

ORIGINAL

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

1440 NEW YORK AVENUE, N.W.

WASHINGTON, D.C. 20005-2111

TEL: (202) 371-7000

FAX: (202) 393-5760

DIRECT DIAL  
(202) 371-7049  
DIRECT FAX  
(202) 371-7914

FIRM/AFFILIATE OFFICES

- BOSTON
- CHICAGO
- HOUSTON
- LOS ANGELES
- NEWARK
- NEW YORK
- PALO ALTO
- SAN FRANCISCO
- WILMINGTON
- BEIJING
- BRUSSELS
- FRANKFURT
- HONG KONG
- LONDON
- MOSCOW
- PARIS
- SINGAPORE
- SYDNEY
- TOKYO
- TORONTO

June 30, 2000

By Overnight Delivery

James J. McNulty  
Secretary  
Office of the Prothonotary  
Pennsylvania Public Utility Commission  
North Office Building  
Harrisburg, Pa. 17105-3265

RECEIVED

JUN 30 2000

A PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Re: Petition of Duquesne Light Company for Approval  
of Plan for Post-Transition Period POLR Service,  
Docket Nos. R-00974104

Dear Secretary McNulty:

Duquesne Light Company hereby submits an original and four copies of a Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period POLR Service in the above-captioned docket. Please date-stamp the extra copy and return it to me in the enclosed self-addressed, stamped envelope.

Thank you for your consideration and assistance in this matter.

Sincerely,

Kathleen L. Barrón  
Counsel to Duquesne Light Company

DOCUMENT  
FOLDER

cc: Service List

EEF

**ORIGINAL**

**RECEIVED**

JUN 30 2000

PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY )  
COMMISSION )**

v. )

**Docket No. R-00974104**

**DUQUESNE LIGHT COMPANY )  
Application to Approve Restructuring )  
Plan Pursuant to 66 Pa.C.S. § 2806(d) )**

**DOCUMENT  
FOLDER**

**PETITION OF DUQUESNE LIGHT COMPANY FOR APPROVAL OF  
PLAN FOR POST-TRANSITION PERIOD POLR SERVICE**

**Larry R. Crayne  
Assistant General Counsel  
DUQUESNE LIGHT COMPANY  
411 Seventh Avenue  
Pittsburgh, PA 15219  
(412) 393-6049**

**John S. Moot  
Kathleen L. Barrón  
SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP  
1440 New York Avenue, N.W.  
Washington, D.C. 20005  
(202) 371-7310  
(202) 371-7012 (fax)**

**DOCKETED  
JUL 12 2000**

**Dated: June 30, 2000**

**EEF**

**TABLE OF CONTENTS**

INTRODUCTION ..... 2

I. BACKGROUND ..... 6

    A. Duquesne's Restructuring Plan ..... 6

    B. The Need for a POLR II Plan ..... 7

    C. The Collaborative Process for Developing a POLR II Plan ..... 10

II. POLR II RATE PLAN ..... 12

    A. POLR Generation Rates ..... 12

        1. New Generation Rate Cap ..... 12

        2. Market-Based Program for Large C&I Customers ..... 15

    B. T&D Rates ..... 18

III. COMPETITION INCENTIVES AND MARKET REVISIONS ..... 19

    A. Losses and Load Profiles ..... 20

    B. EGS Access to Customer Information ..... 20

    C. Summer Switchback Load ..... 21

        1. Commercial and Industrial Customers ..... 22

        2. Residential Customers ..... 23

        3. The Summer of 2000 ..... 25

        4. Implementation Issues ..... 27

IV. DUQUESNE'S PROPOSAL IS IN THE PUBLIC INTEREST ..... 27

    A. Duquesne's Plan Benefits Customers ..... 27

    B. Duquesne's Plan Benefits Competition ..... 28

    C. Duquesne's Plan Treats Shareholders Fairly ..... 28

EEF

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY )  
COMMISSION )**

v. )

**Docket No. R-00974104**

**DUQUESNE LIGHT COMPANY )  
Application to Approve Restructuring )  
Plan Pursuant to 66 Pa.C.S. § 2806(d) )**

---

**PETITION OF DUQUESNE LIGHT COMPANY FOR APPROVAL OF  
PLAN FOR POST-TRANSITION PERIOD POLR SERVICE**

---

Duquesne Light Company ("Duquesne") hereby submits a proposal addressing its provider of last resort ("POLR") obligation during the period between the completion of Duquesne's transition period and December 31, 2004. Under Duquesne's proposal, POLR generation rates would remain capped, transmission and distribution rates would remain capped, and incentives for competition would be put in place to encourage increased shopping in Duquesne's service territory. Duquesne respectfully requests Commission approval of its proposal by September 1, 2000.

## INTRODUCTION

Due to the success of Duquesne's generation auction ("Auction"), Duquesne's transition period will terminate near the end of 2001<sup>1</sup> for most major rate classes, which will likely be prior to promulgation of generic Commission regulations on post-transition POLR service. *See* 66 Pa. C.S. § 2807(e)(2). Recognizing this, Duquesne and certain key stakeholders with an interest in electric competition in Duquesne's service territory commenced a dialogue to determine whether a consensus plan regarding post-transition POLR service could be developed. On April 13, 2000, the Commission, in its Opinion and Order on the Auction, directed Duquesne to "continue its collaboration with interested parties on the proper form of POLR II and submit a proposal to the Commission by July 1, 2000." Opinion and Order at 25, Docket No. A-00110150F0023 ("Auction Order"). This filing fulfills that requirement.

The key elements of Duquesne's POLR II Plan are as follows. The Plan establishes new, levelized shopping credits that will commence upon competitive transition charge ("CTC") termination for each individual rate class and will cease on December 31, 2004. These new shopping credits will guarantee a 21% rate

---

<sup>1</sup> The actual date of CTC termination depends on the rate class and on Duquesne's reconciliation process, which will be addressed in an auction transaction cost CTC reconciliation filing that Duquesne will submit by July 27, 2000.

reduction for residential customers and a 17% system-average rate reduction, thereby ensuring that all Duquesne's customers realize the benefits of the successful Auction. Moreover, these rate reductions are only a *floor*; customers can realize greater savings by shopping for electricity. These additional savings could be substantial, given that the new shopping credits are, on average, 31% higher than the shopping credits that were in effect from January 1, 1999, through the closing of the Auction. During that period, Duquesne experienced the highest levels of shopping in the Commonwealth, and we can expect increased shopping during POLR II because of the new, higher shopping credits.

The benefits produced by these new shopping credits are possible, however, only because Orion Power MidWest, L.P. ("Orion"), the winning bidder in the Auction, has agreed to provide wholesale power at prices that permit Duquesne to offer such savings. Understandably, Orion has conditioned its agreement to provide such power upon the implementation of a rule that protects it against POLR customers returning for POLR service only during high-cost months ("summer switching"). Without such a rule, the customer benefits of the Plan would be lost, as Orion would not agree to provide wholesale power at prices that enable Duquesne to guarantee meaningful rate reductions to all customers. Duquesne fully supports Orion's position on this issue and the summer switching rule proposed here is consistent with both the principles enunciated in the Commission's recent Final

Order in *Guidelines Addressing Return of Customers to Provider of Last Resort Service*, Docket No. M-00960890F0017 ("Final Order on Returning Customers"), and the findings made in Duquesne's Restructuring Proceeding. Opinion and Order at 245, *Application of Duquesne Light Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code*, Docket No. R-00974104 (May 29, 1998) ("Restructuring Order").

In addition to the substantial increase in the shopping credits, the Plan contains other features that should further the development of retail competition in Duquesne's area. At the request of the Mid-Atlantic Power Supply Association ("MAPSA"), Duquesne will implement several reforms affecting Electric Generation Suppliers ("EGSs"). These reforms include providing greater customer usage information to EGSs and providing a level playing field as between EGSs and Orion with respect to allocating load responsibility and losses. In addition, Duquesne is proposing a market-based POLR service in 2004 for large commercial and industrial customers (Rate Classes L, GL, GLH and HVPS). This program, which will be implemented if a visible, liquid wholesale market exists in Duquesne's area by that date, should facilitate the transition from rate caps that reflect the current rate design (and rate levels) to POLR rates that are based on market prices.

Finally, the Plan contains an extended rate freeze for transmission and distribution service. Duquesne's current rate freeze for transmission and distribution

rates terminates on December 31, 2001. The Plan extends this rate freeze through December 31, 2003, with an option to extend it through December 31, 2004. This extension of the T&D rate freeze will provide customers total rate certainty through 2003 and, notably, will continue T&D rate levels that have been in effect since 1987.

The foregoing Plan represents a comprehensive and balanced proposal to address POLR service in Duquesne's territory for the interim period between termination of CTC collection and December 31, 2004. The Plan was negotiated with the key stakeholders in Duquesne's area, including the Office of Consumer Advocate ("OCA"), Office of Small Business Advocate ("OSBA"), the Duquesne Industrial Intervenors ("DII"), MAPSA, Enron Power Marketing, Inc. ("Enron"), and Orion. The Plan, as negotiated, contains significant benefits for all these stakeholders as well as important concessions by each. The Plan should therefore be approved without modification.

Duquesne recognizes, however, that, on two issues, there is not universal agreement. The first is the summer switching rule. Not surprisingly, the customer representatives and marketers are reluctant to embrace it; Orion, by contrast, will not supply wholesale power to POLR customers without it. The second potentially contested issue is the market-based POLR program for large C&I customers in 2004. It is unclear, at this time, whether the large C&I customers will

support this proposal; other stakeholders, however, strongly support it and believe the Act requires market-based POLR rates for the post-transition period.

Although Duquesne respects the views of each stakeholder that opposes these two proposals, we respectfully suggest that the Commission approve the Plan as proposed. Doing so will preserve the significant benefits of the Plan for all stakeholders. By contrast, without unconditional approval, the entire Plan may fail, thereby harming all stakeholder groups, particularly Duquesne's customers, who will be deprived of guaranteed rate reductions of more than 21%.

Each element of the Plan is described in greater detail below.

## **I. BACKGROUND**

### **A. Duquesne's Restructuring Plan**

Pursuant to the Electricity Generation Customer Choice and Competition Act ("the Act"), Duquesne and the other Pennsylvania utilities were required to submit restructuring plans to implement direct access to a competitive market for the generation of electricity. Duquesne's plan, filed August 1, 1997, set forth unbundled rates for generation, transmission and distribution services and identified the assets that would be stranded by the creation of a competitive generation market and therefore collected through the CTC. To properly value its stranded assets, Duquesne proposed to divest them through an auction. In the Restructuring Order,

the Commission accepted Duquesne's offer and set forth a methodology for developing the capped rates required by the Act.

Pursuant to procedures set forth in subsequent filings and Commission orders, Duquesne auctioned its assets, along with several additional assets acquired through a generation exchange with FirstEnergy Corp. ("FirstEnergy"), to Orion for \$1.705 billion. As part of the Auction transaction, Orion agreed to assume the obligation to supply power at wholesale to serve Duquesne's POLR customers at fixed rates through the period of CTC collection, also known as the "transition period," to enable Duquesne to serve POLR load at the price cap set forth in the Act ("POLR I"). Due to the amount of stranded costs recouped through the Auction, Duquesne's transition period, originally expected to last until 2007, has been shortened to near the end of 2001 for most customers. The Commission approved the divestiture to Orion and the POLR I supply arrangement on April 13, 2000, and the Auction closed on April 28, 2000.

**B. The Need for a POLR II Plan**

The success of Duquesne's restructuring plan will allow Duquesne to terminate CTC collection well in advance of any other major electric utility in the Commonwealth. Early termination of the CTC will also occur in advance of the adoption of generic regulations for post-transition POLR service. *See* 66 Pa. C.S. § 2807(e)(2). To address this gap, Duquesne commenced discussions with affected

stakeholders to establish rules for post-transition POLR service in Duquesne's service territory. The objective of the process was not to establish rules for the "end state" – *i.e.*, the POLR rights and obligations that would be established by generic Commission regulation – but rather to address a relatively brief interim period after termination of CTC collection by Duquesne.

In developing a POLR II plan through consultation with affected stakeholders, Duquesne sought to achieve, in a balanced manner, three principal objectives. The first objective is to continue to provide continued, meaningful rate cap protection for retail customers. Early termination of the CTC means that the statutory rate cap that Duquesne's customers currently enjoy will expire near the end of 2001 for all major rate classes. Duquesne recognizes that, in the long run, competition and markets will replace the need for government-approved rate caps. There is today, however, only nascent competition in Duquesne's area. There is no liquid, visible wholesale electric market in Duquesne's area. There is limited retail competition for many customer classes, particularly residential. There is no Independent System Operator ("ISO"), Regional Transmission Organization ("RTO") or regional power exchange. Moreover, and of particular concern, there are shortages of generation capacity that have driven the market clearing price in peak hours to \$7,500 MWH, more than 100 times the current generation rate for POLR service. It is therefore doubtful that, in the near term, the market alone can be relied on to

protect Duquesne's POLR customers or to provide them the rate relief made possible by Duquesne's successful Auction.

The second objective is to provide increased incentives for shopping. Duquesne's retail access program is currently "one of the most, if not the most, successful retail access programs in the country." Comments of Strategic Energy L.L.C. at 13, Docket No. M-00960890F0017 (June 14, 2000). Our program has been successful in many respects, particularly in the level of shopping that has occurred. Prior to the recent summer switching, approximately 25% of Duquesne's customers were being supplied by an EGS. This was the highest percentage of any utility in the Commonwealth. Duquesne believes, and all stakeholders agree, that a POLR II plan should continue progress toward increased shopping by retail customers.

Duquesne recognizes that the foregoing two objectives – providing meaningful rate cap protection and fostering increased shopping – are critically important, but are in some tension with each other. Simply put, lowering the rate cap produces higher guaranteed rate savings but provides less incentives for shopping. Not surprisingly, therefore, the most difficult challenge in developing a POLR II plan was to achieve an appropriate balance in meeting these objectives such that the plan could be supported by a broad range of stakeholder interests. Through a constructive dialogue with affected stakeholders, Duquesne believes that its plan, as described in more detail below, reasonably balances, and achieves, both objectives. In particular,

the new, levelized shopping credits were negotiated with MAPSA as sufficient to encourage shopping during the POLR II period.<sup>2</sup>

The third objective is to forestall a transmission and distribution rate increase, while also providing Duquesne a fair opportunity to recover its T&D costs. Duquesne's current T&D costs significantly exceed its current T&D rates, both because current rates are based on an unbundling of 1987 rates and because many costs previously related to generation (*e.g.*, metering, billing, information systems, legal, and accounting) now must be borne exclusively by the T&D business. The POLR II Plan contains an innovative and procompetitive proposal to address this problem. Under the Plan, Duquesne will retain a small margin above the price charged by Orion for POLR service to offset the need for a T&D rate increase. This mechanism has the dual benefit of avoiding a new T&D rate case and increasing shopping incentives by increasing the shopping credits.

### **C. The Collaborative Process for Developing a POLR II Plan**

Upon selecting a winning bidder in the Auction, Duquesne commenced discussions with affected stakeholders regarding a POLR II plan. These discussions began in early 2000 and have continued over the intervening six months. To encourage candor and constructive dialogue, Duquesne met independently with

---

<sup>2</sup> As indicated *supra*, however, MAPSA will likely oppose the summer switching rules as a disincentive to shopping.

each stakeholder group (including representatives of customers, marketers and Orion) to gain a better understanding of its key objectives and concerns.

After an initial round of meetings, Duquesne developed a preliminary POLR II plan that, in our view, met each of the stakeholder's principal objectives. Duquesne then initiated another round of meetings to gauge the level of support for that plan. In those meetings, the stakeholders identified their principal concerns and suggested several modifications. These modifications focused principally on (i) adjusting the shape and level of the shopping credits to encourage greater shopping, (ii) addressing customers returning to POLR service during high-cost months, and (iii) phasing in a market-based POLR service at the time a visible, liquid wholesale power market develops.

Taking into account these suggested modifications, Duquesne sought to revise its POLR II proposal to address each of these concerns, while continuing to meet the principal objectives described *supra*. The revised POLR II proposal was then circulated among the stakeholder groups and Duquesne again met with them to determine whether that revised plan was acceptable. Through that process Duquesne has sought to resolve as many of the remaining concerns as possible.<sup>3</sup> With the two

---

<sup>3</sup> One of the proposed revisions during this final round of negotiations involves, as requested by the OSBA, redesigning POLR rates in Rate Class GS/GM to achieve a more equitable sharing of costs among commercial and  
(continued...)

exceptions noted previously, Duquesne believes the Plan can be supported by the affected stakeholders. Duquesne then proceeded to finalize and file the Plan by July 1, as required by the Auction Order.

## **II. POLR II RATE PLAN**

### **A. POLR Generation Rates**

#### **1. New Generation Rate Cap**

The POLR II Plan provides, as summarized *supra*, new generation rates for POLR customers. These new rates, or shopping credits, were developed as follows. Duquesne engaged in an arms-length negotiation with Orion to obtain the lowest possible rates for service to POLR customers for the interim period covered by POLR II.<sup>4</sup> Orion agreed, as the result of that negotiation process, to supply POLR II power at the POLR I generation rates plus an average of 4.4% during the years 2001-2004. Duquesne then added 10% to that shopping credit to offset the need for

---

<sup>3</sup> (...continued)  
industrial customers in that class.

<sup>4</sup> Duquesne commenced negotiations with Orion, rather than conducting a general solicitation (or "request for proposals"), because Duquesne had already sought to auction its POLR service as part of its generation auction process. That process revealed that, given the illiquid nature of Duquesne's market, no market participant other than the new owner of Duquesne's generation assets would agree to supply POLR power on reasonable terms. The recent failed auction of POLR service by GPU Energy further supported the approach taken by Duquesne.

a T&D rate increase. The result was new shopping credits 14.4% higher than those currently in effect. Consistent with the methodology prescribed by the Commission for rates during the transition period, these generation rates, or shopping credits, would increase gradually each year and maintain the existing rate design for all customer classes.

After concluding these negotiations, Duquesne approached the stakeholders to determine whether they could support these new generation rates. The stakeholders recommended two important modifications, each of which was accepted by Duquesne and Orion. The first modification was to "levelize" the shopping credits. In other words, rather than escalating each year during the POLR II period, the shopping credits would be levelized to achieve a consistent rate throughout that period. The purpose of levelization, which was requested by MAPSA, was to increase the shopping credits, and thereby increase incentives to shop, at the commencement of POLR II. This was a reasonable request, particularly given that wholesale market prices may level off during the POLR II period as new generation is added in Duquesne's region.

The resulting shopping credits are, in the first full year of POLR II (2002), 16.75% higher than the 2002 shopping credits currently in effect.<sup>5</sup> They also

---

<sup>5</sup> The POLR II shopping credits were levelized based on 2003 levels, the mid-  
(continued...)

produce system-average rate reductions of nearly 14% when compared to the total generation charges currently in effect (shopping credit plus CTC). The new shopping credits are set forth in Appendix 1.

The second modification was a modest redesign of rates within Class GS/GM. At the request of the OSBA, the rate design for that class has been adjusted slightly to lower rates on the initial "rates blocks" and to increase them for the "tail blocks." The result is to reduce POLR II generation rates for the smallest commercial and industrial customers – *i.e.*, those that have less opportunity to participate in a competitive market – and to increase them for the larger C&I customers within that class. This was a reasonable request, given that the rate redesign does not affect any other class and produces an equitable balance as between members of that class.<sup>6</sup>

---

<sup>5</sup> (...continued)  
point of the POLR II period. Relative to Duquesne's initial POLR II proposal, levelizing the shopping credit increases the rate in 2001 and lowers the rate in 2004.

<sup>6</sup> Duquesne agreed to a modest redesign of Class GS/GM rates principally because that was the only requested modification of the Plan by the OSBA. However, due to concerns over revenue adequacy and the effect of rate redesign on shopping incentives for small customers, as well as our reluctance to initiate any rate redesign at this stage of restructuring (something the Commission has declined to consider in all of its orders on the Duquesne Restructuring Plan), Duquesne has implemented 50% of OSBA's proposed adjustments for each rate block within Class GS/GM. In other words, if OSBA sought to decrease the initial block rate by 14 mills/kWh and increase the tail block rate by 8 mills/kWh, Duquesne decreased the initial block by 7  
(continued...)

Furthermore, the incentives to shop for even the smaller members of that class remain substantial. The revised generation rates for the initial 550 kWh of consumption within Class GS/GM is 7.7963¢/kWh, which remains above the system average shopping credit.

## **2. Market-Based Program for Large C&I Customers**

The new shopping credits described above achieve the dual objectives of producing significant rate reductions while also providing increased incentives to shop for electricity. They do not, however, purport to track actual market prices over the POLR II period. There is not today, nor is there expected to be in the near future, a visible and liquid wholesale market by which to track market prices in Duquesne's area.

During the collaborative process, certain stakeholders strongly urged Duquesne to adopt some form of market-based POLR service during the POLR II period. The reasoning was that, over the long run, market-based POLR service sends the proper price signals and the Act contemplates such a result. *See* 66 Pa. C.S. § 2807(e)(3). In considering this suggestion, Duquesne weighed a number of factors, including (i) the state of market development in Duquesne's area, (ii) the need for

---

<sup>6</sup> (...continued)  
mills/kWh and increased the tail block by 4 mills/kWh. We believe this approach, which meets the OSBA half way, is reasonable under the circumstances.

fixed rate cap protection prior to development of a visible and liquid generation market, (iii) the relative desirability of such a program for each rate class, and (iv) the litigation risks associated with not adopting any form of market-based POLR service.

After weighing these factors, Duquesne agreed to propose a market-based program for large C&I customers during 2004. A properly designed market-based POLR service will send the proper price signals to POLR customers. It is also true, however, that there is no visible, liquid wholesale market in Duquesne's area at this time and, therefore, a market-based POLR service is simply not viable in the near future.<sup>7</sup> It is reasonable to believe that by 2004, however, such a market will have developed and that, at that time, it will be appropriate to introduce market-based POLR pricing for large C&I customers. In Duquesne's view, large C&I customers are sufficiently sophisticated in procuring energy services (and other inputs to production) on a market-basis, and there is sufficient competition to serve them, that a properly designed market-based program would be appropriate for them.

---

<sup>7</sup> This does not mean, however, that a Generation Rate Adjustment ("GRA"), as described in the Final Order on Returning Customers, cannot reasonably be calculated in Duquesne's area. There are various alternatives for calculating the GRA. For example, it could be based on the additional cost to acquire reserve power attributable to the load associated with the returning customers. The calculation of the GRA does not require that there be any particular market – whether visible and liquid or not – for acquiring that power.

Duquesne has therefore agreed to provide a market-based POLR II program during calendar year 2004 for large commercial and industrial classes (L, GL, GLH and HVPS). This program would take effect only if a visible and liquid spot market price was available at that time. If it was, large C&I customers would be charged a generation rate calculated as the sum of a wholesale market price for power (based on the visible market index), adjusted for the customer's load shape, plus line losses, ancillary service, gross receipts tax, and any other supplier requirements at the time, such as capacity reserves. In addition, to encourage shopping, a retail service adder of 5 mills/kWh would also be charged to customers participating in this program. Total POLR II rates for these classes would adjust on a monthly basis and would be the sum of the generation rate calculated as described above, and the transmission and distribution rates. To implement this program, Duquesne will make a filing by June 30, 2003, to address whether a visible and liquid spot market price is available for this program. Interested parties will, at that time, be able to comment on whether such a market exists and if so, which market index should be selected.

## **B. T&D Rates**

The Plan also includes a two-year extension of the current T&D rate freeze from December 31, 2001 through December 31, 2003.<sup>8</sup> This rate freeze extension is made possible by Duquesne retaining a small margin (which averages 4 mills/kWh) on POLR II generation sales. This approach is reasonable under the circumstances given that it avoids the need for a lengthy proceeding on a requested T&D rate increase<sup>9</sup> and, at the same time, provides increased incentives to shop for electricity. The proposal has been discussed with the stakeholders and none objects to it within the context of the POLR II plan.

Duquesne can agree to a T&D rate cap through 2003, however, only if there are exceptions to the cap for certain circumstances beyond Duquesne's control. These exceptions are (1) charges levied by an RTO or ISO for use of the RTO- or

---

<sup>8</sup> Duquesne has the ability, but is not obligated, to extend the T&D rate cap through 2004, the last year of POLR II. Duquesne cannot commit to do so now, however, because, with the added shopping incentives in the POLR II plan, we believe there will be significantly reduced POLR load over time and that, by 2004, the revenues from POLR II sales may not be sufficient to avoid a request for a rate increase in that year.

<sup>9</sup> The need for such a rate increase is due principally to the fact that (i) Duquesne's current T&D rates are based on an unbundling of 1987 rates, and (ii) the divestiture of generation means that the T&D business must bear all the remaining administrative and general costs, such as billing, meter reading, collections, call centers, legal, accounting, etc.

ISO-controlled grid by Duquesne's customers;<sup>10</sup> (2) an increase in taxes subject to recovery through the State Tax Adjustment Surcharge<sup>11</sup>; and (3) the circumstances set forth in Section 2804(4)(iii) of the Act. Any such increased costs would be assessed on both shopping and non-shopping customers to ensure that they do not constitute a barrier to shopping. Again, Duquesne has discussed these exceptions with the stakeholders and none objects to it within the context of the POLR II plan.

### **III. COMPETITION INCENTIVES AND MARKET REVISIONS**

In preparing a POLR II proposal, Duquesne has sought to create incentives that will maximize competition and treat all suppliers fairly. Toward that end, Duquesne proposes several additional changes to the current POLR arrangement.

---

<sup>10</sup> These RTO or ISO costs will be subject to FERC approval and Duquesne will participate in the relevant FERC proceedings to protect the interests of its customers. Duquesne also anticipates coordinating with the OCA and other customer groups on RTO and ISO issues that affect its customers. Duquesne also will continue – as it has since the early 1990s, when it was one of the first utilities in the country to advocate the elimination of pancaked rates, the formation of ISOs and the use of locational pricing – to encourage ISO and RTO development in its area.

<sup>11</sup> These taxes include the Capital Stock Franchise Tax, the Corporate Net Income Tax, the Public Utility Realty Tax and the Gross Receipts Tax.

**A. Losses and Load Profiles**

At the request of MAPSA and certain of its members, Duquesne proposes to modify its procedure for determining responsibility for losses and calculating load responsibility, effective January 1, 2001. Duquesne's proposal would eliminate the "residual" method of calculating Orion's losses and load responsibility. Pursuant to this method, the amount of energy Orion was required to supply was calculated by deducting the energy requirements of customers served by EGSs (and all other customers) from the total energy requirements of Duquesne's control area. Instead, EGS and POLR load now will be estimated separately by Duquesne, and after meters are read, load profiles will be applied to all suppliers, including Orion. To determine the proper allocation of losses, average losses will be applied by class to both EGS and POLR loads, and residual losses will be allocated pro rata among all suppliers, including Orion. These modifications will ensure that EGSs and Orion are treated the same for purposes of losses and load profiles.

**B. EGS Access to Customer Information**

In response to a request by MAPSA, Duquesne also has agreed to provide all EGSs access to customer information in a similar fashion as provided in the Joint Petition for Settlement in Docket No. A-110550F0147 involving the merger of PECO Energy Co. and Unicom Corp. In that settlement, PECO agreed to provide to EGSs, for all customers who have authorized the release of their information,

twelve individual months of historical monthly electric usage and billed demand, per customer account. This information, which will be provided on Duquesne's web site, will be updated quarterly.

**C. Summer Switchback Load**

Duquesne's Plan includes a rule that addresses customers returning to POLR service during only high-cost summer months. This rule follows, both in principle and form, the Final Order on Returning Customers and Duquesne's Restructuring Order. The need for such a rule and a description of it are provided below.

Duquesne's current POLR rates are "flat" – *i.e.*, do not vary by season – and therefore encourage customers and suppliers to use POLR service only during the higher cost summer months.<sup>12</sup> This fact was offered by Duquesne in its Restructuring Proceeding in support of a 12-month rule for returning POLR customers. The Presiding Judge found, however, that there was "[n]o evidence" of such behavior and he therefore recommended that "the Commission . . . deny the Company's proposal until it can satisfactorily demonstrate that a serious problem exists." R.D. at 637.

---

<sup>12</sup> Whether this behavior is characterized as "gaming" or otherwise, it simply reflects the market's rational response to the profit incentives available to it. The relevant question is whether to permit such behavior given that POLR rates are designed on an annual basis. Permitting customers to take service for shorter intervals means that the POLR provider will, assuming rational economic behavior by the market that returns customers in the high-cost months, underrecover its cost of serving POLR load.

The Commission agreed, finding that Duquesne's predictions of market behavior were "speculative . . . at this early stage of the unbundling process." Restructuring Order at 245. The Commission recognized, however, that "a solution might later become necessary." Final Rule on Returning Customers at 7.

*Duquesne's predictions of market behavior have now been realized.*

During the summer of 2000, approximately 525 MW out of 830 MW, or 63%, of all shopping (*i.e.*, EGS) peak demand returned to POLR service. Final Order on Returning Customers at 6. In response to this behavior – which also is occurring on a state-wide basis – the Commission issued a Tentative Order requesting comments on the need for a rule to protect POLR suppliers in such a situation. In its Final Order, the Commission "encourage[d] implementation of procedures that . . . enable EDCs to avoid the significant adverse economic impacts resulting from the short-term return by C&I customers to PLR service during high-cost periods." *Id.* at 5. The Commission also recognized that, as part of this POLR II Plan, Duquesne could submit a proposal "that var[ies] in nature or scope from the solutions we are setting forth here." *Id.* at 8.

*Duquesne's proposal is described below.*

#### **1. Commercial and Industrial Customers**

Duquesne proposes a switching rule for commercial and industrial customers that follows the guidance set forth in the Final Order on Returning

Customers. Specifically, the rule provides that a returning customer is subject to a 12-month stay requirement, with an option to shop again within 60 days by paying a Generation Rate Adjustment ("GRA"), if applicable. The rule would be implemented prior to the summer of 2001.

