





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

REFER TO OUR FILE

DECEMBER 17, 1998

R-00974104

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

DOCKETED

DEC 22 1998

Application of Duquesne Light Company for approval of its  
Restructuring Plan under Section 2806 of the Public Utility Code

DOCUMENT  
FOLDER

To Whom It May Concern:

This is to advise you that an Opinion and Order (Order on Third Compliance Filing) has been adopted by the Commission in Public Meeting on December 17, 1998 in the above entitled proceeding.

An Opinion and Order (Order on Third Compliance Filing) has been enclosed for your records.

Very truly yours,

James J. McNulty,  
Secretary

smk  
Encls.  
Cert.Mail

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA. 17105-3265

Public Meeting held December 17, 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

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**OPINION AND ORDER**  
(Order on Third Compliance Filing)

DEC 22 1998

**I. INTRODUCTION**

**A. History of the Proceeding**

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 Final Order.

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).

By Opinion and Order entered on August 13, 1998 (Order on Compliance Filing), the Commission modified, clarified and corrected the compliance filing, thus requiring the filing of a second compliance filing.

On September 12, 1998, the Company filed its revised Compliance Filing. As with the earlier filing, parties filed comments and reply comments on the September 12, 1998 filing.

*By Opinion and Order dated October 16, 1998, the Commission accepted in part and rejected in part Duquesne's second compliance filing and ordered the Company to make a third compliance filing.*

The Company made its third compliance filing on November 4, 1998. On November 12, 1998, the Office of Consumer Advocate (OCA) and Duquesne Industrial Intervenors (DII) filed comments to the November 4, 1998 filing. The Office of Small Business Advocate (OSBA) filed reply comments on November 19, 1998. Duquesne filed reply comments on November 20, 1998.

GMER filed further comments on November 20, 1998. Duquesne filed reply comments to GMER's further comments on November 24, 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.

It should be noted that some of the electric generation supplier tariff provisions discussed below relate to transmission services which are regulated by FERC under provisions of the Federal Power Act. We have directed that such FERC-jurisdictional provisions be included in Pennsylvania tariffs for informational purposes only, and do not assert any state jurisdictional authority over such provisions by directing their inclusion in Pennsylvania tariffs.

## **II. STRANDED COSTS**

### **A. Realized Return for T&D Unbundling**

In the Second Order on Compliance Filing, the Commission required Duquesne to correct the return used in its unbundling analysis. In response to comments by the OSBA, the Commission ordered 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. At the same time, the Commission required the roll-in of the ECR, based upon a purchased power rate of \$12.80/Mwh, in order to properly recalculate the realized return for T&D unbundling purposes.

In the instant filing, Duquesne makes its calculations upon this basis and arrives at an 8.57% return. This results in a T&D unbundled rate of 2.14 cents per Kwh, or .12 cents per Kwh lower than previously calculated.

### **Resolution**

Since no party has contested the Company's recalculated return of 8.57%, we accept the realized return employed in the calculation of the unbundled T&D.

### **B. Sales Volume**

The Commission required that Duquesne employ the 1999 sales volumes of 12,519,000 Mwh, as developed by the OCA for the buildup of transmission and distribution rates.

The Company corrected the sales volume in its Revised Compliance Filing and provided all necessary data and analysis to support its calculation of the T&D unbundling using that 1999 sales volume.

In its November 12, 1998 comments, the OCA addressed the 1999 sales volume employed by Duquesne:

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. 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 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.

Duquesne filed reply comments addressing the concerns of the OCA. The Company points out that this is the same projected sales volume information that it provided during the case, in response to OCA-4-005 and OCA-4-006. Duquesne further states that OCA's comments are attempting to open a previously decided issue. The Commission ordered Duquesne to use a total test year volume of 12,519,000,000 kWh in computing unbundled T&D rates.

