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ORIGINAL

November 12, 1998

VIA HAND DELIVERY

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

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

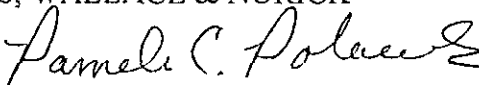
Dear Secretary McNulty:

Enclosed for filing are the original and nine (9) copies of the Comments of the Duquesne Industrial Intervenors to the Third Compliance Filing of Duquesne Light Company.

As evidenced by the attached certificate of service, all parties to this proceeding have been duly served. Please date stamp the extra copy of this transmittal letter and return it for our filing purposes.

Very truly yours,

MCNEES, WALLACE & NURICK

By 
Pamela C. Polacek

Counsel to the Duquesne Industrial Intervenors

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Enclosures

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Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, ET. AL.

v.

DUQUESNE LIGHT COMPANY

DOCKET NO. R-00974104

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

DOCKETED
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COMMENTS OF THE
DUQUESNE INDUSTRIAL INTERVENORS
TO THE THIRD COMPLIANCE FILING OF
DUQUESNE LIGHT COMPANY

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J&L Specialty Steel, Inc.
LTV Steel Company, Inc.

Nabisco Inc.
Nova Chemicals, Inc.
USX Corporation - US Steel Group

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Dated: November 12, 1998

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I. INTRODUCTION

On November 5, 1998, the Duquesne Light Company ("Duquesne" or "Company") submitted to the Pennsylvania Public Utility Commission ("PUC" or "Commission") its Third Compliance Filing regarding its Stand-Alone Restructuring Plan. In the Third Compliance Filing, Duquesne attempts to address and resolve the issues raised by the Commission in its Order on Compliance Filing issued on October 16, 1998. Application of Duquesne Light Company for Approval of Restructuring Plan Under Section 2806 of the Public Utility Code, Docket No. R-00974104, Opinion and Order on Compliance Filing issued on October 16, 1998 ("Second Order on Compliance Filing"). Pursuant to the schedule established by the Commission in the Second Order on Compliance Filing, the Duquesne Industrial Intervenors ("DII") hereby submit these Comments.¹

II. COMMENTS

A. **The Company's Distribution Cost of Service Study and Unbundling Analysis Appear to be Acceptable.**

The Company's Cost of Service Study ("COSS") and unbundled rate analysis establishing the unbundled rates for the beginning of direct access were contentious issues in the previous two Duquesne Compliance Filings. The Second Order on Compliance Filing directs the Company to correct significant errors in its COSS and unbundling analysis to ensure that the rates for distribution

¹ DII submitted Comments to the Company's original compliance filing. See Comments of the Duquesne Industrial Intervenors to the Compliance Filing of Duquesne Light Company, dated June 25, 1998 ("DII Comments, Compliance I"). DII also submitted Comments and Supplemental Comments to the Company's second compliance filing. See Comments of the Duquesne Industrial Intervenors to the Revised Compliance Filing of Duquesne Light Company, dated September 21, 1998 ("DII Comments, Compliance II") & Supplemental Comments of the Duquesne Industrial Intervenors to the Revised Compliance Filing of Duquesne Light Company, dated October 8, 1998 ("DII Supplemental Comments, Compliance II").

and transmission that will be applicable for each rate schedule comply with the Act's rate cap and anti-cost shifting provisions. See Second Order on Compliance Filing, pp. 7-14. Resolution of this issue is essential because the transmission and distribution rates established in this proceeding will remain applicable until at least June 30, 2001, the date on which the statutory transmission and distribution rate cap expires. See 66 Pa.C.S. § 2804(4)(i).²

In the Second Order on Compliance Filing, the Commission requires Duquesne to correct or address four significant errors in its distribution COSS and unbundling analysis. First, in response to comments by the Office of Small Business Advocate ("OSBA"), the Commission orders the Company to recalculate the overall system average realized return for 1996 and to use that percentage return in a recalculation of transmission and distribution rates. Second Order on Compliance Filing, pp. 7-9. Second, the Commission requires that Duquesne employ the 1996 sales volumes as developed by the Office of Consumer Advocate ("OCA") for the buildup of transmission and distribution rates. Id. at 9-10. Third, the Commission requires that the Company roll its energy cost rate ("ECR") into base rates at the actual level in effect as of December 31, 1996, of 12.8 mils/kWh. Id. at 12-14. Fourth, the Commission requires that the Company address in a revised compliance filing an apparent misallocation of income taxes that inappropriately inflated distribution rates for Rate HVPS. Id. at 11-12. The Company must correct these errors and provide with its revised compliance filing all necessary data and analysis to support the filing. Id. at Ordering ¶ 6.

² Because the competitive transition charge ("CTC") that applies to customers (until divestiture is completed) is the residual from the current bundled rate, minus the transmission, distribution and Pilot Program Participation Credit charges, the changes requested by the Commission also impact each rate schedule's CTC.

The Company provides in its Third Compliance Filing a narrative acknowledging the Commission's directives on the four issues. See Third Compliance Filing, pp. 1-4. The Company also provides information purportedly illustrating how each of the above-listed issues is addressed and how the errors in its Second Compliance Filing have been corrected. See Id., Appendix A, Attachment D. Based on the information provided by the Company (both the narratives and calculations), it appears that the errors in the distribution COSS have been rectified. In addition, although proofs of revenue were not provided by the Company with the Third Compliance Filing, the unbundled rate components appear to be appropriate. Consequently, DII has no further comment at this time.

B. The Company's Explanation of How It Will Ensure Compliance With the Statutory Transmission and Distribution Rate Cap Is Inadequate.

In its Comments on the Second Compliance Filing, DII noted the failure by the Company to state in its tariff and compliance filing how it intends to ensure that the distribution rates it charges to customers will comply with the transmission and distribution rate cap under Section 2804(4) of the Act in the event that the Federal Energy Regulatory Commission ("FERC") authorizes an increase in transmission rates. See DII Comments, Compliance II, pp. 18-19. The Commission's Second Order on Compliance Filing recognizes the validity of DII's concerns and "direct[s] 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." Second Order on Compliance Filing, p. 21.

The Third Compliance Filing fails to comply with the Commission's directive. Despite the Commission's clear directive that the Company address this issue, Duquesne claims that "no definitive commitment can be made without knowing the circumstances under which a change in transmission rates might occur." Third Compliance Filing, p. 3. The Company "complies" with the Commission's order by making a vague reference to the methodology shown in Appendix A, Attachment D of the Compliance Filing. Id. DII respectfully submits that the Company's explanation is not adequate and must be rejected.

The Company's claimed inability to commit to a methodology to ensure compliance with a statutory rate cap is unavailing. Regardless of the circumstances under which the FERC authorizes a transmission rate increase for Duquesne, the Company's obligation to charge rates that comply with the transmission and distribution rate cap remains. Duquesne's distribution rates are within the jurisdiction of the Commission. To the extent that a FERC-authorized increase in the Company's transmission rates occurs, in order to ensure adherence to the statutory rate cap, the Company must commit to concurrently decreasing its distribution rates. In this manner, ratepayers can be assured that the total transmission and distribution rate charged by the Company, until the rate cap expires, will never be higher than the total transmission and distribution rate established in this proceeding. Although the General Assembly arguably cannot require Duquesne to freeze its FERC-jurisdictional transmission rates, it can require freezes or decreases in state-jurisdictional distribution rates. A freeze or decrease in distribution rates, if necessary, is exactly the consumer protection envisioned by the General Assembly in Section 2804(4).