## **2. Residential Customers**

Duquesne also is proposing a switching rule for residential customers. There is ample evidence that Duquesne will experience significant summer switching in the residential class in the years to come, especially as aggregators continue to combine residential customers into groups. In this summer alone, EGSs returned approximately 4,500 of their residential customer accounts. One supplier publicly announced that it would return all 48,000 residential accounts for the summer months.<sup>13</sup> Moreover, such a rule is necessary for the same reason that it is appropriate for C&I customers; it is unfair to require the POLR provider to supply a customer only during high-cost months when its rates are designed on the assumption that its customers take service during all 12 months. Finally, a residential switching rule is not unprecedented in Pennsylvania; both PECO Energy Company and PP&L, Inc. have switching rules that are or will be applicable to residential customers.

---

<sup>13</sup> The supplier subsequently recanted for reasons not relevant here.

Duquesne is proposing a phased approach to residential switching. For next summer (the summer of 2001, which is during the "POLR I" period), a switching rule will apply only if 100 MW of residential load returns to POLR service between May 1, 2001 and September 1, 2001.<sup>14</sup> This approach ensures that a residential switching rule will be triggered only if significant switching behavior has occurred. To ensure nondiscriminatory treatment, the rule, when triggered, will be the same as for C&I customers (*see supra*). For the POLR II period (which commences in the winter of 2001), residential customers would be treated the same as C&I customers – *i.e.*, there would be no 100 MW trigger.

Duquesne has discussed the foregoing rule with the OCA, which has significant concerns with respect to the rule. Although we are sympathetic to the OCA's concerns, we do not agree with them insofar as they would preclude adoption of a switching rule for residential customers.<sup>15</sup> Residential customers arguably receive the greatest benefits from Duquesne's POLR II Plan. Residential customers have the least leverage and sophistication in negotiating contracts that provide

---

<sup>14</sup> The 100 MW would be calculated on the basis of noncoincident peak loads using the same load profiles for residential customers as used in the settlement process.

<sup>15</sup> We do agree, however, that there are certain implementation issues, particularly customer education, that are important to consider in adopting switching rules for residential customers. Duquesne expects to coordinate with the OCA in implementing the residential switching rule proposed here.

savings on terms acceptable to them. Moreover, competition for residential customers is thin. Duquesne's POLR II Plan protects these customers by providing guaranteeing rate reductions of more than 21%. The *quid pro quo* for that protection, however, is a switching rule that is consistent with the design of the POLR II rates. Orion is understandably unwilling to offer annualized rates without a residential switching rule.<sup>16</sup> The residential switching rule should therefore be approved as an integral part of the POLR II Plan.

### **3. The Summer of 2000**

Duquesne has already experienced significant customer switching behavior during the summer of 2000. This switching has caused Orion to incur millions in power acquisition costs that its POLR I rates are not designed to recover. These costs are recoverable consistent with the Final Order on Returning Customers and Duquesne's Restructuring Order. Orion has agreed to provide POLR II service only if such costs are recovered.

Duquesne recognizes, however, that there are sensitive implementation issues associated with applying a new switching rule to customers that returned

---

<sup>16</sup> Duquesne's Restructuring Order recognizes the potential need for such a rule during POLR I. Given that such behavior already has occurred, and Duquesne's proposal will address it for the summer of 2001 (the last summer of POLR I) if and when the switching becomes significant (*i.e.*, 100 MW), Duquesne's proposal is fair for the POLR I period as well.

during the summer of 2000. These customers may have, for example, expected that returning to POLR service would not prevent them from leaving again in the fall of 2000 without incurring additional costs. Imposing a switching rule on them would be inconsistent with those expectations.

As an alternative, Duquesne is proposing that, for the summer of 2000, returning customers *not* be required to stay with Duquesne for 12 months, or to pay a GRA, and therefore would be permitted to shop again as they so choose. However, if they did so, a GRA would be calculated and applied as an offset to Auction proceeds. In effect, this approach would extend, for a short period (*e.g.*, 30 days), collection of the CTC.

This is an appropriate means of addressing this difficult issue for two reasons. First, the proposal does not constitute a disincentive to shopping, nor does it raise fairness concerns with respect to customer expectations to shop after the summer of 2000. Second, it treats Orion fairly. Orion (and the other Auction bidders) would have been reasonable to assume, in submitting a bid in the Auction, that the Commission would, as it held in the Restructuring Order, address summer switching if and when it arose. It was therefore reasonable for these bidders *not* to discount their bids for the "option cost" of allowing customers to take POLR service only during the high-cost months. Thus, allowing recovery of the costs of switching

during the summer of 2000 is consistent with the reasonable expectations of Orion in bidding to purchase Duquesne's generating assets.

#### **4. Implementation Issues**

Duquesne recognizes that there are important implementation issues (*e.g.*, customer education, calculation of the GRA) associated with the adoption of the switching rules proposed here. Therefore, Duquesne is requesting that the Commission approve, in its order on the POLR II Plan, only the foregoing principles governing switching. This will allow the Commission to issue an order on the Plan promptly by September 1, 2000. The implementation issues associated with those principles may then be addressed in a subsequent compliance filing by Duquesne.

#### **IV. DUQUESNE'S PROPOSAL IS IN THE PUBLIC INTEREST**

##### **A. Duquesne's Plan Benefits Customers**

Both switching and non-switching customers benefit from Duquesne's POLR II proposal. There is an extension of the T&D rate cap that would otherwise be unavailable under the Act, and a reduction in total rates following full amortization of the CTC. For residential customers, Duquesne's plan represents a 21% rate decrease over existing rates. System-wide, POLR II customers will receive an average 17% rate reduction. Switching customers may obtain even greater savings by choosing a supplier that beats Duquesne's POLR II rates. Moreover, the increased shopping credits in Duquesne's plan will encourage more customers to switch

suppliers and gain valuable experience in purchasing electricity on the competitive market. This experience will better prepare customers for the post-transition period market created by the regulations ultimately adopted by the Commission.

**B. Duquesne's Plan Benefits Competition**

The POLR II Plan also increases shopping incentives. The new shopping credits will be more than 30% higher than those in effect from January 1, 1999 through the closing of the Auction.

There are other elements of the Plan that benefit EGSs. Duquesne has changed the method of determining losses and load responsibility and offered increased access to customer information. Duquesne's "residual" method of calculating losses and load responsibility was a perceived source of discrimination among marketers. Treating EGSs and Orion the same for purposes of determining losses and load responsibility, both during POLR I and POLR II, will further benefit competition. The increased customer information should facilitate greater competition as well.

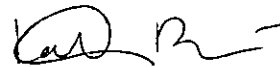
**C. Duquesne's Plan Treats Shareholders Fairly**

By permitting Duquesne to collect a small margin on POLR II rates, Duquesne retains the opportunity to earn a fair return on its T&D business through the conclusion of the rate cap period (2003). Thereafter, Duquesne may request a

rate increase under normal ratemaking procedures. In the interim, Duquesne's plan enables it to recover costs beyond its control, such as RTO costs and new taxes.

WHEREFORE, the Commission should, on or before September 1, 2000, grant Duquesne's petition and approve its plan to provide post-transition period POLR service under the terms and conditions described herein.

Respectfully submitted,



---

John S. Moot  
Kathleen L. Barrón  
SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP  
1440 New York Avenue, N.W.  
Washington, D.C. 20005  
(202) 371-7310  
(202) 371-7012 (fax)

Larry R. Crayne  
Assistant General Counsel  
DUQUESNE LIGHT COMPANY  
411 Seventh Avenue  
Pittsburgh, PA 15219  
(412) 393-6049

Dated: June 30, 2000

Rate Schedule		2001	2002	2003	2004	
RS		cents/kWh	5.5082	5.5082	5.5082	5.5082
RH	Winter (Nov thru Apr), first 500 kWh	cents/kWh	4.9856	4.9856	4.9856	4.9856
	Winter (Nov thru Apr), additional kWh	cents/kWh	1.6702	1.6702	1.6702	1.6702
	Summer (May thru Oct)	cents/kWh	4.9856	4.9856	4.9856	4.9856
RA	Winter (Nov thru Apr), first 500 kWh	cents/kWh	7.6506	7.6506	7.6506	7.6506
	Winter (Nov thru Apr), additional kWh	cents/kWh	2.6110	2.6110	2.6110	2.6110
	Summer (May thru Oct)	cents/kWh	7.6506	7.6506	7.6506	7.6506
GS/GM	first 550 kWh	cents/kWh	7.7963	7.7963	7.7963	7.7963
	next 750 kWh	cents/kWh	7.5151	7.5151	7.5151	7.5151
	additional kWh	cents/kWh	2.4483	2.4483	2.4483	2.4483
	Demand first 5 kW	\$/kW/mo.	0.00	0.00	0.00	0.00
	Demand additional kW	\$/kW/mo.	10.15	10.15	10.15	10.15
GMH	(October-May) first 1250 kWh + 150 kWh for each kW of Demand over 6 kW	cents/kWh	6.5406	6.5406	6.5406	6.5406
	(October-May) additional kWh	cents/kWh	1.8723	1.8723	1.8723	1.8723
	Demand first 5 kW	\$/kW/mo.	0.00	0.00	0.00	0.00
	Demand additional kW	\$/kW/mo.	10.56	10.56	10.56	10.56
	(June thru Sept.) first 550 kWh	cents/kWh	8.0705	8.0705	8.0705	8.0705
	(June thru Sept.) next 750 kWh	cents/kWh	7.5342	7.5342	7.5342	7.5342
	(June thru Sept.) additional kWh	cents/kWh	1.8723	1.8723	1.8723	1.8723
GL	Demand first 300 kW or less	\$/mo.	3,889.35	3,889.35	3,889.35	NA
	Demand additional kW	\$/kW/mo.	9.70	9.70	9.70	NA
	All kWh	cents/kWh	2.3923	2.3923	2.3923	NA
GLH	(October thru May) first 1250 kWh + 150 kWh for each kW of Demand over 6 kW	cents/kWh	7.8615	7.8615	7.8615	NA
	additional kWh	cents/kWh	2.2721	2.2721	2.2721	NA
	Demand (Jun thru Sep) 1st 300 kW or less	\$/mo.	3,827.08	3,827.08	3,827.08	NA
	Demand additional kW	\$/kW/mo.	9.52	9.52	9.52	NA
	(June thru Sept.) kWh	cents/kWh	2.2721	2.2721	2.2721	NA
L	Demand first 5000 kW	\$/mo.	48,748.48	48,748.48	48,748.48	NA
	Demand next 10,000 kW	\$/kW/mo.	7.73	7.73	7.73	NA
	Demand next 25,000 kW	\$/kW/mo.	7.50	7.50	7.50	NA
	Demand additional kW	\$/kW/mo.	7.30	7.30	7.30	NA
	First 750,000 kWh + 400 kWh per kW of Demand	cents/kWh	2.3332	2.3332	2.3332	NA
	Next 150 kWh per kW of Demand	cents/kWh	1.4424	1.4424	1.4424	NA
	Additional kWh	cents/kWh	1.2844	1.2844	1.2844	NA
HVPS	Demand first 30,000 kW	\$/mo.	267,583.20	267,583.20	267,583.20	NA
	Demand additional kW	\$/kW/mo.	9.70	9.70	9.70	NA
	On-peak kWh	cents/kWh	3.2729	3.2729	3.2729	NA
	Off-peak kWh	cents/kWh	1.4466	1.4466	1.4466	NA
AL	Demand all kW	\$/kW/mo.	3.19	3.19	3.19	3.19
	First 300 kWh	cents/kWh	4.4685	4.4685	4.4685	4.4685
	Additional kWh	cents/kWh	1.0520	1.0520	1.0520	1.0520
SE		cents/kWh	2.5797	2.5797	2.5797	2.5797
SM	Mercury Vapor (\$/fixture/mo)	100	1.48	1.48	1.48	1.48
		175	1.91	1.91	1.91	1.91
		250	2.37	2.37	2.37	2.37
		400	3.19	3.19	3.19	3.19
	Sodium Vapor	1000	6.88	6.88	6.88	6.88
		70	1.51	1.51	1.51	1.51
		100	1.92	1.92	1.92	1.92
		150	2.27	2.27	2.27	2.27
	250	3.31	3.31	3.31	3.31	
	400	4.30	4.30	4.30	4.30	
	1000	8.97	8.97	8.97	8.97	
	SH	Mercury Vapor (\$/fixture/mo.)	175	6.19	6.19	6.19
250			8.07	8.07	8.07	8.07
400			11.84	11.84	11.84	11.84
1000			26.58	26.58	26.58	26.58
Sodium Vapor		100	5.98	5.98	5.98	5.98
		150	7.34	7.34	7.34	7.34
		200	8.72	8.72	8.72	8.72
		250	10.06	10.06	10.06	10.06
		400	14.13	14.13	14.13	14.13
		1000	31.69	31.69	31.69	31.69
MTS	First 1,300 kWh	cents/kWh	7.1121	7.1121	7.1121	7.1121
	Additional kWh	cents/kWh	1.6087	1.6087	1.6087	1.6087
PAL	High Pressure Sodium (\$/fixture/mo.)	70	1.51	1.51	1.51	1.51
		100	1.92	1.92	1.92	1.92
		150	2.27	2.27	2.27	2.27
		250	3.31	3.31	3.31	3.31
		400	4.30	4.30	4.30	4.30
		1000	8.97	8.97	8.97	8.97
	Flood Lighting	100	1.73	1.73	1.73	1.73
		150	2.00	2.00	2.00	2.00
		250	2.40	2.40	2.40	2.40
		400	3.05	3.05	3.05	3.05
		100	1.18	1.18	1.18	1.18
		150	1.88	1.88	1.88	1.88
	Unmetered	150	2.72	2.72	2.72	2.72
		250	4.06	4.06	4.06	4.06
		400	6.30	6.30	6.30	6.30
		400	6.30	6.30	6.30	6.30

\_1/ Rates to become effective by rate schedule once the CTC expires

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY )  
COMMISSION )**

v. )

**Docket No. R-00974104**

**DUQUESNE LIGHT COMPANY )  
Application to Approve Restructuring )  
Plan Pursuant to 66 Pa.C.S. § 2806(d) )  
)**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period POLR Service was served, by first class mail, upon the participants on the attached service list in accordance with Section 1.54 of the Commission's regulations.

Dated this 30<sup>th</sup> day of June, 2000.



---

Kathleen L. Barrón  
SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP  
1440 New York Avenue, N.W.  
Washington, D.C. 20005  
(202) 371-7049

Counsel to Duquesne Light Company

Kenneth Zielonis  
Pennsylvania Retailers Association  
Stevens & Lee  
208 North Third Street, Suite 310  
P.O. Box 12090  
Harrisburg, PA 17108-2090

James P. Dougherty  
Pamela C. Polacek  
McNees, Wallace & Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108

Jacqueline R Morrow  
Assistant City Solicitor  
City of Pittsburgh  
313 City County Building  
414 Grant Street  
Pittsburgh, PA 15219

Angela T. Jones  
Office of Small Business Advocate  
Commerce Building, Suite 1102  
300 North 2nd Street  
Harrisburg, PA 17101

Edmund J. Berger  
Tanya McCloskey  
Office of Consumer Advocate  
555 Walnut Street, Forum Place, Fifth Floor  
Harrisburg, PA 17101-1921

Brian A. Rider  
President  
Pennsylvania Retailers' Association  
224 Pine Street  
Harrisburg, PA 17101-1325

Kandace F. Melillo, Esq.  
Wayne Scott, Esq.  
Office of Trial Staff  
PA Public Utility Commission  
901 N. 7th Street, Rear  
Third Floor, Pitnick Building.  
Harrisburg, PA 17105-3265

Stephen J. Baron  
J. Kennedy & Associates, Inc.  
570 Colonial Park Drive, Suite 305  
Roswell, GA 30075

Howard Louik  
Allegheny County Law Department  
300 Fort Pitt Commons  
445 Fort Pitt Boulevard  
Pittsburgh, PA 15219

Kenneth L. Wiseman  
P. Thompson  
M. Sundback  
R. Lamkin  
Andrews & Kurth, LLP  
1701 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

Exter Associates, Inc.  
12510 Prosperity Drive, Suite 350  
Silver Spring, MD 20904

David M. DeSalle  
Terrance J. Fitzpatrick  
Ryan, Russell, Ogden & Seltzer, LLP  
800 North Third Street, Suite 101  
Harrisburg, PA 17102-2025

Michael Reid  
Director, Materials Management Services  
Administrative Resources, Inc.  
500 Commonwealth Drive  
Warrendale, PA 15086-7513

Margaret Peters  
Peoples Natural Gas Co.  
625 Liberty Avenue  
Pittsburgh, PA 15222

Mark F. Sundback  
Andrews & Kurth, LLP  
1701 Pennsylvania Avenue, N.W.  
Washington,, D.C. 20006

Michael L. Kurtz, Esq.  
Boehm, Kurtz & Lowry  
2110 CBLD Center  
36 East Seventh Street  
Cincinnati , OH 45202

Robert B. Weisenmiller  
MRW & Associates, Inc.  
1999 Harrison Street, Suite 1440  
Oakland, CA 94612-3517

Robert J. Stefanko  
341 South Bellefield Avenue  
Pittsburgh, PA 15213

John Stember  
Low Income Advocate Parties  
1705 Allegheny Building  
429 Forbes Avenue  
Pittsburgh, PA 15219

Stephen L. Feld  
FirstEnergy Corp.  
76 South Main Street  
Akron, OH 44308

Mark J. McGuire, Esq.  
Ronald Carroll, Esq.  
Jenner & Block  
601 13th Street, N.W.  
Suite 1200  
Washington, D.C. 20005

David Hughes  
4037 Ludwick Street  
Pittsburgh, PA 15217

James Cawley, Esq.  
(Mid-Atlantic Power Supply Association)  
Rhoads & Sinon, LLP  
One South Market Square, 12th Floor  
Harrisburg, PA 17101

Kevin McKeon, Esq.  
(Peoples Natural Gas Company)  
Malatesta Hawke & McKeon  
Harrisburg Energy Center, P.O. Box 1778  
Harrisburg, PA 17101

Donald Ayersman, Jr.  
1125 Denver Avenue  
Morgantown, WV 26505

Tim Merrill  
The Eastern Group  
4 Penn Center West, Suite 200  
Pittsburgh, PA 15276

Thomas Gadsden  
Morgan, Lewis & Bockius  
2000 One Logan Square  
Philadelphia, PA 19103

Emmitt House  
Thomas J. Augspurger  
Office of General Counsel  
Midcon Gas Services Corp. and MC<sup>2</sup>, Inc.  
701 East 22nd Street  
Lombard, IL 60148

Joseph A. Dworetzky.  
John Lavelle, Jr.  
Luke Dembosky  
Hangley, Aronchick, Segal & Pudlin  
One Logan Square, 12th Floor  
Philadelphia, PA 19103

Roger E. Clark, Esq.  
Attorney for the Environmentalists  
905 Denston Drive  
Ambler, PA 19002-3901

Scott J. Rubin  
3 Lost Creek Drive  
Selinsgrove, PA 17870-9357

Paul Russell  
Pennsylvania Power & Light Co.  
2 North 9th Street  
Allentown, PA 18101

John O'Brien  
Wheeled Electric Power Co.  
50 Charles Lindburgh Boulevard  
Suite 207  
Uniondale, NY 11553

Lisa Yoho  
Enron Power Marketing, Inc.  
1400 Smith Street  
P.O. Box 4428  
Houston, TX 77002

Environmental Energy Project  
3700 Vartan Way  
Harrisburg, PA 17110

Patricia Armstrong  
Thomas, Thomas, Armstrong & Niesen  
212 Locust Street, Suite 500  
P.O. Box 9500  
Harrisburg, PA 17106-9500

David M. Boonin  
New Energy Ventures East, LLC  
1845 Walnut Street  
Suite 2525  
Philadelphia, PA 19103

Daniel Clearfield  
Gerald Gornish  
Alan Kohler  
T. Leshko  
Enron Power Marketing, Inc.  
212 Locust Street, Suite 300  
Locust Court Building  
Harrisburg, PA 17101

Brian Kalcic  
Excel Consulting  
225 S. Meramec Avenue, Suite 720-T  
St. Louis, MO 63105

Albert M. Benincasa  
Director, Regulatory Affairs  
Skipping Stone  
46 9th Avenue  
Sea Cliff, NY 11579

Larry R. Crayne  
Richard S. Herskovitz  
Duquesne Light Company  
411 Seventh Avenue, P.O. Box 1930  
Pittsburgh, PA 15230-1930

Bruce A. Americus  
Samuel W. Braver  
Buchanan Ingersoll, P.C.  
One Oxford Centre, 20th Floor  
301 Grant Street  
Pittsburgh, PA 15219-1410

Vickiren S. Aeschleman  
Director, Regulatory Policy  
QST Energy, Inc.  
300 Hamilton Blvd.  
Suite 300  
Peoria, IL 61602

John Wilson  
Executive Director  
Community Action Association  
of Pennsylvania  
222 Pine Street  
Harrisburg, PA 17101

Gary A. Jeffries  
CNG Energy Services Corporation  
One Park Ridge Center  
P.O. Box 15746  
Pittsburgh, PA 15244-0746

Sheila Hollis  
Mary Ann Ralls  
Stephanie Sugrue  
Duane, Morris & Heckscher LLP  
1667 K Street, N.W.  
Suite 700  
Washington, D.C. 20006

Douglas F. John  
Gordon J. Smith  
Joelle K. Ogg  
John & Hengerer  
1200 17th Street, N.W.  
Suite 600  
Washington, D.C. 20036-3006

Mary McFall Hopper, Esq.  
Paul Bonney, Esq.  
PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699

Donald A. Kaplan, Esq.  
Lisa M. Helpert, Esq.  
Preston, Gates, Ellis & Rouvelas Meeds LLP  
1735 New York Ave., N.W.  
Suite 500  
Washington, D.C. 20006-4759

Dr. Roger Odisio  
170 Drake Road  
Bethel Park, PA 15102

David Cruthirds  
Electric Clearinghouse, Inc.  
100 Louisiana, Suite 5800  
Houston, TX 77002-5050

Jim Ferlo  
Councilman  
District 7  
510 City-County Building  
Pittsburgh, PA 15219

Timothy Moran  
IBEW, System Council U-10  
986 Greentree Road  
Pittsburgh, PA 15220

Allegheny Electric Cooperative, Inc.  
212 Locust Street, P.O.Box 1266  
Harrisburg, PA 17108-1266

Rodney Akers  
Assistant City Solicitor, Department of Law  
City of Pittsburgh  
313 City-County Building  
Pittsburgh, PA 15219

Kenneth Maiman  
Andrews & Kurth L.L.P.  
805 Third Avenue, 7th Floor  
New York, NY 10022-7509

Deneice Covert Zeve, Esq.  
Terry Lupia, Esq.  
14th Floor Strawberry Square  
Harrisburg, PA 17120

Cindy Datig  
\$1 Energy Fund  
P.O. Box 42329  
Pittsburgh, PA 15203

Darlene Westfall  
Agent  
564 Forbes Avenue  
Pittsburgh, PA 15219

Harvey Marcus  
5644 Hempstead Road  
Pittsburgh, PA 15217

Lou Sauers  
Pennsylvania Public Utility Commission  
7th Floor Barto Building, P.O. Box 3265  
Harrisburg, PA 17105-3265

The Honorable Lawrence Roberts  
Pennsylvania House of Representatives - 51st District  
House Post Office - Main Capitol  
Harrisburg, PA 17120

The Honorable Richard A. Kasunic  
Democratic Policy Chairman  
Senate of Pennsylvania  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

Robert L. Simpson  
Executive Director  
Crispus Attucks Association Inc.  
605 South Duke Street  
York, PA 17403

The Honorable Richard F. Vidmer  
Chairman  
Westmoreland County Commissioners  
101 Courthouse Square  
Greensburg, PA 15601

Michael W. Krajovic  
Executive Vice President  
Fay-Penn Economic Development Council  
Two West Main Street, Suite 407, P.O. Box 2101  
Uniontown, PA 15401-170

The Honorable Patrick E. Fleagle  
90th Legislative District  
House Post Office Box 202020 - Main Capitol Building  
Harrisburg, PA 17120-2020

Jeffrey M. Bladen  
Manager, Corporate Development  
New Energy Ventures East LLC  
1845 Walnut Street, Suite 2525  
Philadelphia, PA 19103

John E. Molinda  
Strategic Energy Ltd.  
2 Gateway Center  
Pittsburgh, PA 15222-1458

James E. Cawley  
Rhoads & Sinon  
Dauphin Bank Building, Twelfth Floor  
One South Market Square, P.O. Box 1146  
Harrisburg, PA 17108-1146

Mary Rugh  
Facilities Management Division  
University of Pittsburgh  
Eureka Building, 3400 Forbes Avenue  
Pittsburgh, PA 15260

The Honorable Jack Wagner  
42nd District  
Senate Box 203042  
Harrisburgh, PA 17120-3042

The Honorable Michael R. Veon  
Pennsylvania State Representative  
Main Capitol Building, House Box 202020  
Harrisburg, PA 17120-2020

The Honorable Melissa Hart  
40th Senatorial District  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

The Honorable Tim Murphy  
37th Senatorial District  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

David E. Pomper  
Cynthia S. Bogorad  
Speigel & McDiarmid  
1350 New York Avenue, N.W.  
Washington, D.C. 20005-4798

The Honorable Susan Laughlin  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

The Honorable Francis J. Dermody  
600 Woodland Avenue  
Oakmont, PA 15139

The Honorable Frank Dermody  
Allegheny Co. Democratic Delegation  
801 Freeport Road  
Cheswick, PA 15024-1209

The Honorable Anthony Deluca  
Allegheny Co. Democratic Delegation  
11609 Penn Hills Drive  
Pittsburgh, PA 15235-3329

The Honorable David Levdansky  
Allegheny Co. Democratic Delegation  
112 Second Avenue  
Elizabeth, PA 15037-1539

The Honorable Susan Laughlin  
Allegheny Co. Democratic Delegation  
555 Merchant Street  
Ambridge, PA 15003-2464

The Honorable Tom Michlovic  
Allegheny Co. Democratic Delegation  
519 Penn Avenue  
Turtle Creek, PA 15145

The Honorable Ivan Itkin  
Allegheny Co. Democratic Delegation  
6954 Reynolds Street  
Pittsburgh, PA 15208-2953

The Honorable Ivan Itkin  
Allegheny Co. Democratic Delegation  
1148 Greenfield Avenue  
Pittsburgh, PA 15217-2953

The Honorable Terry E. Van Horne  
Allegheny Co. Democratic Delegation  
1625 Fifth Avenue  
Arnold, PA 15068-4415

The Honorable Frank J. Pistella  
Allegheny Co. Democratic Delegation  
506 S. Millvale Avenue  
Pittsburgh, PA 15224-2118

The Honorable Frank Gigliotti  
Allegheny Co. Democratic Delegation  
2023 E. Carson Street  
Pittsburgh, PA 15203-1929

The Honorable Harry Readshaw  
Allegheny Co. Democratic Delegation  
5101 Old Clairton Road  
Pittsburgh, PA 15236

The Honorable Tom C. Petrone  
Allegheny Co. Democratic Delegation  
179 Steuben Street, P.O. Box 8557  
Pittsburgh, PA 15220

The Honorable Richard D. Olasz  
Allegheny Co. Democratic Delegation  
3702 Greensprings Avenue  
West Mifflin, PA 15122-1753

The Honorable Don Walko  
Allegheny Co. Democratic Delegation  
3722 Brighton Road  
Pittsburgh, PA 15212

The Honorable Joseph Preston, Jr.  
Allegheny Co. Democratic Delegation  
6203 Penn Avenue  
Pittsburgh, PA 15206-4005

The Honorable Joseph Markosek  
Allegheny Co. Democratic Delegation  
4232 Northern Pike  
Monroeville, PA 15146-2732

The Honorable Dave Mayernik  
Allegheny Co. Democratic Delegation  
440 Perry Highway  
Pittsburgh, PA 15229

The Honorable Nicholas Colafella  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

The Honorable Gerald Lavalle  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

The Honorable Michael R. Veon  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Bea Schulte, Commissioner  
Dan Donatella, Commissioner  
County of Beaver Board of Commissioners  
Beaver County Courthouse  
Beaver, PA 15009

Dennis Bloom  
IBEW Local 272  
617 Midland Avenue  
Midland, PA 15059

The Honorable G. Travaglio  
The Honorable V. J. Lescovitz  
The Honorable F. LaGrotta  
The Honorable H. William Deweese  
House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

The Honorable S. Steelman  
The Honorable J. Shaner  
The Honorable T. Harhai  
The Honorable P. Daley II  
The Honorable A. Colaizzo  
House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

The Honorable J. Casorio, Jr.  
The Honorable T. Tangretti  
House of Representatives  
House Post Office - Main Capitol  
Harrisburg  
PA, 17120

The Honorable Albert Belan  
Senate of Pennsylvania  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

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

The Honorable David Levdansky  
311 South Office Building, House Box 202020  
Harrisburg, PA 17120-2020

David T. Kotecki  
President  
Local 270, Utility Workers Union of America  
4205 Chester Avenue  
Cleveland, OH 44103-3615

John Horton  
Senior Regulatory Analyst  
Midcon Corporation  
701 East 22nd Street  
Lombard, IL 60148

GPU Energy  
2800 Pottsville Pike  
Reading, PA 19640-0001

James Dougherty  
Robert Weishaar, Jr.  
Pamela Polacek  
David Kleppinger  
100 Pine Street, P.O. Box 1166  
Harrisburg, PA 17108-1166

Honorable Jeffrey Habay  
House Box 202020  
Room 163B East Wing  
Harrisburg, PA 17120-2020

David Hodgden  
Ohio Public Utility Commission  
180 East Broad Street  
Columbus, OH 43215-3793

David E. Wightman  
President  
Utility Workers Union of America  
220 Forbes Road, Suite 210  
Braintree, MA 02184

Carl Wood  
National Representative  
Utility Workers Union of America  
168 Amigos Way  
Fallbrook, CA 92028

John L. Munsch, Esq.  
Allegheny Energy, Inc.  
800 Cabin Hill Drive  
Greensburg, PA 15601-1689

W. Edwin Ogden, Esq.  
Jeffrey A. Franklin, Esq.  
Ryan, Russell, Ogden & Seltzer LLP  
1100 Berkshire Boulevard, Suite 301  
Reading, PA 19610-1221

Wanda M. Schiller, Esq.  
(Strategic Energy)  
Two Gateway Center  
Pittsburgh, PA 15222

James McCormick  
1940 Robert Road  
Meadbrook, PA 19046

DATE: July 11, 2000

SUBJECT: R-00974104

TO: Bureau of Fixed Utility Services

FROM: James J. McNulty, Secretary

LAF

Application of Duquesne Light Company for Approval of  
Electric Restructuring Filing

---

Attached is a copy of a Petition for Approval of  
Plan for Post-Transition Period POLR Service, filed by  
Duquesne Light Company in connection with the above  
docketed proceeding.

