participant in the proceeding, has filed comments as it did with respect to Duquesne's first compliance filing. SEL addresses specifically Duquesne's proposed Supplier Tariff. SEL's comments were served on Duquesne and other participants in the proceeding on September 18, 1998.

In the Commission's Order of August 13, 1998, we set forth that SEL's comments for consideration in this proceeding would be accepted, as Duquesne's Supplier Tariff was not included with its original filing and comments specifically directed to this tariff would aid in our evaluation. Again, we believe it is appropriate to accept SEL's comments regarding this issue. Duquesne was served with SEL's comments and had a sufficient opportunity to respond. Accordingly, we do not believe Duquesne's substantive rights will be adversely affected by our consideration of SEL's comments related to its Supplier Tariff.

In the Commission's Compliance Order of August 13, 1998, we directed Duquesne to file both revised stand-alone case and merger case compliance tariffs, including a suppliers' tariff, with all necessary data and analyses. Duquesne has

failed to file the merger case tariffs and supporting documentation. Its compliance filing addresses only the possibility that it will continue as a stand-alone utility.

We have reviewed and considered the comments filed by DII. The Commission takes notice of DII's concerns regarding the opportunity of the parties to comment on the merger documents when they are filed. All parties will have an opportunity to comment at such time as the merger tariffs and supporting documentation are filed and the Commission will review and consider all comments.

However, at this time whether the merger will be consummated is an open question. It would not be reasonable to require Duquesne to file merger case compliance tariffs at this time. At such time as the parties agree to merge, Duquesne is required to file complete merger case compliance tariffs with all necessary data and analyses on 48 hours notice. The parties to this proceeding will then have ten days from the date that Duquesne's files its compliance tariffs to file comments relative to those tariffs.

In its Petition, Duquesne states that it "...addresses certain computational issues where the Compliance Order either appears to include an inadvertent error or is ambiguous regarding the intended treatment of a cost or revenue item. While the errors appear inadvertent, and Duquesne will submit a second compliance filing that corrects them, Duquesne is addressing them here as well out of an abundance of caution. The petition also addresses limited other issues where Duquesne is requesting that the Commission reconsider a position taken in the Compliance Order."

As noted previously, DII, OCA and CAAP filed answers to Duquesne's August 28, 1998 petition. These parties disagree with Duquesne on the need for the requested clarifications and changes.

In our July 16, 1998 Order rejecting Duquesne's June 16, 1998 Petition for Reconsideration or Clarification, we stated that "as to the computational errors alleged by Duquesne, we note that the OCA and DII suggest that resolution can be deferred to the compliance filing and review. We agree that the validity of Duquesne's averments would be more appropriately considered in the context of the compliance filing. At that time and in that context, all parties will have the benefit of understanding the full impact of Duquesne's requested corrections." Therefore, to the extent that we have considered some of the Company's requested changes and the parties' responses thereto in the instant Order, our prior Orders are modified. However, unless discussed herein, the other matters raised in the petition are denied.

II. STRANDED COSTS

A. Realized Return

The OSBA notes that Duquesne has employed the total distribution rate of return of 9.37% and not the overall system average realized rate of return. The OSBA argues that by applying the overall realized class rates of return from the Company's 1996 cost of service study to the distribution component, the Company would realize a higher rate of return on distribution plant. According to the OSBA, the Company's approach would provide an increased rate of return for the Company and would shift costs to ratepayers since the total charges for non-

generation services would exceed the non-generation charges that were applicable as of the enactment date of the Act.

Resolution

In the Opinion and Order entered on May 29, 1998, Duquesne was directed to calculate the T&D revenue requirement based upon a realized return rather than any required return. Duquesne was directed that this methodology should be encompassed within the calculations of the T&D unbundling and properly set forth in the Compliance filing.

In the comments to the first Compliance filing, the OCA and DII averred that the Company had used the 1988 cost of service study approved by the Commission in a prior rate case and not the 1996 realized return. The OCA contended that this was also not consistent with the Commission's actions in the PECO Energy case, and that the Company should be directed to Comply with the Order and use the 1996 data.

In response, the Commission, in its August 13, 1998 Opinion and Order addressing Duquesne's first Compliance Filing, stated that:

the Company was directed to determine the rate of return which was realized for T&D service for the 1996 test year, and unbundle the T&D rates from generation based upon the realized rate of return of 9.03%.

The Commission further directed the Company "to comply with the Order and use the 1996 data."

It is clear from the language of the Order of the Commission that we intended the use of the 1996 cost of service study as testified to by the parties to the restructuring case, rather than those filed in the Compliance by the Company. It is also apparent from the review of the second Compliance Filing that the Company has not complied with our Order to use 9.03%. We agree, however, with the Company's assessment that the 9.03% is an incorrect realized return if the ECR roll-in of the Company is rejected. We rejected the Company's ECR roll-in amount based upon fuel and purchased power costs of \$13.71/Mwh, ordering the Company to use \$12.80/Mwh. The \$12.80/Mwh would produce a realized return less than the 9.03% that we previously used in the T&D unbundling.

We, therefore, direct the Company to recalculate the overall system average realized return for 1996, and to employ that percentage return in a recalculation of the T&D.

B. Sales Volume

The DII note that despite two Commission requirements that the 1999 volumes developed by the OCA should be used, the Company employed the 1996 sales volumes. The DII cited the Commission Compliance Filing Order which stated:

While in our May 29, 1998, Order, we adopted the ALJ's recommendation to employ Duquesne's use of its 1996 cost of service study as the basis for allocating all of its costs between generation, transmission, and distribution, we also concluded that it was appropriate to employ the OCA's 1999 sales level of 12,519,000,000 kWa for the buildup of T&D rates.

We will accept the clarification requested by the OCA, and we direct Duquesne to employ the 1999 sales level.

Resolution

The Commission's May 29, 1998 Opinion and Order used the OCA's retail kWh for 1999 of 12,519,000,000 in calculating the T&D unbundled rate. The Company had used the actual 1996 sales volume, making the argument that it is not appropriate to match the 1996 plant, revenues and expenses (i.e. revenue requirement) with future (1999) sales levels. The Company, in its First Compliance Filing, failed to employ the 1999 sales estimate. We then directed Duquesne in our August 13, 1998 Order to employ the 1999 in the Second Compliance Filing.