### **Resolution**

The Company has complied with the Commission's Order to use the estimated 1999 sales volume of 12,519,000 Mwh. The Company has provided its estimate of the volume by class. No parties, including the OCA, have presented compelling evidence to dispute either the total sales volume or its break down by class. As such, we accept the sales volumes used by Duquesne and the resultant effect upon the T&D unbundling.

**C. Provision of Further Income Tax Allocation Information with Respect to the Cost of Service Study**

In its Comments to the Second Compliance Filing, DII contended that a problem existed in the amount of income taxes allocated to Rates L and HVPS. It appeared that more income taxes were allocated to HVPS than L, even though HVPS earns a negative return on equity while L earns a positive return.

In our Order on the Second Compliance, we directed Duquesne to provide a written response to the DII allegations in the Third Compliance Filing and include all calculations to support its cost of service including income tax allocations.

In the Third Compliance Filing, Duquesne states that it has discussed its overallocation of income tax, and that it has corrected the error in its cost of service study (COSS). In addition, supporting schedules were included with the filing. Duquesne states that the error was the result of using a system-wide allocation factor instead of functional allocation factors.

In its comments to the Third Compliance Filing, DII states with respect to the Income Tax allocation and other COSS issues that:

Based on the information provided by the Company (both the narrative and calculations), it appears that the errors in the distribution COSS have been rectified. In addition, the unbundled rate components appear to be appropriate. Consequently, DII has no further comment at this time.

## **Resolution**

Our review of the COSS presented by Duquesne in the Third Compliance Filing, indicates that the income taxes are now allocated in an acceptable manner. The income tax allocation is accepted for COSS purposes. The unbundled rates contained in this compliance filing incorporate the correction of the income tax allocation error.

### **D. The Company Fails to Include Language Regarding the Transmission and Distribution Rate Cap.**

According to DII, the proposed tariff submitted with the Third Compliance Filing again fails to ensure that the distribution rates that Duquesne charges to customers will comply with the transmission and distribution rate cap under Section 2804(4) of the Act in the event that the FERC authorizes an increase in transmission rates. DII points out that our Second Order on Compliance Filing recognizes the validity of its 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.”

## **Resolution**

We agree with the DII that nothing in Duquesne’s Third Compliance 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. Despite our clear directive (See the Opinion and Order on Compliance Filing of October 16, 1998),

Duquesne evades the issue in its claim that “ no definitive commitment can be made without knowing the circumstances under which a change in transmission rates might occur”.

We, therefore, direct the Company to substantively 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.

#### **E. Rate RH Shopping Credit**

The OCA states that Duquesne has proposed shopping credits for Rate RH of 3.93¢/kWh in 1999, dropping to 2.62¢/kWh in 2000 and increasing steadily to 3.30¢/kWh in 2007. The OCA is concerned that these shopping credit levels will not provide Rate RH customers with a meaningful opportunity to participate in the competitive market.

The OCA states that one method of addressing this issue is to adjust the shopping credits at the time divestiture proceeds are known. To the extent that divestiture proceeds reduce stranded cost, the Competitive Transition Charge (CTC) for Rate RH could be lowered and the shopping credit increased.

The OCA recognizes that Rate RH is a promotional, discounted rate for residential electric heating customers. The OCA states that to provide these customers with an opportunity to participate in the competitive market, 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.

The OCA states that in the absence of a meaningful opportunity to participate in the competitive market, the rate cap protections from the Customer Choice Act become the essential consumer protection for Rate RH customers. The OCA states that if the Commission determines to lock in the shopping credits for Rate RH, it should consider extending the rate cap for Rate RH customers to match the CTC collection period.

The OCA states that 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.

The OCA submits that this issue requires further exploration to assure that these customers are able to benefit from the Customer Choice Act.