The Company fails to explain how it will adhere to the statutory transmission and distribution rate cap. Under Section 2804(4), an upward adjustment in the Company's transmission rate must

be accompanied by an automatic and concurrent reduction in the Company's distribution rates. DII requests the Commission to direct Duquesne to submit a further revised compliance filing specifically acknowledging this duty to automatically and concurrently decrease distribution rates.

C. The Company Inappropriately Decreases The Bill Payment Period For Customers On Rate Schedules L, HVPS, GS/GM, GMH, GL, and GLH.

In the tariff submitted with its Second Compliance Filing, the Company established a bill payment period of twenty days for customers on rates L, HVPS, GS/GM, GMH, GL, and GLH. Second Compliance Filing, Appendix E, Direct Access Tariff, pp. 41, 47, 50, 56, 60 & 64. In the Third Compliance Filing, the Company modifies this payment period to fifteen days. Third Compliance Filing, Appendix A, Attachment E, Direct Access Tariff, pp. 41, 47, 50, 56, 60 & 64. This modification decreases the time in which customers on these rate schedules will have the opportunity to forward payment to the Company prior to the payment being considered "late" and the Company imposing a late payment charge. See id. In addition, the modification correspondingly increases the possibility that a customer may be charged a late payment charge for that bill arriving late and being overdue.

A change in the bill payment period for customers on Rate schedules L, HVPS, GS/GM, GMH, GL and GLH is neither authorized nor discussed in the Commission's Second Order on Compliance Filing. See Second Order on Compliance Filing. In addition, the bill payment period change is neither discussed nor noted in the Company's Third Compliance Filing narrative and in the explanation of tariff changes that precedes the tariff supplement in Appendix A, Attachment E. See Third Compliance Filing, p. 3-4 and Appendix A, Attachment E. The Company's attempt to modify a material tariff term must be rejected.

The Company proposes an unauthorized, unsupported and unreasonable change to the tariff terms for Rate Schedules L, HVPS, GS/GM, GMH, GL, and GLH by changing the bill payment period from twenty to fifteen days. DII requests that the Commission order Duquesne to reverse the Company's unauthorized bill payment modification.

D. The Company's Additional Unauthorized Changes To Its Tariff Must Be Rejected.

The Commission's Second Order on Compliance Filing requires the Company to address a number of issues regarding the language in its direct access tariff. The Company is required to add specific language proposed by DII to Rule 4 and Riders 8, 9 and 20. See Second Order on Compliance Filing, pp. 16-19. The Company must delete inappropriate language that it inserted into all of its rate schedules regarding its provider of last resort responsibilities. Id. at 14-16. The Company must also delete language it inappropriately inserted into Rider 7 that limits the ability of interruptible customers to shop for competitive supply during the phase-in of direct access. Id. at 21-22. Further, the Company is required to make changes to Rule 3.3 and Rider 21 to address concerns raised by the OCA. Id. at 14 & 22-27. Based on DII's review of the Third Compliance Filing, it appears that the Company is in compliance with all of these Commission directives.

Unfortunately, the Company has again attempted to make changes to the terms of its tariff that have not been authorized by the Commission. In addition to the modification of the bill payment period discussed supra, the Company makes the following tariff changes³:

- Electric charges section, pages 59 and 63:

³ Company additions to language that proposed in the Second Compliance Filing are in double-underline, deletions are in ~~strikeout~~.

"The above Generation Charge includes transmission ancillary services, line losses and the market price of electricity. Transmission ancillary services include scheduling, reactive power service, regulation and frequency control service, spinning reserve service and supplemental reserve service."

- Rule 4 & Riders 8, 9 and 20, pages 10, 102, 107 & 133:

"For contracts that contain provisions governing the customer's rights under direct access, the Company will unbundle the Customer's contract effective January 1, 1999, and the customer will be eligible to obtain electricity from an EGS only in accordance with the terms and conditions of the customer's contract."

- Rider 9, p. 106, rule 5:

"The customer must sign an 'Economic Development Rider No. 9 Amendment to Electric Service Contract' with the Company for the required term of the rider. Modifications of the contract may result in the cancellation of this rider."

None of these changes were authorized by the Commission in the Second Order on Compliance Filing. Consequently, DII requests that the Commission reject the changes and direct the Company to resubmit its tariff containing only the language that the Company used for these provisions in its Second Compliance Filing.

E. Release of Confidential Customer-Specific Information Under Rule 5.3.4 Of the Supplier Tariff Beyond That Information Supplied To the EGS In the Original Electronic Data Exchange Must Be Authorized By the Customer.

Rule 5.3.4 of the Supplier Tariff permits an EGS to obtain confidential customer-specific information from the Company. The Rule authorizes release of this information if the EGS provides the Company with written authorization from the customer or if the customer agrees to release the information during the enrollment process. See Third Compliance Filing, Appendix C, p. 22. DII requests that this rule be modified to require explicit customer authorization for any release of

information in excess of the information provided to the supplier in the initial electronic data exchange between the Company and the EGS.⁴

It is DII's understanding that specific types of information are made available by Duquesne to all EGSs for all enrolled customers authorizing load data information release. As the competitive market develops, new types of customer data are being developed that may be important in pricing decisions. For example, in making an offer to an interruptible customer, it may be important for the EGS to know the amount of transmission capacity and installed capacity that the EGS must maintain to support that customer's load. In addition, it may be important to know whether and to what extent the ability of the EGS to request interruption by the customer will be considered a generation equivalent resource to meet any installed capacity requirements. This type of information has become very important in the PJM region and may also be relevant in the Duquesne area to the extent an Independent System Operator or other transmission entity is formed. These same pieces of information regarding transmission and installed capacity, however, may reveal to competitors highly proprietary information regarding aspects of the customer's business, such as production levels and efficiency. Consequently, it is extremely important to customers that information such as this be subject to stringent confidentiality constraints.

As new types of information in excess of the originally transmitted data become relevant in the Duquesne service territory, that information should be presumed to be highly confidential and not released without explicit customer authorization. This procedure will provide customers with the appropriate level of protection and will not unreasonably inconvenience the suppliers that are

⁴ This assumes, of course, that the customer originally authorized release of load data during enrollment.

truly "discussing the possibility of providing Competitive Energy Supply" with the customer. If a supplier is "discussing" options with the customer, it surely can obtain written consent to release the information. Rule 5.3.4 should be amended accordingly.

III. CONCLUSION

WHEREFORE, the Duquesne Industrial Intervenors respectfully request that the Commission direct the Duquesne Light Company to modify its Third Compliance Filing consistent with the positions raised in these Comments.

Respectfully submitted,

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Dated: November 12, 1998

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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 52 Pa. Code § 1.54 (relating to service by a participant).

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Certificate of Service
Docket No. R-00974104
Page 4

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Counsel to the Duquesne Industrial Intervenors

Dated this 12th day of November, 1998, in Harrisburg, Pennsylvania.



ORIGINAL

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November 12, 1998

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

Dear Secretary McNulty;

Enclosed please find an original and (10) copies of the Office of Consumer Advocate's Comments to Duquesne Light Company's Third Compliance Filing of November 4, 1998, in the above-captioned proceeding.