We again direct the Company to use the 1999 sales volume of 12,519,000,000 kWh.

C. CTC-Stand Alone Compliance Filing

In our May 29, 1998 Order, we accepted the Company's offer for divestiture of its generating assets in order to determine the value of its stranded utility generation in the event that the proposed merger with APS was not consummated. We recognized that divestiture may not be accomplished by January 1, 1999, and that for an interim period the shopping credit in use shall continue to be the Pilot Customer Participation Credit and the energy credits. As stated in our August 13, 1998 Order, we reaffirm, that following the implementation of any divestiture plan, a transition period, and a CTC, shall be adopted that reconciles the actual

stranded costs with the proceeds of divestiture and the interim amount collected.

Upon review of the charges proposed in the “stand-alone” Compliance Filing, we will adopt the Company’s proposal for the interim CTC charges.

D. Inconsistencies Exist In Duquesne’s Distribution Cost of Service Study That Indicate Potential Flaws Requiring Further Information and Analysis.

DII states that as part of the Revised Compliance Filing, Duquesne was required to correct pervasive flaws that existed in its calculation of transmission and distribution rates in the Original Compliance Filing. DII further states that Duquesne was required to correct errors in the calculation of its distribution revenue requirement, the sales volume used in the build-up of transmission and distribution rates, and the class rates of return used to establish rates. Order on Compliance Filing, pp. 5-7 and 9-11. DII contends that the revised distribution COSS submitted by Duquesne in support of its proposed rates contains some apparent inconsistencies that may indicate flaws in the study.

DII contends that a second problem appears to exist in the amount of income taxes allocated to Rates L and HVPS in the COSS. DII states that Duquesne has assigned to Rate HVPS approximately three times the amount of income taxes that it assigned to Rate L. DII contends that this appears to be a flaw based on the fact that Rate HVPS earns a negative return on equity for the Company, while Rate L earns a positive return. DII further explains that “in other words, Duquesne assigns to Rate HVPS more income tax responsibility even though the Company does not earn a profit from the distribution service provided

to the class.” Finally, DII states that this apparent inconsistency in the revised distribution COSS is not explained in the Revised Compliance Filing.

Resolution

We note that Duquesne did not respond to these allegations in its reply comments. Therefore, in its next compliance filing, Duquesne is directed to comply with all aspects of our August 13, 1998 Order and the directives herein regarding cost of service. In addition, Duquesne is directed to provide a written response to the DII cost of service study allegations as part of its next compliance filing, and include all detailed calculations and information necessary to support its cost of service, allocations, and income taxes.

III. TARIFF ISSUES

A. ECR Roll-In

The OCA states that in its Petition for Reconsideration, Duquesne sought a determination that the appropriate ECR to roll in is not 12.8 mills/kWh as determined by the Commission in its Order of August 13, 1998, but 13.713 mills/kWh. The OCA states that Duquesne argues that 13.713 mills/kWh is the appropriate amount because it removes an overcollection component which was reflected in the ECR rate on the effective date of the Act.

The OCA states that the issue is not what components made up the rate on the effective date of the Act, but what the total ECR rate was on the effective date

of the Act. The OCA states that on the effective date of the Act, Duquesne was charging an ECR that allowed it to collect energy costs of 12.8 mills/kWh. The OCA submits that Duquesne has not complied with the Commission's Order. The OCA therefore submits that Duquesne should be directed to roll its ECR into base rates at 12.8 mills/kWh.

DII states that the Commission clearly rejected Duquesne's proposals to roll the ECR into base rates at any level other than the 12.8 mills in the rate effective on December 31, 1996. DII states that the only permissible level under the Act is the actual ECR level in effect on the effective date of the Act. DII states that Duquesne's proposal to adjust the ECR level at December 31, 1996, prior to rolling the ECR into base rates is contrary to the dictates of the Act.

Duquesne states that the OCA and DII contentions are in error. Duquesne states that prior overcollections must be removed in setting an energy cost rate on a going-forward basis throughout the transition period. Duquesne argues that since the over-collection was fully refunded as a credit component of the ECR during the twelve-month period ending March 31, 1997, it must be removed for purposes of establishing compliance rate caps.

Resolution

We agree with the OCA and DII that the Act requires that we consider only the rate at December 31, 1996. The issue is not what components made up the rate on the effective date of the Act, but what the ECR rate was on the effective date of the Act. Therefore, we direct Duquesne to roll its ECR into base rates at 12.8 mills/kWh.

B. Rule 3.3 (Competitive Transition Charge Reconciliation)

The OCA states that this Rule should state that the revenues collected from each class in this interim period will be used to adjust the amount owed by each class. The OCA believes this is the intention of the Rule, but additional language could be added to clarify this point.

Resolution

We agree with the OCA. We believe that the additional language will add clarity to the Rule. Therefore, we direct Duquesne to add the clarifying language recommended by the OCA.

C. Provider of Last Resort

The OCA states that at Original Page 31 for Rate RS, Original Page 34 for Rate RH and Original Page 37 for Rate RA in the section "Electric Charges" in the third paragraph, Duquesne added a clause to the second sentence and added a third sentence. The OCA states that Duquesne was not directed to make any

modifications to this paragraph. The OCA submits that these revisions change Duquesne's obligation and are inconsistent with Duquesne's obligation as a provider of last resort.

The OCA states that Duquesne, when describing its obligations to customers who have not chosen a supplier or whose supplier is unavailable, has limited its obligations to "reasonable periods of time in a month." The OCA states that the statutory obligation to serve these customers at the rates contained in the tariff is without limitation. The OCA states that the limitation should be removed and the original language reinserted.

The OCA states that Duquesne has added a sentence to address the situation where an EGS defaults on the contract. The OCA states that Duquesne seeks the ability to impose charges on customers above the capped tariff rate levels if the supplier defaults. The OCA states that this is in violation of the rate cap provisions of the Act. The OCA submits that this sentence should be deleted.