This matter is assigned to your Bureau for  
appropriate action.

Attachment

cc: LAW

laf

DOCUMENT  
FOLDER

EEF

**DOCKETED**

JUL 12 2000

DAVID J. MAYERNIK, MEMBER

HOUSE BOX 202020  
HARRISBURG, PENNSYLVANIA 17120-2020  
PHONE: (717) 783-1652

29TH LEGISLATIVE DISTRICT  
440 PERRY HIGHWAY  
PITTSBURGH, PENNSYLVANIA 15229  
PHONE: (412) 931-2295

00 JUL 26 10:01 AM '00  
RECEIVED  
SECRETARY'S BUREAU



House of Representatives  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

ORIGINAL

COMMITTEES

CONSUMER AFFAIRS  
SUB-COMMITTEE ON TELECOMMUNICATIONS

JUDICIARY

PROFESSIONAL LICENSURE

TOURISM  
SUB-COMMITTEE CHAIR

July 18, 2000

Mr. James McNalty, Secretary  
PUC  
P.O. Box 3285  
Harrisburg, PA 17105-3265

RE: Pennsylvania PUC v. Duquesne Light Company  
Docket number: A-00110150 F0023 4

R-00974104

Dear Secretary McNalty:

Please be advised that I would like to withdraw my appearance on the above mentioned case. Thanking you in advance for your prompt attention to this matter, I remain,

Sincerely,

David J. Mayernik  
State Representative

cc: Mr. John M. Quain, Chairman, Pennsylvania PUC  
Mr. Charles McDonald, Legislative Liaison, Pennsylvania PUC

DJM/jvb

DOCKETED  
JUL 26 2000

DOCUMENT  
FOLDER

27

THE LAW FIRM OF

MALATESTA HAWKE & McKEON LLP

JOSEPH J. MALATESTA, JR.  
WILLIAM T. HAWKE  
KEVIN J. McKEON  
LOUISE A. KNIGHT  
THOMAS J. SNISCAK  
NORMAN JAMES KENNARD  
LILLIAN SMITH HARRIS  
SCOTT T. WYLAND

HARRISBURG ENERGY CENTER  
100 NORTH TENTH STREET  
HARRISBURG, PENNSYLVANIA 17101  
(717) 236-1300  
FAX (717) 236-4841

<http://www.mhm-law.com>

CRAIG R. BURGRAFF  
JANET L. MILLER  
SUSAN J. SMITH  
TODD S. STEWART  
WILLIAM E. LEHMAN  
STEVEN K. HAAS

MAILING ADDRESS:  
P.O. BOX 1778  
HARRISBURG, PA 17105

July 20, 2000

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
North Office Building - Filing Room  
PO Box 3265  
Harrisburg, PA 17105-3265

ORIGINAL

RE: Petition of Duquesne Light Company For Approval of Plan for Post-Transition  
Period POLR Service; Docket No. R-00974104; **PETITION TO INTERVENE**

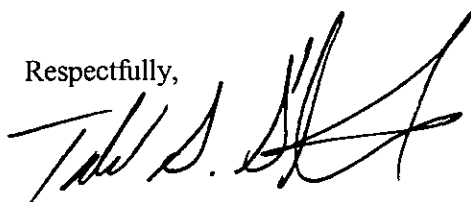
Dear Secretary McNulty:

Enclosed, for filing with the Pennsylvania Public Utility Commission, please find the original and three (3) copies of a Petition to Intervene filed on behalf of CNG Retail Services Corporation, d/b/a Dominion Retail, in the above-captioned docket.

As evidenced on the Certificate of Service attached to this Petition, all parties of record have been served with a copy of the document.

If you have any questions regarding this filing, please direct them to the undersigned.

Respectfully,



Todd S. Stewart

Counsel for CNG Retail Services Corporation  
d/b/a Dominion Retail

DOCUMENT  
FOLDER

RECEIVED  
00 JUL 20 PM 2:08  
PA.P.U.C.  
SECRETARY'S BUREAU

TSS/bes

cc: All parties of record

EEF

**ORIGINAL**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of Duquesne Light Company :  
For Approval of Plan for Post-Transition : Docket No. R-00974104  
Period POLR Service :

DOCUMENT  
FOLDER

**PETITION TO INTERVENE OF  
CNG RETAIL SERVICES CORPORATION  
d/b/a DOMINION RETAIL**

RECEIVED  
00 JUL 20 PM 2:08  
PA.P.U.C.  
SECRETARY'S BUREAU

Malatesta Hawke & McKeon LLP hereby petitions to intervene in the above-captioned matter. This Petition is made pursuant to 52 Pa. Code §5.71, et seq. In support of its Petition to Intervene, CNG Retail Services Corporation, d/b/a Dominion Retail ("Dominion Retail") avers and represents as follows:

1. Dominion Retail is a trade name of CNG Retail Services Corporation, which is a licensed electric generation supplier serving residential electricity customers in Duquesne Light Company's service territory.

2. The authorized representative for Dominion Retail in this proceeding is:

Todd S. Stewart  
Malatesta Hawke & McKeon LLP  
100 North Tenth Street  
P.O. Box 1778  
Harrisburg, PA 17105-1778  
Phone: 717-236-1300  
Fax: 717-236-4841  
E-Mail: [tsstewart@mhm-law.com](mailto:tsstewart@mhm-law.com)

**DOCKETED**  
JUL 21 2000

All correspondence with regard to this proceeding shall be directed to the aforementioned counsel.

3. On June 30, 2000, Duquesne Light Company filed with the Pennsylvania Public Utility Commission ("Commission") a Petition for Approval of its post-transition period POLR service. Among other things, the plan provides for new levelized shopping credits that will commence upon the termination of the competitive transition charge. In addition, the plan provides several reforms that affect the business of electric generation suppliers ("EGSs") providing service to customers in Duquesne's service territory. Finally, Duquesne's proposal includes transitioning large commercial and industrial customers (rate classes L, GL, GLH and HVPS) to market-based POLR service in 2004.

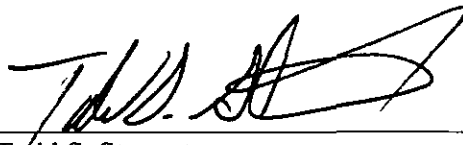
4. As a licensed EGS serving residential customers in Duquesne's service territory, Dominion Retail has an interest in this matter which is not adequately represented by any other party to this proceeding. Further, the provisions of Duquesne's POLR proposal have a direct impact upon Dominion Retail's continuing ability to provide service in Duquesne's service territory. Therefore, Dominion Retail's intervention in this matter is appropriate and necessary for Dominion Retail to represent its interest and to preserve its continuing ability to provide service.

5. The purpose of Dominion's intervention is to address a narrow, but significant, aspect of Duquesne's POLR proposal, namely, the provisions that will transition large commercial and industrial customers to market-based POLR service in 2004. In particular, it is Dominion Retail's position that the transition to market-based POLR service should occur before 2004, and as early as 2002; and, that all Duquesne customers should be transitioned to market-based POLR service as soon as possible. It is only through providing POLR service to customers at market-based rates that true competition can actually occur. Otherwise customers do not receive the appropriate economic signals from the market to allow them to adjust their behavior. Duquesne has offered no significant reason

for not including residential customers in the move to market-based POLR service. Likewise, Duquesne has not articulated any rationale for the transition occurring as late as 2004, except speculation as to when a liquid and visible market will develop in its region. Dominion Retail respectfully submits that it is in the public interest to revise Duquesne's proposal.

WHEREFORE, CNG Retail Services Corporation d/b/a Dominion Retail respectfully requests that this Commission grant its Petition to Intervene in the above-captioned matter.

Respectfully submitted,



Todd S. Stewart  
Malatesta Hawke & McKeon LLP  
100 North Tenth Street  
Post Office Box 1778  
Harrisburg, PA 17105  
717-236-1300

Counsel for CNG Retail Services Corporation

Dated: July 20, 2000

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the person(s) and in the manner indicated below.

### Service by First Class U.S. Mail:

Kenneth Zielonis  
Stevens & Lee  
Suite 310 - 208 North Third Street  
P.O. Box 12090  
Harrisburg, PA 17108-2090

Jacqueline R. Morrow  
Assistant City Solicitor  
313 City County Building  
414 Grant Street  
Pittsburgh, PA 15219

Tanya McCloskey  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17120

Kandace F. Melillo  
Wayne Scott  
Office of Trial Staff  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Howard M. Louik  
Allegheny County Law Department  
300 Fort Pitt Commons  
445 Fort Pitt Boulevard  
Pittsburgh PA 15219

Robert Weishaar, Jr.  
David Kleppinger  
McNees, Wallace & Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

Angela T. Jones  
Office of Small Business Advocate  
Commerce Building, Suite 1102  
300 North 2<sup>nd</sup> Street  
Harrisburg, PA 17101

Brian A. Rider, President  
Pennsylvania Retailers' Association  
224 Pine Street  
Harrisburg, PA 17101-1325

Stephen J. Baron  
J. Kennedy and Associates, Inc.  
570 Colonial Park Drive  
Suite 305  
Roswell GA 30075

Kenneth L. Wiseman  
Mark F. Sundback  
Andrews & Kurth, LLP  
1701 Pennsylvania Avenue NW  
Washington, DC 20006

Exter Associates, Inc.  
12510 Prosperity Drive, Suite 350  
Silver Spring, MD 20904

Michael Reid, Director  
Materials Management Services  
Administrative Resources, Inc.  
500 Commonwealth Drive  
Warrendale, PA 15086-7513

Robert B. Weisenmiller  
MRW & Associates, Inc.  
Suite 1440 - 1999 Harrison Street  
Oakland, CA 94612-3517

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

00 JUL 20 PM 2:09

RECORDED

John Stember  
Low Income Advocate Parties  
1705 Alleghney Bldg.  
429 Forbes Avenue  
Pittsburgh PA 15219

W. Edwin Ogden  
Jeffrey A. Franklin  
Ryan Russell Ogden & Seltzer  
1100 Berkshire Blvd., Suite 301  
Reading, PA 19610-1221

Michael L. Kurtz  
Boehm, Kurtz & Lowry  
2110 CBLD Center  
36 East Seventh Street  
Cincinnati OH 45202

Robert J. Stefanko  
341 South Bellefield Avenue  
Pittsburgh, PA 15213

Stephen L. Feld  
First Energy Corp.  
76 South Main Street  
Akron, OH 44308

Mark McGuire  
Jenner & Block  
601 Thirteenth St, N.W.  
12th Floor  
Washington DC 20005

James E. Cawley  
Rhoads & Sinon LLP  
One South Market Square, 12th Floor  
P.O. Box 1146  
Harrisburg, PA 17108-1146

Donald Ayersman  
IBEW Local 2357  
1125 Denver Ave  
Morgantown WV 26505

Thomas Gadsden  
Morgan Lewis & Bockius  
2000 One Logan Square  
Philadelphia PA 19103

Joseph A. Dworetzky  
John Lavelle, Jr.  
Luke Dembosky  
Hangley Aronchick Segal & Pudlin  
One Logan Square, 12<sup>th</sup> Floor  
Philadelphia, PA 19103

David Hughes  
4037 Ludwick Street  
Pittsburgh, PA 15217

Timothy Merrill  
The Eastern Group  
4 Penn Center West, Suite 200  
Pittsburgh, PA 15276

Roger Clark  
905 Denston Drive  
Ambler, PA 19002-3901

Scott J. Rubin  
3 Lost Creek Drive  
Selinsgrove, PA 17870

John O'Brien  
Wheeled Electric Power Company  
50 Charles Lingburgh Boulevard  
Suite 207  
Uniondale NY 11553

Environmental Law Project  
Widener University School of Law  
3700 Vartan Way  
Harrisburg, PA 17110

Brian Kalcic  
Excel Consulting  
Suite 720-T  
225 S. Meramec Avenue  
St. Louis, MO 63105

Paul E. Russell  
Pennsylvania Power & Light Company  
Two North Ninth Street  
Allentown, PA 18101

Lisa Yoho  
Enron Power Marketing, Inc.  
1400 Smith Street  
P.O. Box 4428  
Houston, TX 77002

Patricia Armstrong  
Thomas Thomas Armstrong & Niesen  
212 Locust Street  
PO Box 9500  
Harrisburg, PA 17108-9500

Daniel Clearfield  
Gerald Gornish  
Alan Kohler  
Wolf Block Schorr & Solis-Cohen  
212 Locust Street, Suite 300  
Harrisburg, PA 17101

Albert M. Benincasa  
Skipping Stone  
46 9th Ave.  
Sea Cliff NY 11579

Larry Crayne  
Richard S. Herskovitz  
Duquesne Light Company  
411 Seventh Avenue  
Post Office Box 1930  
Pittsburgh, PA 15230-1930

Bruce A. Americus  
Samuel W. Braver  
Buchanan Ingersoll P.C.  
One Oxford Center, 20th Fl.  
301 Grant Street  
Pittsburgh, PA 15219-1410

Vickiren S. Aeschleman  
QST Energy  
300 Hamilton Blvd.  
Suite 300  
Peoria IL 61602

John Wilson, Exec. Director  
Community Action Association of PA  
222 Pine Street  
Harrisburg, PA 17101

Sheila Hollis  
Mary Ann Ralls  
Stephanie Sugrue  
Duane, Morris & Hecksher LLP  
1667 K Street, N.W., Suite 700  
Washington DC 20006-1608

Douglas F. John  
Gordon J. Smith  
Joelle Ogg  
John & Hengerer  
1200 17<sup>th</sup> Street, NW, Suite 600  
Washington, DC 20036

Mary McFall Hopper  
Paul Bonney  
PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia PA 19101-8699

Donald A. Kaplan  
Lisa M. Helpert  
Preston Gates Ellis & Rouvelas Meeds, LLP  
Suite 500, 1735 New York Avenue, NW  
Washington, DC 20006-4759

Dr. Roger Odisio  
170 Drake Road  
Bethel Park, PA 15102

David Cruthirds  
Electric Clearinghouse  
1000 Louisiana Street, Suite 5800  
Houston TX 77002-5050

Timothy Moran  
IBEW, System Council U-10  
986 Greentree Road  
Pittsburgh, PA 15220

Rodney R. Akers  
Asst. City Solicitor, Dept. of Law  
313 City County Building  
414 Grant Street  
Pittsburgh PA 5219

Deneice Covert Zeve  
Office of Attorney General  
14th Floor, Strawberry Square  
Harrisburg PA 17120

Darlene Westfall, Agent  
564 Forbes Avenue  
Pittsburgh, PA 15219

Jim Ferlo, Councilman  
District 7  
510 City County Building  
414 Grant Street  
Pittsburgh, PA 15219

Allegheny Electric Cooperative  
212 Locust Street  
P.O. Box 1266  
Harrisburg, PA 17108-1266

Cynthia Datig  
Dollar Energy Fund  
P.O. Box 42329  
Pittsburgh, PA 15203

Harvey Marcus  
5644 Hempstead Road  
Pittsburgh, PA 15217

Lou Sauers  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
7th Fl., Barto Building  
Harrisburg, PA 17105-3265

Honorable Richard A. Kasunic  
Democratic Policy Chairman  
Senate of Pennsylvania  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

Honorable Richard F. Vidmer  
Chairman  
Westmoreland County Commissioners  
101 Courthouse Square  
Greensburg, PA 15601

Honorable Patrick E. Fleagle  
90th Legislative District  
House Post Office Box 202020  
Main Capitol Building  
Harrisburg, PA 17120

John Molinda  
Wanda M. Schiller  
Strategic Energy Ltd.  
2 Gateway Center  
Pittsburgh, PA 15222-1458

Honorable Lawrence Roberts  
Pennsylvania House of Representatives  
51st District  
House Post Office - Main Capitol  
Harrisburg, PA 17120

Robert L. Simpson  
Executive Director  
Crispus Attucks Assoc. Inc.  
605 South Duke Street  
York, PA 17403

Michael W. Krajovic  
Exec. Vice President  
Fay-Penn Economic Development Council  
Two West Main Street, Suite 407  
P.O. Box 2101  
Uniontown, PA 15401-170

Jeffrey Bladen  
Manager, Corporate Development  
New Energy Ventures-Mid Atlantic  
1845 Walnut Street, Suite 2525  
Philadelphia, PA 19103

Mary Rugh  
Facilities Management Division  
University of Pittsburgh  
Eureka Bldg., 3400 Forbes Ave.  
Pittsburgh, PA 15260

Honorable Michael R. Veon  
Pennsylvania State Representative  
Main Capitol Building  
House Box 202020  
Harrisburg, PA 17120-2020

Honorable Tim Murphy  
37th Senatorial District  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

Honorable Susan Laughlin  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Honorable Frank Dermody  
Allegheny County Democratic Delegation  
801 Freeport Road  
Cheswick, PA 15024-1209

Honorable Francis J. Dermody  
600 Woodland Avenue  
Oakmont, PA 15139

Honorable Jack Wagner  
42nd District  
Senate Box 203042  
Harrisburg, PA 17120-3042

Honorable Melissa Hart  
40th Senatorial District  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

David E. Pomper  
Cynthia Bogorad  
Spiegel & McDiarmid  
1350 New York Avenue, N.W.  
Suite 100  
Washington DC 20005

Honorable Anthony Deluca  
Allegheny County Democratic Delegation  
11609 Penn Hills Drive  
Pittsburgh, PA 15235-3329

Honorable David Levdansky  
Allegheny County Democratic Delegation  
112 Second Avenue  
Elizabeth, PA 15037-1539

Honorable Tom Michlovic  
Allegheny County Democratic Delegation  
519 Penn Avenue  
Turtle Creek, PA 15145

Honorable Ivan Itkin  
Allegheny County Democratic Delegation  
1148 Greenfield Avenue  
Pittsburgh, PA 15217-2953

Honorable Frank J. Pistella  
Allegheny County Democratic Delegation  
506 S. Millvale Avenue  
Pittsburgh, PA 15224-2118

Honorable Harry Readshaw  
Allegheny County Democratic Delegation  
5101 Old Clairton Road  
Pittsburgh, PA 15236

Honorable Susan Laughlin  
Allegheny County Democratic Delegation  
555 Merchant Street  
Ambridge, PA 15003-2464

Honorable Terry E. VanHorne  
Allegheny County Democratic Delegation  
1625 Fifth Avenue  
Arnold, PA 15068-4415

Honorable Frank Gigliotti  
Allegheny County Democratic Delegation  
2023 E. Carson Street  
Pittsburgh, PA 15203-1929

Honorable Tom C. Petrone  
Allegheny County Democratic Delegation  
179 Steuben Street  
P.O. Box 8557  
Pittsburgh, PA 15220

Honorable Richard D. Olasz  
Allegheny County Democratic Delegation  
3702 Greensprings Ave.  
West Mifflin, PA 15122-1753

Honorable Joseph Preston, Jr.  
Allegheny County Democratic Delegation  
6203 Penn Avenue  
Pittsburgh, PA 15206-4005

Honorable Dave Mayernik  
Allegheny County Democratic Delegation  
440 Perry Highway  
Pittsburgh, PA 15229

Honorable Geral Lavallo  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Bea Schulte, Commissioner  
Dan Donatella, Commissioner  
County of Beaver, Board of Commissioners  
Beaver County Courthouse  
Beaver, PA 15009

Honorable Don Walko  
Allegheny County Democratic Delegation  
3722 Brighton Road  
Pittsburgh, PA 15212

Honorable Joseph Markosek  
Allegheny County Democratic Delegation  
4232 Northern Pike  
Monroeville, PA 15146-2732

Honorable Nicholas Colafella  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Honorable Michael R. Veon  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Dennis Bloom  
IBEW Local 272  
617 Midland Avenue  
Midland, PA 15059

Honorable G. Travaglio  
Pennsylvania House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

Honorable V. J. Lescovitz  
Pennsylvania House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

Honorable L. LaGrotta  
Pennsylvania House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

Honorable H. William Deweese  
Pennsylvania House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

Honorable J. Casorio, Jr.  
Pennsylvania House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

Honorable T. Tangretti  
Pennsylvania House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

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

David T. Kotecki, President  
Local 270  
Utility Workers Union of America  
4205 Chester Avenue  
Cleveland, OH 44103-3616

GPU Energy  
2800 Pottsville Pike  
Reading, PA 19640-0001

Honorable S. Steelman  
Pennsylvania House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

Honorable J. Shaner  
Pennsylvania House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

Honorable T. Harhai  
Pennsylvania House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

Honorable P. Daley, II  
Pennsylvania House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

Honorable A. Colaizzo  
Pennsylvania House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

Honorable Albert Belan  
Senate of Pennsylvania  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

Honorable David Levdansky  
311 South Office Bldg.  
House Box 202020  
Harrisburg, PA 17120-2020

Honorable Jeffrey Habay  
House Box 202020  
Room 163B East Wing  
Harrisburg, PA 17120-2020

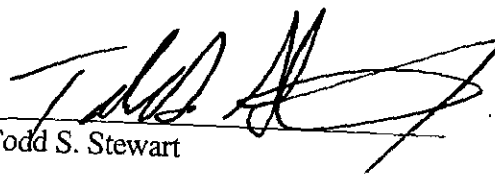
David E. Wightman, President  
Utility Workers Union of America  
220 Forbes Road, Suite 210  
Braintree, MA 02184

John L. Munsch  
Allegheny Energy  
800 Cabin Hill Drive  
Greensburg, PA 15601-1689

David Hodgden  
Ohio Public Utility Commission  
180 East Broad Street  
Columbus, OH 43215-3793

Carl Wood  
National Representative  
Utility Workers Union of America  
168 Amigos Way  
Fallbrook, CA 92028

James McCormick  
1940 Robert Road  
Meadbrook, PA 19046



Todd S. Stewart

Dated: July 20, 2000

THE LAW FIRM OF

MALATESTA HAWKE & McKEON LLP

JOSEPH J. MALATESTA, JR.  
WILLIAM T. HAWKE  
KEVIN J. McKEON  
LOUISE A. KNIGHT  
THOMAS J. SNIŠCAK  
NORMAN JAMES KENNARD  
LILLIAN SMITH HARRIS  
SCOTT T. WYLAND

HARRISBURG ENERGY CENTER  
100 NORTH TENTH STREET  
HARRISBURG, PENNSYLVANIA 17101  
(717) 236-1300  
FAX (717) 236-4841

CRAIG R. BURGRAFF  
JANET L. MILLER  
SUSAN J. SMITH  
TODD S. STEWART  
WILLIAM E. LEHMAN  
STEVEN K. HAAS

MAILING ADDRESS:  
P.O. BOX 1778  
HARRISBURG, PA 17105

<http://www.mhm-law.com>

DOCUMENT  
FOLDER

July 20, 2000

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
North Office Building - B-20.  
P.O. Box 3265  
Harrisburg, PA 17105-3265

ORIGINAL

RECEIVED  
00 JUL 20 PM 3:12  
PA.P.U.C.  
SECRETARY'S BUREAU

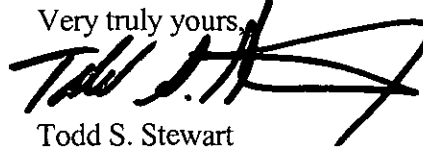
RE: Petition of Duquesne Light Company For Approval of Plan for Post-Transition  
Period POLR Service; Docket No. R-00974104

Dear Mr. McNulty:

Earlier today, I filed a Petition to Intervene in the above-captioned matter. The required Affidavit was inadvertently omitted from that document. Enclosed is an original, along with three (3) copies, of an Affidavit executed by Thomas E. Dodd executed on behalf of CNG Retail Services Corporation. Please include this Affidavit with the Petition to Intervene as though it had been filed together with the Petition.

Thank you for your assistance in this matter. If you have any questions, please contact me.

Very truly yours,



Todd S. Stewart

TSS/bes

Enclosures

cc: All parties of record

EEF

45

**AFFIDAVIT**

I, Thomas E. Dodd, am authorized to make this affidavit on behalf of CNG Retail Services Corp. and I do hereby verify that the statements contained in the foregoing document are true and correct to the best of my knowledge, information and belief. I understand that false statements therein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

  
Signature of Affiant

Vice President Operations  
Title

DOCUMENT  
FOLDER

DATED: July 19, 2000

RECEIVED  
00 JUL 20 PM 3:12  
PA.P.U.C.  
SECRETARY'S BUREAU

**DOCKETED**  
JUL 24 2000



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

IN REPLY PLEASE  
REFER TO OUR FILE

July 20, 2000

Mr. John R. Java, RPA  
President, Boma Pittsburgh  
The Regional Center  
425 Sixth Avenue, #1620  
Pittsburgh, PA 15219

DOCKETED  
JUL 24 2000

Dear Mr. Java:

Thank you for your recent letter to Chairman Quain regarding the Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period POLR Service at Docket No. R-00974104. Your letter was referred to me for a response.

As this matter is currently pending before the Commission, Commissioners and staff are prohibited from commenting on the merits of the proceeding. I am taking the liberty of forwarding a copy of your letter to the Secretary's Bureau for inclusion in the official file.

Thank you for sharing your thoughts on this matter.

Sincerely,

June M. Perry, Director  
Office of Legislative Affairs

Cc: Chairman Quain  
Secretary's Bureau

EEF

**BUILDING OWNERS  
AND MANAGERS  
ASSOCIATION  
OF PITTSBURGH**



**BOMA  
PITTSBURGH**

The Regional Center  
425 Sixth Avenue, #1620  
Pittsburgh, PA 15219  
(412) 261-2328  
(412) 261-4683 FAX  
bomabarb@aol.com

**President**

John R. Java, RPA  
Mellon

**Vice President**

Frank R. Walters, RPA  
PNC Financial

**Treasurer**

Timothy R. Goetz, RPA  
Grant Street Associates

**Immediate Past President**

Edward B. Cannon  
Jones Lang LaSalle

**Board of Governors:**

James F. Ayers  
J. J. Gumberg Co.  
Don M. Burrell, CFM  
Alcoa  
William J. Dignon, P.E.  
CB Richard Ellis  
Debra A. Donley  
TrizecHahn Office Prop.  
Thomas J. Harrington, RPA  
Winthrop Management  
Edward J. Manko, RPA, CPM  
Grubb & Ellis Management  
Susan J. Niedbala, RPA, CPM  
Grubb & Ellis Management

**Associate Member Representatives**

Don McCleary  
Mechanical Operations Co.  
Ben Huber, RPA  
UNICCO Service Co.

**Executive Director**

Barbara E. Wise-Rau

July 13, 2000

RECEIVED

00 JUL 17 AM 9:53

CHAIRMAN QUAIN'S OFFICE

The Honorable John M. Quain, Chairman  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA

17105-3265

DOCKETED  
JUL 24 2000

Dear Chairman Quain:

The Building Owners & Managers Association (BOMA) represents numerous commercial real estate owners and operators across Pennsylvania. For the last decade, we have been deeply involved in issues surrounding the deregulation of electric generation in our Commonwealth. Although we recognize that the process was not perfect, we were very pleased to see Pennsylvania move forward aggressively, and we accepted the compromises necessary to achieve this progress.

Stranded cost recovery represented one of the most contentious issues, and we have always felt that the recovery was based on inflated projections by the utilities. It was however, our understanding that one of the conditions of the recovery deal that was struck was that consumers would have unlimited access to default rates as part of a purchasing plan using a third party to shop for the most competitive price.

We understand that our local Pittsburgh default suppliers (DQE/Orion) have now asked the PUC to restrict default purchases to a purchase contract of a minimum one-year in length along with other payment condition changes. Obviously, this totally defeats the concept of competition - shopping on the open market for the best price! We are fully aware that rates for electricity are higher in the summer months, as DQE/Orion must have expected when their proposal was accepted by the PUC. And we are aware that the 'default' rate is regulated, and thus not truly an open market price. However, as noted above, it was our understanding that part of the trade-off for continuing to pay stranded cost was the right to use the default power funded by those costs.

DOCUMENT  
FOLDER

**BUILDING OWNERS  
AND MANAGERS  
ASSOCIATION  
OF PITTSBURGH**

July 13, 2000  
PUC Chairman John Quain  
Page Two

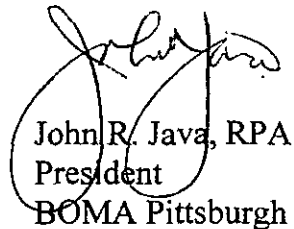


The Regional Center  
425 Sixth Avenue, #1620  
Pittsburgh, PA 15219  
(412) 261-2328  
(412) 261-4683 FAX  
bomabarb@aol.com

From a business viewpoint, we accepted the past changes as a 'contract' with our electric supplier and have adjusted our budgets and cost projections for our building tenants accordingly. We cannot go back to them now with new, higher numbers because Orion may have made a marginal business judgement. The cost of doing business in Pittsburgh and Pennsylvania is high enough already. Our industry, like Pennsylvania's economy, has benefitted from the savings we have achieved through shopping for the best rate on electricity. We urge you to stand by the existing plan to let us make use of the default service which we believe we have more than paid for through stranded cost recovery charges.