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

Sincerely,

Tanya J. McCloskey
Tanya J. McCloskey
Assistant Consumer Advocate

Enclosure

cc: All parties of record
Office of Special Assistants
Donald H. Muth, FUS

83

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

APPLICATION OF DUQUESNE LIGHT :
COMPANY FOR APPROVAL OF ITS : Docket No. R-00974104
RESTRUCTURING PLAN UNDER :
SECTION 2806 OF THE PUBLIC :
UTILITY CODE :

OFFICE OF CONSUMER ADVOCATE'S
COMMENTS TO THE
DUQUESNE LIGHT COMPANY'S
THIRD COMPLIANCE FILING

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NOV 13 1998

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Dated: November 12, 1998

I. INTRODUCTION

The Office of Consumer Advocate (OCA) is in receipt of Duquesne Light Company's Third Compliance Filing regarding the Stand-Alone Restructuring Plan. The OCA has reviewed the Third Compliance Filing and has identified two areas of concern that it wishes to bring to the Commission's attention. These concerns are the Company's use of the 1999 sales volumes in the determination of its rate cap levels and the shopping credit level for Rate RH. The OCA addresses each of these concerns below.

II. SPECIFIC COMMENTS

A. Use of 1999 Sales Volumes

In calculating the unbundled T&D rate cap, the Commission directed the Company to utilize the 1999 sales volumes of 12,519,000,000 kwh. Second Compliance Order at 9-10. In its Third Revised Compliance Filing, the Company utilized the 1999 sales volumes of 12,519,000,000 kwh, as shown on Attachment D, page 3. The OCA would note, however, that when comparing the 1996 sales volumes by class to the 1999 sales volumes by class, the sales volumes for Rate RS and Rate RH actually decline from the 1996 levels to the projected 1999 levels. Compare, Attachment C, page 1 with Attachment D, page 3. The OCA has not been able to identify the source of the class by class sales projections for 1999, and it has been unable to determine why these classes show a decline in sales over this three year period.¹ The use of a lower sales figure, all else being equal, would increase the average T&D rate cap numbers for these classes. The OCA is concerned that average T&D rate cap not be increased for these classes based on these lower sales volumes if these

¹ The OCA would also note that sales volumes have declined for other classes, such as Rate GMH, Rate L, Rate SE, and Rate SM.

sales volumes are inaccurate. The OCA requests that the Commission direct Duquesne to provide a full explanation of its projected decline in sales volumes for these classes before finally approving the unbundled T&D rates.

B. Rate RH Shopping Credit

As the OCA pointed out in its initial Comments regarding Duquesne's first compliance filing, the Rate RH shopping credit is very low. In the first Compliance Filing under a merger scenario, Duquesne proposed a shopping credit for this class of only 0.85¢/kwh. The OCA identified a number of factors contributing to this low shopping credit, and the Company addressed some of these factors in its revised compliance filing.

In this Third Compliance Filing, Duquesne has proposed shopping credits for Rate RH of 3.93¢/kwh in 1999--the Pilot Program incentive credit, dropping to 2.62¢/kwh in 2000. The shopping credit for this class increases steadily until reaching a level of 3.30¢/kwh in 2007. Although these levels are somewhat higher than the first compliance filing, the OCA remains concerned that these shopping credit levels will not provide Rate RH customers with a meaningful opportunity to participate in the competitive market. Additionally, the OCA is concerned that Rate RH customers who shop in 1999 based on the 3.93¢/kwh shopping credit will experience a significant loss of anticipated rate savings in 2000 when the shopping credit drops to 2.62¢/kwh. In other words, the cost of electric service for a Rate RH customer that is shopping will increase in 2000 unless they can obtain generation service for 2000 for 2.62¢/kwh or less.

The OCA submits that if the Commission wants the approximately 22,000 residential electric heating customers on Rate RH to participate in the competitive markets, this issue must be addressed. One method of addressing this issue may be to adjust the Rate RH shopping credits at

the time divestiture proceeds are known. To the extent that divestiture proceeds reduce stranded cost, the CTC for Rate RH could be lowered and the shopping credit increased. In a recent correspondence to the Commission, however, Duquesne has requested that the shopping credits in this Third Revised Compliance Filing be locked in so that these shopping credits can form the basis of an auction of Duquesne's provider of last resort obligation. The OCA has filed Comments regarding this proposal and among other things, identified its concern regarding Rate RH. If, in fact, the Commission determines to lock in these shopping credits, the Commission should resolve the issues concerning Rate RH before locking in the shopping credit.

The OCA recognizes that Rate RH is a promotional, discounted rate for residential electric heating customers that recognizes the usage levels of these customers. For example, the Rate RH average rate is 8.30¢/kwh as compared to the Rate RS average rate of 12.57¢/kwh. Additionally, as the OCA noted in its Comments to the Original Compliance Filing, the Rate RH class was providing a negative 3% realized rate of return. To provide these customers with an opportunity to participate in the competitive market, however, the Commission may need to recognize the promotional and discounted nature of this rate in both the unbundling of the transmission and distribution rate, and in the design and collection of the CTC.

For example, the OCA would note that in implementing the rate of return adjustment proposed by OSBA in the unbundling process, the Company may not have fully recognized the negative return of this class. In its cost of service studies, the Company appears to target a positive 1.71% rate of return for this class. See, Attachment B at page 22. In the time available, the OCA has been unable to determine the effect of this target on the unbundling process, but does not expect that it would raise the shopping credit to a meaningful level.

In the absence of a meaningful opportunity to participate in the competitive market, the OCA submits that the rate cap protections for Rate RH customers becomes the essential consumer protection for these customers from the Customer Choice Act. At a minimum, if the Commission determines to lock in these shopping credits for Rate RH, the Commission should consider extending the rate cap for Rate RH customers to match the CTC collection period. In the absence of a meaningful opportunity to participate in the competitive market, these customers will be unable to obtain any other protections or savings from a competitive market.

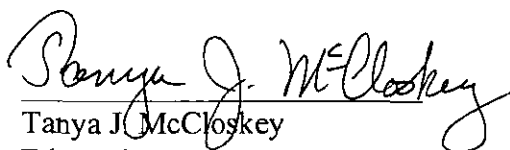
Another alternative that the Commission could consider if it determines to lock in the shopping credits at this time is to increase the shopping credit to a meaningful level, and then, if necessary, lengthen the CTC and extend the rate cap for generation for Rate RH customers. If the Commission establishes a meaningful shopping credit, CTC collections could be tracked through both the divestiture process and the reconciliation process. If a longer CTC was determined to be necessary for Rate RH, the Commission could allow the longer CTC recovery period. The OCA submits, however, that the rate cap on generation must also be extended to provide adequate protection for these customers who will not be able to fully access the competitive market at the same time as other Duquesne customers.

As such, the OCA remains concerned about the shopping credit level for Rate RH. The OCA submits that this issue requires further exploration to assure that these customers are able to benefit from the Customer Choice Act.

III. CONCLUSION

For the reasons set forth above, the OCA respectfully requests that Commission to direct Duquesne to clarify and modify its Third Compliance Filing consistent with the positions set forth in these Comments, and to make any further modifications deemed necessary upon further review conducted by the Commission.

Respectfully submitted,



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Dated: November 12, 1998
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CERTIFICATE OF SERVICE

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,
Office Consumer Advocate's Comments to Duquesne Light Company's Third Compliance Filing,
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 12th day of November, 1998.

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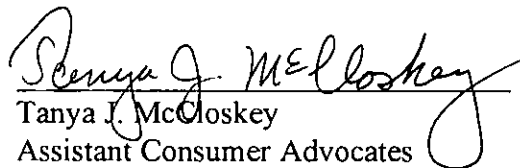
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November 12, 1998

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

Dear Mr. McNulty:

Enclosed please find the original and three copies of a Withdrawal of Appearance for myself as counsel for Enron Power Marketing, Inc., as referenced in the above mentioned case. As evidenced by the attached Certificate of Service, all parties of record have been served.

If you have any questions, please contact the undersigned.