DII also argues that the Company's changes to its duty to provide service as the Provider of Last Resort are unreasonable and not authorized by the Commission's prior Compliance Filing Order. DII claims that the Company's proposed tariff language limits a customer's ability to return to service at the tariff rates for only "reasonable periods of time in a month" and completely eliminates the ability to return to capped rates if the customer's supplier fails to deliver. DII requests that the Company be directed to return to its prior tariff language.

Resolution

We agree with the OCA and DII that the proposed changes violate the price cap provisions of the Act. We direct Duquesne to make the changes recommended by the OCA.

D. Rule 4 (Contracts) and Riders 8 (Industrial Economic Development Rider for Customers at Existing Service Locations), 9 (Industrial Economic Development Rider for Customers at New Service Locations) and 20 (Small Business Development Rider)

1. Compliance with the Statutory Rate Caps

DII states that Duquesne has failed to include in Rule 4 and Riders 8, 9 and 20 language addressing adherence to the rate caps through the continued availability to these customers of rates consistent with the charges in effect on January 1, 1997. DII states that Riders 8, 9 and 20 are available to customers for a period not exceeding five years. DII states that the generation rate cap will remain effective longer than five years. DII states that Duquesne must be required to adhere to these rate caps after expiration of the contracts and make Rule 4 and Riders 8, 9 and 20 contract customers rates commensurate with the rate cap as of January 1, 1997.

Duquesne states that DII's contentions regarding Rule 4 contracts and Riders 8, 9 and 20 merely rehash arguments previously raised which merit no response at all.

Resolution

We agree with DII. In other restructuring proceedings, we have stated that the rate cap provisions of Section 2804(4) of the Act apply to customers taking service under special contracts. Therefore, we direct Duquesne to specify in its tariff that it will make available to Rule 4 and Riders 8, 9 and 20 customers rates commensurate with the rate cap as of January 1, 1997.

2. Unbundling of Special Contracts

DII states that Rule 4 states that "the dollar value of the customer's discount from otherwise applicable tariff rates will be allocated equally between the CTC charges of the bill and the generation charges of the bill." DII states that the unbundling treatment for the discounts in Riders 8, 9 and 20 are as follows:

The dollar value of the credit will be applied first to the total distribution charges of the contract. If the credit is greater than the total distribution charges, the balance of the credit will be allocated equally between the CTC charges of the bill and the generation charges of the bill.

DII states that the discounts in each of the bundled rate elements should apply to both demand and energy components of the unbundled rate element. DII states that this is necessary to ensure compliance with the rate caps for these customers. DII states that both the demand and energy charges of each unbundled rate element must continue to be eligible for the discount and must have the discount designed into the unbundled rates.

Duquesne states that DII's contentions regarding Rule 4 contracts and Riders 8, 9 and 20 merely rehash arguments previously raised which merit no response at all.

Resolution

We agree with DII that further clarification is necessary. We direct Duquesne to specify that the discounts in each of the unbundled rate elements will apply to both the demand and energy components of the unbundled rate element. We believe that this will ensure compliance with the rate caps for special contract customers.

3. Disparate Treatment

DII states that the tariff could be interpreted as authorizing disparate treatment for a customer depending on whether the customer remains taking service from Duquesne or switches to an alternative supplier. DII states that any ambiguity can be removed by making the following changes to the language at Rule 4.

For contracts that do not contain provisions governing the customer's rights under direct access, the Company will unbundle the customer's contract effective as of January 1, 1999, in a manner that retains the customer discount and reflects the amount of transmission, distribution, CTC and generation charges in the customer contract. The customer may continue to purchase electricity from the Company in accordance with the terms and conditions of the contract; terminate the contract and obtain electricity from an EGS on the otherwise applicable tariff rates according to their eligibility under direct access; or, retain the Company's services under the unbundled rates of the contract and purchase electrical energy from an EGS. ~~For customers who continue to purchase power from the Company through~~

~~their contract, the Company will unbundle the contract in a manner that retains the customer discount and that reflects the amount of transmission, distribution, CTC and generation charges in the customer contract. The dollar value of the customer's discount from otherwise applicable tariff rates will be allocated equally between the CTC charges components of the bill and the generation charges components of the unbundled rates bill. The discount will be applied to both the demand and energy components of the unbundled rate elements. Contract expiration shall not affect the applicability of any statutory rate cap. For customers who elect to terminate their contract and obtain electricity from an EGS, the customer will return to the otherwise applicable tariff rates. For customers who retain the unbundled contract rates and purchase electricity from an EGS, the discount allocated to the CTC charges (that discount that would have otherwise been provided to the customer had they continued to purchase electricity from the Company under the contract) will be applied to the CTC charges of the bill.~~

DII states that similar language should be used regarding the unbundling of Riders 8, 9 and 20 arrangements, with appropriate changes to reflect the differing allocation of the discount to distribution, CTC and generation rates (if necessary) because of the nature of the discount.

Duquesne states that DII's contentions regarding Rule 4 contracts and Riders 8, 9 and 20 merely rehash arguments previously raised which merit no response at all.

Resolution

We agree with DII that the filed tariff provisions are subject to incorrect interpretations. Therefore, we direct Duquesne to adopt DII recommended language in Rule 4 and Riders 8, 9 and 20.

E. The Company Fails to Include Language Regarding the Transmission and Distribution Rate Cap.

According to DII the proposed tariff submitted with the Revised Compliance Filing states on numerous rate schedules the transmission charges that will be imposed on customers receiving supply from the Company. (See Revised Compliance Filing, Proposed Tariff, pp. 31, 39-40, 48-49, 57-58, 62). DII submits that Duquesne fails to acknowledge that it must comply with the Act's rate caps in imposing the transmission charge.

DII avers that although the Commission does not regulate transmission, at the effective date of Chapter 28 of the Act, the Commission regulated the bundled rate that Duquesne was permitted to charge customers for service, which included a transmission component. Consequently, the transmission charge that Duquesne levies on customers for the first 54 months must comply with the non-generation charge rate caps. In DII's view this is applicable whether or not the FERC changes the transmission charge revenue requirements. According to DII, if the FERC-approved transmission charge will result in the customer's charges for non-generating services exceeding the level in effect on January 1, 1997, the Company must adjust other aspects of the non-generating charges to insure rate cap compliance (i.e., the distribution charge).