Lastly, if public hearings are necessary, they must be held in Pittsburgh so that all affected members of the voting public can equitably participate. Your consideration of this matter is appreciated.

Thank You,



John R. Java, RPA  
President  
BOMA Pittsburgh

cc: Karen Penafiel, BOMA International  
BOMA Pittsburgh Board

212 Locust Street  
Suite 300  
Harrisburg, PA 17101

T: 717 237 7160  
F: 717 237 7161  
www.wolfblock.com

Wolf, Block, Schorr and Solis-Cohen LLP

ORIGINAL

621223

00 JUL 25 AM 8:12

DOCUMENT  
FOLDER

RECEIVED  
SECRETARY'S BUREAU

DANIEL CLEARFIELD  
DIRECT DIAL: (717) 237-7173  
E-MAIL: DCLEARFIELD@WOLFBLOCK.COM

July 24, 2000

DOCKETED  
JUL 26 2000

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

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

Dear Secretary McNulty:

By our count, answers to Duquesne's Petition for Approval of Plan for Post-Transition Period POLR Service is due today. On behalf of Enron Energy Services, I hereby request an extension of two (2) days in which to file our answer to Duquesne's Petition for Approval. This extension is made necessary by other pressing obligations and litigation responsibilities. I have contacted counsel for Duquesne and she has advised me that she has no objection to this request.

Very truly yours,



Daniel Clearfield

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DC/kec

cc: All Parties of Record

EEF

DSH:23282.1

# ORIGINAL

## 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.

621224

00 JUL 25 AM

RECEIVED  
SECRETARY'S B

Kandace Melillo, Esq.  
Office of Trial Staff  
PA Public Utility Commission  
Pitnick Bldg., 3rd Fl.  
901 North 7th St, Rear  
Harrisburg, PA 17102

John S. Moot, Esq.  
Kathleen Barron  
Skadden, Arps, Slate, Meagher  
& Flom, LLP  
1440 New York Ave., NW  
Washington, DC 20005

Larry R. Crayne, Esquire  
Duquesne Light Company  
411 Seventh Ave.  
P.O. Box 1930  
Pittsburgh, PA 15230-1930

Angela T. Jones, Esquire  
Office of Small Business Adv.  
Suite 1102, Commerce Bldg.  
300 North Second Street  
Harrisburg, PA 17120

Brian Kalcic  
Excel Consulting  
Suite 720-T  
225 S. Meramec Ave.  
St. Louis, MO 63105

Mary Ann Ralls, Esquire  
Duane, Morris & Heckscher LLP  
Suite 700  
1667 K Street, NW  
Washington, DC 20006-1608

Scott J. Rubin, Esquire  
3 Lost Creek  
Selinsgrove, PA 17870

Mary McFall Hooper, Esq.  
PECO Energy Company  
2301 Market Street S23-1  
Philadelphia, PA 19103

Vickiren S. Aeshleman  
QST Energy Inc.  
Suite 300  
300 Hamilton Blvd.  
Peoria, IL 61602

David Hughes  
4037 Ludwick Street  
Pittsburgh, PA 15217

Brian A. Rider, President  
Pennsylvania Retailers' Assoc.  
224 Pine Street  
Harrisburg, Pa 17101-1325

Patricia Armstrong, Esquire  
Thomas, Thomas, Armstrong  
& Niesen  
212 Locust Street  
P.O. Box 9500  
Harrisburg, PA 17108-9500

Craig R. Kuennen, Ph.D.  
904 Melaleuca Ave., #N  
Carlsbad, CA 92009

Kenneth L. Wiseman, Esq.  
Mark F. Sundback, Esq.  
Andrews & Kurth, LLP  
1701 Pennsylvania Ave., NW  
Washington, DC 20006

Michael L. Kurtz, Esq.  
David F. Boehm, Esq.  
Boehm, Kurtz & Lowry  
2110 CBLD Center  
36 East Seventh Street  
Cincinnati, OH 45202

Thomas P. Gadsden, Esq.  
Morgan, Lewis & Bockius  
2000 One Logan Square  
Philadelphia, PA 19103-6993

David M. DeSalle, Esq.  
Ryan, Russell, Ogden & Seltzer, LLP  
800 N. Third St., Suite 101  
Harrisburg, PA 17102-2025

Robert B. Weisenmiller  
MRW& Associates, Inc.  
1999 Harrison St., Suite 1440  
Oakland, CA 94612-3517

Michael Reid, Director  
Materials Management Services  
Administrative Resources, Inc.  
500 Commonwealth Drive  
Warrendale, PA 15086-7513

Thomas J. Augspurger, Esq.  
Midcon Corporation  
Office of General Counsel  
701 East 22nd St.  
Lombard, IL 60148

William T. Hawke, Esq.  
Kevin J. McKeon, Esq.  
Malatesta, Hawke & McKeon  
100 North 10th St.  
P.O. Box 1778  
Harrisburg, PA 17108

Joseph A. Dworetzky, Esq.  
John P. Lavell, Jr., Esq.  
Hangley, Aronchick, Segal & Pudlin  
12th Fl., One Logan Square  
Philadelphia, PA 19103

Alan J. Barak, Esq.  
Environmentalists  
1417 Blue Mountain Parkway  
Harrisburg, PA 17112

Donald R. Ayersman, Jr., Esq.  
1125 Denver Avenue  
Morgantown, PA 26505

Mark J. McGuire, Esq.  
Ronald N. Carroll, Esq.  
Jenner & Block, Suite 1200  
601 13th St., NW  
Washington, DC 20005

Tim Merrill, Esq.  
4 Penn Center West, Suite 200  
Pittsburgh, PA 15276

Attorney of Record  
Environmental Energy Project  
3700 Vartan Way  
Harrisburg, PA 17110

Paul E. Russell, Esq.  
Pennsylvania Power and Light Company  
2 North 9th Street  
Allentown, PA 18101

David M. Boonin  
New Energy Ventures East, LLC  
1845 Walnut Street, Suite 2525  
Philadelphia, PA 19103

Roger Clark, Esq.  
The Environmentalists  
905 Denston Drive  
Andler, PA 19002-3901

Albert M. Benincasa, Esq.  
Director, Regulatory Affairs  
Skipping Stone  
46 9th Ave.  
Sea Cliff, NY 11579

Douglas F. John, Esq.  
John & Hengerer  
1200 17th St., NW, Suite 600  
Washington, DC 20036

John O'Brien, Esq.  
Wheeled Electric Power Company  
50 Charles Lindburgh, Blvd., Suite 207  
Uniondale, NY 11553

Rodney R. Akers, Esq.  
Assistant City Solicitor  
313 City-County Building  
414 Grant Street  
Pittsburgh, PA 15219

James P. Dougherty, Esq.  
Robert A. Weishaar, Esq.  
McNees, Wallace & Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108

Stephen J. Baron  
J. Kennedy & Assoc. Inc.  
Suite 475  
35 Glenlake Parkway  
Atlanta, GA 30328

Howard M. Louik, Esq.  
Allegheny County Law Dept.  
300 Fort Pitt Commons  
445 Fort Pitt Blvd.  
Pittsburgh, PA 15219

Robert J. Stefanko, Esq.  
341 South Bellefield Ave.  
Pittsburgh, PA 15213

Margaret Peters, Esq.  
The Peoples Natural Gas Co.  
625 Liberty Ave.  
Pittsburgh, PA 15222-3197

John Stember, Esq.  
Low Income Advocate Parties  
1705 Allegheny Bldg.  
429 Forbes Ave.  
Pittsburgh, PA 15219

Kenneth Zielonis, Esq.  
Stevens & Lee  
Suite 310  
208 North Third Street  
Harrisburg, PA 17108-2090

Stephen L. Feld, Esq.  
Pennsylvania Power Co.  
1 East Washington Street  
P.O. Box 891  
New Castle, PA 16103-0891

Exeter Associates, Inc.  
Suite 350  
12510 Prosperity Drive  
Silver Springs, MD 20904

Donald A. Kaplan, Esq.  
Lisa M. Helpert, Esq.  
Preston, Gates, Ellis & Rouvelas,  
Meeds, LLP  
Suite 500

1735 New York Ave., NW  
Washington, DC 20006-4759

Gary A. Jeffries, Esq.  
CNG Energy Services Corp.  
One Park Ridge Center  
P.O. Box 15746  
Pittsburgh, PA 15244-0746

David Cruthirds, Esq.  
Electric Clearinghouse, Ins.  
Suite 5800  
100 Louisiana  
Houston, TX 77002-5050

Keith M. Sappenfield, II  
Director of Marketing Support  
NorAm Energy Management Inc.  
P.O. Box 2628  
Houston, TX 77252-2628

John R. Orr, Esq.  
Duke Energy Trading & Marketing, LLC  
One Westchester Center  
Suite 650  
10777 Wesheimer  
Houston, TX 77042

Lawrence E. Moncrief, Esq.  
1364 Silverton Ave  
Pittsburgh, PA 15206

Samuel W. Braver, Esq.  
Bruce A. Americus, Esq.  
BUCHANAN INGERSOLL P.C.  
One Oxford Centre, 20th Floor  
301 Grant Street  
Pittsburgh, PA 15219-1410

Irwin A. Popowsky, Esquire  
Marisa A. Sifontes, Esquire  
Office of Consumer Advocate  
Office of Consumer Advocate  
Forum Building, 5th Floor  
555 Walnut Street  
Harrisburg, PA 17101-1923

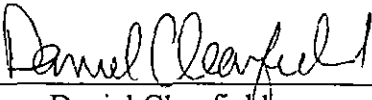
John Wilson, Executive Director  
Community Action Assoc. of PA  
222 Pine Street  
Harrisburg, PA 17101

Mark F. Sundback  
Robert M. Lamkin  
Andrews & Kurth, LLP  
1701 Pennsylvania Ave., N.W.  
Washington, DC 20006

Wanda Schiller  
Steven Baicker-McKee  
Babst, Calland, Clements & Zomnir PC  
8th Floor, Two Gateway Center  
Pittsburgh, PA 15222

Douglas C. Smith  
La Capra Associates  
333 Washington Street  
Boston, MA 02108

Date: July 24, 2000

  
\_\_\_\_\_  
Daniel Clearfield

ORIGINAL

MCNEES, WALLACE & NURICK  
ATTORNEYS AT LAW

100 PINE STREET  
P. O. BOX 1166  
HARRISBURG, PA 17108-1166  
TELEPHONE (717) 232-8000  
FAX (717) 237-5300  
<http://www.mwn.com>

DOCUMENT  
FOLDER

PAMELA C. POLACEK  
DIRECT DIAL: (717) 237-5368  
E-MAIL ADDRESS: PPOLACEK@MWN.COM

RECEIVED  
00 JUL 24 PM 1:56  
PA.P.U.C.  
SECRETARY'S BUREAU

July 24, 2000

VIA HAND DELIVERY

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

**Re: Pa. P.U.C. , et. al. v. Duquesne Light Company; Docket No. R-00974104**

Dear Secretary McNulty:

Enclosed for filing on behalf of the Duquesne Industrial Intervenors ("DII") are the original and three (3) copies of the Answer to Petition for Approval of Plan for Post-Transition Period POLR Service in the above-referenced proceeding.

As indicated on the attached Certificate of Service, all parties of record in this proceeding have been duly served. Please date stamp the enclosed copy of this letter and kindly return it for our filing purposes.

Very truly yours,

MCNEES, WALLACE & NURICK

By *Pamela C. Polacek*  
Pamela C. Polacek

Counsel to the Duquesne Industrial Intervenors

PCP:kmp  
Enclosures  
c: Certificate of Service

EEF

76

**ORIGINAL**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY  
COMMISSION, ET. AL.

v.

DUQUESNE LIGHT COMPANY

:  
:  
:  
:  
:  
:

DOCKET NO. R-00974104

---

ANSWER OF THE  
DUQUESNE INDUSTRIAL INTERVENORS  
TO PETITION FOR APPROVAL OF PLAN FOR  
POST-TRANSITION PERIOD POLR SERVICE

---

J&L Specialty Steel, Inc.  
LTV Steel Company, Inc.  
USX Corporation - US Steel Group

DOCUMENT  
FOLDER  
**DOCKETED**  
JUL 25 2000

David M. Kleppinger  
Pamela C. Polacek  
McNEES, WALLACE & NUBICK  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
(717) 237-5368  
(717) 237-5300 (facsimile)  
ppolacek@mwn.com (e-mail)

RECEIVED  
00 JUL 24 PM 1:56  
PA.P.U.C.  
SECRETARY'S BUREAU

Counsel to the Duquesne Industrial Intervenors

Dated: July 24, 2000

EEF

TABLE OF CONTENTS

I. INTRODUCTION ..... 1

II. ANSWER TO PETITION & OBJECTIONS TO PLAN ..... 3

    A. The Plan Should Be Clarified to Acknowledge That Customers On Special Contracts Will Be Served Under the POLR I Proposal Through the End of Their Contract Terms. .... 6

    B. The Levelized Shopping Credits Are Unnecessary and Serve Solely to Inappropriately Inflate the Margin That Marketers Can Charge to Customer. .... 7

    C. The Proposed Market-Based POLR Rate Pilot Program for Commercial and Industrial Customers is Unjust, Unreasonable, Discriminatory and Otherwise Inappropriate. .... 9

    D. Duquesne’s Transmission and Distribution Rate Cap “Extension” May Provide Little Benefit to Some Customer Classes. .... 13

    E. The Commission Should Not Consider Even a “Modest” Rate Redesign As Part of the POLR Phase II Plan. .... 15

    F. The Rate Cap Exceptions Reserved in the Plan Must Be Adjudicated on Their Merits at a Later Date and Must Include an Examination of Offsetting Cost Reductions. .... 15

    G. Although DII Can Agree to a Single Twelve-Month Supply Service Requirement for Customers Returning to POLR Service, the Request to Compensate Orion for Losses Allegedly Incurred During the Summer of 2000 is Inappropriate. .... 17

III. CONCLUSION ..... 20

## I. INTRODUCTION

1. On June 30, 2000, Duquesne Light Company ("Duquesne" or "Company") filed with the Commission the "Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period POLR Service" (hereinafter "Petition"). Duquesne submitted the filing at the docket assigned to litigation of the Company's restructuring filing pursuant to the Electricity Generation Customer Choice and Competition Act ("Competition Act"). The filing contains a proposed method for the Company to fulfill its Provider of Last Resort ("POLR") obligations during the period from the termination of stranded cost recovery for each individual rate class (or expiration of any special contract) through December 31, 2004 (*i.e.*, POLR II), and proposed pricing for POLR supply service during the same period. After December 31, 2004, parties anticipate that the Commission will have completed a generic rulemaking as required under Section 2807(e)(2), defining each EDC's obligation to serve after its stranded cost recovery terminates. See 66 Pa. C.S. § 2807(e)(2).<sup>1</sup>

2. The Duquesne Industrial Intervenors ("DII") was an active participant in Duquesne's Restructuring Proceeding and is one of the stakeholders with which Duquesne met in the process of developing its POLR II plan. DII appreciates the Company's willingness to discuss key customer choice issues such as this with its largest customers.

3. As the Petition noted, Duquesne's plan underwent several iterations over the course of the meetings. See Petition, pp. 10-12. During the stakeholder meetings, DII provided the Company with feedback regarding the various elements of both the initial proposal and the

---

<sup>1</sup>Nothing in this Answer should be construed to limit DII or other industrial customers' right to advocate for different POLR arrangements in the generic proceeding or in proceedings addressing other electric distribution companies' POLR obligations.

proposal actually submitted to the Commission. Unfortunately, the Company failed to incorporate or address many of DII's concerns in the final proposal, and DII must reiterate its objections to the final proposal in this Answer. For example, Duquesne decided over DII's objections to accept Enron's request for a mandatory market-based POLR pilot in 2004. In addition, the Company accepted MAPSA's request for levelized shopping credits. The existence of levelized shopping credits and the pilot program substantially modifies DII's views on some issues that DII and the Company would have been in agreement regarding based on the original proposals provided to the stakeholder groups. In other words, when viewed in the context of the *entire proposal originally discussed among the parties*, certain otherwise objectionable aspects would have been offset by benefits to Large Commercial and Industrial customers that rendered the entire package acceptable. Duquesne's final proposal has unfortunately stripped the package of those benefits.

## II. ANSWER TO PETITION & OBJECTIONS TO PLAN

4. The Company's Petition contains 7 general proposals:
- (a) new POLR generation rates for each rate class effective from the end of stranded cost recovery (or expiration of the customer's special contract if such expiration occurs after stranded cost recovery completion) until December 31, 2003 or December 31, 2004;
  - (b) a redesign of POLR rates for Class GS/GM;
  - (c) a market-based POLR rate pilot program in 2004 for Large Commercial and Industrial customers;
  - (d) a commitment to refrain from adjusting distribution and transmission rates through December 31, 2003;
  - (e) two additional rate cap exception circumstances applicable during POLR I and POLR II;
  - (f) restrictions on customer switching to be applicable in 2001; and,
  - (g) a proposal to retroactively compensate Orion Power MidWest, L.P. ("Orion"), for losses allegedly incurred during the Summer of 2000 due to customers returning to POLR service.

Obviously, each aspect of the Petition represents a significant issue that will impact both the prices paid by customers for electricity (either POLR supply or competitive supply) and the development of a robust competitive market in Duquesne's service territory (and all of Western Pennsylvania).

5. DII agrees with the statements by Duquesne that the retail electric supply market in Western Pennsylvania is in its preliminary stages of development. DII agrees:

[I]n the long run, competition and markets will replace the need for government-approved rate caps. There is today, however, only nascent competition in Duquesne's area. There is limited retail competition for many customer classes, particularly residential. There is no Independent System Operation ("ISO"), Regional Transmission Organization ("RTO") or regional power exchange.

Moreover, and of particular concern, there are shortages of generation capacity that have driven the market clearing price in peak periods to \$7,500 MWH, more than 100 times the current generation rate for POLR service. It is therefore doubtful that, in the near term, the market alone can be relied on to protect Duquesne's POLR customers or to provide them the rate relief made possible by Duquesne's successful Auction.

Petition, pp. 8-9. DII members have experienced similar frustrations in their attempts to obtain competitive supply.

6. DII also agrees that a market mechanism necessary to advance competition has not emerged in Western Pennsylvania. DII agrees that "there is not today, nor is there expected to be in the near future, a visible and liquid wholesale market by which to track market prices in Duquesne's area." Petition, p. 15.

7. The absence of a visible and liquid wholesale market is caused primarily by the absence of an ISO or RTO in Western Pennsylvania. DII members have been participating in industrial user groups in Pennsylvania, Ohio and West Virginia that are advocating for the establishment of appropriately-structured independent RTOs to facilitate the development of retail competition. DII members also participate in the Coalition of Midwest Transmission Customers ("CMTC"), which is actively engaging in activities related to the Midwest ISO and the Alliance Transmission Companies.

8. DII is not confident that Large Commercial and Industrial customers will have a workable competitive supply market by December 31, 2003, unless an appropriate RTO or ISO is formed to provide services in Western Pennsylvania. DII members strongly believe that Duquesne must take affirmative steps to facilitate the development of an RTO to further the development of a competitive retail electric service market in Western Pennsylvania. Although

Duquesne claims to support such efforts, little progress has occurred in bringing the benefits of ISO/RTO entities to Western Pennsylvania. DII members urge the Commission to use all available means to ensure that the customers in Western Pennsylvania are not deprived of the benefits that the customers in Eastern and Central Pennsylvania have experienced through the PJM Interconnection.

9. DII and Duquesne agree about the nascent status of the current market in Duquesne's service territory; however, DII and Duquesne disagree about the appropriate POLR structure for all customers during the interim period in which a vibrant market will hopefully develop. Despite admitting that ISO or RTO development is not on the horizon, Duquesne proposes a POLR plan that fails to provide tangible benefits and protections to Large Commercial and Industrial customers in its service territory. The Company notes statements by some suppliers that Duquesne's customer choice program is extremely attractive (see Petition, p. 9), but Duquesne provides concessions to marketers to induce additional participation. These concessions are made, however, at the expense of customers who have been anxiously waiting for suppliers to enter the Western Pennsylvania market and provide the benefits of competition. DII respectfully submits that the Company's plan is not an equitable balancing of the parties' interests.

10. DII comments on most of the elements in Duquesne's Petition. Many of the issues discussed below are merely clarifications of the Plan to which, based on the previous discussions, DII believes the Company will not object. Other issues may, however, be controversial. After reviewing and digesting various parties' Comments and Answers regarding Duquesne's Petition, DII urges the Commission to convene a collaborative of stakeholders,

headed by the Commission, to discuss a more equitable balancing of parties' interests.

**A. The Plan Should Be Clarified to Acknowledge That Customers On Special Contracts Will Be Served Under the POLR I Proposal Through the End of Their Contract Terms.**

11. Throughout the Restructuring Proceeding and the generation asset divestiture process, DII repeatedly commented on issues regarding the appropriate treatment of customers on special contracts pursuant to Rule 4 of Duquesne's tariff. As explained in DII's prior Comments on compliance filings and the generation asset divestiture, the Company must unbundle these special contracts into constituent components, appropriately allocating any discount and committing to maintain service throughout the term of the contract. The language in current Rule 4 confirms the Company's agreement to treat special contracts in this manner. See Duquesne Light Company Tariff Electric-Pa. P.U.C. No. 20, p. 10.

12. The POLR Supply Agreement entered into between Orion and Duquesne for POLR Phase I obligates Orion to provide supply, if necessary, to fulfill the needs of special contract customers through the term of the individual contracts between Duquesne and the customer. See POLR Agreement (Sept. 24, 1999), ¶¶ 1.1 (definitions of "POLR Supply Amount" and "Special Contracts"), 2.1 & 4.1(a) (the relevant portions of the POLR Agreement are attached hereto as Appendix "A"). In Reply Comments regarding the asset transfer to Orion, Duquesne agreed that if an individual customer's contract extends beyond the termination of stranded cost recovery for the customer's rate class, the customer would continue to be served under the special contract and the POLR Phase I agreement. In such cases, the unbundled CTC portion of the customer's monthly charges will be eliminated, while all other charges remain unchanged for the remainder of the year. In addition, for subsequent years, the generation rates

should be equal to the shopping credits established in the Restructuring Proceeding, less the applicable discount on generation to which the customer is entitled under the special contract. It is DII's understanding that Duquesne will compensate Orion for the electricity necessary to serve special contract customers based on the established shopping credits, less the applicable discount. See POLR Agreement, ¶ 6.2 & Schedule 3.

13. The Company's plan for POLR II is silent regarding the treatment of special contract customers. A special contract customer will continue to be served under the POLR I Agreement until the later of expiration of its contract with Duquesne or the end of stranded cost recovery for its rate class. After that, the customer will be served under POLR II. The Commission must confirm DII's interpretation of the proper treatment of special contract customers.

**B. The Levelized Shopping Credits Are Unnecessary and Serve Solely to Inappropriately Further Inflate the Margin That Marketers Can Charge to the Customer.**

14. Duquesne's Petition notes that it modified its original proposal presented to the stakeholders to accommodate requests by marketers for levelized POLR rates. See Petition, p. 13. Duquesne originally proposed to charge POLR supply rates based on the shopping credits established in its Restructuring Proceeding, plus a 10% adder to purportedly offset a transmission and distribution rate increase that the Company believes is necessary.<sup>2</sup> Orion and Duquesne executed an agreement for POLR supply at the shopping credits established in the Restructuring

---

<sup>2</sup>As discussed subsequently, DII questions the Company's claims regarding the need for a distribution rate increase and whether it is desirable to examine the current distribution rates to determine whether any purported underrecovery is occurring on a class-specific basis.

Proceeding plus 4.4% for the years 2001 through 2004. Based on this agreement, Duquesne would have charged POLR service customers the shopping credits established in the Restructuring Proceeding, plus a 14.4% adder. See id. at 12-13. Although DII questioned the Company's claims regarding the need for the 10% adder to offset a negative return on distribution rates, when presented with this proposal DII expressed general agreement.

15. As explained in Duquesne's Petition, the Company subsequently agreed to charge customers a levelized POLR charge to "encourage competition." See id. at 13. DII objects to the levelized charges as proposed by the Company. The levelized charges were based on the inflated shopping credits for 2003, which includes a 14.4% adder over the shopping credits established in the Restructuring Proceeding. See id. at 13-14 n 5. Levelizing these credits throughout the POLR II period serves only to further increase the "competitive" prices that suppliers charge to customers in 2001 and 2002. The following chart compares the 2001 shopping credits for Rates L and RS under the Restructuring Order, the 14.4% adder and the levelized proposal.

	<b>Restructuring Order Shopping Credit (cents/kWh)</b>	<b>Restructuring Order + 14.4% (cents/kWh)</b>	<b>Proposed Levelized at 2003 Restructuring Order + 14.4% (cents/kWh)</b>
Rate L	3.11	3.56	3.70
Rate RS	4.63	5.3	5.5

16. Given supplier statements that Duquesne's service territory is attractive to provide service, it is unclear why suppliers would need additional incentives to enter the market in the form of an artificially inflated margin on POLR supply rates. DII submits that suppliers will not use the bulk of this margin to pass savings on to the customer, and will likely simply inflate the

prices they are willing to offer to include an increased margin for their company. This does not benefit customers and is unnecessary based on the suppliers' own statements regarding the desirability of providing service in Duquesne's service territory.

17. Admittedly, some customers may realize a benefit from the levelization in 2004 in the form of POLR rates that are below the Restructuring Proceeding shopping credit (plus the 14.4% adder). Under the Company's proposal, however, Large Commercial and Industrial customers will be subject to a mandatory market-based POLR rate in 2004, thus losing any benefit of the levelization proposal. This is unjust, unreasonable and inappropriate.

18. Finally, it is unclear whether Orion would withdraw from the POLR supply agreement if the levelized shopping credits were rejected. Orion was willing to provide POLR supply at the yearly shopping credits, plus a 4.4% adder. See Petition, pp. 12-13. Thus, the levelized shopping credit as proposed in the final plan would not appear to be essential to Orion and the Commission could modify this aspect of the proposal to accommodate customers' objections to the levelized shopping credits.

**C. The Proposed Market-Based POLR Rate Pilot Program for Commercial and Industrial Customers is Unjust, Unreasonable, Discriminatory and Otherwise Inappropriate.**

19. As part of the POLR II Plan, the Company proposes to implement a pilot program to charge market-based POLR supply rates to Large Commercial and Industrial customers. See Petition, pp. 15-17. The pilot program would begin on January 1, 2004, assuming a market mechanism exists in Duquesne's service territory to facilitate calculation of the market-based rate. The generation rate will be calculated as the sum of the wholesale market price for power, adjusted for the customer's load shape, line losses, ancillary services, gross

receipts tax, other supplier requirements (such as capacity and reserves) and a 5 mils per kWh retail service adder. To implement the program, the Company will submit a filing by June 30, 2003, to address whether a visible market mechanism is available.

20. As previously communicated to the Company, DII objects to this proposal on many bases. As explained below, the market-based rate proposal is unjust, unreasonable and discriminatory. The mere existence of a market mechanism is not sufficient to subject any customer class to market-based POLR rates; rather, a workably competitive market must develop prior to imposing market-based POLR rates. In addition, the burden must be on the proponents of this request to demonstrate in 2004 that the competitive market is sufficiently developed to render the proposal reasonable and in the public interest. Furthermore, the proposed filing date to determine whether the pilot program will proceed does not provide sufficient time for parties to fully litigate this complicated and important issue before the Commission and for customers to plan appropriately for the POLR supply rates that will be effective January 1, 2004. Finally, because in the absence of an ISO or RTO a workably competitive market will not exist, Duquesne should be required to take affirmative steps to facilitate the development of an ISO or RTO in Western Pennsylvania.

21. First, the Company's proposal creates an obvious and unreasonable distinction between service provided to Residential and Small Commercial Customers and service to Large Commercial and Industrial Customers on and after January 1, 2004. Residential and Small Commercial customers will not be subjected to the market-based POLR rates and will instead pay the proposed levelized shopping credits under the Company's plan. In fact, 2004 is the first year that any customer class would see an actual benefit due to the levelized shopping credits

because the levelization would produce a shopping credit that is lower than the 2004 shopping credit established in the Restructuring Proceeding plus the 14.4%. See Petition, pp. 13-14 n 5. The Company's proposal thus deprives only Large Commercial and Industrial customers of any benefit of the levelized rate proposal.

22. Even if the levelized POLR rate proposal is rejected, the market-based POLR rate proposal results in differential treatment of Large Commercial and Industrial customers. The Company's filing notes in multiple places the uncertainty regarding the development of a visible and viable competitive market in the service territory. See e.g., Petition, pp. 8-9 & 15. This uncertainty exists both for Large Commercial and Industrial customers and for Residential and Small Commercial customers. Although arguably larger customers will see the benefits of competition first, DII submits that no valid basis exists to subject only large customers to the uncertainty of the development of a competitive market and the potential premature institution of market-based POLR rates. Duquesne's conclusions regarding the development of a market for large customers by 2004 are highly speculative and contradicted by the lack of movement to join an RTO. DII respectfully submits that the Company's proposal is unjust, unreasonable and unduly discriminatory.

23. Second, the purported market-based rates proposed to be charged to customers will include a 5 mils per kWh adder to "encourage shopping." This proposal is unreasonable and must be rejected. Duquesne has not provided support for the level of the adder or explained what it intends to do with the additional funds obtained through the adder. These issues must be addressed prior to sanctioning an artificial inflation to the market rates for the purported "market-based" POLR pilot program.