The OSBA states that while it is sympathetic toward the OCA's concern, any resolution to the RH shopping credit dilemma must not come at the expense of other rate classes. The OSBA states that in the event that the shopping credits for Rate RH customers are increased in response to the OCA's comments, the total stranded cost responsibility that has been allocated to Rate RH must remain the responsibility of that class. The OSBA states that a shifting of stranded cost responsibility away from Rate RH would violate the Competition Act as well as the Commission's prior rulings regarding stranded cost allocation.

Duquesne contends that the OCA's recommendation to adjust the shopping credits at the time the proceeds of the auction are known has already been rejected. Duquesne states that: the Commission has held that shopping credits for each class should remain fixed during the transition period; the Commission has held that the shopping credit is a residual after the close of the auction and that the purpose of this proceeding is therefore not to litigate the appropriate shopping credit for each class; and adopting OCA's proposal would add uncertainty to the Provider of Last Resort (POLR) auction because potential POLR bidders would not know with certainty the value of the shopping credits.

Duquesne states that the OCA also appears to allege that the realized return should be negative 3% for rate class RH, which would raise the shopping credit after 1999. Duquesne contends that the OCA attempts to rely upon outdated assumptions and outdated data. Duquesne states that this return was revised in this proceeding and that realized rate of return calculations for all classes have changed.

Duquesne argues that the Commission would have to reopen the determination of shopping credits and associated CTC recovery for all rate classes if it chose to adopt the OCA proposal. Duquesne claims that it is too late to revisit settled issues at this stage in the proceedings.

### **Resolution**

We agree with the OSBA that the total stranded cost responsibility that has been allocated to Rate RH must remain the responsibility of that class. We also agree with Duquesne that we have held that the shopping credits for each class

should remain fixed during the transition period and that it is too late to revisit this issue at this stage in the proceedings. Therefore, we are not convinced by the OCA that this issue requires further exploration at the present time.

#### **F. Deferred Fuel Regulatory Asset**

In our consideration of the Generation Auction Plan, we adopted the recommendations of the OCA and DII to require Duquesne to reflect \$6.73 million as the Deferred Fuel Regulatory Asset along with the associated deferred taxes as part of the Stranded Cost Allowance. We concluded that this was consistent with our prior findings in the Restructuring Order entered August 13, 1998. Duquesne is therefore directed to correct its allowable Stranded Cost Allowance balance.

### **III. TARIFF ISSUES**

#### **A. Bill Payment Period**

DII states that Duquesne has changed the bill payment period from twenty days to fifteen days for customers on rates L, HVPS, GS/GM, GMH, GL and GLH, Tariff pages 41, 47, 50, 56, 60 and 64. DII states that this change was not authorized or discussed in the Commission's Second Order on Compliance Filing. DII states that this change is unauthorized, unsupported and unreasonable. DII requests that the Commission order Duquesne to reverse its bill payment modification.

Duquesne states that the currently effective tariff provides for payment after 15 days and that it intended to maintain the same payment period in the proposed

tariff. Duquesne states that the payment period was inadvertently changed to 20 days in the Second Compliance Filing and that it corrected this mistake in the Third Compliance Filing when it revised the payment period to 15 days.

Duquesne submits that this should not be considered a material revision given that the presently effective tariff also provides for payment within 15 days.

### **Resolution**

We agree with Duquesne. Since the law allows a fifteen day bill payment period for nonresidential customers, 66 Pa. C. S. § 1509, the present tariff provides for a fifteen day payment period, and the changed payment period in the Second Compliance Filing appears to have been in error, we will allow this revision.

#### **B. Unauthorized Tariff Changes**

DII states that Duquesne has made changes to the terms of its tariff that were not authorized by the Commission in the Second Order on Compliance Filing. DII requests that the Commission reject the following tariff changes, which are underlined, and direct Duquesne to resubmit its tariff containing only the language that Duquesne used for these provisions in its Second Compliance Filing.

##### **1. Electric Charges Section, Pages 59 and 63**

“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.”