Resolution

We agree with the DII that nothing in Duquesne's filing acknowledges its obligation to comply with the rate cap or explains how it intends to adjust other charges to ensure compliance with the rate cap. We, therefore, direct the Company to revise its Compliance filing with both an acknowledgment of the rate cap obligations and an explanation of how it will comply with those obligations if the FERC approves a transmission rate at variance with the rate used to unbundle the tariffs.

F. The Company's Treatment of Interruptible Customers under Rider 7 is Improper.

DII contends that Duquesne adds the following sentence to its tariff Rider 7 that improperly restricts the ability of these customers to participate in the competitive market during the phase-in:

Customers purchasing electricity from the Company and an EGS must purchase their entire Interruptible load from the Company in order to qualify for the credit in this rider.

Revised Compliance Filing, Proposed Tariff, p.94. DII contends that the Order on Compliance Filing did not require Duquesne to make any changes to Rider 7.

DII points out that during the first two stages of direct access phase-in, industrial and large commercial customers have the opportunity to have at least 33% and 66% of their load supplied by a competitive supplier. The remaining portion of the customer's load will be supplied by the Company. DII reasons that the Company's language in Rider 7 states that an Interruptible customer will lose

the ability to have Interruptible load supplied by the Company if it takes Interruptible power from an EGS.

Resolution

We agree with DII. The meaning of the above sentence, reproduced from page 94 of Duquesne's tariff, is clear. In order to continue receiving interruptible service from the Company, the customer must either remain with Duquesne for the entire load during the phase-in or contract with an EGS only for firm power; the customer cannot remain 100% interruptible by receiving 66% of its interruptible power from an EGS and 33% from the Company.

We further agree with DII that the Company's proposal to limit the availability of interruptible service is improper and anti-competitive and must be eliminated from the direct access tariff. We direct Duquesne to submit a further revised compliance filing eliminating the restriction during the Phase-In.

IV. UNIVERSAL SERVICE AND ENERGY CONSERVATION

A. Funding - Roll Over

The Order on Compliance Filing directs Duquesne to roll over unspent funds into subsequent years. If funds are unspent in a given year, we will review with Duquesne the reasons for the underspending and determine whether modifications to the plan are necessary. Duquesne requests that the Commission reconsider and remove its direction to roll over unspent funds. Duquesne requests in the alternative, the Commission not require Duquesne to roll over unspent funds

until Duquesne begins to recover universal service charges beginning in July 2001. Duquesne gives the Commission the following reasons for its request. One, Duquesne will need time to expand its programs. Duquesne states it is unreasonable to expect that the Company can completely enroll the number of customers to meet the funding levels on the first day of any calendar year. Second, Duquesne will not assess or collect universal service charges until 2001. Third, Duquesne points out that the goal of universal service is to enable low-income, payment troubled customers to maintain affordable service. Duquesne states the Commission should not require a company to spend more funds than are necessary to achieve the goal cost-effectively. Duquesne argues that spending should not become the goal of universal service programs.

The OCA submits that the Commission's direction to Duquesne to roll over unspent universal service funds is essential in ensuring that universal service is adequately and reasonably available in the Company's service territory. The OCA argues that the Commission's direction to work with the Bureau of Consumer Services to address underspending and the reasons for the underspending provide sufficient flexibility to Duquesne to address the problems and issues raised in its Petition for Reconsideration. The OCA submits that approximately 117,000 households in Duquesne's service territory have incomes below 150% of the federal poverty level. The universal service funding levels target approximately 25,000 to 34,000 households. The OCA submits that Commission approved funding levels support the level of need in Duquesne's territory. Therefore, the OCA submits that the Commission's Order, which provides for consultation with the Bureau of Consumer Services in the unlikely event that Duquesne does not spend the required funding level on cost-effective programs, resolves Duquesne's concern. The OCA requests that the Commission dismiss this issue.

The CAAP argues that the record shows that the level of need in Duquesne's territory is greater than the funding levels approved by the Commission. The CAAP also argues that it is reasonable to assume that unspent funds will be more of an indicator of problems in program design and implementation rather than a lack of low-income need. The CAAP submits that the roll over is necessary to ensure effective program design and outreach plans.

Resolution

The Commission agrees that spending is not and should not become the goal of universal service. However, the Commission supports the OCA and CAAP contention that the level of need in the Company's territory makes it unlikely that Duquesne can meet that need unless Duquesne also meets the funding level directed by the Commission. The Commission set the funding levels to ensure that universal service programs are available and appropriately funded in the Company's service territory. Therefore, the Commission denies Duquesne's request to eliminate roll over of unspent funds. The Commission will review with Duquesne the reason for any underspending, determine if there is a legitimate reason for underspending, and if necessary, develop a plan to address the influencing factors.

B. Cost Recovery - Net Costs

The Order on Compliance Filing directs Duquesne to revise Tariff Rider No. 21 to read: U = The estimated *net* universal service program costs related to the Company's Customer Assistance Programs, (CAP), Customers

Assistance and Referral Evaluation Services (CARES), Smart Comfort Program, Hardship fund and Consumer Credit Counseling Service (CCCS) for the computation year. The Order on Compliance Filing also directs the Company to delay imposition of these charges until July 1, 2001, should the recovery of these costs starting in April 2000, present a violation of the rate cap provisions of the Act.

Duquesne's Second Compliance Filing delays the imposition of USFC costs until July 1, 2001.

Duquesne also requests the Commission to reconsider its direction that universal service costs reflect cost savings associated with universal service programs. Duquesne states that identification of cost savings is inappropriate for several reasons. First, Duquesne states that the process of quantifying the savings is arduous and inexact. Second, Duquesne states the Commission's May 19, 1998 Order allows the Company to recover universal service costs under Duquesne's proposed cost recovery mechanism. Duquesne states that its proposal did not include a net savings approach and the Company did not have an opportunity to challenge the fact that savings are identifiable. Duquesne requests that the Commission remove "net costs" as required in Duquesne's Compliance Order.