24. Similar to the levelized shopping credits, this adder on the "market-based" rate serves as an unnecessary and inappropriate crutch for suppliers seeking to exploit the competitive market to the detriment of customers. The adder allows marketers to collect a higher margin for service provided to Large Commercial and Industrial customers in Duquesne's service territory. At some point, this Commission must allow marketers to either flourish or fail based on their own actions rather than artificial mechanisms designed to purportedly "encourage competition." The Commission should begin this process by rejecting the retail service adder. Moreover, if further encouragement is needed in 2004, this simply confirms the lack of a fully functioning competitive market to support the pilot program.

25. Third, the mere existence of a market mechanism in Duquesne's service territory does not establish that the actual retail market is sufficiently developed to warrant market-based POLR rates. The proponents of this pilot program should be required to submit appropriate evidence to the Commission to establish not only the existence of a market index, but also that the actual retail market is functioning well and can support the program. The Commission needs this information at that time to confirm that the introduction of market-based POLR rates is in the public interest.

26. Fourth, the proposed filing date for determining whether a market exists to support the pilot program will not provide sufficient notice to customers of the POLR rates effective January 1, 2004. Duquesne proposes to make a filing on June 30, 2003, to address whether a visible, liquid spot market price is available for the program. Under normal Commission procedures, and providing all parties with sufficient due process opportunities to comment on and/or litigate this filing, the Commission would not make a decision regarding this

issue until October of 2003. This provides insufficient time for customers to evaluate competitive options beginning January 1, 2004, which could change based on whether a levelized shopping credit or the market-based POLR rates will apply. The filing date must be advanced earlier in 2003 to provide all parties with sufficient opportunity to address this issue. In addition, the parties advocating for the market-based POLR option must have the burden to prove that a sufficient competitive market exists to support the program. Parties opposing the option should not have the burden to disprove this issue.

27. Fifth, DII respectfully submits that it is inappropriate for Duquesne to rely on the development of a visible market mechanism in its service territory without actively pursuing the establishment of an ISO or RTO serving Western Pennsylvania. Although Duquesne attempts to imply that it has been a champion for such activities, DII perceives the Company's performance in this regard as less than adequate. The Commission must require Duquesne to take affirmative steps to facilitate the development of a retail competitive market in its service territory and in Western Pennsylvania.

28. In summary, DII has grave concerns regarding the mandatory market-based POLR program. To alleviate some of those concerns, DII suggested to the Company that participation in the pilot program could be optional. The Company rejected this suggestion. DII reiterates this suggestion for the Commission's consideration.

**D. Duquesne's Transmission and Distribution Rate Cap "Extension" May Provide Little Benefit to Some Customer Classes.**

29. As part of the Plan, Duquesne indicates that it will voluntarily extend the transmission and distribution rate cap through December 31, 2003. Petition, pp. 18-19.

Concurrent with this voluntary extension, the Company also claims that it is earning an inappropriately low return on its distribution service and seeks to inflate POLR supply rates to offset this reduced distribution service rate of return. Id. at 12-13. Duquesne claims this proposal benefits customers by allowing the Company to avoid a distribution base rate case and rate increase. Id. at 18.

30. DII disagrees with the Company's conclusions that this proposal benefits all customers. As the Company notes, it has not undergone a base rate proceeding since 1987. As a result, class allocations of distribution-related costs have not been examined and evaluated since 1987. DII believes that when such allocations are examined in subsequent proceedings, arguments will exist that certain customer classes have been allocated excessive distribution costs in relation to the cost Duquesne incurs to serve those customers. Although that proceeding may also result in different costs being included in distribution rate base, it is inequitable to assume that continuing current allocations (with an adder on POLR rates) is an appropriate method to address Duquesne's alleged underrecovery on its distribution business.

31. In addition, Duquesne has not demonstrated that this alleged underrecovery is occurring on distribution service provided to each customer class.<sup>3</sup> DII requested such information during the stakeholder negotiations (in response to the original proposal), but was not provided with any documentation to support the Company's claims. As such, DII disagrees

---

<sup>3</sup>Duquesne notes that no stakeholder objected to its proposal. DII did not object on a conceptual basis to the proposal when Large Commercial and Industrial customers were receiving substantial benefits under the Company's original proposal in the form of reasonable rate caps and POLR rates. DII did convey to Duquesne its objections discussed herein in response to the original POLR proposal and the modified proposal.

with the premise that inflating Large Commercial and Industrial customers' POLR supply rates is appropriate, or that the Company's return on distribution service provided to these customers is inadequate.

**E. The Commission Should Not Consider Even a "Modest" Rate Redesign As Part of the POLR Phase II Plan.**

32. As part of the Petition, Duquesne proposes to redesign the rates for Class GS/GM. Petition, pp. 14-15. Duquesne proposes to adjust the levels of charges within the rate blocks of GS/GM to decrease the charges in the initial blocks and increase the charges in the tail blocks. Duquesne proposes to implement this proposal at the request of the Office of Small Business Advocate ("OSBA"), based on the Company's conclusion that the redesign "produces an equitable balance as between members of that class." Id. at 14.

33. DII is sympathetic to the OSBA's concern that the rate design and cost allocations in effect since 1987 may be inequitable in 2000. As noted above, DII has similar concerns regarding distribution rates. However, it is highly inappropriate to selectively redesign certain rates as part of the POLR Phase II Plan. As the Company notes, the proposal reduces POLR generation rates for small customers and increases POLR generation rates for large customers on this rate schedule. Id. at 14. This constitutes an intra-class cost allocation change. The proper forum to consider both intra-class and inter-class cost allocations is a formal rate proceeding, not a Petition for Approval of a POLR Phase II Plan.

**F. The Rate Cap Exceptions Reserved in the Plan Must Be Adjudicated on Their Merits at a Later Date and Must Include an Examination of Offsetting Cost Reductions.**

34. As part of the plan, Duquesne reserves the right to seek rate cap exceptions for

certain situations not specified in the Competition Act. The additional situations are for "(1) charges levied by an RTO or ISO for use of the RTO- or ISO-controlled grid by Duquesne's customers;" and "(2) an increase in taxes subject to recovery through the State Tax Adjustment Surcharge." Petition, pp. 18-19. Duquesne states that any increased costs will be assessed on both shopping and non-shopping customers.

35. DII does not necessarily object to providing Duquesne with the opportunity to seek an exception for RTO-related costs, provided all parties reserve the right to litigate the actual request. This includes arguing that the request is inappropriate and that cost reductions or reallocations related to the RTO/ISO establishment should offset the request. DII raised these concerns with Duquesne during a stakeholder meeting and the Company was receptive to ensuring that parties' due process rights were preserved to litigate any rate cap exception request. Obviously, the need to support and defend a rate cap exception request is applicable to all of the enumerated exceptions, including STAS and the Section 2804(4)(iii) requests.

36. In addition, it may be inequitable in some circumstances to levy the increased costs on both shopping and non-shopping customers. For example, the RTO/ISO costs could be imposed on both Duquesne and EGSs serving customers in Duquesne's service territory. If Duquesne's increased RTO costs are levied on both shopping and non-shopping customers, a shopping customer may pay the same costs twice - once to Duquesne and once to its EGS. This is not reasonable. Any allocation between shopping and non-shopping customers should be determined at the time of the request.

**G. Although DII Can Generally Agree to a Single Twelve-Month Supply Service Requirement for Customers Returning to POLR Service, the Request to Retroactively Compensate Orion for Losses Allegedly Incurred During the Summer of 2000 is Inappropriate.**

37. Consistent with the Commission's June 22 Order at Docket No. M-00960890F0017, Duquesne proposes to implement a requirement that customers returning to POLR service commit to remain with Duquesne for supply service for twelve months. Petition, pp. 22-23. Duquesne also intends to file at a later date a proposed Generation Rate Adjustment ("GRA") mechanism to provide customers with the option to re-enter the competitive supply market within 60 days. Duquesne will implement both rules prior to the Summer of 2001.

38. As the Commission is aware, industrial customers have been actively discussing these types of proposals on a state-wide basis and have serious concerns regarding the Commission's actions at Docket No. M-00960890F0017. Despite these concerns, DII has discussed the customer return issue with Duquesne and others to ascertain the appropriateness of imposing a twelve-month supply service requirement on returning customers. DII is aware that cycling activity may be occurring in Duquesne's service territory; however, the information provided to date appears to demonstrate that certain EGSs are the primary cause of this behavior (either through specific supply offerings to customers or through contract defaults). DII is highly concerned that the customers are being inappropriately blamed and penalized for this activity. DII urges the Commission to re-examine whether a mechanism apart from the GRA mechanism is more appropriate to address the behavior identified in this situation.

39. Based on information obtained from Duquesne, DII does not object to the introduction of a twelve-month supply service requirement for customers returning to POLR

service.<sup>4</sup> This twelve-month requirement should be applicable only if the customer voluntarily returns to Duquesne and should not be applied if the EGS defaults on the supply agreement.<sup>5</sup> In addition, the twelve-month supply service requirement must not extend or automatically renew after the customer has fulfilled its twelve-month commitment. The customer must be free to leave POLR service at any time following the twelve months. Finally, Duquesne should have discretion, in appropriate circumstances and with Orion's agreement, to waive the twelve-month supply service requirement.

40. Duquesne has not submitted a GRA proposal at this time, but asserts that the absence of a visible market in its territory will not preclude approval of a GRA mechanism. See Petition, p. 16 n.7. DII disagrees; however, such issues are better addressed when Duquesne submits its filing. At that time, DII anticipates that it will have the full opportunity to object to the design and existence of the GRA, including the violation of the Act's rate caps that the GRA concept authorizes.

41. Finally, DII opposes the Company's request to compensate Orion for alleged losses sustained during the Summer of 2000 due to customers returning to POLR service. See Id. at 25-27. First, DII disagrees with the conclusion that Orion would not have foreseen that customers would be returning to POLR service this summer. Prudent market participants

---

<sup>4</sup>Assuming the Commission accepts the market-based POLR rate pilot program, no need exists to impose the twelve-month supply service requirement on Large Commercial and Industrial customers after January 1, 2004.

<sup>5</sup>Duquesne could be allowed to seek compensation from the supplier in this circumstance, but the customer should not be restricted from re-entering the supply market when the return is not voluntary.

examining forward prices for this summer would have seen the upward trend. As the POLR supplier with the obligation voluntarily assumed in the POLR Supply Agreement to provide supply at the shopping credits, upon seeing these trends, Orion should have prepared and reserved generation output to serve the POLR load. To the extent returns did not occur, Orion could have marketed that reserved output at the high market prices. Orion's failure to do so was a business decision for which the Commission and the customers should not provide retroactive compensation.

42. Second, no reasonable bidder in the auction would have anticipated that it would be retroactively compensated for customer switching or that a switching rule would be in effect for the Summer of 2000. See id. at 26. The Commission's Order was clear - until evidence of alleged "gaming" existed, the Commission would not consider placing restrictions on customer switching. In addition, institution of a restriction requires a tariff change, which presumably would not take effect until at least 60 days after filing. See 66 Pa. C.S. § 1308(a). The asset exchange closed on April 28, 2000, with no tariff supplement pending to implement a switching rule. Finally, the rules against retroactive ratemaking are well-known to parties. Duquesne's request clearly constitutes impermissible retroactive ratemaking. It is not reasonable for Orion to be excused from its obligations or retroactively compensated.

43. Third, it is inappropriate and unreasonable to charge all customers for costs incurred by Orion to accommodate the behavior of a limited segment of customers. The auction proceeds should not be offset by the "GRA" for 2000.

### III. CONCLUSION

WHEREFORE, the Duquesne Industrial Intervenors respectfully request that the Commission modify Duquesne Light Company's Provider of Last Resort Phase II Plan consistent with the foregoing arguments and/or convene a Commission-led collaborative process to address these issues.

Respectfully submitted,

McNEES, WALLACE & NURICK

By *Pamela C. Polacek*

David M. Kleppinger  
Pamela C. Polacek  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
(717) 237-5368  
(717) 237-5300 (facsimile)  
ppolacek@mwn.com (e-mail)

Counsel to the Duquesne Industrial Intervenors

Dated: July 24, 2000

CONFORMED COPY

POLR AGREEMENT

by and between

DUQUESNE LIGHT COMPANY

and

ORION POWER HOLDINGS, INC., the POLR SUPPLIER

Dated as of September 24, 1999

## **POLR AGREEMENT**

This POLR Agreement (this "Agreement") is made and entered into as of September 24, 1999 (the "Effective Date") by and between Duquesne Light Company, a Pennsylvania corporation ("DLC"), and Orion Power Holdings, Inc., a Delaware corporation (the "POLR Supplier"). DLC and the POLR Supplier are referred to individually as a "Party" and collectively as the "Parties."

### **WITNESSETH:**

WHEREAS, DLC is selling its generating facilities and other assets associated therewith through an auction process (such sale, the "Asset Sale");

WHEREAS, notwithstanding the Asset Sale, DLC will continue to have and retain its obligation as the electrical energy ("Energy") provider of last resort (the "POLR") for its retail customers during a time period established by the Pennsylvania Public Utility Commission;

WHEREAS, as a result of the Asset Sale, DLC will no longer have the generating facilities necessary to supply Energy as the POLR;

WHEREAS, the POLR Supplier has or is willing to secure the necessary resources to meet DLC's Energy obligations as the POLR;

WHEREAS, DLC desires to purchase from the POLR Supplier and the POLR Supplier desires to sell Energy at wholesale rates to DLC to meet DLC's Energy obligations as the POLR as provided herein;

NOW, THEREFORE, in consideration of the mutual covenants, representations and agreements hereinafter set forth, and intending to be legally bound hereby, the Parties agree as follows:

### **ARTICLE I DEFINITIONS**

1.1 Definitions. As used in this Agreement, the following terms have the meanings set forth below:

"OATT" means DLC's Open Access Transmission Tariff, or its successor, filed with the FERC.

"Passthrough Power" means Energy that an Interruptible Service customer, that is permitted to do so in the applicable tariff, contract or arrangement, elects, in lieu of an interruption of service, to have DLC purchase, on its behalf, at the prices then available in the regional power market, as contemplated by Section 4.1(f) hereof.

"Party" has the meaning set forth in the Recitals.

"Person" means any individual, partnership, limited liability company, joint venture, corporation, trust, unincorporated organization or governmental entity or any department or agency thereof.

"POLR" has the meaning set forth in the Recitals.

"POLR Energy Imbalance" means any difference between the hourly Energy supplied by the POLR Supplier to the DLC Control Area and the POLR Supply Amount.

"POLR Supply Amount" means the actual hourly Energy requirements of the DLC Control Area, after adjustment for the hourly Energy requirements or transactions (including associated losses) of (i) customers served by an EGS, (ii) wholesale customer(s) of others (including non-utility generators), (iii) customers served under Borderline Purchase Agreements and Borderline Supply Agreements and (iv) the owner(s) of the Cheswick, Elrama, Phillips and Brunot Island generating plants included in the Asset Sale or any other generating plants in the DLC Control Area. The Parties recognize and agree that (i) with respect to each DLC retail customer for which DLC is the POLR, beginning at one minute after 11:59 p.m. (eastern time) on the day prior to the Closing Date and continuing until the respective termination of the Transition Period relating to each such retail customer (or the earlier termination of this Agreement), the POLR Supply Amount shall include the amount of Energy that DLC is required to supply to each such retail customer, (ii) beginning at one minute after 11:59 p.m. (eastern time) on the day prior to the Closing Date and continuing until the end of the term of this Agreement (or the earlier termination of this Agreement), the POLR Supply Amount shall include the amount of Energy that DLC is required to provide pursuant to the Special Contracts and (iii) beginning at one minute after 11:59 p.m. (eastern time) on the day prior to the Closing Date and continuing until the date on which the Transition Period for every Rate Class shall

have terminated (or the earlier termination of this Agreement), the POLR Supply Amount shall include all Company Use Energy. The Parties further recognize and agree that the POLR Supply Amount shall be determined as an integrated value for each clock hour period.

"POLR Supply Forecast" means, for each hour during the term of this Agreement, DLC's forecast of the POLR Supply Amount, as provided to the POLR Supplier in accordance with Section 5.1 hereof.

"POLR Supply Service" means the services and obligations identified in Article IV of this Agreement.

"Preliminary Supplier Charges" means an estimate of Supplier Charges based on forecast Energy requirements (and associated losses) and other data available at the time of the estimate including, if available, actual meter readings.

"PUC" means the Pennsylvania Public Utility Commission and any successor agency thereto.

"Purchase Price" has the meaning set forth in Section 3.1 hereof.

"Rate Class" means each rate classification of DLC's retail customers.

"Retail Tariff" means the schedules of rates pursuant to which DLC bills its retail customers for generation, as filed with and approved by the PUC, and as such may be amended or modified by the PUC from time to time.

"Shed Load" means (a) where "Shed Load" is used as a verb, the deliberate interruption of service in the *DLC Control Area* (other than the interruption of service pursuant to the terms of DLC's tariffs, contracts and arrangements for Interruptible Service), whether manually, automatically, or through requiring location-specific reductions, in accordance with Good Utility Practice to maintain the integrity of the *DLC Control Area*, and (b) where "Shed Load" is used as a noun, the amount of service, measured in megawatt-hours, that is deliberately interrupted in the *DLC Control Area* (other than the interruption of service pursuant to the terms of DLC's tariffs, contracts and arrangements for Interruptible Service), whether manually, automatically, or through requiring location-specific reductions, in accordance with Good Utility Practice to maintain the integrity of the *DLC Control Area*.

"Special Contracts" means those agreements identified on Schedule 6 attached hereto pursuant to which DLC is obligated to provide Energy to certain retail customers on certain terms and conditions. The Parties recognize and agree that the Special Contracts do not include contracts to provide Energy under customer assistance programs. The Parties further recognize and agree that DLC shall update Schedule 6 attached hereto whenever necessary to incorporate any significant changes to such Schedule 6, including the modification or termination of any existing, or the entering into of any additional, Special Contracts; provided, however, that DLC shall not modify, terminate or extend beyond the respective termination date listed on Schedule 6 attached hereto any existing or enter into any additional Special Contracts during the term of this Agreement without the prior consent of the POLR Supplier, which consent shall not be unreasonably withheld.

"Supplier Charges" means any charges to the POLR Supplier under this Agreement, including Supply Violation Charges, and Must-Run Charges, and shall include (x) any adjustments necessary to account for borderline services purchased pursuant to the Borderline Purchase Agreements, the payment for which shall be the responsibility of the POLR Supplier, and borderline services provided pursuant to the Borderline Supply Agreements, the revenues for which shall be credited to the POLR Supplier, as well as (y) any adjustments necessary to account for DLC's costs in purchasing Energy for Passthrough Power under the Interruptible Service, the payment for which shall be the responsibility of the POLR Supplier, and the revenues received by DLC from Interruptible Service customers for the incremental charges for Energy related to the amount of Passthrough Power actually supplied to such customers, which revenues shall be credited to the POLR Supplier to the extent such revenues have not been otherwise included in the Billed Generation Revenue attributable to such Passthrough Power.

"Supplier Tariff" means DLC's Electric Generation Supplier Coordination Tariff, or its successor, filed with and approved by the PUC.

"Supply Violation Charges" means the charges calculated pursuant to Section 4.3 hereof for the failure by the POLR Supplier to deliver to the DLC Control Area, in any hour, the POLR Supply Amount in accordance with Section 4.1 hereof. The Parties recognize and agree that Supply Violation Charges may apply when the POLR Supplier delivers more or less than the POLR Supply Amount.

"System Control Center" means DLC's System Control Center currently located in Pittsburgh, PA.

"Tangible Net Worth" of a Person means common stock plus redeemable and unredeemable preferred and preference stock plus additional paid in capital plus retained earnings (or minus accumulated deficits) minus intangible assets determined on the basis of the most recent audited balance sheet of such Person.

"Transition Period" means, with respect to each Rate Class, the period of time between one minute after 11:59 p.m. (eastern time) on the day prior to the Closing Date and the earlier of (i) one minute after 11:59 p.m. (eastern time) on December 31, 2005 and (ii) one minute after 11:59 p.m. (eastern time) on the date on which DLC is no longer authorized to collect the CTC allocated to such Rate Class. The Parties recognize and agree that the Transition Period for each Rate Class shall be calculated separately and, accordingly, may terminate on a date that is different than the termination date for each other Rate Class.

1.2 Certain Interpretive Matters. In this Agreement, unless otherwise specified or the context otherwise requires, the singular shall include the plural, the masculine shall include the feminine and neuter, and vice versa. The term "includes" or "including" shall mean "including without limitation." Unless otherwise specified or the context otherwise requires, references to a Section, Article or Schedule mean a Section, Article or Schedule of this Agreement and reference to a given agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented or restated through the date as of which such reference is made.

## ARTICLE II TERM

2.1 Term. Unless terminated earlier pursuant to the terms of this Agreement, the term of this Agreement shall commence as of the Effective Date and continue until the later of (x) the date on which the Transition Period for every Rate Class shall have terminated or (y) the date on which all of the Special Contracts shall have terminated. The POLR Supply Service shall commence at one minute after 11:59 p.m. (eastern time) on the day prior to the Closing Date. Following the date hereof, the Parties shall cooperate in good faith to develop an arrangement, as may be permitted by Law and as to which the Parties shall mutually agree, to supply Energy to retail customers who remain in a Rate Class following the termination of the Transition Period relating to such Rate Class.

**ARTICLE IV**  
**POLR SUPPLY SERVICE**

4.1 Obligations of POLR Supplier.

(a) POLR Supply Amount Obligation. Subject to the terms and conditions of this Agreement, beginning at one minute after 11:59 p.m. (eastern time) on the day prior to the Closing Date and continuing, with respect to each DLC retail customer for which DLC is the POLR, until the respective termination of the Transition Period relating to each such retail customer's Rate Class (or the earlier termination of this Agreement) and, with respect to each DLC retail customer that is supplied Energy pursuant to a Special Contract, until the end of the term of this Agreement (or the earlier termination of this Agreement), the POLR Supplier shall deliver to DLC each hour, on a continuous basis, the POLR Supply Amount at the delivery point(s) described in subparagraph (b) of this Section 4.1. The POLR Supplier recognizes and agrees that it is responsible for delivering the POLR Supply Amount as it may change over time for any reason, including seasonal factors, daily load fluctuation, increased or decreased usage, extremes in weather, and customer switching decisions regarding whether to receive POLR service or purchase Energy from an EGS.

(b) Points of Delivery. The POLR Supplier shall deliver the POLR Supply Amount to the DLC Transmission System and shall schedule, except as otherwise provided in Section 4.3(d) hereof, the POLR Supply Amount to the DLC Control Area.

(c) Must-Run Purchases. If, pursuant to the DLC Must-Run Agreement(s), DLC requires the owners(s) of Cheswick and/or Elrama generating plants to deliver Must-Run Output, as that term is defined in such DLC Must-Run Agreement(s), the POLR Supplier shall pay DLC the costs DLC incurs for such DLC Must-Run Purchases (such costs collectively, the "Must-Run Charges"), which Must-Run Charges shall appear as a Supplier Charge on the invoices and statements of account prepared under Article VII hereof. Within two (2) hours of receipt of a Dispatch Notice, the POLR Supplier shall submit to DLC a revised schedule incorporating the DLC Must-Run Purchases referenced in such Dispatch Notice.

(d) Ancillary Services. The POLR Supplier acknowledges and agrees that DLC shall be responsible for securing and providing all Ancillary Services associated with DLC's retail customers (provided that by separate, mutual

**ARTICLE VI  
PAYMENT FOR POLR SUPPLY SERVICE**

6.1 Net Billed Generation Revenue. The payment for the POLR Supply Service shall be the Net Billed Generation Revenue.

6.2 Generation Rates. The currently anticipated Generation Rates and CTC rates to be used for the term of this Agreement are set forth on Schedule 3 attached hereto, and are based on the Pennsylvania gross receipts tax rate of four and four-tenths percent (4.4%) in effect on December 31, 1998. The Parties recognize that such Generation Rates and CTC rates are subject to approval, and accordingly amendment or modification, by the PUC and hereby agree that, if such Generation Rates and CTC rates are amended or modified by the PUC, the payment for the POLR Supply Service, as set forth in Section 6.1 hereof, shall be amended or modified accordingly.

6.3 Effect of Tax Changes on Generation Rates. Notwithstanding anything contained in Section 6.2 hereof to the contrary, the Parties recognize and agree that the payment for the POLR Supply Service, as set forth in Section 6.1 hereof, and, for purposes of this Agreement, the Generation Rates, shall not be modified due to any change in the Generation Rates as a result of (i) any change in the Pennsylvania State Tax Adjustment Surcharge ("STAS"), (ii) any change to the Pennsylvania gross receipts tax rate, including the decrease in the Pennsylvania gross receipts tax rate to four and two-tenths percent (4.2%) pursuant to Section 2810(C) of the Pennsylvania Electricity Generation Customer Choice and Competition Act and (iii) any change to the universal service charge.

6.4 Taxes. The payment of any local, state and federal taxes, fees, and levies attributable to the POLR Supplier's sale of Energy to DLC under this Agreement shall be the responsibility of the POLR Supplier.

**ARTICLE VII  
PAYMENT, INVOICING, ESCROW and OFFSET**

7.1 Daily Payment of Net Billed Generation Revenues. Except as may otherwise be provided in this Article VII, beginning on the thirty-fifth day following the Closing Date and continuing until the end of the term of this Agreement (or the earlier termination of this Agreement), DLC shall pay to the POLR

**SCHEDULE 3**  
**ANTICIPATED GENERATION RATES AND CTC RATES**

GENERATION RATES

Rate			2000	2001	2002	2003	2004	2005
<b>RS</b>		cents/kWh	4.5549	4.6349	4.7149	4.8149	4.9349	5.1049
<b>RH</b>	Winter (Nov thru Apr), first 500 kWh	cents/kWh	3.9217	4.0556	4.1913	4.3580	4.5517	4.8283
	Winter (Nov thru Apr), additional kWh	cents/kWh	1.3006	1.3495	1.3991	1.4600	1.5308	1.6318
	Summer (May thru Oct)	cents/kWh	3.9217	4.0556	4.1913	4.3580	4.5517	4.8283
<b>RA</b>	Winter (Nov thru Apr), first 500 kWh	cents/kWh	5.9175	6.1928	6.4432	6.6876	6.9321	7.1954
	Winter (Nov thru Apr), additional kWh	cents/kWh	2.0010	2.1016	2.1930	2.2823	2.3717	2.4678
	Summer (May thru Oct)	cents/kWh	5.9175	6.1928	6.4432	6.6876	6.9321	7.1954
<b>GS/GM</b>	First 550 kWh	cents/kWh	6.8833	7.0687	7.2474	7.4439	7.6530	7.8995
	Next 750 kWh	cents/kWh	6.4279	6.6013	6.7685	6.9523	7.1478	7.3784
	Additional kWh	cents/kWh	1.6205	1.6673	1.7125	1.7621	1.8149	1.8772
	Demand first 5 kW	\$/kW/mo.	0.00	0.00	0.00	0.00	0.00	0.00
	Demand additional kW	\$/kW/mo.	8.94	9.19	9.43	9.70	9.98	10.31
<b>GMH</b>	(October-May) first 1250 kWh + 150 kWh for each kW of Demand over 6 kW	cents/kWh	5.1455	5.3337	5.5188	5.7173	5.9293	6.1834
	(October-May) additional kWh	cents/kWh	1.4595	1.5177	1.5751	1.6366	1.7022	1.7809
	Demand first 5 kW	\$/kW/mo.	0.00	0.00	0.00	0.00	0.00	0.00
	Demand additional kW	\$/kW/mo.	8.28	8.60	8.90	9.23	9.58	10.00
	(June thru Sept.) first 550 kWh	cents/kWh	6.3534	6.5842	6.8112	7.0546	7.3145	7.6260
	(June thru Sept.) first 750 kWh	cents/kWh	5.9299	6.1458	6.3581	6.5858	6.8289	7.1202
(June thru Sept.) additional kWh	cents/kWh	1.4595	1.5177	1.5751	1.6366	1.7022	1.7809	
<b>GL</b>	Demand first 300 kW or less	\$/mo.	3,190.75	3,259.88	3,327.66	3,399.78	3,477.00	3,569.71
	Demand additional kW	\$/kW/mo.	7.95	8.13	8.30	8.48	8.68	8.91
	All kWh	cents/kWh	1.9612	2.0042	2.0464	2.0912	2.1392	2.1969

SCHEDULE 3 to POLR CONTRACT

page 2 of 6

GENERATION RATES

Rate			2000	2001	2002	2003	2004	2005
<b>GLH</b>	(October thru May) first 1250 kWh + 150 kWh for each kW of Demand over 6 kW	cents/kWh	6.3950	6.5510	6.7051	6.8719	7.0553	7.2756
	Additional kWh	cents/kWh	1.8384	1.8867	1.9344	1.9861	2.0429	2.1111
	Demand (Jun thru Sep) 1st 300 kW or less	\$/mo.	3107.82	3185.51	3262.24	3345.35	3436.67	3546.38
	Demand additional kW	\$/kW/mo.	7.72	7.92	8.11	8.32	8.55	8.83
	(June thru Sept.) kWh	cents/kWh	1.8384	1.8867	1.9344	1.9861	2.0429	2.1111
<b>L</b>	Demand first 5000 kW	\$/mo.	40,216.17	41,003.46	41,782.57	42,612.31	43,527.35	44,691.01
	Demand next 10,000 kW	\$/kW/mo.	6.37	6.50	6.62	6.76	6.90	7.09
	Demand next 25,000 kW	\$/kW/mo.	6.18	6.30	6.43	6.56	6.70	6.88
	Demand additional kW	\$/kW/mo.	6.01	6.13	6.25	6.38	6.52	6.69
	First 750,000 kWh + 400 kWh per kW of	cents/kWh	1.9239	1.9619	1.9995	2.0395	2.0836	2.1397
	Next 150 kWh per kW of Demand	cents/kWh	1.1870	1.2112	1.2352	1.2608	1.2890	1.3249
	Additional kWh	cents/kWh	1.0562	1.0781	1.0997	1.1227	1.1481	1.1803
<b>HVPS</b>	Demand first 30,000 kW	\$/mo.	227,919.21	229,737.52	231,606.53	233,901.40	236,631.37	240,614.55
	Demand additional kW	\$/kW/mo.	8.26	8.33	8.39	8.48	8.58	8.72
	On-peak kWh	cents/kWh	2.7891	2.8110	2.8334	2.8609	2.8937	2.9415
	Off-peak kWh	cents/kWh	1.2311	1.2412	1.2517	1.2645	1.2798	1.3020
	<b>AL</b>	Demand all kW	\$/kW/mo.	2.54	2.62	2.69	2.79	2.90
	First 300 kWh	cents/kWh	3.5645	3.6680	3.7748	3.9060	4.0620	4.2897
	Additional kWh	cents/kWh	0.8348	0.8605	0.8870	0.9196	0.9583	1.0148