## **Resolution**

We note that Duquesne did not respond to DII's objection to this wording change. We agree with DII that new proposed changes to the tariff should not be allowed at this late stage of the compliance proceedings. We direct Duquesne to delete the underlined word from its tariff. In addition, Duquesne will have an opportunity to make a §1308 (Voluntary Change in Rates) filing and request the changes disallowed herein. Other parties will have sixty days to file a complaint.

### **2. Rule 4 and Riders 8, 9 and 20, Pages 10, 102, 107 and 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.”

## **Resolution**

Here again Duquesne did not file any response to DII's objections. We agree with DII that new proposed changes to the tariff should not be allowed at this late stage of the compliance proceedings. However, our comparison of the Second Compliance Filing with this Filing shows that the only additional language inserted by Duquesne was “effective January 1, 1999”, rather than the language underlined by DII. We direct Duquesne to delete the words “effective January 1, 1999” from its tariff.

### **3. Rider 9, Page 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.”

### **Resolution**

Once more Duquesne did not respond to DII’s objections. We agree with DII that new proposed changes to the tariff should not be allowed at this late stage of the compliance proceedings. We direct Duquesne to delete the underlined words from its tariff. In addition, Duquesne will have an opportunity to make a §1308 (Voluntary Change in Rates) filing and request the changes disallowed herein. Other parties will have sixty days to file a complaint.

## **IV. Supplier Tariff Rules**

### **A. Rule 5.3.4 Customer Information**

DII expresses concern that specific types of information will be made available by Duquesne to all EGSs for all enrolled customers authorizing load data information release. DII gives examples of scenarios which may occur and requests that information be subject to stringent confidentiality constraints.

## Resolution

In Duquesne's Third Supplier Tariff, the Company has added language to accommodate the release of customer information if the customer has agreed to release of information during the enrollment process.

In our Customer Information Disclosure Regulations at 52 Pa. Code §54.8, we provide for the restriction of information of residential and small business customers. Duquesne's Rule 5.1.5 provides for an EGS that enrolls a customer to require permission for disclosure to all EGSs by the Company of the telephone number and historic billing data information.

Industrial customers have a right to keep such historic billing data confidential. Section 5.3.4 has been changed by Duquesne, in a manner that permits information disclosure indefinitely if a customer had agreed to release the information during the enrollment process. This change to the Third Compliance Filing has merit because most customers will not be concerned about secrecy of customer information as industrial customers are. We will allow the Company's revised language. In order to accommodate customers desiring to maintain confidentiality of information, we direct Duquesne to modify rule 5.3.4 to provide for confidential treatment of customer information upon request, in which case a copy of written documentation indicating that the customer has authorized the release of customer information to the EGS will be required by rule 5.3.4. This follows the rationale of our regulation at §54.8 regarding residential and small business customers' information.

**B Rule 9.1 - Participation Through a Scheduling Coordinator.**

GMER requests that this rule be modified to provide for multiple scheduling coordinators by EGSs.

**Resolution**

As proposed, this rule enables an EGS to become a coordinated supplier by entering into a business arrangement with a scheduling coordinator, and affirms required duties of a scheduling coordinator.

We appreciate GMER's recommendation to provide for multiple scheduling coordinators, but the request to change Rule 9.1 is denied because this is not the appropriate rule in which to implement the change.

**C. Multiple Scheduling Coordinators**

GMER requests that the proposed tariff be modified through the addition of the corresponding tariff language that has been adopted by West Penn Power Company (Docket No. R-00973981) as Rule 9.6. Duquesne replies that it would be difficult, if not impossible, to accommodate some scenarios, and that the PECO and PP&L Supplier Tariffs contain no such provision.

Duquesne states that the Duquesne Supplier Tariff presently accommodates what GMER desires, namely the designation of a scheduling coordinator for each customer, and to permit multiple scheduling coordinators for an EGS.