The OCA requests that the Commission reject Duquesne's arguments regarding universal service net costs. The OCA submits that the Commission has consistently required a savings offset in determining universal service costs. *Guidelines for Maintaining Universal Service, Docket M-00960890F.0010, pp. 13, 34-35 and West Penn Order on Compliance, pp. 27-28.* The OCA points out that the Commission's Compliance Order directs the Bureaus of Audits and Consumer

Services to develop “the appropriate method to be used for determining costs savings associated with universal service programs”. The OCA submits the development of the reporting format will eliminate Duquesne’s concern that identifying cost savings will be “arduous.”

The OCA submits that Duquesne’s argument that it did not have an opportunity to challenge the proposal for a savings offset is without merit. The OCA argues that Duquesne did not propose a USCF recovery mechanism in its restructuring filing and first submitted a recovery mechanism in its compliance filing. The OCA argues that Duquesne submitted the recovery mechanism without following the Commission’s Guidelines on reflecting cost savings.

The Community Action Association of Pennsylvania (CAAP) argues that the Commission has already directed Duquesne to reflect net universal service costs in its recovery mechanism. The CAAP also supports OCA’s submission that Duquesne has had an opportunity to oppose the use of net costs in the USFC recovery mechanism.

Resolution

The Commission has consistently directed that Companies base universal service reconciliation on all program costs as indicated in the Guidelines. *Guidelines for Maintaining Universal Service, Docket M-00960890F.0010, pp. 13, 34-35 and West Penn Order on Compliance Filing, Docket No. R-00973981 entered July 23, 1998 pp. 27-28.* The Guidelines directed that Companies are to consider all universal service program costs and savings. The Commission has directed its Bureaus of Audits and Consumer Services to develop a standardized

reporting format and process to be used for the application and reconciliation of the USFC. This format should include an appropriate method to be used for determining cost savings associated with universal service programs. We also find that Duquesne's argument that they had no opportunity to challenge the use of net savings is without merit.

The Commission points out that Duquesne's CAP impact evaluation should help to determine net savings or a net CAP cost per customer. Duquesne can use this finding from the impact evaluation as a base for net savings. The Commission directed that Duquesne increase CAP funding to \$5.275 million by 2002, and increase LIURP funding to \$1.75 million by 2002. These funding levels fall under the Company's rate cap and do not change Duquesne's rates. Net savings need only be addressed if Duquesne makes additional claims beyond the funding levels directed by the Commission. Net savings may be an issue after the rate cap expires.

The Commission directs Duquesne that until the Company requests additional recovery for its universal service costs it is not necessary for Duquesne to reflect cost savings associated with universal service programs. However, if Duquesne seeks to recover costs above the level the established by the Commission, Duquesne's recovery request should include net universal service costs.

V. CODE OF CONDUCT

In accordance with our August 13 Order stating that Duquesne should use our February 5, 1998 Order regarding PECO Energy as the basis for the drafting of

an Interim Code of Conduct, the Duquesne Interim Code of Conduct is substantially similar to the PECO Energy Interim Code of Conduct up to paragraph 7. The Duquesne Code does not contain the language contained in PECO Energy's Code relating to joint marketing and use of the EDC name or logo by the supplier (paragraphs 7[b] and 7[c]).

There is also no paragraph regarding consequences/sanctions for violations of the Code (paragraph 8 in PECO Energy).

Paragraph 10 in PECO Energy sets forth that the EDC shall file a compliance filing within 60 days of execution of any settlement which sets forth a detailed plan for compliance with the Code of Conduct, as well as the PUC separation and cost allocation requirements already ordered. We find that a similar requirement is reasonable for Duquesne and we direct the Company to include such a detailed plan for compliance including the separation and cost allocation requirements of this Commission in its Interim Code of Conduct.

Until such time as a state-wide Code of Conduct has been established, we believe it is important that rules of conduct be as uniform as practicable to minimize the possibility of confusion among suppliers and customers. The record here indicates the need for clear rules addressing the marketing constraints which are necessary between EDCs and suppliers. We believe that some of the terms recently adopted with respect to PECO Energy will help to meet that need without placing an additional burden on the Company. The Commission, therefore, directs Duquesne to further revise its Interim Code of Conduct and to comply with the Interim Code of Conduct filed by PECO Energy on April 29, 1998.

Accordingly, Duquesne shall include a paragraph substantially similar to paragraphs 7(b) and 7(c) contained in the PECO Interim Code of Conduct.

Paragraph 7(b) of the PECO Energy Interim Code of Conduct prohibits joint marketing or packaging of Commission jurisdictional, regulated services with the services of a PECO Energy supplier, and specifically bars any EDC from promoting a supplier through the use of bill inserts or websites.

Likewise, paragraph 7(c) places specific restrictions upon the use of an EDC name or logo for purposes of supplier marketing and includes important disclaimers which must be communicated to the public so there is no confusion as to the identity of the supplier. These rules are necessary if consumers are to have a clear understanding of their selection choices.

Additionally, Duquesne shall add a paragraph addressing the sanctions imposed by the PUC for violations of the Code to ensure that there is no confusion as to the ramifications of anti-competitive behavior, as contained in paragraph 8 of PECO's Interim Code of Conduct.

Finally, Duquesne is directed to file within 60 days of the entry of this Order, a detailed plan of Compliance with this Code of Conduct, as well as its plan for cost separations and cost allocations.

VI. Supplier Tariff

A. Supplier Tariff Rules

1. Definition of "Bad Credit"

MAPSA objects to Duquesne's definition of bad credit and claims it is inappropriate in that it considers creditors other than the EDC. MAPSA believes the credit history should be limited to EGS/EDC transactions. Duquesne, in reply comments, states that this is not feasible because in a new relationship there is no credit history to facilitate a review.

Resolution

We agree with MAPSA that Duquesne's broadening of the criteria is unnecessary and we direct the Company to remove the phrase "as evidenced by two payments overdue by sixty days." We believe the definition as modified adequately protects the EDC, and is consistent with the PECO and PP&L definitions. We agree with Duquesne that a credit check is a routine, unintrusive tool which enables an EDC to identify an EGS with bad credit.