Respectfully,

Robert J. Longwell

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

RJL/mas
Enclosures

cc: Parties of Record

42

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ORIGINAL
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

WITHDRAWAL OF APPEARANCE

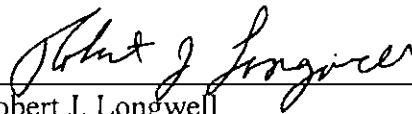
DOCKETED
NOV 18 1998

TO: James J. McNulty, Secretary

Please withdraw my entry of appearance as counsel for Enron Power Marketing, Inc.
from the above-captioned action.

Thank you.

Respectfully submitted,



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Dated: November 12, 1998

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document via first class mail, postage pre-paid upon the participants, listed below, in accordance with the requirements of 52 Pa. Code § 1.54.

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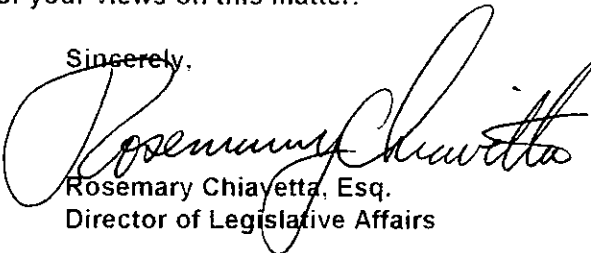
Dear Representative Travaglio:

Thank you for your recent letter of November 5, 1998, to Chairman John Quain of the Pennsylvania Public Utility Commission expressing your views on the application of the Duquesne Light Company for approval of its restructuring plan under Section 2806 of the Public Utility Code at Docket Number R-00974104. Your letter was referred to me for a response because the Commission is currently considering Duquesne's divestiture plan to sell its generation assets.

The Commission greatly appreciates you taking the time to place your views on the record and I have forwarded your letter to the Secretary of the Commission for inclusion into the official file of this proceeding.

Thank you again for the benefit of your views on this matter.

Sincerely,



Rosemary Chiaetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Vice Chairman Bloom
Commissioner Rolka
Commissioner Brownell
Commissioner Wilson
Secretary McNulty

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JAN 05 1999

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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

November 12, 1998

The Honorable Victor John Lescovitz
House of Representatives
House Post Office
Main Capitol
Harrisburg, PA

Dear Representative Lescovitz:

Thank you for your recent letter of November 5, 1998, to Chairman John Quain of the Pennsylvania Public Utility Commission expressing your views on the application of the Duquesne Light Company for approval of its restructuring plan under Section 2806 of the Public Utility Code at Docket Number R-00974104. Your letter was referred to me for a response because the Commission is currently considering Duquesne's divestiture plan to sell its generation assets.

The Commission greatly appreciates you taking the time to place your views on the record and I have forwarded your letter to the Secretary of the Commission for inclusion into the official file of this proceeding.

Thank you again for the benefit of your views on this matter.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Vice Chairman Bloom
Commissioner Rolka
Commissioner Brownell
Commissioner Wilson
Secretary McNulty

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

IN REPLY PLEASE
REFER TO OUR FILE

November 12, 1998

The Honorable Frank LaGrotta
House of Representatives
House Post Office
Main Capitol
Harrisburg, PA

Dear Representative LaGrotta:

Thank you for your recent letter of November 5, 1998, to Chairman John Quain of the Pennsylvania Public Utility Commission expressing your views on the application of the Duquesne Light Company for approval of its restructuring plan under Section 2806 of the Public Utility Code at Docket Number R-00974104. Your letter was referred to me for a response because the Commission is currently considering Duquesne's divestiture plan to sell its generation assets.

The Commission greatly appreciates you taking the time to place your views on the record and I have forwarded your letter to the Secretary of the Commission for inclusion into the official file of this proceeding.

Thank you again for the benefit of your views on this matter.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Vice Chairman Bloom
Commissioner Rolka
Commissioner Brownell
Commissioner Wilson
Secretary McNulty

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

IN REPLY PLEASE
REFER TO OUR FILE

November 12, 1998

The Honorable H. William DeWeese
Democratic Leader
House of Representatives
House Post Office - Main Capitol
Harrisburg, PA

Dear Representative DeWeese:

Thank you for your recent letter of November 5, 1998, to Chairman John Quain of the Pennsylvania Public Utility Commission expressing your views on the application of the Duquesne Light Company for approval of its restructuring plan under Section 2806 of the Public Utility Code at Docket Number R-00974104. Your letter was referred to me for a response because the Commission is currently considering Duquesne's divestiture plan to sell its generation assets.

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Thank you again for the benefit of your views on this matter.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Vice Chairman Bloom
Commissioner Rolka
Commissioner Brownell
Commissioner Wilson
Secretary McNulty

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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

November 12, 1998

The Honorable Sara G. Steelman
House of Representatives
House Post Office
Main Capitol
Harrisburg, PA

Dear Representative Steelman:

Thank you for your recent letter of November 5, 1998, to Chairman John Quain of the Pennsylvania Public Utility Commission expressing your views on the application of the Duquesne Light Company for approval of its restructuring plan under Section 2806 of the Public Utility Code at Docket Number R-00974104. Your letter was referred to me for a response because the Commission is currently considering Duquesne's divestiture plan to sell its generation assets.

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Thank you again for the benefit of your views on this matter.

Sincerely,

Rosemary Chivetta, Esq.
Director of Legislative Affairs

DOCKETED
JAN 05 1999

cc: Chairman Quain
Vice Chairman Bloom
Commissioner Rolka
Commissioner Brownell
Commissioner Wilson
Secretary McNulty

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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

November 12, 1998

The Honorable Lawrence Roberts
House of Representatives
House Post Office
Main Capitol
Harrisburg, PA

Dear Representative Roberts:

Thank you for your recent letter of November 5, 1998, to Chairman John Quain of the Pennsylvania Public Utility Commission expressing your views on the application of the Duquesne Light Company for approval of its restructuring plan under Section 2806 of the Public Utility Code at Docket Number R-00974104. Your letter was referred to me for a response because the Commission is currently considering Duquesne's divestiture plan to sell its generation assets.

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Thank you again for the benefit of your views on this matter.

Sincerely

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Vice Chairman Bloom
Commissioner Rolka
Commissioner Brownell
Commissioner Wilson
Secretary McNulty

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JAN 05 1999

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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

November 12, 1998

The Honorable James E. Shaner
House of Representatives
House Post Office
Main Capitol
Harrisburg, PA

Dear Representative Shaner:

Thank you for your recent letter of November 5, 1998, to Chairman John Quain of the Pennsylvania Public Utility Commission expressing your views on the application of the Duquesne Light Company for approval of its restructuring plan under Section 2806 of the Public Utility Code at Docket Number R-00974104. Your letter was referred to me for a response because the Commission is currently considering Duquesne's divestiture plan to sell its generation assets.

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Thank you again for the benefit of your views on this matter.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Vice Chairman Bloom
Commissioner Rolka
Commissioner Brownell
Commissioner Wilson
Secretary McNulty

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JAN 05 1999

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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

November 12, 1998

The Honorable R. Ted Harhai
House of Representatives
House Post Office
Main Capitol
Harrisburg, PA

Dear Representative Harhai:

Thank you for your recent letter of November 5, 1998, to Chairman John Quain of the Pennsylvania Public Utility Commission expressing your views on the application of the Duquesne Light Company for approval of its restructuring plan under Section 2806 of the Public Utility Code at Docket Number R-00974104. Your letter was referred to me for a response because the Commission is currently considering Duquesne's divestiture plan to sell its generation assets.