GENERATION RATES

Rate			2000	2001	2002	2003	2004	2005	
SE	cents/kWh		2.0150	2.0861	2.1650	2.2550	2.3576	2.5150	
SM	Mercury Vapor	Nom. Lamp Wattage							
		100	1.10	1.16	1.22	1.29	1.38	1.50	
		175	1.42	1.50	1.58	1.67	1.78	1.95	
		250	1.77	1.86	1.96	2.07	2.21	2.42	
		400	2.38	2.50	2.63	2.79	2.98	3.26	
		1,000	5.12	5.39	5.67	6.01	6.42	7.02	
	Sodium Vapor	70	1.13	1.19	1.25	1.32	1.41	1.54	
		100	1.43	1.51	1.58	1.68	1.79	1.95	
		150	1.69	1.78	1.87	1.98	2.12	2.31	
		250	2.47	2.60	2.73	2.89	3.09	3.37	
		400	3.21	3.37	3.55	3.76	4.01	4.38	
		1,000	6.68	7.03	7.40	7.84	8.38	9.15	
SH	Mercury Vapor	\$/fixture/mo.							
		175	5.27	5.31	5.36	5.41	5.48	5.57	
		250	6.86	6.92	6.97	7.05	7.13	7.25	
		400	10.07	10.15	10.24	10.35	10.47	10.65	
	Sodium Vapor	1,000	22.61	22.80	22.99	23.23	23.51	23.92	
		100	5.09	5.13	5.18	5.23	5.29	5.38	
		150	6.25	6.30	6.35	6.42	6.49	6.61	
		200	7.42	7.48	7.54	7.62	7.71	7.84	
		250	8.56	8.63	8.70	8.79	8.90	9.05	
		400	12.03	12.12	12.23	12.35	12.50	12.72	
		1,000	26.97	27.19	27.42	27.70	28.03	28.52	
		MTS	First 1,300 kWh	cents/kWh	5.9953	6.0605	6.1321	6.2169	6.3188
Additional kWh	cents/kWh		1.3512	1.3674	1.3852	1.4062	1.4316	1.4683	
PAL	High Pressure Sodium	\$/fixture/mo.							
		70	1.13	1.19	1.25	1.32	1.41	1.54	
		100	1.43	1.51	1.58	1.68	1.79	1.95	
		150	1.69	1.78	1.87	1.98	2.12	2.31	
		250	2.47	2.60	2.73	2.89	3.09	3.37	
		400	3.21	3.37	3.55	3.76	4.01	4.38	
		Flood Lighting	100	1.29	1.36	1.43	1.51	1.62	1.76
			150	1.50	1.58	1.66	1.75	1.87	2.04
	250		1.79	1.88	1.98	2.10	2.24	2.44	
	400		2.27	2.39	2.52	2.67	2.85	3.12	
	Unmetered	70	0.99	1.00	1.02	1.03	1.05	1.08	
		100	1.58	1.60	1.62	1.64	1.67	1.71	
		150	2.29	2.32	2.35	2.38	2.42	2.49	
		250	3.41	3.45	3.49	3.55	3.61	3.70	
		400	5.29	5.36	5.42	5.51	5.60	5.74	

CTC RATES

Rate		2000	2001	2002	2003	2004	2005	
<b>RS</b>	cents/kWh	3.4728	3.3928	3.3128	3.2128	3.0928	2.9228	
<b>RH</b>	Winter (Nov thru Apr), first 500 kWh	5.7247	5.5908	5.4551	5.2884	5.0947	4.8181	
	Winter (Nov thru Apr), additional kWh	2.0914	2.0425	1.9929	1.9320	1.8612	1.7602	
	Summer (May thru Oct)	5.7247	5.5908	5.4551	5.2884	5.0947	4.8181	
<b>RA</b>	Winter (Nov thru Apr), first 500 kWh	3.5694	3.2941	3.0437	2.7993	2.5548	2.2915	
	Winter (Nov thru Apr), additional kWh	1.3040	1.2034	1.1120	1.0227	0.9333	0.8372	
	Summer (May thru Oct)	3.5694	3.2941	3.0437	2.7993	2.5548	2.2915	
<b>GS/GM</b>	First 550 kWh	3.9383	3.7529	3.5742	3.3777	3.1686	2.9221	
	Next 750 kWh	3.6836	3.5102	3.3430	3.1592	2.9637	2.7331	
	Additional kWh	0.9948	0.9480	0.9028	0.8532	0.8004	0.7381	
	Demand first 5 kW	\$/kW/mo.	No charge	No charge	No charge	No charge	No charge	
	Demand additional kW	\$/kW/mo.	5.31	5.06	4.82	4.55	4.27	3.94
<b>GMH</b>	(October-May) first 1250 kWh + 150 kWh for each kW of Demand over 6 kW	cents/kWh	3.9968	3.8086	3.6235	3.4250	3.2130	2.9589
	(October-May) additional kWh	cents/kWh	1.2379	1.1797	1.1223	1.0608	0.9952	0.9165
	Demand first 5 kW	\$/kW/mo.	No charge	No charge	No charge	No charge	No charge	No charge
	Demand additional kW	\$/kW/mo.	6.61	6.29	5.99	5.66	5.31	4.89
	(June thru Sept.) first 550 kWh	cents/kWh	4.9008	4.6700	4.4430	4.1996	3.9397	3.6282
	(June thru Sept.) first 750 kWh	cents/kWh	4.5839	4.3680	4.1557	3.9280	3.6849	3.3936
	(June thru Sept.) additional kWh	cents/kWh	1.2379	1.1797	1.1223	1.0608	0.9952	0.9165
<b>GL</b>	Demand first 300 kW or less	\$/mo.	1,472.87	1,403.74	1,335.96	1,263.84	1,186.62	1,093.91
	Demand additional kW	\$/kW/mo.	3.73	3.55	3.38	3.20	3.00	2.77
	All kWh	cents/kWh	0.9160	0.8730	0.8308	0.7860	0.7380	0.6803

CTC RATES

Rate			2000	2001	2002	2003	2004	2005
GLH	(October thru May) first 1250 kWh + 150 kWh for each kW of Demand over 6 kW	cents/kWh	3.6113	3.4553	3.3012	3.1344	2.9510	2.7307
	additional kWh	cents/kWh	1.1185	1.0702	1.0225	0.9708	0.9140	0.8458
	Demand (Jun thru Sep) 1st 300 kW or less	\$/mo.	1,798.61	1,720.92	1,644.19	1,561.08	1,469.76	1,360.05
	Demand additional kW	\$/kW/mo.	4.55	4.35	4.16	3.95	3.72	3.44
	(June thru Sept.) kWh	cents/kWh	1.1185	1.0702	1.0225	0.9708	0.9140	0.8458
L	Demand first 5000 kW	\$/mo.	19,847.87	19,060.58	18,281.47	17,451.73	16,536.69	15,373.03
	Demand next 10,000 kW	\$/kW/mo.	3.19	3.06	2.94	2.80	2.66	2.47
	Demand next 25,000 kW	\$/kW/mo.	3.10	2.98	2.85	2.72	2.58	2.40
	Demand additional kW	\$/kW/mo.	3.02	2.90	2.78	2.65	2.51	2.34
	First 750,000 kWh + 400 kWh per kW of Demand	cents/kWh	0.9570	0.9190	0.8814	0.8414	0.7973	0.7412
	Next 150 kWh per kW of Demand	cents/kWh	0.6117	0.5875	0.5635	0.5379	0.5097	0.4738
	Additional kW	cents/kWh	0.5505	0.5286	0.5070	0.4840	0.4586	0.4264
HVPS	Demand first 30,000 kW	\$/mo.	84,821.69	83,003.38	81,134.37	78,839.50	76,109.53	72,126.35
	Demand additional kW	\$/kW/mo.	3.06	2.99	2.93	2.84	2.74	2.60
	On-peak kWh	cents/kWh	1.0181	0.9962	0.9738	0.9463	0.9135	0.8657
	Off-peak kWh	cents/kWh	0.4740	0.4639	0.4534	0.4406	0.4253	0.4031
AL	Demand all kW	\$/kW/mo.	3.51	3.43	3.36	3.26	3.15	2.98
	First 300 kWh	cents/kWh	4.8482	4.7447	4.6379	4.5067	4.3507	4.1230
	Additional kWh	cents/kWh	1.2035	1.1778	1.1513	1.1187	1.0800	1.0235

CTC RATES

Rate		2000	2001	2002	2003	2004	2005			
SE	cents/kWh	3.3393	3.2682	3.1893	3.0993	2.9967	2.8393			
SM	Mercury Vapor	Nom. Lamp Wattage								
			\$/fixture/mo.							
		100	2.69	2.63	2.57	2.50	2.41	2.29		
		175	3.50	3.43	3.35	3.25	3.14	2.98		
		250	4.36	4.27	4.17	4.05	3.91	3.71		
		400	5.90	5.78	5.65	5.49	5.30	5.02		
		1,000	12.75	12.48	12.20	11.85	11.44	10.84		
	Sodium Vapor	70	2.73	2.68	2.61	2.54	2.45	2.32		
		100	3.49	3.41	3.34	3.24	3.13	2.97		
		150	4.13	4.05	3.95	3.84	3.71	3.52		
		250	6.04	5.91	5.78	5.62	5.42	5.14		
		400	7.89	7.72	7.54	7.33	7.08	6.71		
		1,000	16.49	16.14	15.77	15.33	14.80	14.02		
SH	Mercury Vapor	175	2.03	1.99	1.94	1.89	1.82	1.72		
		250	2.64	2.58	2.53	2.45	2.37	2.25		
		400	3.88	3.80	3.71	3.61	3.48	3.30		
		1,000	8.72	8.53	8.34	8.10	7.82	7.41		
	Sodium Vapor	100	1.95	1.91	1.87	1.82	1.75	1.66		
		150	2.40	2.35	2.30	2.23	2.15	2.04		
		200	2.85	2.79	2.73	2.65	2.56	2.42		
		250	3.29	3.22	3.15	3.06	2.95	2.80		
		400	4.63	4.53	4.43	4.30	4.15	3.94		
		1,000	10.38	10.16	9.93	9.65	9.31	8.83		
		MTS	First 1,300 kWh	cents/kWh	3.1513	3.0861	3.0145	2.9297	2.8278	2.6798
			Additional kWh	cents/kWh	0.7831	0.7669	0.7491	0.7281	0.7027	0.6660
PAL	High Pressure Sodium	70	2.73	2.68	2.61	2.54	2.45	2.32		
		100	3.49	3.41	3.34	3.24	3.13	2.97		
		150	4.13	4.05	3.95	3.84	3.71	3.52		
		250	6.04	5.91	5.78	5.62	5.42	5.14		
		400	7.89	7.72	7.54	7.33	7.08	6.71		
	Flood Lighting	100	3.15	3.09	3.02	2.93	2.83	2.68		
		150	3.66	3.58	3.50	3.40	3.28	3.11		
		250	4.40	4.31	4.21	4.09	3.95	3.74		
		400	5.64	5.52	5.40	5.24	5.06	4.80		
		Unmetered	70	0.56	0.55	0.54	0.52	0.51	0.48	
		100	0.90	0.88	0.86	0.83	0.80	0.76		
		150	1.30	1.28	1.25	1.21	1.17	1.11		
		250	1.94	1.90	1.86	1.81	1.74	1.65		
		400	3.02	2.95	2.88	2.80	2.71	2.56		

CERTIFICATE OF SERVICE

ORIGINAL

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

VIA FIRST CLASS MAIL

John S. Moot, Esq.  
Kathleen L. Barron, Esq.  
Skadden, Arps, Slate, Meagher & Flom LLP  
1440 New York Avenue NW  
Washington, DC 20005

W. Thaddeus Miller, Esq.  
Orion Power Holdings, Inc.  
7 East Redwood Street, 10th Floor  
Baltimore, MD 21202

Edmund J. Berger  
Tanya McCloskey, Esq.  
Office of Consumer Advocate  
555 Walnut Street, Forum Place - 5<sup>th</sup> Fl.  
Harrisburg, PA 17120

Angela Jones, Esq.  
Office of Small Business Advocate  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, PA 17101

Kandace Melillo, Esq.  
Pennsylvania Public Utility Commission  
Office of Trial Staff  
901 Rear North 7th Street  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Larry R. Crayne, Assistant General Counsel  
Duquesne Light Company  
411 Seventh Avenue  
P.O. Box 1930  
Pittsburgh, PA 15230-1930

David Hughes  
4037 Ludwick Street  
Pittsburgh, PA 15217

Jim Ferlo, Councilman  
510 City-County Building  
Pittsburgh, PA 15219

Scott J. Rubin, Esq.  
IBEW System Council U-10  
3 Lost Creek Drive  
Selinsgrove, PA 17870

Timothy Moran  
986 Greentree Road  
Pittsburgh, PA 15220

Allegheny Electric Cooperative, Inc.  
212 Locust Street, Suite 500  
P.O. Box 9500  
Harrisburg, PA 17108-9500

Mary McFall Hopper, Esq.  
Paul Bonney, Esq.  
PECO Energy Company  
2301 Market Street S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699

Jacqueline R. Morrow, Esq.  
Rodney R. Akers, Esq.  
Assistant City Solicitor  
313 City County Building  
414 Grant Street  
Pittsburgh, PA 15219

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

00 JUL 24 PM 1:56

RECEIVED

**Certificate of Service**  
**Docket No. R-00974104**  
**Page 2**

Howard M. Louik, Esq.  
Allegheny County Law Department  
300 Fort Pitt Commons  
445 Fort Pitt Boulevard  
Pittsburgh, PA 15219

Deneice Covert Zeve, Esq.  
Terry Lupia, Esq.  
Office of Attorney General  
14th Floor, Strawberry Square  
Harrisburg, PA 17120

Lauren S. McAndrews, Esq.  
Allegheny Teledyne Inc.  
1000 Six PPG Place  
Pittsburgh, PA 15222-5479

Kenneth L. Wiseman, Esq.  
Mark F. Sundback, Esq.  
Peter J. Thompson, Esq.  
R. Lamkin, Esq.  
Andrews & Kurth, LLP  
1701 Pennsylvania Avenue NW  
Washington, DC 20006

Patricia Armstrong, Esq.  
Thomas, Thomas, Armstrong & Niesen  
212 Locust Street, Suite 500  
PO Box 9500  
Harrisburg, PA 17106-9500

Exeter Associates, Inc.  
12510 Prosperity Drive, Suite 350  
Silver Spring, MD 20904

Michael L. Kurtz, Esq.  
David F. Boehm, Esq.  
Boehm, Kurtz & Lowry  
2110 CBLD Center  
36 East Seventh Street  
Cincinnati, OH 45202

David M. DeSalle, Esq.  
Ryan, Russell, Ogden & Seltzer, LLP  
Suite 101, 800 North Third Street  
Harrisburg, PA 17102-2025

Robert B. Weisenmiller  
MRW & Associates, Inc.  
1999 Harrison Street, Suite 1440  
Oakland, CA 94612-3517

Michael Reid, Director  
Materials Management Services  
Administrative Resources, Inc.  
500 Commonwealth Drive  
Warrendale, PA 15086-7513

Robert J. Stefanko, Esq.  
Pittsburgh School District  
341 South Bellefield Avenue  
Pittsburgh, PA 15213

Margaret Peters, Esq.  
The Peoples Natural Gas Company  
625 Liberty Avenue  
Pittsburgh, PA 15222-3197

John Stember, Esq.  
Low Income Advocate Parties  
1705 Allegheny Building  
429 Forbes Avenue  
Pittsburgh, PA 15219

Stephen L. Feld, Esq.  
FirstEnergy Corp.  
76 South Main Street  
Akron, OH 44308

Donald R. Ayersman, Jr., Esq.  
IBEW Local 2357  
1125 Denver Avenue  
Morgantown, WV 26505

**Certificate of Service**  
**Docket No. R-00974104**  
**Page 3**

Timothy W. Merrill, Jr., President  
Competitive Energy Strategies Company  
Foster Plaza Ten, Suite 200  
680 Andersen Drive  
Pittsburgh, PA 15220

Kevin J. McKeon, Esq.  
Malatesta, Hawke & McKeon, LLP  
P.O. Box 1778  
Harrisburg, PA 17101

Thomas P. Gadsden, Esq.  
Morgan, Lewis & Bockius  
2000 One Logan Square  
Philadelphia, PA 19103

James H. Cawley, Esq.  
Rhoads & Sinon  
One South Market Square  
Harrisburg, PA 17108-1146

Attorney of Record  
Environmental Energy Project  
3700 Vartan Way  
Harrisburg, PA 17110

Paul E. Russell, Esq.  
Pennsylvania Power & Light Company  
Two North Ninth Street  
Allentown, PA 18101

Donald A. Kaplan, Esq.  
Lisa M. Helpert, Esq.  
Preston Gates Ellis & Rouvelas Meeds LLP  
Suite 500  
1735 New York Avenue, NW  
Washington, DC 20006-4759

David M. Boonin  
New Energy Ventures  
1845 Walnut Street, Suite 2525  
Philadelphia, PA 19103

Roger Clark, Esq.  
The Environmentalists  
905 Denston Drive  
Ambler, PA 19002-3901

John O'Brien, Esq.  
Wheeled Electric Power Company  
50 Charles Lindburgh Boulevard, Suite 207  
Uniondale, NY 11553

Daniel Clearfield, Esq.  
Gerald Gornish, Esq.  
Alan Kohler, Esq.  
Wolf, Block, Schorr & Solis-Cohen, LLP  
212 Locust Street  
Harrisburg, PA 17101

Lisa Yoho  
Enron Power Marketing, Inc.  
1400 Smith Street  
P.O. Box 4428  
Houston, TX 77002

Brian Kalcic  
Excel Consulting  
Suite 720-T  
225 S. Meramec Avenue  
St. Louis, MO 63105

Albert M. Benincasa, Esq.  
Director, Regulatory Affairs  
Skipping Stone  
46 9th Avenue  
Sea Cliff, NY 11579

Kenneth Zielonis, Esq.  
Stevens & Lee  
208 North Third Street, Suite 310  
P. O. Box 12090  
Harrisburg, PA 17108-2090

**Certificate of Service**  
**Docket No. R-00974104**  
**Page 4**

Brian A. Rider, President  
Pennsylvania Retailers' Association  
224 Pine Street  
Harrisburg, PA 17101-1325

Joseph A. Dworetzky, Esq.  
John P. Lavelle, Jr., Esq.  
Luke E. Dembosky, Esq.  
Hangley Aronchick Segal & Pudlin  
One Logan Square, 12th Floor  
Philadelphia, PA 19103

Stephen J. Baron, Esq.  
J. Kennedy & Associates, Inc.  
570 Colonial Park Drive, Suite 305  
Roswell, GA 30075

Emmitt C. House, Esq.  
Thomas J. Augspurger, Esq.  
MidCon Corporation  
Office of General Counsel  
701 East 22nd Street  
Lombard, IL 60148

Mark J. McGuire, Esq.  
Ronald N. Carroll, Esq.  
Jenner & Block  
601 Thirteenth Street, N.W.  
Twelfth Floor, Suite 1200  
Washington, DC 20005

Gordon J. Smith, Esq.  
Douglas F. John, Esq.  
Joelle K. Ogg  
John & Hengerer  
1200 17th Street, N.W.  
Suite 600  
Washington, DC 20036

Lawrence E. Moncrief, Esq.  
1364 Silverton Avenue  
Pittsburgh, PA 15206

Mary A. Ralls, Esq.  
Stephanie A. Sugrue, Esq.  
Sheila Hollis, Esq.  
Duane, Morris & Heckscher LLP  
1667 K Street NW, Suite 700  
Washington, DC 20006-1608

Vickiren S. Aeshleman  
QTS Energy Inc.  
300 Hamilton Blvd., Suite 300  
Peoria, IL 61602

Gary A. Jeffries, Esq.  
CNG Energy Services Corporation  
One Park Ridge Center  
P. O. Box 15746  
Pittsburgh, PA 15244-0746

David Cruthirds, Esq.  
Electric Clearinghouse, Inc.  
1000 Louisiana, Suite 5800  
Houston, TX 77002-5050

Keith M. Sappenfield, II  
Director of Marketing Support  
NorAm Energy Management, Inc.  
P. O. Box 2628  
Houston, TX 77252-2628

John R. Orr, Esq.  
Duke Energy Trading & Marketing, LLC  
One Westchester Center  
10777 Westheimer, Suite 650  
Houston, TX 77042

Samuel W. Braver, Esq.  
Bruce A. Americus, Esq.  
Buchanan Ingersoll PC  
One Oxford Centre — 20<sup>th</sup> Floor  
301 Grant Street  
Pittsburgh, PA 15219-1410

**Certificate of Service**  
**Docket No. R-00974104**  
**Page 5**

*John Wilson, Executive Director*  
Community Action Association of PA  
222 Pine Street  
Harrisburg, PA 17101

Robert J. Stefanko  
341 South Bellefield Avenue  
Pittsburgh, PA 15213

*Cynthia S. Bogorad*  
David E. Pomper  
Spiegel & McDiarmid  
Suite 1100  
1350 New York Avenue, NW  
Washington, DC 20005-4789

Craig R. Kuennen, Ph.D.  
904 Melaleuca Avenue, #N  
Carlsbad, CA 92009

Douglas C. Smith  
LaCapra Associates  
333 Washington Street  
Boston, MA 02108

Kenneth Maiman, Esq.  
Andrews & Kurth L.L.P.  
805 Third Avenue, 7<sup>th</sup> Floor  
New York, NY 10022-7509

Harvey Marcus  
5644 Hempstead Road  
Pittsburgh, PA 15217

The Honorable Richard A. Kasunic  
Democratic Policy Chairman  
Senate of Pennsylvania  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

*The Honorable Richard F. Vidmer, Chrmn.*  
Westmoreland County Commissioners  
101 Courthouse Square  
Greensburg, PA 15601

Dr. Roger Odisio  
170 Drake Road  
Bethel Park, PA 15102

*Charles DeGeorge*  
Entergy Power Marketing Corp.  
Parkwood Two Building, Suite 500  
10055 Grogan's Mill Road  
The Woodlands, TX 77380

*Donald E. Wightman, President*  
Utility Workers Union of America, AFL-CIO  
220 Forbes Road, Suite 210  
Braintree, MA 02184

Carl Wood, National Representative Utility  
Workers Union of America, AFL-CIO  
168 Amigos Way  
Fallbrook, CA 92028

Darlene Westfall, Agent  
564 Forbes Avenue  
Pittsburgh, PA 15219

Cindy Datig  
\$1 Energy Fund  
PO Box 42329  
Pittsburgh, PA 15203

Lou Sauers  
Pennsylvania Public Utility Commission  
7<sup>th</sup> Floor, Barto Building  
PO Box 3265  
Harrisburg, PA 17105-3265

**Certificate of Service**  
**Docket No. R-00974104**  
**Page 6**

The Honorable Patrick E. Fleagle  
90<sup>th</sup> Legislative District  
House Post Office Box 202020  
Main Capitol Building  
Harrisburg, PA 17120-2020

John E. Molinda  
Strategic Energy Ltd.  
2 Gateway Center  
Pittsburgh, PA 15222-1458

The Honorable Lawrence Roberts  
Pennsylvania House of Representatives  
51<sup>st</sup> District  
House Post Office - Main Capitol  
Harrisburg, PA 17120

Robert L. Simpson  
Executive Director  
Crispus Attucks Association, Inc.  
605 South Duke Street  
York, PA 17403

Michael W. Krajovic  
Executive Vice President  
Fay-Penn Economic Development Council  
Two West Main Street, Suite 407  
Uniontown, PA 15401

Jeffrey M. Bladen  
Manager, Corporate Department  
New Energy Ventures East LLC  
1845 Walnut Street, Suite 2525  
Philadelphia, PA 19103

Mary Rugh  
Facilities Management Division  
University of Pittsburgh  
Eureka Building, 3400 Forbes Avenue  
Pittsburgh, PA 15260

The Honorable Michael R. Veon  
Pennsylvania State Representative  
Main Capitol Building, House Box 202020  
Harrisburg, PA 17120-2020

The Honorable Tim Murphy  
37<sup>th</sup> Senatorial District  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

The Honorable Frank Dermody  
Allegheny Co. Democratic Delegation  
801 Freeport Road  
Cheswick, PA 15024-1209

The Honorable Jack Wagner  
42<sup>nd</sup> District  
Senate Box 203042  
Harrisburg, PA 17120-3042

The Honorable Melissa Hart  
40<sup>th</sup> Senatorial District  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

The Honorable Anthony Deluca  
Allegheny Co. Democratic Delegation  
11609 Penn Hills Drive  
Pittsburgh, PA 15235-3329

The Honorable David Levdansky  
Allegheny Co. Democratic Delegation  
112 Second Avenue  
Elizabeth, PA 15037-1539

The Honorable Tom Michlovic  
Allegheny Co. Democratic Delegation  
519 Penn Avenue  
Turtle Creek, PA 15145

**Certificate of Service**  
**Docket No. R-00974104**  
**Page 7**

The Honorable Ivan Itkin  
Allegheny Co. Democratic Delegation  
1148 Greenfield Avenue  
Pittsburgh, PA 15217-2953

The Honorable Frank J. Pistella  
Allegheny Co. Democratic Delegation  
506 S. Millvale Avenue  
Pittsburgh, PA 15224-2118

The Honorable Harry Readshaw  
Allegheny Co. Democratic Delegation  
5101 Old Clairton Road  
Pittsburgh, PA 15236

The Honorable Susan Laughlin  
Allegheny Co. Democratic Delegation  
555 Merchant Street  
Ambridge, PA 15003-2464

The Honorable Terry E. Van Horne  
Allegheny Co. Democratic Delegation  
1625 Fifth Avenue  
Arnold, PA 15068-4415

The Honorable Frank Gigliotti  
Allegheny Co. Democratic Delegation  
2023 E. Carson Street  
Pittsburgh, PA 15203-1929

The Honorable Tom C. Petrone  
Allegheny Co. Democratic Delegation  
179 Steuben Street  
PO Box 8557  
Pittsburgh, PA 15220

The Honorable Richard D. Olasz  
Allegheny Co. Democratic Delegation  
3702 Greensprings Avenue  
West Mifflin, PA 15122-1753

The Honorable Joseph Preston, Jr.  
Allegheny Co. Democratic Delegation  
6203 Penn Avenue  
Pittsburgh, PA 15206-4005

The Honorable Dave Mayernik  
Allegheny Co. Democratic Delegation  
440 Perry Highway  
Pittsburgh, PA 15229

The Honorable Gerald Lavallo  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Bea Schulte, Commissioner  
Dan Donatella, Commissioner  
County of Beaver Board of Commissioners  
Beaver County Courthouse  
Beaver, PA 15009

The Honorable Don Walko  
Allegheny Co. Democratic Delegation  
3722 Brighton Road  
Pittsburgh, PA 15212

The Honorable Joseph Markosek  
Allegheny Co. Democratic Delegation  
4232 Northern Pike  
Monroeville, PA 15146-2732

The Honorable Nicholas Colafella  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Dennis Bloom  
IBEW Local 272  
617 Midland Avenue  
Midland, PA 15059

**Certificate of Service**  
**Docket No. R-00974104**  
**Page 8**

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

The Honorable G. Travaglio  
The Honorable V. J. Lescovitz  
The Honorable F. LaGrotta  
The Honorable H. William Deweese  
House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

The Honorable J. Casorio, Jr.  
The Honorable T. Tangretti  
House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

David T. Kotecki, President  
Local 270, Utility Workers Union of America  
4205 Chester Avenue  
Cleveland, OH 44103-3615

GPU Energy  
2800 Pottsville Pike  
Reading, PA 19640-0001

The Honorable S. Steelman  
The Honorable J. Shaner  
The Honorable T. Harhai  
The Honorable P. Daley II  
The Honorable A. Colaizzo  
House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

The Honorable Albert Belan  
Senate of Pennsylvania  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

The Honorable David Levdansky  
311 South Office Building  
House Box 202020  
Harrisburg, PA 17120-2020

John Horton  
Senior Regulatory Analyst  
Midcon Corporation  
701 East 22<sup>nd</sup> Street  
Lombard, IL 60148

The Honorable Jeffrey Habay  
House Box 202020  
Room 163B, East Wing  
Harrisburg, PA 17120-2020

John L. Munsch, Esq.  
Allegheny Energy, Inc.  
800 Cabin Hill Drive  
Greensburg, PA 15601-1689

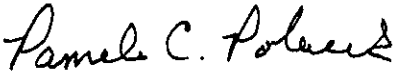
Wanda M. Schiller, Esq.  
Two Gateway Center  
Pittsburgh, PA 15222

David Hodgden  
Ohio Public Utility Commission  
180 East Broad Street  
Columbus, OH 43215-3793

**Certificate of Service**  
**Docket No. R-00974104**  
**Page 9**

W. Edwin Ogden, Esq.  
Jeffrey A. Franklin, Esq.  
Ryan, Russell, Ogden & Seltzer LLP  
1100 Berkshire Boulevard, Suite 301  
Reading, PA 19610-1221

James McCormick  
1940 Robert Road  
Meadbrook, PA 19046



---

Pamela C. Polacek, Esq.