2. Rule 4.14(f) - Data Exchange

SEL objects to new matter in the supplier tariff which provides for charges to the EGS for processing costs involved when an EGS sends the company the same erroneous data more than once. SEL states the rule is too broad, the determination is at the sole discretion of the EDC, and a reciprocal provision does not exist.

Duquesne argues that in its Order of August 13, 1998, at Docket No. M-00960890 F.0015, the Commission determined that the costs of processing an EGS sending erroneous data multiple times should be assessed against the sending EDC or EGS, and that this is not an issue in this proceeding.

Resolution

We agree with Duquesne that this is not an issue in this proceeding. Therefore, we will allow the Company to reflect in its tariff the requirements of our August 13, 1998 Order at M-00960890, F.0015, p. 43.

3. Rule 6.4 - Forecasting Process

SEL comments that in our Opinion and Order on Duquesne's Compliance Filing, we strongly encouraged Duquesne to work to establish a one-hour ahead scheduling protocol. SEL argues that one-hour ahead scheduling is feasible on the PJM system and that Duquesne refused to discuss this matter at its August 27, 1998, Supplier Tariff Conference.

SEL argues that there is currently an hourly market for wholesale power in all regions of the country. SEL states that if the parties to these wholesale transactions can reserve the necessary transmission and submit the required NERC tags, then a Control Area Operator can accept the schedule with sufficient notice.

SEL suggests that the Company provide forecasts that EGSs can use as guidelines for determining the appropriate amounts of power to be delivered on an hour-by-hour basis. SEL believes that an EGS should have the ability to modify the schedules up to 20 minutes before each hour. SEL further argues that Duquesne currently accommodates hour-ahead schedules for wholesale transactions.

SEL requests that the Company be directed to provide its forecast before 7:00 a.m. the day prior to the day to which the forecast applies. SEL states that the EGSs then can submit schedules of power deliveries to the Company by 1:00 p.m. with the option to modify these schedules up to twenty minutes before each hour. SEL argues that this is consistent with how the wholesale markets for power currently operate.

Duquesne replies that its scheduling procedures comply with NERC and ECAR scheduling guidelines and good utility operating practices. Duquesne notes it normally accepts scheduling changes with two hour notice, except during emergency situations. The Company believes that SEL's revisions are unnecessary because an EGS may continue to modify its schedule pursuant to Tariff Rule 7.3.

Resolution

We would like to clarify by quoting from our prior Order:

This is not to say that we would not revisit this issue in the future. We would note, however, that in the PECO Supplier Tariff, an EGS is permitted to engage in Real-Time Load Following.

In our August 13, 1998 Order on Compliance Filing, the Commission directed Duquesne to “engage in discussions with licensed Electric Generation Suppliers and other interested parties to resolve the matters presented in the proposed suppliers’ tariff.” In response to this directive, Duquesne held a technical workshop on August 27, 1998, to further address these issues. SEL expressed some satisfaction but stated that several issues, including forecasting, were not discussed. Duquesne is directed to convene the necessary meetings to resolve the outstanding supplier tariff issues and to file a Settlement Agreement on this matter by the close of business November 5, 1998. This meeting should address the feasibility and appropriateness of Real-Time Load Following.

4. Rule 8.6 - EGS Consumption Energy Imbalance

SEL comments that Duquesne, in implementing the Commission’s Order on compliance filing, states that calculation data will be provided upon request. SEL prefers that the rule state that not only the data, but also the methodology and algorithms be provided.

Duquesne believes that SEL’s request goes beyond the scope of the Commission’s Order. Duquesne argues that the monthly billing will contain all the data in sufficient detail so that an EGS will be able to calculate its bill.

Resolution

We agree with SEL and direct the Company to change the relevant language to also provide for the algorithms and methodology utilized in calculating the consumption energy imbalance upon request of an EGS, as was clearly provided for by the referenced Commission Order.

5. Rule 8.7 - Billing for Imbalance Service

For energy imbalance service, SEL states that the deviation bandwidth is too narrow. SEL notes that the Company proposed deviation bandwidth is +/- 1.5%. SEL claims that 1.5% may be appropriate for full-requirements wholesale customer taking service under the Open Access Transmission Tariff, but it is too narrow for EGSs in a newly competitive retail market. SEL states that a full requirements wholesale customer has a limited number of interconnection points with the host utility. Whereas, SEL notes the EGSs have hundreds or thousands of meter points, which restrict options for estimations of hourly usage. SEL believes that a high energy imbalance charge is excessively punitive to EGSs and will inhibit a robust market for electricity. Furthermore, SEL argues that an EDC could extract revenues from a group of EGSs with imbalances which may net to zero.

SEL argues that the Commission should reconsider its reliance on the FERC-approved OATT protocols. SEL believes that the supplier tariffs can be implemented to eliminate imbalances as FERC knows them by using automatic balancing provisions, as does West Penn and the PJM utilities. SEL also argues that because Duquesne's OATT allows the Company to charge 110% of system lambda costs for under-supply and pay out 90% of system lambda for over-supply there is a potential for Duquesne to profit. SEL suggests that Duquesne be allowed

to charge and to pay the full system lambda. SEL recommends that Duquesne be required to post the hourly lambda/cost electronically and that this be updated every five-minutes as the PJM does with its Locational Marginal Price.

Duquesne argues that SEL's alternative to the Commission-approved use of the OATT protocol should be rejected. Duquesne notes that its rate for energy imbalance is provided under the Company's FERC-approved tariff. Duquesne also argues that the imbalance charge is not a "penalty" but is a charge the FERC determined to be just and reasonable.

Resolution

We will not adopt the SEL recommendations to impose an alternative to the FERC-approved OATT protocol. The right band width may require suppliers to obtain and initiate additional usage information but it may also maintain reliable service. While there may be some potential for the utility to "profit" from the FERC-approved 110%/90% system lambda charge/payment for imbalances, this methodology may also provide incentives to accurately meet the customers requirements efficiently and thereby enhance reliability. We will continue to support the FERC-approved OATT protocols.