The Commission greatly appreciates you taking the time to place your views on the record and I have forwarded your letter to the Secretary of the Commission for inclusion into the official file of this proceeding.

Thank you again for the benefit of your views on this matter.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Vice Chairman Bloom
Commissioner Rolka
Commissioner Brownell
Commissioner Wilson
Secretary McNulty

DOCKETED
JAN 05 1999

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NOV 12 1998
PA PUBLIC UTILITY COMMISSION
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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

November 12, 1998

The Honorable Peter J. Daley, II
House of Representatives
House Post Office
Main Capitol
Harrisburg, PA

Dear Representative Daley:

Thank you for your recent letter of November 5, 1998, to Chairman John Quain of the Pennsylvania Public Utility Commission expressing your views on the application of the Duquesne Light Company for approval of its restructuring plan under Section 2806 of the Public Utility Code at Docket Number R-00974104. Your letter was referred to me for a response because the Commission is currently considering Duquesne's divestiture plan to sell its generation assets.

The Commission greatly appreciates you taking the time to place your views on the record and I have forwarded your letter to the Secretary of the Commission for inclusion into the official file of this proceeding.

Thank you again for the benefit of your views on this matter.

Sincerely,

Rosemary Chivetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Vice Chairman Bloom
Commissioner Rolka
Commissioner Brownell
Commissioner Wilson
Secretary McNulty

DOCKETED
JAN 05 1999

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PA PUBLIC UTILITY COMMISSION
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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

November 12, 1998

The Honorable Anthony L. Colaizzo
House of Representatives
House Post Office - Main Capitol
Harrisburg, PA

Dear Representative Colaizzo:

Thank you for your recent letter of November 5, 1998, to Chairman John Quain of the Pennsylvania Public Utility Commission expressing your views on the application of the Duquesne Light Company for approval of its restructuring plan under Section 2806 of the Public Utility Code at Docket Number R-00974104. Your letter was referred to me for a response because the Commission is currently considering Duquesne's divestiture plan to sell its generation assets.

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Thank you again for the benefit of your views on this matter.

Sincerely,

Rosemary Chivetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Vice Chairman Bloom
Commissioner Rolka
Commissioner Brownell
Commissioner Wilson
Secretary McNulty

DOCKETED
JAN 05 1999

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PA PUBLIC UTILITY COMMISSION
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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

November 12, 1998

The Honorable James E. Casorio, Jr.
House of Representatives
House Post Office
Main Capitol
Harrisburg, PA

Dear Representative Casorio:

Thank you for your recent letter of November 5, 1998, to Chairman John Quain of the Pennsylvania Public Utility Commission expressing your views on the application of the Duquesne Light Company for approval of its restructuring plan under Section 2806 of the Public Utility Code at Docket Number R-00974104. Your letter was referred to me for a response because the Commission is currently considering Duquesne's divestiture plan to sell its generation assets.

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Thank you again for the benefit of your views on this matter.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Vice Chairman Bloom
Commissioner Rolka
Commissioner Brownell
Commissioner Wilson
Secretary McNulty

DOCKETED
JAN 05 1999

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PA PUBLIC UTILITY COMMISSION
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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

November 12, 1998

The Honorable Thomas A. Tangretti
Chairman, Southwest Caucus
House of Representatives
House Post Office - Main Capitol
Harrisburg, PA

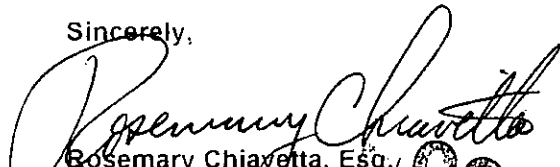
Dear Representative Tangretti:

Thank you for your recent letter of November 5, 1998, to Chairman John Quain of the Pennsylvania Public Utility Commission expressing your views on the application of the Duquesne Light Company for approval of its restructuring plan under Section 2806 of the Public Utility Code at Docket Number R-00974104. Your letter was referred to me for a response because the Commission is currently considering Duquesne's divestiture plan to sell its generation assets.

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Thank you again for the benefit of your views on this matter.

Sincerely,


Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Vice Chairman Bloom
Commissioner Rolka
Commissioner Brownell
Commissioner Wilson
Secretary McNulty

DOCKETED
JAN 05 1999

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NOV 12 1998

PA PUBLIC UTILITY COMMISSION
PROTHONOTARY'S OFFICE

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House of Representatives

COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

November 5, 1998

The Honorable John M. Quain, Chair
Public Utility Commission
P.O. Box 3265
North Office Building
Harrisburg, PA 17105-3265

RECEIVED
93 NOV -5 PM 2:59
CHAIRMAN QUAIN'S OFFICE

Dear Chairman Quain:

We are submitting this letter relative to the application of Duquesne Light Company for approval of its restructuring plan under Section 2806 of the Pennsylvania Public Utility Code (Docket Number R-0097104) as the elected representatives of districts that may be impacted by the restructuring plan and of constituents whose employment or conditions of employment may be affected by the plan.

As members of the Southwest Caucus and representatives of districts in Southwest Pennsylvania we also have concerns about the safe, reliable and efficient delivery of electric service throughout the Southwest region insofar as the supply of electricity to all service areas depends upon an efficient system of interconnection with other suppliers in the region. Our concerns also extend to the restructuring plan's potential impacts on economic development in the region; and our obligations to the general welfare of the Commonwealth give rise to further considerations which we believe must be addressed by the Commission particularly as they may become precedents that would subsequently apply to other localities.

Fair Treatment of Employees. The Electricity Generation Customer Choice and Competition Act provided that companies must treat employees affected by the restructuring plan in a fair and reasonable manner. We are interested in ensuring that any employee affected by the restructuring proposal or by the sale or transfer of property related to the restructuring proposal will be assured in a legally binding fashion that the current terms and conditions of their employment will continue. This would include any collective bargaining agreement currently in force, as well as the current wages and benefits that they now enjoy, including pension coverage and health benefits.

Safety, Reliability and Efficiency. We are concerned that certain elements of the proposed restructuring plan may affect the safe, reliable and efficient delivery of electric service

within and beyond the Duquesne service area as well as the cost of service with resulting impacts on economic development in the region. These concerns would include arrangements which Duquesne may make with alternative suppliers; any proposal to separate or divest functions of Duquesne's current operations; transfer of assets to other utilities; and the calculation of unbundled rates for generation, transmission and distribution of electricity. We believe that the rates established as a result of Duquesne's restructuring must be fair, reasonable and adequate. And we believe the safeguards must be established to ensure quality service for all affected consumers.

Continuation of Lifeline Service. We are concerned that the price, terms or quality of electric service may be impacted by Duquesne Light's proposals for ratepayer protection, including programs for assistance to low-income and elderly consumers, consumer education and other measures that may impact the ability of the company or its successors to continue safe, reliable and efficient service. At the same time, we are concerned that other arrangements relating to the rates could adversely affect the ability of the company or any successor entity to provide ratepayer protection programs.

Impact on Local Zoning and Planning. We are concerned about the impact that the transfer of ownership of generation facilities or the divestiture of generating capacity will have on the ability of local governments to implement local zoning ordinances and comprehensive plans. We are also concerned about the potential impact restructuring could have on local economic development activities.

Impact on Local Taxing Authority. We are concerned about the implications that the restructuring plan may have on local taxing authority, including the ability to assess property, subject that property to taxation and collect taxes due and owing under state and local legal authority.