Dated this 24<sup>th</sup> day of July, 2000, in Harrisburg, Pennsylvania.



ORIGINAL

OFFICE OF CONSUMER ADVOCATE

555 Walnut Street 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048

IRWIN A. POPOWSKY  
Consumer Advocate

FAX (717) 783-7152  
E-Mail: paoca@ptd.net

DOCUMENT  
FOLDER

RECEIVED  
00 JUL 24 PM 3:19  
SECRETARY'S BUREAU

July 24, 2000

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

Re: Petition of Duquesne Light Company for  
Approval of Post-Transition Period POLR  
Service  
Docket No. R-00974104

Dear Secretary McNulty:

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

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

Sincerely,

Tanya J. McCloskey  
Senior Assistant Consumer Advocate

Enclosures

cc: All Parties of Record  
\*55633

EEF

**ORIGINAL**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition Of Duquesne Light Company For :  
Approval For Post-Transition Period : Docket No. R-00974104  
POLR Service :

ANSWER OF THE  
OFFICE OF CONSUMER ADVOCATE

RECEIVED  
00 JUL 24 PM 3:49  
PA.P.U.C.  
SECRETARY'S BUREAU

I. INTRODUCTION

On June 30, 2000, Duquesne Light Company (Duquesne or the Company) filed a Petition with the Pennsylvania Public Utility Commission (PUC or Commission) for approval of a plan for post-transition period provider of last resort service. Under Duquesne's proposed plan, generation rates as well as transmission and distribution rates would remain capped for an additional period following the expiration of the statutory rate cap and mechanisms would be put in place to encourage increased shopping in Duquesne's service territory. Duquesne's proposed plan is a result of its successful generation auction. Due to the success of Duquesne's auction, the stranded cost recovery for most rate classes will end in 2001.

DOCUMENT  
FOLDER

The OCA generally supports Duquesne's POLR II Plan, with limited reservations as expressed below. The OCA commends Duquesne for its actions and efforts in recognizing and resolving the issue regarding provider of last resort service in its territory at the conclusion of the rate cap period. As Duquesne correctly recognized, it was anticipated that by the end of the rate cap period there would be a liquid and visible market

**DOCKETED**  
JUL 25 2000

in Duquesne's area. The reality, however, is that there is no liquid or visible wholesale market in Duquesne's area and the development of a viable and workable competitive market is years away. As both last summer and this summer have demonstrated, the state of the markets are highly volatile and insecure. Duquesne correctly recognized that customers could not be left to the vagaries and fluctuations of this still-developing market at this time. In the absence of a rate cap, the market alone simply cannot be relied upon at this time to provide adequate protections for Duquesne's customers.

Through a collaborative process, Duquesne was able to work with all stakeholders in the development of a POLR II Plan that seeks to balance a broad range of stakeholder interests. In particular, Duquesne's POLR II Plan allows for the continuation of reasonable rate caps to provide protection to ratepayers while at the same time permitting substantial increases in the shopping credits to encourage shopping during the POLR II period. Duquesne has been able to provide these benefits in large part through its negotiations with Orion, the purchaser of its generating units. The OCA recognizes that Duquesne was in a difficult bargaining position with Orion and again commends Duquesne for its efforts in negotiating a reasonable resolution.

Of critical importance to the OCA, Duquesne was able, through its negotiations with Orion and other stakeholders, to develop a Plan that produces a 20% rate reduction for its residential customers and provides a higher shopping credit for residential Rate RS customers of about 5.5¢/kwh for generation (approximately 5.75¢/kwh with transmission included). This level of shopping credit, which is an increase of a full cent per kwh for 2002, ought to permit greater shopping by Duquesne's customers. Even at current

shopping credit levels, approximately 29% of Duquesne's residential customers had switched to an alternative provider as of July 1, 2000. The increased shopping credit level should allow these numbers to grow.

Although the OCA supports Duquesne's efforts to address the provider of last resort service following the conclusion of stranded cost recovery, and generally supports Duquesne's proposed plans, the OCA remains concerned about several aspects of Duquesne's plan. First, the OCA submits that the "summer switching rule" for residential customers is counter-productive and unnecessary. Second, the OCA does not support the payment of additional power acquisition costs related to the Summer of 2000, particularly from residential customers. Third, the OCA submits that if the Commission is to provide a rate cap exception for Duquesne related to RTO start-up costs, Duquesne must commit resources and efforts to working towards an effective, independent RTO and market development that is appropriate for Duquesne's region.

The OCA would prefer to have these issues resolved in an acceptable manner to all stakeholders, particularly the issue regarding switching rules. If, however, Duquesne's proposal is a "take it or leave it" proposal, quite frankly, the OCA will take it. The current state of the market is far too chaotic to expect residential customers to rely solely upon the market for the provision of this essential service. Some continuation of capped POLR service is needed, at least for the near future. The OCA would request, however, that Duquesne, Orion and the Commission consider the positions of the stakeholders and work toward a resolution of these remaining issues that continues to forward the goals of the Electric Generation Customer Choice and Competition Act.

## II. SPECIFIC COMMENTS

### A. Switching Rule For Residential Customers

At pages 23-25 of its Petition, Duquesne proposed a "summer switching rule" for residential customers. Under Duquesne's proposal, for the summer of 2001, the switching rule will only apply if 100 MW of residential load returns to POLR service between May 1, 2001 and September 1, 2001. If the rule is triggered, returning customers would be subject to a 12-month stay requirement with an option to shop within 60 days by paying a Generation Rate Adjustment (GRA). The GRA is to reflect the difference between the annualized POLR rate and the market price for the 60 day window. After 2001, the 100 MW trigger would be eliminated and the 12 month stay-in requirement would apply to all returning residential customers. Petition at 24.

The OCA does not support a "summer switching rule" for residential customers. Initially, the OCA would note that the Commission, in its recent Order regarding switching rules, did not include residential customers in its Order. See, Guidelines For Provider of Last Resort Service, Docket No. M-00960890F.017 (Order entered June 22, 2000)(Switching Rule Order). As the Commission recognized, residential customers are not the problem, especially on Duquesne's system which has seen residential shopping *increase* this summer, not decrease. Although Duquesne, in its Petition, indicates that 4,500 residential accounts have been returned from EGSs this summer, in the aggregate, the number of Duquesne customers that are being supplied by an alternative provider increased

by approximately 20,438 customers and 41 MW.<sup>1</sup> Duquesne now has approximately 29.4%, or 154,153 residential customers, served by an alternative supplier, representing about 319 MW of residential load. *Id.* Duquesne's program is the most successful residential choice program in Pennsylvania and, almost certainly, in the entire Nation. The OCA submits that the Commission, Duquesne and Orion should be extremely cautious about introducing an unnecessary rule that may harm this program.

More importantly, however, as Duquesne's Petition indicates, the residential customers are being returned to POLR service *by the actions of the EGS*, not by the customer's own choice. The problem is not caused by the residential customers, but by the EGS electing not to serve these customers during the high cost summer months. The OCA opposes a solution that, in essence, penalizes the residential customer for actions of the EGS over which the customers have no control.

The Commission implicitly recognized the inherent unfairness of penalizing residential customers by not including residential customers in its interim proposal regarding switching rules. See, Switching Rule Order. There is simply no evidence that the residential customer is "gaming" the market. Instead, the evidence, as even Duquesne recognizes, is that residential customers are being "dumped" by their EGS without their consent, and typically without their knowledge, onto the provider of last resort. The OCA submits that the solution is not to prevent these customers from finding a supplier that will serve them.

---

<sup>1</sup> The OCA recognizes that one supplier announced that it would return all 48,000 residential accounts for the summer months. The supplier, however, subsequently determined to remain in the market for the summer months.

The OCA submits that Duquesne should be directed to continue working with Orion and the parties to find a more appropriate, and less intrusive means of resolving this issue for residential customers. For example, the OCA would support revisions to Duquesne's Supplier Tariff regarding the notice that must be provided to the POLR before an EGS returns a residential customer to POLR service. Although Duquesne's Supplier Tariff provides that an EGS must provide 90 days notice if it withdraws from retail service, and specifies certain penalties if this notice is not complied with, if an EGS discontinues service to particular customers or customer classes, the EGS must only provide 30 days notice. Cf. Duquesne Supplier Tariff, Section 13 and Section 14. The OCA submits that as a first step, the Supplier Tariff could be revisited to assure that the POLR provider has more adequate notice to secure supply at reasonable cost if any customers are to be returned to the POLR. The Supplier Tariff should also include appropriate penalties for the EGS for failure to provide the appropriate notice. Other areas could and should also be explored such as requiring minimum contract lengths for suppliers.

Duquesne's proposal, however, effectively takes the returning customer out of the market for 12 months or more.<sup>2</sup> Duquesne's proposal is restrictive, may prove impossible to apply for residential customers, and likely will discourage customers from re-entering the competitive market altogether. In particular, to re-enter the competitive market

---

<sup>2</sup> If the customer is returned in the Summer due to high cost and must stay for 12 months, it is unlikely that the customer will find a supplier the following summer when the 12 month requirement expires. Moreover, there is no assurance that the customer will actually remember or care at the end of the 12-month period that they may now shop for an alternative supplier. This could become even more difficult if Duquesne intends to automatically renew the 12-month contract if the customer does not immediately shop.

in the 60 day window, the customer would not only have to select an alternative supplier promptly, but would have to know how to evaluate the cost under the complex GRA mechanism, and how to include that cost in his or her analysis of other options. This analysis can be difficult for even sophisticated industrial customers with energy purchasing specialists. It will be far more daunting for residential customers. The OCA is very concerned that these and other difficulties will discourage customers from even trying to re-enter the competitive market.

Additionally, the OCA submits that Duquesne's proposal to implement a trigger in 2001 of 100 MW of residential load before implementing a switching rule for residential customers is fraught with problems. First, it is unclear whether Duquesne intends for the rule to be triggered and then apply to customers returning *after* the rule is triggered or whether Duquesne will attempt to impose the stay-in requirement on the customers making up the first 100 MW of load. Either method, however, presents serious problems. If the requirement is to be applied "retroactively" to the returning load, customers who returned would be taken by surprise when perhaps, a month or two after their return a 12 month stay-in requirement was imposed. These customers could also be placed in the untenable position of having switched to another supplier shortly after having returned, only to find out two months later that they will now be assessed a GRA or exit fee for having done so.

On the other hand, if Duquesne intends to apply the switching rule to only the customers who return after the first 100 MW, these customers will, in essence, be penalized for actions of other customers or other suppliers in returning to POLR service before them.

This may actually result in a "race" to POLR service during the summer as suppliers try to return their customers without contract or cost consequence.

Additionally, as Duquesne notes, significant consumer education will be necessary if this proposal is adopted. Petition, p. 24, footnote 15. Indeed, this is an understatement. Of particular concern to the OCA is educating customers on how to compare the 12 month POLR price with an alternative provider cost and the payment of the market-based GRA to exit the POLR service. Since the customer will have to pay both the alternative supplier price and the GRA to exit POLR service, the customer will have to be educated on how to compare this to the POLR price to compare to make an informed decision. This will be extraordinarily difficult and, the OCA submits, not a good use of scarce consumer education resources.

The OCA is willing to continue working with Duquesne and Orion to find the least restrictive means to address residential customers that are returned by the EGS and result in excess costs for Orion. The OCA submits, however, that the "summer switching rule" proposed by Duquesne for residential customers is not the right tool to resolve this issue.<sup>3</sup>

---

<sup>3</sup> Duquesne notes in its Petition that PECO and PPL Settlements have switching rules for residential customers. Petition, page 23. Neither PECO nor PPL have a switching rule for residential customers at this time, however. The settlement for these companies provides that *after* the bid for competitive default service, returning residential customers shall have an option of returning to a monthly published generation rate without the benefit of the rate cap or to rate cap service. A monthly published rate is not intended to operate as the GRA proposed by Duquesne. Additionally, only the PECO settlement specifies a 12-month term. The 12-month term provision is not implemented until the monthly published rate is developed following the bid for competitive default service. As the Commission is well aware, however, no utility has yet successfully implemented competitive default service  
(continued...)

B. Summer 2000 Costs Of Orion

In its Petition, Duquesne recognizes that given difficult implementation issues, it will not have a switching rule in place for the summer of 2000. Duquesne proposes as an alternative that Duquesne be permitted to calculate a GRA for those customers that return to the competitive market and apply it as an offset to the auction proceeds. This mechanism allows Duquesne to compensate Orion for the cost of the calculated GRA for the Summer of 2000. Duquesne asserts that its proposal is reasonable and fair to Orion since the Commission held in its Restructuring Order that it would address summer switching if and when it arose. Petition at 26. Since a solution was not in place for the Summer of 2000, Duquesne argues that it is only fair that Orion be compensated for the Summer 2000 costs.<sup>4</sup>

The OCA submits that there are several problems with Duquesne's proposal. First, Duquesne's proposal rests on the assumption that had Orion known that a summer switching rule would not be in place by Summer 2000, it would have submitted a different bid for the generation assets. Petition at 26-27. The OCA submits, however, that Orion submitted its bid based on the facts at the time, including the Commission's Order, and judged or assessed its various risks. As a sophisticated bidder, Orion is familiar with regulatory lag and the risk that neither a perfect solution nor a perfectly timed solution was guaranteed to be in place immediately upon discovery of the problem. Although the

---

<sup>3</sup>(...continued)  
of any kind, and these provisions have not even been attempted to be implemented.

<sup>4</sup> In the Introduction section of its Petition, Duquesne did not identify this issue as a contested issue. The OCA had been briefed about this possible request by Duquesne but the specifics of the request were not presented or agreed to prior to the filing of this Petition. As discussed herein, the OCA has reservations about this request.

Commission has acted expeditiously to provide a resolution, the risk here cannot be shifted to ratepayers.

Second, although Duquesne recognizes that imposing a switching rule with additional costs on customers for the Summer 2000 would be inconsistent with the customer's expectations when they returned to POLR service, Duquesne does just that – but at a later date. Duquesne's proposal simply delays the cost consequence for customers to the end of the stranded cost recovery period.

Then, instead of these costs being borne by the customers who returned and subsequently switched, it appears as if Duquesne seeks to impose these costs on all customers as an additional stranded cost. The OCA objects to residential ratepayers bearing any of the burden of these additional costs. As the OCA set forth above, residential ratepayers are not the source of the additional costs from returning to POLR service. Duquesne's residential shopping customers have increased over this summer period, not decreased.<sup>5</sup> If this recovery is to be allowed at all, it must be appropriately allocated to the classes of customers for which a GRA has been calculated. Even if kept within the class, however, the OCA submits that Duquesne's proposal requires all customers to share in the cost occasioned by some customers' shopping decisions. This is inherently unfair.

Finally, the OCA submits that at this time, it is not clear that there will be incremental costs associated with serving this returning load. Although significant Commercial and Industrial load returned to POLR service for the Summer of 2000, it is not

---

<sup>5</sup> Again, the OCA recognizes that Duquesne and Orion were faced with the possibility of an EGS returning approximately 48,000 residential accounts this summer. The EGS subsequently determined to continue serving its customers for the summer.

clear at this time whether Orion had to make incremental purchases to serve this load over and above what it had planned for, whether Orion required purchases over and above the level of generation that it purchased from Duquesne, and if such purchases were made, what the cost of those purchases was. If the Commission determines to adopt Duquesne's proposal, the OCA submits that there must be a demonstration that actual incremental costs have been incurred to serve the load.

For the reasons set forth above, the OCA does not support this aspect of Duquesne's proposal. If Duquesne's proposal is to be adopted at all, the OCA submits that the costs must be properly allocated to the classes of customers on whose behalf the costs were incurred and there must be a clear showing that Orion incurred incremental costs to serve the load.

C. T&D Rate Cap Extension and Related Rate Cap Exceptions

In its Plan, Duquesne proposes to extend the rate cap on transmission and distribution rates from December 31, 2001 through December 31, 2003. Petition at 18. Duquesne has indicated that it will seek to extend the rate cap for an additional year if it is able to do so, but it is not obligated to do so. Id. As Duquesne explains, the rate cap extension is made possible by the margin it receives on the POLR II generation sales. Id. Duquesne has also indicated that it requires certain exceptions to the rate cap to be able to offer this extension to the rate cap. In addition to the rate cap exceptions set forth in Section 2804(4)(iii) of the Act, Duquesne requests that it be granted an exception for charges levied by an RTO or ISO for use of the RTO or ISO controlled grid by Duquesne's customers and

an increase in the taxes subject to recovery through the State Tax Adjustment Surcharge. Petition at 18-19.

As Duquesne indicates in its Petition, the OCA does not object to these additional exceptions in the context of the POLR II Plan.<sup>6</sup> The POLR II Plan provides significant rate reductions for Duquesne's customers and will provide additional protections for Duquesne's customers that were not required under the Act. Importantly, under the Plan, Duquesne's residential customers will realize an approximate 20% rate reduction from current rates. Moreover, as to the exception for RTO costs, the OCA recognizes that it will be able to participate in proceedings before FERC to fully examine these costs and the OCA fully expects that Duquesne will actively participate in these proceedings as well.

The OCA submits, however, that the Commission should make clear that it fully expects that Duquesne will actively participate in efforts to develop a workable, viable market in the market region in which Duquesne is located. Having sold its generation, Duquesne and its ratepayers will soon be dependent upon the competitive market for obtaining generation supply. It is incumbent upon Duquesne to work closely with consumer parties in federal and state fora to develop these workable and viable market structures. Specifically, Duquesne must work to establish and/or join a single regional RTO that is appropriate for the market region in which Duquesne participates.

---

<sup>6</sup> The statutory exceptions were originally for the statutory T&D time frame and the stranded cost recovery period. Duquesne's stranded cost recovery will now end by 2001, but Duquesne has agreed to extend both the cap on generation rates and the cap on T&D rates.

As such, the OCA does not object to Duquesne's additional rate cap exception requests in the context of the POLR II Plan that provides an approximate 20% rate reduction to residential customers and provides additional rate cap protections for provider of last resort service. The OCA urges Duquesne to work actively with the consumer parties to develop a workable and viable competitive market in its region in a timely manner.

D. Market-Based Program For Large Commercial & Industrial Customers

In response to requests by some stakeholders to adopt a form of market-based POLR service during the POLR II period, Duquesne proposes a market-based program for Large C&I customers in 2004 if there is a visible, liquid market in place at that time. Duquesne proposes that the details of the program be worked out in a filing to be made in 2003, but in general, Duquesne proposes to charge large C&I customers a market-based rate that is the sum of the wholesale market price, adjusted for customer load shape, plus line losses, ancillary services, gross receipts tax, other supplier requirements plus a 5 mill/kwh adder. Petition at 17. Duquesne states that the purpose of the 5 mill/kwh retail adder is to encourage shopping. Id.

The OCA will not address this program in detail and anticipates that representatives of the industrial and commercial customers, as well as the marketing community, will comment on the program in more detail. The OCA would question, however, the inclusion of a 5 mill/kwh retail adder. To the extent such an adder is neither cost-based nor market-based, then it could simply result in a windfall to the provider of last resort.

The OCA looks forward to further examination of this program when it is filed in 2003. The OCA supports Duquesne's efforts to explore mechanisms and methods to ensure that POLR service is available and properly priced at the end of the POLR II period.<sup>7</sup>

E. Implementation Issues Related to POLR II Plan

Duquesne recognizes that there will be certain implementation issues related to various parts of its POLR II Plan, particularly as it concerns the switching rules. Petition at 27. The OCA agrees that there will be implementation and education issues associated with switching rules as well as Duquesne's entire POLR II Plan. The OCA would encourage Duquesne to continue its collaborative approach to work through all implementation and education issues with the interested parties. As noted above, the OCA supports Duquesne's collaborative approach and believes that it has resulted in a POLR II Plan that balances many competing interests. The OCA submits that this continued approach to implementing the POLR II Plan should be continued.

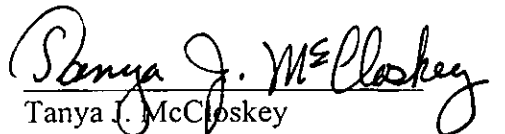
---

<sup>7</sup> The OCA would note its agreement at this time with Duquesne's decision not to apply its market-based POLR Program to residential customers.

### III. CONCLUSION

As set forth above, the OCA has certain limited reservations about Duquesne's proposed POLR II Plan. Overall, the OCA submits that Duquesne has done a commendable job in developing and negotiating a POLR Plan that balances the many competing interests. The OCA hopes to continue to work with Duquesne, Orion and other stakeholders to resolve all issues in a manner acceptable to all parties. At this time, the OCA would not object to the Commission approving the principles as outlined in Duquesne's Plan but encouraging and requiring the parties to try to come to resolution on any remaining issues.

*Respectfully submitted,*

  
Tanya J. McCloskey  
Senior Assistant Consumer Advocate

Counsel for:  
Irwin A. Popowsky  
Consumer Advocate

Office of Consumer Advocate  
555 Walnut Street 5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923  
(717) 783-5048

Dated: July 24, 2000  
59238

CERTIFICATE OF SERVICE

Re: Petition of Duquesne Light Company for  
Approval of Post-Transition Period POLR Service  
Docket No. R-00974104

I hereby certify that I have this day served a true copy of the foregoing document, Office of Consumer Advocate's Answer, 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 24th day of July, 2000

SERVICE BY INTEROFFICE MAIL

Kandace Melillo, Esquire  
Office of Trial Staff  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105

SERVICE BY U.S. MAIL, POSTAGE PREPAID

John S. Moot, Esquire  
Skadden, Arps, Slate, Meagher  
& Flom, LLP  
1440 New York Avenue, N.W.  
Washington, D.C. 20005

Larry R. Crayne, Esquire  
Duquesne Light Company  
411 Seventh Avenue  
P.O. Box 1930  
Pittsburgh, PA 15230-1930

Stephen L. Feld, Esquire  
FirstEnergy Corp.  
76 South Main Street  
Akron, OH 44308

Mary McFall Hopper, Esquire  
PECO Energy Company  
2301 Market Street S23-1  
Philadelphia, PA 19103

Sheila S. Hollis, Esquire  
Mary Ann Ralls, Esquire  
Stephenie A. Sugrue, Esquire  
Duane, Morris & Heckscher LLP  
Suite 700  
1667 K Street, N.W.  
Washington, DC 20006-1608

Scott J. Rubin, Esquire  
3 Lost Creek Drive  
Selinsgrove, PA 17870

Joseph A. Dworetzky, Esq.  
John P. Lavelle, Jr., Esq.  
Hangley, Aronchick, Segal & Pudlin  
12th Floor, One Logan Square  
Philadelphia, PA 19103

Douglas F. John, Esq.  
JOHN & HENGERER  
Suite 600  
1200 17th Street, N.W.  
Washington, D.C. 20036

Roger Clark, Esq.  
The Environmentalists  
905 Denston Drive  
Ambler, PA 19002-3901

Gary Jeffries, Esq.  
CNG Energy Services, Inc.  
One Parkridge Center  
Pittsburgh, PA 15244-0746

Donald A. Kaplan, Esq.  
Lisa M. Halpert, Esq.  
Preston, Gates, Ellis & Rouvelas  
Meeds, LLP  
1735 New York Avenue, NW, Suite 500  
Washington, DC 20006-4759

Vickiren S. Aeschleman  
QST Energy Inc.  
Suite 300  
300 Hamilton Blvd.  
Peoria, IL 61602

David Hughes  
4037 Ludwick Street  
Pittsburgh, PA 15217

Jim Ferlo, Councilman  
510 City-Council Building  
Pittsburgh, PA 15219

Rodney R. Akers, Esq.  
Assistant City Solicitor  
313 City-County Building  
414 Grant Street  
Pittsburgh, PA 15219

Howard M. Louik, Esq.  
Allegheny County Law Dept.  
300 Fort Pitt Commons  
445 Fort Pitt boulevard  
Pittsburgh, PA 15219

Margaret Peters, Esq.  
The Peoples Natural Gas Company  
625 Liberty Avenue  
Pittsburgh, PA 15222-3197

John Stember, Esq.  
Low Income Advocate Parties  
1705 Allegheny Bldg.  
429 Forbes Avenue  
Pittsburgh, PA 15219

Mark J. McGuire, Esq.  
Ronald N. Carroll, Esq.  
Jenner & Block, Suite 1200  
601 13th Street, NW  
Washington, DC 20005

David M. Boonin  
New Energy Ventures East, LLC  
Suite 2525  
1845 Walnut Street  
Philadelphia, PA 19103

David Cruthirds  
Electric Clearinghouse, Inc.  
Suite 5800  
1000 Louisiana  
Houston, TX 77002-5050

James P. Dougherty, Esq.  
Robert A. Weishaar, Jr., Esq.  
Pamela C. Polacek, Esq.  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108

Kevin J. McKeon, Esq.  
Todd Stewart, Esq.  
Malatesta, Hawke & McKeon, LLP  
P.O. Box 1778  
Harrisburg, PA 17101

David M. DeSalle, Esq.  
Terrance J. Fitzpatrick, Esq.  
Ryan, Russell, Ogden & Seltzer, LLP  
Suite 101  
800 North Third Street  
Harrisburg, PA 17102-2025

Angela Jones, Esquire  
Office of Small Business Adv.  
Suite 1102, Commerce Bldg.  
300 North Second Street  
Harrisburg, PA 17120

Daniel Clearfield, Esquire  
Gerald Gornish, Esquire  
Alan Kohler, Esquire  
Wolf, Block, Schorr and Solis-Cohen  
Suite 401  
305 North Front Street  
Harrisburg, PA 17101

Tim Merrill, Esq.  
Suite 200  
4 Penn Center West  
Pittsburgh, PA 15276

Paul E. Russell, Esq.  
Pennsylvania Power & Light Company  
2 North 9th Street  
Allentown, PA 18101

Kenneth L. Wiseman, Esq.  
Mark F. Sundback, Esq.  
Andrews & Kurth, LLP  
1701 Pennsylvania Avenue  
Washington, DC 20006

Brian A. Rider, President  
Pennsylvania Retailers' Association  
224 Pine Street  
Harrisburg, PA 17101-1325

Kenneth Zielonis, Esq.  
Stevens & Lee  
Suite 310  
208 North Third Street  
Harrisburg, PA 17108

John Wilson, Executive Director  
Community Action Association of PA  
222 Pine Street  
Harrisburg, PA 17101

Allegheny Electric Cooperative, Inc.  
212 Locust Street  
P.O. Box 1266  
Harrisburg, PA 17108-1266

Patricia Armstrong, Esquire  
Thomas, Thomas, Armstrong & Niesen  
212 Locust Street  
P.O. Box 9500  
Harrisburg, PA 17108-9500

James D. Steffes  
Enron Power Marketing Inc.  
1400 Smith Street  
P.O. Box 4428  
Houston, TX 77002

Michael L. Kurtz, Esq.  
David F. Boehm, Esq.  
Boehm, Kurtz & Lowry  
2110 CBLD Center  
36 East Seventh Street  
Cincinnati, OH 45202

Brian Kalcic  
Excel Consulting  
Suite 720-T  
225 S. Meramec Avenue  
St. Louis, MO 63105

Michael Reid, Director  
Materials Management Services  
Administrative Resources, Inc.  
500 Commonwealth Drive  
Warrendale, PA 15086-7513

Thomas P. Gadsden, Esq.  
Morgan, Lewis & Bockius  
2000 One Logan Square  
Philadelphia, PA 19103-6993

Timothy Moran  
986 Greentree Road  
Pittsburgh, PA 15222

John O'Brien, Esq.  
Wheeled Electric Power Company  
Suite 207  
50 Charles Lindburgh Blvd.  
Uniondale, NY 11553

Albert M. Benincasa, Esq.  
Director, Regulatory Affairs  
Skipping Stone  
46 9th Avenue  
Sea Cliff, NY 11579

Stephen J. Baron  
J. Kennedy and Associates, Inc.  
Suite 475  
35 Glenlake Parkway  
Atlanta, GA 30328

Robert J. Stefanko, Esq.  
341 South Bellefield Avenue  
Pittsburgh, PA 151213

Thomas J. Augspurger, Esq.  
Midcon Corporation  
Office of General Counsel  
701 East 22nd Street  
Lombard, IL 60148

Craig Nifong  
Midcon Corporation  
3200 Southwest Freeway  
Houston, TX 77027

Cindy Datig, Esq.  
\$1 Energy Fund  
P.O. Box 42329  
Pittsburgh, PA 15203

Donald R. Ayersman, Jr., Esq.  
1125 Denver Avenue  
Morgantown, PA 26505

Robert B. Weisenmiller  
MRW & Associates, Inc.  
Suite 1440  
1999 Harrison Street  
Oakland, CA 94612-3517

Representative Michael R. Veon  
Representative Victor J. Lescovitz  
Senator Gerald LaValle  
Representative Nicholas Colafella  
Representative Susan Laughlin  
Attn: R. David Myers  
16 East Wing  
Pennsylvania House of Representatives  
Harrisburg, PA 17120

Rep. Frank Dermody  
801 Freeport Road  
Cheswick, PA 15024-1209

Rep. Susan Laughlin  
555 Merchant Street  
ambridge, PA 15003-2464

Rep. Terry E. Van Horne  
1625 Fifth Avenue  
Arnold, PA 15068-4415

Rep. Harry Readshaw  
5101 Old Clairton Road  
Pittsburgh, PA 15236

Rep. Don Walko  
3722 Brighton Road  
Pittsburgh, PA 15212

Rep. Dave Mayernik  
440 Perry Highway  
Pittsburgh, PA 15229

Rep. Anthony DeLuca  
11609 Penn Hills Drive  
Pittsburgh, PA 15235-3329

Rep. Tom Mechlovic  
519 Penn Avenue  
Turtle Creek, PA 15145

Lauren S. McAndrews  
Allegheny Teledyne, Inc.  
1000 Six PPG Place  
Pittsburgh, PA 15222-5479

Commissioner Bea Schulte  
Chairman, Beaver County  
Commissioners  
Beaver County Courthouse  
Beaver, PA 15009

Dennis Bloom  
Local 272, IBEW  
617 Midland Avenue  
Midland, PA 15059

Rep. Joseph Preston, Jr.  
6203 Penn Avenue  
Pittsburgh, PA 15206-4005

Rep. David Levdansky  
112 Second Avenue  
Elizabeth, PA 15037-1549

Rep. Ivan Itkin  
1148 Greenfield Avenue  
Pittsburgh, PA 15217-2953

Rep. Frank Gigliotti  
2023 East Carson Street  
Pittsburgh, PA 15203-1929

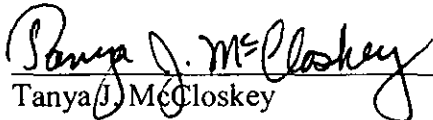
Rep. Richard D. Olasz  
3702 Greensprings Avenue  
West Mifflin, PA 15122-1753

Rep. Joseph Markosek  
4232 Northern Pike  
Monroeville, PA 15146-2732

David E. Pomper, Esq.  
Spiegel & McDiarmid  
1350 New York Avenue, NW  
Washington, DC 20005-4798

Rep. Frank J. Pistella  
506 South Millvale Avenue  
Pittsburgh, PA 15224-2118

Rep. Tom C. Petrone  
179 Steuben Street  
P.O. Box 8557  
Pittsburgh, PA 15220



Tanya J. McCloskey  
Senior Assistant Consumer Advocate  
Stephen J. Keene  
Assistant Consumer Advocate

Counsel For  
Office of Consumer Advocate  
5th Floor, Forum Place  
555 Walnut Street  
Harrisburg, PA 17101-1923  
(717) 783-5048

56283

RECEIVED  
00 JUL 24 PM 3:49  
PA P.U.C.  
SECRETARY'S BUREAU

RHOADS & SINON LLP

ORIGINAL

ROBERT H. LONG, JR.\*  
SHERILL T. MOYER  
JAN P. PADEN  
RICHARD B. WOOD  
LAWRENCE B. ABRAMS III\*  
J. BRUCE WALTER  
JOHN P. MANBECK  
FRANK J. LEBER  
PAUL A. LUNDEEN  
JACK F. HURLEY, JR.  
DAVID B. DOWLING  
DAVID F. O'LEARY  
DAVID O. TWADDELL  
CHARLES J. FERRY  
STANLEY A. SMITH  
JENS H. DAMGAARD\*  
DRAKE D. NICHOLAS  
THOMAS A. FRENCH  
DEAN H. DUSINBERRE  
DONNA M.J. CLARK  
CHARLES E. GUTSHALL

PAUL F. WESSELL  
SHAWN D. LOCHINGER  
JAMES H. CAWLEY  
DEAN F. PIERMATTEI  
KENNETH L. JOEL  
LORI J. MCELROY  
TODD J. SHILL  
THOMAS J. NEHILLA  
KEVIN M. GOLD  
CARL D. LUNDBLAD  
JAMES E. ELLISON  
RICHARD E. ARTELL  
ROBERT J. TRIBECK  
TIMOTHY J. NIEMAN  
PAUL J. BRUDER, JR.  
JOANNE BOOK CHRISTINE  
SUSAN E. SCHWAB  
AMY J. MENDELSON\*  
MICHAEL W. WINFIELD  
KATHRYN G. SOPHY  
SHAWN P. KENNY

ATTORNEYS AT LAW  
TWELFTH FLOOR  
ONE SOUTH MARKET SQUARE  
P.O. BOX 1146  
HARRISBURG, PA 17108-1146  
TELEPHONE (717) 233-5731  
FAX (717) 231-6600  
EMAIL ksophy@rhapsods-sinon.com

OF COUNSEL  
FRANK A. SINON  
HENRY W. RHOADS  
JOHN C. DOWLING  
R. STEPHEN SHIBLA  
NATHAN H. WATERS, JR.