6. Rule 12.1.5 - Company Reimbursement to EGS for Customer Payments

SEL objects to language the Company has added to its supplier tariff which provides for payment to the EGS within twenty-five days of receipt of payment from the customer. Previously, this section provided for payments to the EGS every two weeks for charges collected on behalf of an EGS. SEL requests that the

Commission direct Duquesne to forward customer payments to the EGS each business day for customer payments received three business days prior unless an EGS agrees to receive customer payments less frequently.

Duquesne claims that it proposed this clarifying language regarding the EDC obligation to forward funds as a result of the Commission's Order of August 13, 1998, at Docket No. M-00960890, F.0015 at pages 14 and 15 and in compliance with the Act.

Resolution

The referenced order provides for 25 days from the date the billing data is received by the EDC from the EGS. Duquesne's tariff provides for 25 days from the date payment is received by the EDC. We agree with SEL that the 25 day reimbursement period from when payment is received by the EDC is excessive. We note that the PP&L Supplier Tariff provides for payment on a maximum frequency of every two weeks. We direct Duquesne to adopt a similar provision.

7. Rule 12.4 - Guarantee of Payment

Rule 12.4.1 - Amount of Deposits

Rule 12.5 - Credit Information

MAPSA, GMER, and SEL object to Duquesne's proposals to require an EGS to provide a letter of credit or a deposit equal to the lesser of \$250,000, or two months of the EGS's forecasted load at \$25 per MWH. These parties argue that these additional credit standards are onerous and are without regard to the credit standing of the EGS. These parties also note that Duquesne's proposals

contrast with the credit standard provisions of the Supplier Coordination Tariffs approved by the Commission in the PECO Energy and PP&L restructuring proceedings. The parties note that in those cases, the Commission approved tariffs which provided that a deposit was required only upon a finding of bad credit on the part of the EGS and that the amount of the deposit was to be equal to “the value of Coordination Service Charges the Company projects the EGS will incur during the next two billing periods based upon the EGS’s forecasted load obligation.”

GMER argues that such additional security is not needed in view of the availability of the \$250,000 bond, letter of credit, or other appropriate security required of EGSs to become licensed by the Commission because the security held by the Commission displaces the need for separate security by each EDC.

SEL notes that instead of requiring a letter of credit from EGSs with bad credit, the Company has modified its Supplier Tariff to require a letter of credit from all suppliers. SEL believes that this is an unwarranted requirement. SEL states that the EGSs already post security to their suppliers and the state and also to the EDCs, if required by the EDC OATT. Furthermore, SEL notes that the Imbalance Charges which the Company cites as a reason for the need for this additional level of security are not set under the Supplier Tariff and therefore it is incorrect to include the security for payment of these charges in the Supplier Tariff. SEL states that the Company is attempting to use the potential OATT imbalance charges to justify a credit requirement on the EGSs which the Company does not apply to itself, or any purchaser of transmission services other than the EGSs.

The Company responded that GMER's understanding of the purposes of the Commission's \$250,000 security requirement is incorrect and that this security would not be available to the Company to recover unpaid imbalance charges. The Company contends that MAPSA's suggestion that the Company's review of an EGS's credit history be limited to the EGS's dealings with the Company is unworkable because the Company and the EGS may not have had any prior commercial relationship. The Company argues that SEL's comments concerning the EDC OATT security requirements miss the point. The Company notes that its credit requirement is intended to cover the Company's exposure when an EGS defaults on its obligations to supply power and is not intended to duplicate the OATT requirements.

Resolution

We agree with SEL, MAPSA, and GMER that this requirement is burdensome and an impediment to retail competition. We affirm the right of the EDC to protect itself in dealings with EGSs with bad credit, but we will not require a guarantee of payments, in the form of letter of credit to be required of a credit-worthy EGS. As with PECO and PP&L, the Company may require such an instrument or deposit only upon a finding of bad credit on the part of the EGS.

B. Supplier Tariff Difference

MAPSA advocates that EDCs statewide be required to adopt identical supplier coordination tariffs to the extent possible, in recognition of regional operational differences. MAPSA claims that the second compliance supplier tariff does not track consistently with the Supplier Coordination Tariffs previously approved in other electric restructuring cases. MAPSA has attached a "redlined" version of PP&L's Supplier Coordination Tariff. The redlined modifications are either an acceptance of Duquesne's revisions to what originally was PP&L's Supplier Coordination Tariff, or are modifications proposed by MAPSA. MAPSA provided no rationale for their proposed tariff changes, nor did they identify which changes are an acceptance of Duquesne's revisions to what originally was PP&L's Supplier Tariff, or which are modifications proposed by MAPSA.

The Company recommends that the Commission disregard the MAPSA proposed tariff. The Company argues that without explanation or reference to the Company's Second Compliance Tariff, it is impossible for the Company to determine exactly how MAPSA's proposal differs from the Company and to understand the intent of MAPSA's proposed changes.

Resolution

In our August 1998 Opinion and Order on Compliance Filing, we directed Duquesne to engage in discussion with licensed EGSs and other interested parties to resolve the matters presented in the proposed supplier's tariff. In response to this directive, Duquesne held a technical workshop on August 27, 1998, to further

address these issues. Commenters expressed dissatisfaction with several remaining issues.

We have reviewed the material submitted to us and have determined that there is a need for further discussion of the issues among the participants. Duquesne is directed to convene the necessary meeting(s) to resolve the outstanding Supplier Tariff issues. Duquesne and other interested parties are directed to use the PP&L and PECO Supplier Tariffs as a model for discussion and uniformity. Duquesne is further directed to file with the Commission a Settlement Agreement on this matter, by the close of business on November 5, 1998.

VII. CONCLUSION

On September 12, 1998 Duquesne filed a revised Tariff Electric-Pa. P.U.C. No. 18, the Electric Generation Supplier Services Tariff, and the various attachments. The Company has proposed amendments to various tariff provisions in response to the parties' comments. To the extent that these proposed amendments are not otherwise addressed in this Opinion and Order, we will agree to adopt the proposed amendments. With the modifications and changes to these tariffs, directed through this Opinion and Order, Duquesne will be in a position to offer consumers retail access beginning on January 1, 1999; **THEREFORE,**

IT IS ORDERED:

1. That Duquesne is directed to amend Tariff Electric-Pa. P.U.C. No. 18, the Electric Generation Supplier Services Tariff, and the various attachments as is required by this Opinion and Order.