For these reasons, we are submitting these comments to become part of the record in the review of Duquesne Light Company's restructuring proposal and request that we be kept abreast of developments in that review relative to the matters expressed above. We believe that we are well qualified to present our concerns and request to be advised of developments as the elected representatives of workers who will be affected and consumers who may be affected by this proposal. We look forward to working with you on this effort.

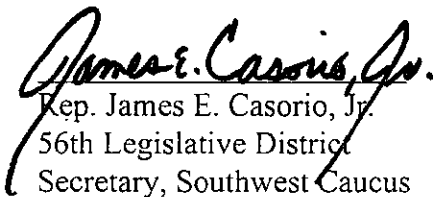
Sincerely yours,



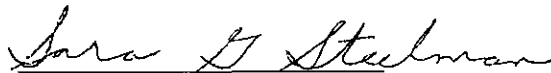
Rep. Thomas A. Tangretti
57th Legislative District
Chairman, Southwest Caucus



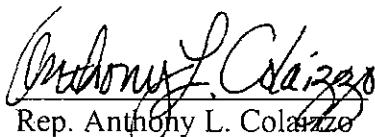
Rep. Lawrence Roberts.
51st Legislative District
Vice Chair, Southwest Caucus



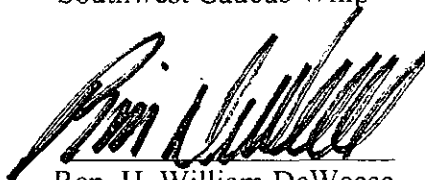
Rep. James E. Casorio, Jr.
56th Legislative District
Secretary, Southwest Caucus



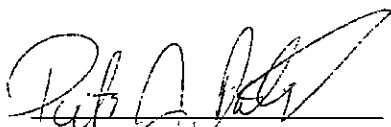
Rep. Sara G. Steelman
62nd Legislative District
Southwest Caucus Whip



Rep. Anthony L. Colanizzo
52nd Legislative District



Rep. H. William DeWeese
50th Legislative District
House Democratic Leader



Rep. Peter J. Daley, II
49th Legislative District



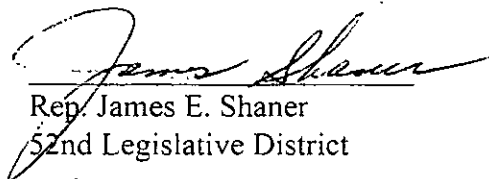
Rep. Frank LaGrotta
10th Legislative District



Rep. R. Ted Harhai
58th Legislative District



Rep. Victor John Lescovitz
46th Legislative District



Rep. James E. Shaner
52nd Legislative District



Rep. Guy A. Travaglio
11th Legislative district



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

IN REPLY PLEASE
REFER TO OUR FILE

November 12, 1998

RECEIVED

NOV 12 1998

The Honorable Albert V. Belan
Senate of Pennsylvania
Senate Post Office
Main Capitol
Harrisburg, PA

PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Dear Senator Belan:

Thank you for your recent letter of November 5, 1998, to Chairman John Quain of the Pennsylvania Public Utility Commission expressing your views on the application of the Duquesne Light Company for approval of its restructuring plan under Section 2806 of the Public Utility Code at Docket Number R-00974404. Your letter was referred to me for a response because the Commission is currently considering Duquesne's divestiture plan to sell its generation assets.

The Commission greatly appreciates you taking the time to place your views on the record and I have forwarded your letter to the Secretary of the Commission for inclusion into the official file of this proceeding.

Thank you again for the benefit of your views on this matter.

Sincerely,

Rosemary Chivetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain
Vice Chairman Bloom
Commissioner Rolka
Commissioner Brownell
Commissioner Wilson
Secretary McNulty

DOCKETED
JAN 05 1999

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EEF

45TH DISTRICT
ALBERT V. BELAN
DUQUESNE VILLAGE SHOPPING CENTER
1858 HOMEVILLE ROAD
WEST MIFFLIN, PA 15122
(412) 486-2201

SENATE BOX 203045
THE STATE CAPITOL
HARRISBURG, PA 17120-3045
(717) 787-5580

REPLY TO:



Senate of Pennsylvania

COMMITTEES

LABOR AND INDUSTRY,
DEMOCRATIC CHAIRMAN
AGING AND YOUTH
CONSUMER PROTECTION AND
PROFESSIONAL LICENSURE
MILITARY AND VETERANS
AFFAIRS
TRANSPORTATION

November 5, 1998

Honorable John M. Quain
Public Utility Commission
P.O. Box 3265
North Office Building
Harrisburg, PA 17105-3265

RECEIVED
98 NOV -6 PM 1:33
CHAIRMAN QUAIN'S OFFICE

Dear Chairman Quain:

The enclosed comments pertain to Duquesne Light's restructuring plan (Docket Number R-00974009) and the option plan (R-00974104). I'm expressing my comments for your consideration and in order to preserve my rights relative to intervening in these cases on behalf of the employees of Duquesne Light insofar as they are effected by these plans. The issues which I want to raise are as follows:

1. As a result of the restructuring plans, there is concern that the price, quality and term of service could be affected. These would include any alternative arrangements which Duquesne Light would make with other suppliers of power, the transfer of assets to other utilities in addition to the unbundling of services. Any rate established as a result of restructuring must be fair, reasonable and adequate with safeguards which enable all affected customers to be served.
2. A most serious concern is relative to the treatment of employees in the adoption of the restructuring plan. Any employee who is affected by the transfer or sale of property must be treated fairly. An employee must be protected by a legally enforceable document which assures that the terms and conditions of their employment continue. Any collective bargaining contract must also remain in force.
3. It is absolutely essential that environmental safeguards relative to the generation of power in any facility which is affected by the restructuring be maintained, including those facilities which produce nuclear power. It is critical that Commission require Duquesne Light in its restructuring plan to set aside sufficient assets to assure that nuclear power plants which are decommissioned are done so in a safe manner that protects the public's health and welfare.

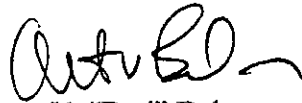
4. It is a possibility that due to price competition, certain consumer and ratepayer assistance programs may be discontinued by Duquesne Light or its successor. By doing so, this may have deleterious effect on Duquesne Light's ability, or its successor company, to continue safe reliable service to those most in need.

5. A further concern is in regards to provision of affordable electrical service to low income and elderly customers. If rates suddenly increase as a result of the restructuring plan, those who can least afford an increase in the price of electric service will be affected.

6. The transfer of electrical generation facilities may negatively impact on economic development activities and the ability of the local taxing body to assess, tax and collect the taxes that are owed.

As a state Senator and a customer of Duquesne Light, I have a responsibility to represent these concerns and make the Commission aware of the possible impact that the restructuring may have on my constituents.

Sincerely,



Albert V. "Bud" Belan
State Senator
45th Senatorial District

AVB:HB

SCOTT J. RUBIN
Public Utility Consulting

ORIGINAL
(717) 713-2233 (Voice)
(717) 713-8145 (Fax)
e-mail: sjrubin@ptd.net

3 Lost Creek Drive
Selinsgrove, PA 17870-9357

November 13, 1998

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

DOCUMENT
FOLDER

Re: Duquesne Light Company Restructuring Plan
Docket No. R-00974104

Dear Mr. McNulty:

Enclosed for filing please find an original and ten (10) copies of the Supplemental Comments of System Council U-10, International Brotherhood of Electrical Workers, in the above-referenced proceeding. A copy of this document has been served on all parties of record, as shown on the attached certificate of service.

Sincerely,


Scott J. Rubin, Esq.