## **Resolution**

As evidenced by its inclusion in West Penn's Supplier Tariff, we favor such a provision as requested by GMER. We appreciate Duquesne's concerns regarding the exact workings of multiple scheduling coordinators or load divided among scheduling coordinators, but we believe that adopting the proposed Rule 9.6 is the best means to reflect the evolving product of the Electronic Data Exchange Working Group (EDEWG), the state-wide data protocols being developed to implement competition. These rules will be applied consistently to all providers. We direct the Company to adopt a Rule 9.6 as follows:

**Multiple Scheduling Coordinators.** At such time as the EDEWG incorporates a data exchange methodology for the designation of a Scheduling Coordinator for each customer, the Company will, within a reasonable time, permit multiple Scheduling Coordinators for an EGS. The EGS will be required to submit a Scheduling Coordinator Designation Form for each Scheduling Coordinator.

### **D. Rule 12.4 - Guarantee of Payment**

GMER recommends that the proposed tariff rule be modified so that the Company will make determinations and arrangements regarding security directly with the Scheduling Coordinator at the request of the EGS. GMER refers to Rule 2.2 which states that the term EGS applied equally to a "scheduling coordinator" for responsibilities and rights properly assigned by the EGS to the Coordinator. Duquesne replies that GMER's proposal may force the Company to look to a non-PaPUC licensed EGS for payment and other obligations that have not been specifically designated to a Scheduling Coordinator. The proposal thwarts the ability of Duquesne to hold only a licensed EGS primarily responsible for performance of obligations, as envisioned under the Competition Act.

## **Resolution**

We have generally adopted recommendations allowing Scheduling Coordinators to represent EGSs in their dealings with EDCs. Rule 9.3 clearly states that the EGS is ultimately responsible to the EDC for satisfying tariff requirements. However, Rule 12.4 as proposed by GMER, suggests that the deposit requested of an EGS with bad credit can be assessed upon and paid by a scheduling coordinator. This could involve several coordinators for an EGS with bad credit.

Regarding security for an EGS with bad credit, we will not require an EDC to negotiate or accept security from a scheduling coordinator on behalf of an EGS for PUC jurisdictional transactions. We will not prohibit such transactions, but we will not direct modification of the tariff to require them. Also, we agree with Duquesne that the EGS line of responsibility must remain clear in any event. Our direction to adopt the rules as stated in West Penn Power's tariff accomplishes this.

## **V. CONCLUSION**

Duquesne shall resubmit its compliance filing as modified by this Opinion and Order. The compliance filing shall be due on or before December 23, 1998, and shall precisely reflect the balanced consideration reflected in the May 29, 1998, August 13, 1998, and October 16, 1998 Orders as reconsidered, clarified, amended, and corrected by this Opinion and Order.

With the corrections, clarifications, and modifications granted herein, this Commission, Duquesne and the other parties to this proceeding, as well as the

electric consumers in this Commonwealth, will be well-positioned to begin and implement successfully the difficult task of moving expeditiously and effectively to a full competitive electric generation market;

**THEREFORE,**

**IT IS ORDERED:**

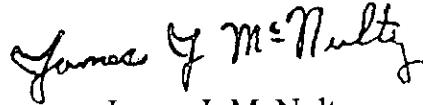
1. That Duquesne is directed to amend Tariff Electric-Pa.' P.U.C. No. 18, the Electric Generation Supplier Services Tariff, and the various attachments as is required by this Opinion and Order.

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 December 23, 1998, which must actually be received at the Commission's Office of the Secretary by the close of business on that date.

3. That Duquesne is directed to revise its Stranded Cost Allowance balance to reflect our determination concerning the Deferred Fuel Regulatory Asset and its associated deferred taxes.

4. That a copy of this Opinion and Order shall be served upon all parties to the proceedings at Docket No. R-00974104.

BY THE COMMISSION,



James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: December 17, 1998

ORDER ENTERED: **DEC 17 1998**

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