2. That Duquesne is directed to file with the Commission revised stand-alone case compliance tariffs, including a suppliers' tariff, together with all necessary data and analyses, on or before November 5, 1998, which must actually be received at the Commission's Office of the Secretary by the close of business on that date.

3. That comments relative to Duquesne's Compliance Filing are due on or before November 12, 1998, and must be received at the Commission's Office of the Secretary by the close of business on that date.

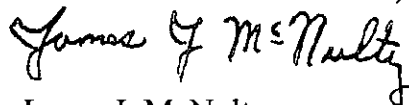
4. That upon 48 hours notice, Duquesne is required to file the complete merger case compliance tariffs with all necessary data and analyses. Furthermore, the parties to these proceedings will have ten days from the date of this filing to submit comments relative to these tariffs.

5. That the Compliance Filing and comments thereto are to be filed with the Commission's Office of the Secretary, with copies to each Commissioner's Office and to the Commission's Bureau of Fixed Utility Services and the Office of Special Assistants. Such filings are to be by hard copy with electronic versions attached consistent with prior directives relative to electronic versions.

6. That Duquesne Light Company's Compliance Filing, together with all necessary data and analyses, shall be served on all active parties of record to this proceeding. Such service shall be in hand to all the parties on the same date as the Compliance Filing is filed with the Commission.

7. That a copy of this Opinion and Order shall be served upon all parties to the proceedings at Docket No. R-00974101.

BY THE COMMISSION,



James J. McNulty
Secretary

(SEAL)

ORDER ADOPTED: October 16, 1998

ORDER ENTERED: **OCT 16 1998**

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HARRISBURG PA 17102-2025

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MORGAN LEWIS & BOCKUIS
2000 ONR LOGAN SQUARE
PHILADELPHIA PA 19103

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50 CHARLES LINDBURGH BLVD
SUITE 207
UNIONDALE NY 11553

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KENNETH ZIELONIS ESQUIRE
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LAWRENCE E MONCRIEF ESQUIRE
1364 SILVERTON AVENUE
PITTSBURGH PA 15206

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

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

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OFFICE OF ATTORNEY GENERAL
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PITTSBURGH PA 15219

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

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

HONORABLE LAWRENCE ROBERTS
REP -51ST DISTRICT
HOUSE PO MAIN CAPITOL
HARRISBURG PA 17120
MESSENGER

HON RICHARD A KASUNIC
DEMOCRATIC POLICY CHAIRMAN
SENTATE PO MAIN CAPITOL
HARRISBURG PA 17120
MESSENGER

ROBERT L SIMPSON EXEC DIR
CRISPUS ATTUCKS ASSN INC
605 SOUTH DUKE STREET
YORK PA 17403

MICHAREL W KRAJOVIC EX VP
FAY PENN ECONOMIC DEV CNSL
TWO WEST MAIN ST STE 407
PO BOX 2101
UNIONTOWN PA 15401-1701

HONORABLE RICHARD F VIDMER
CHAIRMAN
WESTMORELAND COUNTY COMMRS
101 COURTHOUSE SQUARE
GREENSBURG PA 15601

HONORABLE PATRICK E FLEAGLE
HOUSE POST OFFICE BOX 202020
MAIN CAPITOL BUILDING
HARRISBURG PA 17120-2020

JEFFREY M BLADEN MGR
CORP DEVELOPMENT
NEW ENERGY VENTURES EAST
1845 WALNUT STREET
SUITE 2525
PHILADELPHIA PA 19103

JOHN E MOLINDA PE
STRATEGIC ENERGY LTD
2 GATEWAY CENTER
PITTSBURGH PA 15222-1458

JAMES CAWLEY ESQUIRE
RHODES & SINON
DAUPHIN BANK BLDG 12TH FL
ONE SOUTH MARKET SQ
P O BOX 1146
HARRISBURG PA 17108-1146
R-00974104 O/O

ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 20th day of Oct, 1998,

KJR

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of OCTOBER 16, 1998 at Docket No. R-00974104 on behalf of:

DENEICE COVERT ZEVE ESQUIRE

TERRY LUPIA ESQUIRE

OFFICE OF ATTORNEY GENERAL

Deneice Covert Zve
Signature

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

SECRETARY'S BUREAU RECORD RETENTION
PA PUBLIC UTILITY COMMISSION
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Harrisburg, PA 17105-3265

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ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 19th day of October, 1998,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of OCTOBER 16, 1998 at Docket No. R-00974104 on behalf of:

KANDACE F MELILLO ESQUIRE

WAYNE T SCOTT ESQUIRE

OTS

Paula E. Wynn
Signature

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

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ACKNOWLEDGEMENT OF RECEIPT & ACCEPTANCE OF SERVICE

AND NOW, to wit, this 19th day of October, 1998,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of OCTOBER 16, 1998 at Docket No. R-00974104 on behalf of:

LOU SAUERS

KJR

BCS

Louis Sauers
Signature

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

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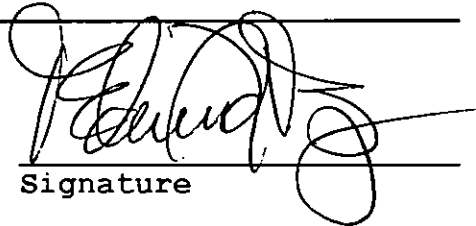
AND NOW, to wit, this 19th day of October, 1998,

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of OCTOBER 16, 1998 at Docket No. R-00974104 on behalf of:

MARISA SIFONTES ESQUIRE

EDMUND J BERGER ESQUIRE

OCA


Signature

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

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

the undersigned, as evidenced by execution hereof, acknowledges receipt, and accepts service of OPINION AND ORDER an official Commission document entered, issued, or otherwise promulgated under date of OCTOBER 16, 1998 at Docket No. R-00974104 on behalf of:

ANGELA JONES ESQUIRE

OSBA

KJR

OFFICE OF SMALL
BUSINESS ADVOCATE

OCT 19 1998

C. Updegraff
Signature

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

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