Enclosures

cc: All parties of record
Hon. John Quain
Hon. Robert Bloom
Hon. David Rolka
Hon. Nora Mead Brownell
Hon. Aaron Wilson, Jr.
Office of Special Assistants

RECEIVED
NOV 13 AM 8:54
PA.P.U.C.
SECRETARY'S BUREAU

ORIGINAL

BEFORE THE
COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

APPLICATION OF DUQUESNE LIGHT COMPANY FOR :
APPROVAL OF ITS RESTRUCTURING PLAN UNDER : DOCKET No. R-00974104
SECTION 2806 OF THE PUBLIC UTILITY CODE :

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98 NOV 13 AM 8:54
PA.P.U.C.
SECRETARY'S BUREAU

SUPPLEMENTAL COMMENTS OF SYSTEM COUNCIL U-I O,
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS
ON DUQUESNE LIGHT COMPANY'S GENERATION AUCTION PLAN

DOCUMENT
FOLDER

DOCKETED
NOV 13 1998

SCOTT J. RUBIN
3 LOST CREEK DRIVE
SELINGROVE, PA 17870
(717) 743-2233

DATED: NOVEMBER 13, 1998

COUNSEL FOR:
SYSTEM COUNCIL U-I O, IBEW

System Council U-10, International Brotherhood of Electrical Workers (“IBEW”), files these Supplemental Comments to respond to the letter of November 5, 1998, from counsel for Duquesne Light Company (“Duquesne”) to the Secretary of the Pennsylvania Public Utility Commission (“Commission”) concerning Duquesne’s proposed Generation Auction Plan.

On November 3, 1998, IBEW filed Comments in this matter. Those Comments demonstrated that Duquesne has not provided sufficient information to allow the Commission to determine if the Generation Auction Plan is in the public interest and otherwise in compliance with the requirements of the Public Utility Code and the Commission’s order in Duquesne’s restructuring case. In particular, IBEW highlighted Duquesne’s failure to address the effect of its plans on Duquesne’s employees, many of whom are represented by IBEW.

Duquesne’s letter of November 5, 1998, provided, *inter alia*, information about the effect of its auction plan on Duquesne’s employees. In that letter, Duquesne also agreed to allow parties to file by November 13, 1998, supplemental comments that respond to the letter. IBEW, therefore, will limit these Supplemental Comments to matters that respond directly to Duquesne’s letter of November 5.

Duquesne’s letter contains three paragraphs that discuss the effect of its auction plan on its employees. The first paragraph and Exhibit A to the letter provide information concerning Duquesne’s non-union employees. That information was available to Duquesne at least since October 12, 1998 (the date on Exhibit A). Duquesne does not explain why it waited until the day before comments were due to provide this information to the Commission and the parties.

The other two paragraphs discuss the effect of the auction plan on Duquesne’s union employees. These paragraphs contain numerous inaccurate statements and grossly mislead the Commission and the other parties about the effect of the auction plan on IBEW’s members.

Duquesne makes it appear that the existing collective bargaining agreement (“CBA”) was negotiated in response to the customer choice legislation and specifically contemplates the sale of Duquesne’s generating plants. That is not the case. The 1996 amendment to the CBA was negotiated in order to settle specific disputes between Duquesne and IBEW, including matters relating to Duquesne’s contracting out most of its meter-related work to Itron.¹ Attached hereto as Appendix A is a copy of a Memorandum of Understanding between Duquesne and IBEW (“MOU”) that amended the CBA in 1996. The opening paragraph of the MOU states the reasons why it was being entered into; none of those reasons have anything to do with the customer choice legislation. In addition, during this same time period, Duquesne stated that it had no intention of leaving the generation business.

Moreover, contrary to Duquesne’s assertions, the MOU and CBA do not provide Duquesne with the unfettered right to lay off employees if it sells a generating plant. Rather, the MOU and CBA allow Duquesne to lay off employees if its sells a generating plant, but Duquesne must first stop using outside contractors to perform bargaining unit work. The last paragraph of the MOU amends Article V.M.1 of the CBA to read, in part, as follows: “In the event of an extraordinary circumstance as defined under the employment security clause [which includes a plant sale], *if the Company wishes to continue contracting out work that has been usually performed by the bargaining unit, the Company will be required to find those displaced workers hired on or before October 1, 1996, another position within the Company or, at the Company’s option, retrain the employees to perform work that is being performed by contractors.*” (Emphasis added)

¹ This included settling a complaint against Duquesne brought by IBEW before this Commission, consistent with the Commission’s policy of encouraging settlements, 52 Pa. Code § 5.231. *System Council U-10, IBEW v. Duquesne Light Co.*, Docket No. C-00967871, Initial Decision approving withdrawal of complaint (Dec. 20, 1996).

In other words, the CBA currently provides that before Duquesne can terminate any employees as the result of a plant sale, it must first stop using outside contractors.² Thus, the existing CBA serves to preserve jobs for Duquesne's employees to the maximum extent possible, even if a plant is sold, because Duquesne is required to allow those employees to be retrained and displace outside contractors.

Taken in this light, Duquesne's proposal (attached to Duquesne's letter as Exhibit B) constituted a drastic reduction in the level of employee benefits and could not be taken seriously by IBEW. One of the critical provisions of Duquesne's proposal was to eliminate this job security provision and no longer require Duquesne employees to displace outside contractors. Specifically, paragraph 13 of Duquesne's proposal stated: "Consistent with Article IV of the Labor Agreement concerning the Company's ability to lay off employees 'under extraordinary circumstances, such as a sale or shut down of a plant,' *nothing in this Agreement which results in cessation of employment and/or displacement of employees will require the Company to reduce the level and/or number of contractors being used.*" (Emphasis added)

Further, while the proposal that Duquesne attached to its letter is not the most recent proposal that Duquesne made to IBEW, Duquesne remains insistent on language that would allow Duquesne to lay off employees and continue to use contractors.

Simply, in contrast to existing contract provisions that preserve the maximum number of jobs possible for Duquesne's union employees, Duquesne sought to have the union agree to massive layoffs with no job protection. IBEW could not, and did not, agree to such a provision.

² A previous arbitration award between Duquesne and IBEW defines work "usually performed" by the bargaining unit to include all work that bargaining unit employees are capable of performing or that has been performed historically by such employees. IBEW believes that this would encompass work that is being performed by hundreds of Duquesne contractors today.

Duquesne's characterization of the negotiations with IBEW is grossly misleading. Duquesne states that Duquesne offered "an *enhanced* package providing additional benefits and protections to Union employees" (emphasis in original). In fact, as IBEW stated above, Duquesne's proposal would result in the loss of significant protections that exist under the CBA today. Characterizing the loss of job security and income security as an "enhanced" package is not only misleading, it is demeaning to the employees of Duquesne who have devoted their working lives to the Company.

Duquesne also states that IBEW and Duquesne were unable to reach agreement "after months of negotiations." In fact, IBEW and Duquesne met face-to-face for less than 12 hours spread over a several-month period. It appeared to IBEW that Duquesne was not willing to live up to its commitment to provide IBEW's members with the job and income security that had been negotiated in 1996. Rather, Duquesne was looking for IBEW members to give up their employment with Duquesne in exchange for a one-time payment. This was not, and is not, acceptable to IBEW or its members.

Finally, Duquesne is taking the position that the CBA does not require the purchasers of Duquesne's plants to assume the CBA and recognize the IBEW. This is directly contrary to the successorship provisions that have been in the CBA continuously since 1953.

As a result of these serious labor concerns, IBEW has charged Duquesne with acting in bad faith during these negotiations. Those charges are currently pending before the National Labor Relations Board.

IBEW would emphasize that it is *not* asking this Commission to resolve this labor dispute. Rather, IBEW is asking the Commission, consistent with the Commission's responsibilities under the Public Utility Code, to consider the effect that Duquesne's auction plan

will have on Duquesne's employees and to ensure that the result is in the public interest. As it stands today, the effect of Duquesne's auction plan on Duquesne's employees cannot be determined – particularly in light of the uncertainty over the effect on employees of the proposed transfer of Beaver Valley to FirstEnergy Corporation. Unless and until Duquesne and IBEW resolve these issues, the effect of Duquesne's plan on employees will not be known.

The Commission cannot approve Duquesne's plan as it currently stands. As IBEW stated in its Comments, Duquesne has not addressed the effect of its plan on employees or local communities. There is no way to know, at the present time, how many Duquesne employees will lose their jobs and how any job losses will affect the communities where those employees live and work. The Commission, therefore, must wait until Duquesne has entered into a definitive agreement with FirstEnergy Corporation and until Duquesne and IBEW have resolved these very serious labor issues, either through negotiation or through labor arbitration and/or litigation.

Conclusion

For the reasons set forth above and in its Comments, System Council U-10, IBEW, continues to request the Pennsylvania Public Utility Commission to refuse to approve Duquesne's Generation Auction Plan at the present time. Duquesne must provide substantially more information about the effects that its plan would have on (1) the safety and reliability of its system, including the safe operation of its nuclear plants; (2) its employees; and (3) the communities where the plants and employees are located. Until Duquesne provides information that can be used to determine these impacts, and until the Commission determines that those impacts are consistent with the public interest, the Commission must not approve Duquesne's plan.

Respectfully submitted,



Scott J. Rubin
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(717) 743-2233

Counsel for:
System Council U-10, IBEW

Dated: November 13, 1998

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
IBEW, SYSTEM COUNCIL U-10
AND
DUQUESNE LIGHT COMPANY**

In settlement of all outstanding issues surrounding the ITRON cases currently before the NLRB and PUC, the most recent subcontracting arbitration award Basial (FMCS No. 20282), and all outstanding grievances on contracting out, the Company and the Union agree to modify the collective bargaining agreement to include:

EMPLOYMENT SECURITY

No regular full-time employee hired on or before October 1, 1996 shall be laid off except under extraordinary circumstances, such as acts of God, catastrophic events, bankruptcy, sale or shutdown of a plant, revocation of a nuclear operating license, or shutdown of a portion of the transmission or distribution system.

INCOME PROTECTION

No regular full-time employee hired on or before October 1, 1996 shall have his or her rate of pay reduced because of bumping, staffing reductions, job eliminations, contracting out or reassignment of work. However, any individual so affected will not be eligible to receive any general pay rate increases except for progression pay until the job he or she is performing equals or exceeds his or her protected rate of pay.

CONTRACTING OUT

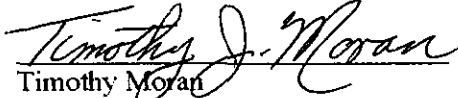
The following language will replace all of Article V.M.1. (Including Not Applicable)

It is the intent of the Company to provide stable, long-term and continuous employment for regular, full-time employees. To this end, the Company has committed itself to employment security and income protection for employees hired on or before October 1, 1996 and will not replace them with subcontractors. It is, however, recognized that the Company may contract with outside parties to perform work in an efficient, cost-effective manner or within the time the work must be done, including where the Company's normal work force, skills, training and organization of its employees, its tools or equipment are inadequate. Nevertheless, while the number of employees currently in the bargaining unit may be reduced by attrition, if the Company still has a need for the work these employees performed, or if the need arises to increase regular, full-time, permanent positions, the vacancies will be filled consistent with the collective bargaining agreement, including, where necessary and appropriate under the collective bargaining agreement, through the recall of employees on layoff as of October 1, 1996 who have not been already offered a position and/or through hiring new employees; not with subcontractors.

In the event of an extraordinary circumstance as defined under the employment security clause, if the Company wishes to continue contracting out work that has been usually performed by the bargaining unit, the Company will be required to find those displaced employees hired on or before October 1, 1996 another position within the Company or, at the Company's option, retrain the employees to perform work that is being performed by contractors.

VERIFICATION

I, Timothy Moran, verify that I am Business Manager of System Council U-10, IBEW, and that I am authorized to make this verification on behalf of System Council U-10, IBEW. The factual statements in the foregoing Supplemental Comments are true and correct to the best of my knowledge, information and belief, and the contract documents attached thereto are true and correct copies of those documents. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


Timothy Moran

Dated: November 12, 1998

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



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

IN REPLY PLEASE
REFER TO OUR FILE

November 18, 1998

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NOV 19 1998

The Honorable Ross Boggs, Jr.
Minority Leader
Ohio House of Representatives
4779 Route 7 North
Andover, OH 44003

PENNSYLVANIA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

R 00974104

Dear Representative Boggs:

Thank you for your letter of November 13, 1998, to Chairman John Quain of the Pennsylvania Public Utility Commission regarding the transfer of assets which has been proposed between the First Energy Corporation of Akron and the Duquesne Light Company. Since the Pennsylvania Public Utility Code prohibits Chairman Quain from commenting on matters currently pending before the Commission, the Chairman referred your letter to me for a response.

Please know that I have forwarded your comments to the Secretary of the Commission for inclusion into the official filing of this proceeding. The transfer of assets was filed as part of Duquesne's divestiture plan to sell all of its generation assets as part of its restructuring proceeding under the Electricity Generation Customer Choice and Competition Act of 1996. That Act created electric competition throughout the Commonwealth of Pennsylvania.

We greatly appreciate having the benefit of your views on the Commission's record regarding this matter.

Sincerely,

Rosemary Chiavetta, Esq.
Director of Legislative Affairs

cc: Chairman Quain ✓
Secretary McNulty ✓

DOCKETED
JAN 05 1999

DOCUMENT
FOLDER

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Rc

Ohio House of Representatives



4779 Route 7 North
Andover, Ohio 44003
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COMMITTEES:
Rules & Reference
Legislative Service Commission
Ohio Bicentennial Commission
Capitol Square Review &
Advisory Board

ROSS BOGGS, JR.
Minority Leader

November 13, 1998

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98 NOV 16 AM 8:58
CHAIRMAN QUAIN'S OFFICE

Chairman John Quain
Pennsylvania Public Utilities Commission
PO Box 3265
Harrisburg, PA 17105-3265

Dear Chairman Quain:

It has come to my attention that PAPUC, Public Utilities Commission of Ohio, Federal Energy Regulatory Commission and the Nuclear Regulatory Commission must approve the asset transfer between FirstEnergy Corporation of Akron and Duquesne Light Company. It is my hope that the future of the employees at these two companies is addressed fully and fairly.

This transaction, announced on October 15, will provide FirstEnergy with exclusive ownership of the generating assets that are now jointly owned and operated under the Central Area Power Coordination Group. In return, Duquesne Light will receive full ownership and operating control of three fossil fuel power plants located in Avon Lake, Ohio; Niles, Ohio; and New Castle, Pennsylvania. Once ownership of these three plants by Duquesne is acquired, the company will immediately sell the plants as part of their divestiture process.

The agreement between Duquesne Light and FirstEnergy includes some assurance that the employees will be treated fairly in all labor-related matters. However, it is very important to include assurances which will provide job security to these hard working and dedicated men and women.

I appreciate your time and consideration. Please feel free to contact me directly if you have any questions or concerns.

Sincerely,

ROSS BOGGS, JR.
Minority Leader

RD/wtf