PAUL H. RHOADS  
1907-1984  
JOHN M. MUSSELMAN  
1919-1980  
CLYLE R. HENDERSHOT  
1922-1980

DIRECT DIAL NO.  
(717) 237-6736

FILE NO.

\*ALSO ADMITTED TO THE FLORIDA BAR

Re: Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period POLR Service, Docket No. R-00974104

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
North Office Building, Room B-20  
Harrisburg, PA 17105-3265

Dear Mr. McNulty:

Enclosed for filing please find an original and three (3) copies of Strategic Energy L.L.C.'s Answer to the Petition of Duquesne Light Company in connection with the above-referenced matter, together with a Certificate of Service.

Please call me if you have any questions about this filing.

Very truly yours,

RHOADS & SINON LLP

By: *James H. Cawley*  
James H. Cawley

DOCUMENT  
FOLDER

cc: Certificate of Service Addressees

RECEIVED

JUL 24 2000

PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

EEF

ORIGINAL

RECEIVED

JUL 24 2000

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

---

Answer  
of  
Strategic Energy L.L.C.  
To The Petition of Duquesne Light Company  
For Approval of Plan For  
Post-Transition Period POLR Service

---

NOW COMES Strategic Energy L.L.C. ("Strategic Energy"), pursuant to 52 Pa. Code § 5.61, and answers the petition of Duquesne Light Company ("Duquesne") for approval of a plan for post-transition period Provider of Last Resort ("POLR") service.

**I. Strategic Energy's Overall Perspective of Duquesne's Plan**

The Competition Act contemplates that, upon completion of CTC payments, end-use customers' competitive source generation rates will be market-based. § 2807(e)(2)&(3). Strategic Energy supports the position that it is in the public's best interest for the Commission to stay the course to full open competition in spite of potential bumps along the road (i.e., price volatility as the market works its way through shortages and customers learn to be price responsive). Maintaining retail price caps in the interest of protecting customers from price shock actually places customers at risk of perils that are much more insidious than price shock. These include the risks that (i) near term generation development will not be sufficient to meet load growth, and (ii) there will be an insufficient number of retail competitors to offer customers meaningful choice in the

DOCUMENT  
FOLDER

DOCKETED

JUL 25 2000

future. However, if the Commission and other organizations charged with stewardship of consumers' best interests are now unwilling to accept these risks in order to avoid price volatility and the need for customers to exercise price response, then much of Duquesne's post-transition period POLR II proposal is a workable interim approach that may be implemented over a limited transition period.

Strategic Energy's extreme disappointment that competitive generation service will not start concurrent with the termination of stranded cost payments is tempered by its recognition that troublesome issues may be resolved as Duquesne's market transition evolves into a free market over a finite period. Strategic Energy believes these issues include: (i) development of a regional power exchange that promotes liquidity and transparency; (ii) further growth of merchant generation plant development that will provide diverse ownership; (iii) end-use customer education and demand response capability; and (iv) power pool development to promote greater transmission system access and the reduction of rate pancaking by ECAR-based utilities. All of these factors when bundled together signal that there are many opportunities/needs for improvement during the transition period initiated by Duquesne's POLR II plan.

Strategic Energy believes that the promise of wholesome market-based competition is just over the horizon for Duquesne's entire customer base. Given proper Commission direction as Duquesne's POLR II plan approaches its end-date (December 31, 2004), the marketplace will be fully prepared to respond to market-based pricing opportunities. Consequently, Strategic Energy supports many of the features of Duquesne's interim and transitional POLR II plan.

Sadly, Strategic Energy can not fully support Duquesne's plan because of three totally unacceptable aspects to the plan. These must be remedied or eliminated before Strategic Energy can support the plan. The three objectionable items are: (i) Duquesne's insistence on coupling customer switching and Generation Rate Adjustments ("GRA") for the POLR I period with its POLR II Plan; (ii) Duquesne's failure to express its

commitment to work toward development of an RTO, a power market exchange, and a customer education process keyed to the goal of customer price response capability; and (iii) Duquesne's lack of specificity regarding implementation detail (in essence the plan asks the Commission to authorize its goals without indicating how Duquesne intends to get to the end result and who will share in defining those implementation process details).

Within the next parts of this Answer to the POLR II plan, Strategic Energy will present its reasons for support or lack of support of the plan. Where lack of support is indicated, changes are described that could form a basis for Strategic Energy's support.

## **II. Aspects of the Plan That Strategic Energy Opposes**

### **A. Twelve-month Stay Requirement Applicable Prior to Summer 2001, And to Summer 2001 and Residential Customers**

Duquesne's POLR II plan (at pages 22-23) provides that returning commercial and industrial ("C&I") customers would be "subject to a 12-month stay requirement, with an option to shop again within 60 days by paying a [GRA], if applicable." This rule would be implemented prior to the summer of 2001.

For summer 2001, Duquesne proposes that the 12-month stay requirement apply to residential customers "only if 100 MW of residential load returns to POLR service between May 1, 2001 and September 1, 2001." Petition at 24. To ensure nondiscriminatory treatment, the rule, when triggered, would be the same as for C&I customers. *Id.* For the POLR II period, "residential customers would be treated the same as C&I customers—*i.e.*, there would be no 100 MW trigger." *Id.*

The 12-month stay requirement is anti-competitive and attempts to address a problem caused by an inadequate shopping credit. A much more appropriate POLR design would be one that allows customers to switch into and out of a POLR service that is priced to reflect the risk of the POLR service provider in allowing this flexibility. This would provide many benefits over the proposed Duquesne approach. First, it avoids any restrictions on the ability of customers to seek the benefits of competition and choice.

Second, by being priced to reflect the risk borne by the POLR provider to allow this flexibility, it avoids creating a strong incentive to drive customers out of the market and back to POLR. In its Final Order addressing the return of customers to provider of last resort service, the Commission expressed its interest in creating a POLR service that is truly a last resort service rather than a preferred service.

If the Commission accepts a POLR service that is priced low enough to attract customers from the competitive market, and if the Commission feels compelled to institute a minimum stay rule to compensate the POLR provider, then it is incumbent on all industry participants to ensure that the customers have a viable market-based rate option to return to the competitive market. Duquesne's POLR II plan provides no information to establish the effectiveness of its market-based rate option, referencing only "an option to shop again within 60 days by paying a [GRA], if applicable." Petition at 23. Since no information is provided regarding the calculation of the GRA, it is impossible to establish whether or not this option would have any possibility of allowing customers to return to the competitive market. Furthermore, based on Duquesne's own assertion that "[t]here is not today, nor is there expected to be in the near future, a liquid and visible wholesale market by which to track market prices in Duquesne's area" (Petition at 15), there is substantial grounds for serious concern about the design of the GRA and a need to fully explore all options through a process that allows for the best input of all stakeholders.

**B. Rescuing Orion from Itself by Ex Post Facto Relief**

Duquesne proposes that Orion be allowed to recover the costs attributable to summer 2000 customer switching behavior. Duquesne asserts: (i) "switching has caused Orion to incur millions in power acquisition costs that its POLR I rates are not designed to recover;" (ii) "[t]hese costs are recoverable consistent with the Final Order on returning Customers and Duquesne's Restructuring Order;" and (iii) "Orion has agreed to provide POLR II service only if such costs are recovered." Petition at 25.

Duquesne proposes that the alleged Orion summer 2000 power acquisition costs that were not in Orion's POLR I wholesale rates should be recovered through an implied GRA that "would be calculated and applied as an offset to Auction proceeds . . . . [T]his approach would extend . . . collection of the CTC." Petition at 26.

Duquesne's proposed modifications of POLR I service in support of Orion's *unsupported* financial claims are inappropriate and should be eliminated from the POLR II plan. These modifications threaten to deprive Duquesne's customers of their current rights and benefits which allow them to achieve savings under POLR I. Few, if any, Duquesne customers would have the ability to achieve savings in the competitive market if these rights were withdrawn. The net result of these modifications would be to assess significant unanticipated costs on Duquesne's customers via an extension of the CTC payment period. These extended payments would not be used to offset stranded costs but, rather, bail out Orion. In addition, these modifications would preclude Duquesne's customers who utilize POLR service in 2001 from returning to the competitive market for at least 15 months. This onerous restriction would be contrary to customers' expectations under the current rules of retail access and would be the cause of confusion and resentment. This step into regulatory instability would have a deleterious impact on Duquesne customers and on the Pennsylvania Electric Choice Program; it is simply is not justified in order to rescue Orion from the obligations that it freely entered into (especially if Orion is only losing the opportunity to make a greater profit, rather than actually suffering a loss).

Duquesne asserts that it is understandable that "Orion has conditioned its agreement to provide such power [i.e., its POLR II service] upon the implementation of a rule that protects it against POLR customers returning for POLR service only during high cost months (summer switching)." Petition at 3. When Duquesne began discussions with other stakeholders regarding its Post-Transition POLR II plan, it did not propose it with such a condition. Stakeholders entered into a good faith dialogue with Duquesne without any reason to suspect that Duquesne would, at the 11<sup>th</sup> hour, attempt to impose a condition

that threatens to undermine the consensus building process that evolved during the collaborative process. Stakeholders had no reason to expect that Duquesne would place the financial interests of Orion, a party conspicuously absent from the discussions, ahead of the interests of customers currently benefiting from electric choice. To later “condition” its POLR II plan on bailing out Orion from the consequences of its freely-accepted obligations amounts to a “bait and switch” tactic which undermines the good faith discussions that Duquesne claims to have conducted.

**C. Blanket Approval of Switching and GRA Principles Without Implementing Details**

Duquesne asks the Commission to approve Duquesne’s “principles governing switching” by issuing an order on the Plan by September 1, 2000, with the implementation details (e.g., customer education, calculation of the GRA) to be addressed in a subsequent compliance filing by Duquesne.

Duquesne’s request for unnecessarily expeditious Commission approval is severely flawed and is an overt attempt to back stakeholders with contrary opinions into a corner that has no reasonable path of egress.

The Commission therefore must recognize this proposal for what it is—an attempt to exact a retroactive rate increase from customers. As such, this portion of the POLR II plan must be rejected until all related matters can be fully examined in evidentiary hearings. It bears emphasis that Duquesne’s speaking petition is not supported by an affidavit, despite the many alleged statements of fact, and further that numerous material issues of fact have been raised by Strategic Energy (and no doubt others). Rather than the requested “quickie” decision on this first-of-its-kind, precedential proposal, due process requires a careful evidentiary examination of the very premises upon which Duquesne (and, effectively, the absent Orion) relies. To do otherwise would surely unlawfully and unfairly overcharge Duquesne’s customers and simultaneously short change EGSs.

Alternatively, Strategic Energy urges the Commission not to issue an order approving Duquesne's conceptual plan, but rather to invite interested parties to continue meeting with Duquesne to design fully all operational aspects of the plan. The parties could then submit a joint petition to the Commission that would have full endorsement of all affected parties.

**D. Duquesne's Plan Is Contrary to the Final Order Addressing Return of Customers to PLR Service.**

One of Duquesne's arguments for rejecting the introduction of market-based rates upon the termination of customers' CTC payments and the continuation of capped rates until end-of-year 2004 includes "(i) the state of [immature] market development in Duquesne's area, [and] (ii) the need for fixed rate cap protection prior to development of a visible and liquid generation market." Petition at 16. Duquesne asks on behalf of its silent partner, Orion, that the Commission commit to retroactive relief for Orion's alleged and unproven losses. The Final Order of June 22, 2000 at Docket No. M-00960890.F0017 is very clear that "the GRA should be imposed by the PLR only if a) a C&I customer returns to PLR service and subsequently elects to exercise its switching option, and b) it (or its wholesale contract supplier of energy) incurs additional cost to serve that returning customer in excess of the PLR generation rates." Order at 16-17. Duquesne's position on summer switchback stay requirements and GRA compensation is not supportable. The burden of proof is on Orion to establish its costs and its losses, if any.

Duquesne should not be allowed to undertake this process on Orion's behalf, nor should the Commission make any commitments to Duquesne about summer switching rule changes or a GRA absent separate tariff filing(s) by Duquesne that would fully support its position. The Commission should not be intimidated by messages attributed to Orion and transmitted by Duquesne that Orion will not serve POLR II load in Duquesne's territory unless Orion is compensated some unspecified amount for its alleged and unverified financial losses attributable to POLR I service. The proper way to assess Duquesne's

allegations is through a separate docket and evidentiary hearings to determine all material questions of fact. These issues cannot be resolved in the abstract, and the Commission should not make any commitments to Duquesne based on less than proof of all material facts. Consequently, Strategic Energy recommends that this POLR I issue be resolved outside of any examination of the POLR II plan proposal.

**E. Duquesne's Plan Lacks Many Specific Operational Details That Need To Be Addressed**

Duquesne's POLR II plan is conceptual with many operational details lacking specificity. These include, but are not limited to:

- ◆ POLR II switching and GRA determination standards.
- ◆ Customer information access process details.
- ◆ Electric Service Tariff revisions.
- ◆ Load and power loss determination process details.
- ◆ EGS coordination tariff revisions.
- ◆ Market-based rate development plan.

Strategic Energy urges the Commission not to issue an order approving Duquesne's POLR II conceptual plan hastily and absent operational details. Rather, the Commission should call upon interested parties to continue to meet to fully design all operational aspects of the plan via a Commission-sponsored settlement process. Upon agreement on operational details, the parties could submit a settlement petition to the Commission that would have the strong and full endorsement of the parties.

**F. Duquesne's Role in Achieving a Liquid and Visible Market Must Be Defined, And Duquesne Must Be Held Accountable for Properly Fulfilling Its Role**

Duquesne asks the Commission to delay the start of market-based rates because a visible and liquid energy market has not yet evolved in its territory. Yet, Duquesne makes no commitment to undertake efforts to achieve this result. Duquesne has both the opportunity and obligation to take part in and foster development of: (i) a RTO (or ISO);

(ii) a regional power exchange; and (iii) customer education processes regarding electric power markets and creation of demand side response capability.

The Commission is being asked to allow Duquesne to collect a 10% premium over Duquesne's energy cost. Should not a miniscule portion of revenues derived from that premium go to support efforts to achieve true markets for Duquesne and its customers? Strategic Energy urges the Commission to require Duquesne to develop implementation plans to fulfill these responsibilities.

### **III. Aspects of the Plan That Strategic Energy Supports**

#### **A. Duquesne's Objectives**

As previously indicated, Strategic Energy believes that it is in the best long-term interests of the marketplace to stay the course to full and open electric retail competition in spite of the risks associated with price volatility and inadequate levels of customer price response. However, in order to move the Duquesne retail market forward and expand customer access opportunities, Strategic Energy accedes to the wishes of customer advocates such as the Office of Consumer Advocate, the Office of Small Business Advocate, and the large C&I customer coalition to continue price caps, at increased levels, for an interim period ending December 31, 2004. Given this concession, Strategic Energy supports the principal objectives of Duquesne's petition. Petition at 7-10. These include:

- ◆ Meaningful rate cap protection until competitive, market-based rates can be achieved. Presently, Strategic Energy does not believe that the "market" alone can be counted on to protect competitive service customers in Duquesne's service area from extreme price volatility spikes. For price volatility risks to be moderated, generation assets need further development and ownership needs to be diversified, a power exchange and RTO must be operational, and at least a small percentage of customers need to have access to information and technology to allow demand response.

- ◆ Increased credits to further promote shopping by retail customers. Strategic Energy believes that Duquesne's POLR II plan will do just that. For those end-users that have not yet adjusted to shopping, they can stay under POLR service at reduced rates.
- ◆ Delaying a T&D rate increase. While it may be argued that this is the most self-serving of Duquesne's objectives, Strategic Energy supports this delay because it is key to establishing POLR rates that will promote shopping. Customers who wish to minimize or avoid the cost of the 10% margin that Duquesne has assigned to itself (about 5 mills per kWh) may do so by accessing the competitive market during the fall of 2001- start of POLR II.

**B. Access To Customer Information**

Under the POLR II plan, Duquesne has agreed to provide all EGSs with customer historic billing data to encourage competition. After appropriately sized shopping credits, access to customer information is the most crucial ingredient for a successful electric choice process.

EGS information access is to be provided consistent with all matters pertaining to ¶ 46 of the Joint Petition for Settlement of the PECO/UNICOM merger at Docket No. A-110550.F0147. Under that settlement, PECO agreed to provide to all EGSs, for all customers who have agreed to release of their information, 12 individual months of historic usage information and billed demand for each customer account. This information will be provided on Duquesne's secure web site, and will be updated quarterly for the duration of the POLR II period ending December 31, 2004.

Strategic Energy endorses this approach to customer information access and believes it will foster accurate forecasts of the shopping customer's pricing and savings.

**C. Allocation of Power Losses and Load Responsibility**

Currently, Duquesne determines Orion's POLR I power losses and load responsibility by using a "residual" method where each EGS's losses and load are

determined and then summed for all EGSs. Orion's losses and load responsibility are then determined by deducting all EGSs' losses and loads from the whole. The remainder (residual) is then assigned to Orion.

Under the POLR II plan, Duquesne has agreed to determine the losses and load responsibilities of each individual party and to sum those determinants for all parties. The sum value will then be compared to the Duquesne system values and a correction factor will be determined and applied. Under this method, all parties will be treated in an identical manner. This methodology will be similar to the widely accepted methods used by the three GPU operating companies to determine peak load values.

Strategic Energy endorses this process because it will ensure that EGSs, Orion, and Duquesne are treated the same for purposes of load profile application and losses.

#### **D. Transmission and Distribution Rate Freeze**

Duquesne's current T&D rate freeze is scheduled to terminate on December 31, 2001, only about two months after most CTC payments are expected to conclude. Duquesne's POLR II plan proposes to extend the T&D rate caps through end-of-year 2003.

Duquesne agrees to the T&D rate cap only if three exceptions to the cap are granted. These exceptions are: (i) RTO- or ISO-levied charges; (ii) state tax increases; and (iii) circumstances identified in § 2804(4)(iii) of the Competition Act. This latter exception would include relief from financial impairment or expenditures required to repair or upgrade its T&D system as directed by the Commission or ISO (RTO).

Strategic Energy supports the POLR II plan T&D rate freeze and the exceptions because it believes that the rate stability provided is an important and necessary aspect of the plan. Further, Strategic Energy believes that, if any of the T&D rate cap exceptions are pursued, all relief should be achieved through increases in T&D rates and not through reductions in POLR II rate caps.

**E. Market-Based POLR Services for Large Commercial and Industrial Customers**

Duquesne states that a market-based POLR service will start in 2004 for large C&I customers for rates classes L, GL, GLH, and HVPS if a liquid, visible wholesale market exists in Duquesne's service area. Duquesne asserts that this "should facilitate the transition from rate caps . . . to POLR rates that are based on market prices." Petition at 4.

Under Duquesne's design, large C&I customers would have a POLR service generation rate calculated as the sum of a wholesale market price for power (based on the visible market index) adjusted for load shaping, line losses, ancillary services, GRT, and other supply requirements such as capacity. To encourage shopping, a POLR service adder of 5 mills per kWh would be charged.

To implement this process, Duquesne indicates that it will make a filing by June 30, 2003 to address whether a visible and liquid spot market is available for the program. Interested parties will be able to comment on whether a visible and liquid market is available to support this proposal and, if so, which market index should be selected.

Strategic Energy supports this goal, but achieving the goal is not within easy reach. Of all classes, large C&I customers will be best able to operate in a market absent of rate caps and susceptible to volatility and price risk. However, questions remain unanswered. Will this process be voluntary and run in tandem with the rate-capped market? What criteria will be used to assess whether a liquid and transparent market exists? How will the presence of market power be assessed? What obligations does the marketplace bear, and when should the marketplace assume responsibility for assuring that a truly competitive market is established?

**F. Shopping Credits**

Strategic Energy supports the levelized shopping credits proposed in Duquesne's Appendix 1 and believes them adequate to support a segmented competitive retail market ending in 2004. These credits will be higher than those currently in effect during POLR I.

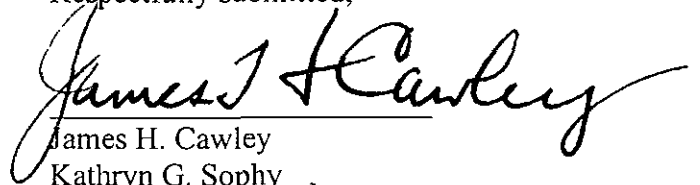
Additionally, they will, on a system average basis, provide a 17% rate reduction that will ensure that all Duquesne customers achieve savings.

Strategic Energy believes additional customer savings will be achievable through shopping. However, when the impact of usage and demand patterns is coupled with the credits proposed, they will not provide competitive market access savings for many C&I customers in many of the classes. Thus, the Commission should not be surprised when many higher load factor customers are unable to achieve savings through the POLR II model of retail choice.

WHEREFORE, Strategic Energy L.L.C. requests the Commission:

1. To remove customer switchback rules and generation rate adjustment matters related to the POLR I period (starting April 28, 2000 and terminating upon completion of the customer's CTC payments) from the Duquesne POLR II petition, and to mandate that Duquesne's request for resolution of such matters be handled through a separate tariff filing consistent with the Commission's Final Order of June 22, 2000, Docket No. M-00960890.F0017.
2. To resolve customer switchback rules and GRA matters related to the POLR II period consistent with its June 22, 2000 Final Order. This would promote maximum switching flexibility for customers and recovery of all verifiable and justifiable POLR supplier costs.
3. To hold evidentiary hearings on Duquesne's allegations concerning Orion's costs and losses, calculation of its GRA, and other factual allegations of the petition.
4. To sponsor (consistent with part II(E) above) collaborative meetings with interested parties to address the many specific operational details, and to assure broad based support and implementation of POLR II consistent with target dates.
5. To direct (consistent with part II(F) above) Duquesne to define the prerequisites for establishing a liquid and visible generation market and to file a plan through which its involvement and commitment to achieving that result may be monitored and measured.

Respectfully submitted,



James H. Cawley  
Kathryn G. Sophy  
RHOADS & SINON LLP  
One South Market Square  
P. O. Box 1146  
Harrisburg, PA 17108  
(717) 231-6608  
(717) 231-6600 (fax)  
[jcawley@rhoads-sinon.com](mailto:jcawley@rhoads-sinon.com)  
[ksophy@rhoads-sinon.com](mailto:ksophy@rhoads-sinon.com)

Wanda M. Schiller  
STRATEGIC ENERGY L.L.C.  
2 Gateway Center  
Pittsburgh, PA 15222  
(412) 394-5400  
(412) 394-6576 (fax)  
[wschiller@sel.com](mailto:wschiller@sel.com)

Attorneys for  
Strategic Energy L.L.C.

Dated: July 24, 2000

Before the  
Pennsylvania Public Utility Commission

Petition of Duquesne Light Company for :  
Approval of Plan for Post-Transition Period : Docket No. R-00974104  
POLR Service :

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the following persons and in the manner indicated below:

**SERVICE BY FIRST CLASS U.S. MAIL:**

Kenneth Zielonis  
Stevens & Lee  
Suite 310-208 North Third Street  
P.O. Box 12090  
Harrisburg, PA 17108-2090

Howard M. Louik  
Allegheny County Law Department  
300 Fort Pitt Commons-  
445 Fort Pitt Boulevard  
Pittsburgh, PA 15219

Jacqueline R. Morrow  
Assistant City Solicitor  
313 City County Building  
414 Grant Street  
Pittsburgh, PA 15219

Robert Weishaar, Jr.  
David Kleppinger  
McNees, Wallace & Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

Tanya McCloskey  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17120

Angela T. Jones  
Office of Small Business Advocate  
Commerce Building, Suite 1102  
300 North 2<sup>nd</sup> Street  
Harrisburg, PA 17101

Kandace F. Melillo  
Wayne Scott  
Office of Trial Staff  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Brian A. Rider, President  
Pennsylvania Retailers' Association  
224 Pine Street  
Harrisburg, PA 17101-1325

Stephen J. Baron  
J. Kennedy and Associates, Inc.  
570 Colonial Park Drive, Ste. 305  
Roswell, GA 30075

Kenneth L. Wiseman  
Mark F. Sundback  
Andrews & Kurth, LLP  
1701 Pennsylvania Avenue NW  
Washington, DC 20006

Exter Associates, Inc.  
12510 Prosperity Drive, Suite 350  
Silver Spring, MD 20904

Michael Reid, Director  
Materials Management Services  
Administrative Resources, Inc.  
500 Commonwealth Drive  
Warrendale, PA 15086-7513

Robert B. Weisenmiller  
MRW & Associates, Inc.  
Suite 1440 – 1999 Harrison Street  
Oakland, CA 94612-3517

John Stember  
Low Income Advocate Parties  
1705 Allegheny Bldg.  
429 Forbes Avenue  
Pittsburgh, PA 15219

W. Edwin Ogden  
Jeffrey A. Franklin  
Ryan Russell Ogden & Seltzer  
1100 Berkshire Blvd., Ste. 301  
Reading, PA 19610-1221

Michael L. Kurtz  
Boehm, Kurtz & Lowry  
2110 CBLD Center  
36 East Seventh Street  
Cincinnati, OH 45202

Robert J. Stefanko  
341 South Bellefield Avenue  
Pittsburgh, PA 15213

Stephen L. Feld  
First Energy Corp.  
76 South Main Street  
Akron, OH 44308

Mark McGuire  
Jenner & Block  
601 Thirteenth St., NW  
12<sup>th</sup> Floor  
Washington, DC 20005

Donald Ayersman  
IBEW Local 2357  
1125 Denver Ave.  
Morgantown, WV 26505

Thomas Gadsden  
Morgan, Lewis & Bockius  
2000 One Logan Square  
Philadelphia, PA 19103

Joseph A. Dworetzky  
John Lavelle, Jr.  
Luke Demnbrosky  
Hangley Aronchick Segal & Pudlin  
One Logan Square, 12<sup>th</sup> Floor  
Philadelphia, PA 19103

David Hughes  
4037 Ludwick Street  
Pittsburgh, PA 15217

Timothy Merrill  
The Eastern Group  
4 Penn Center West, Ste. 200  
Pittsburgh, PA 15276

Roger Clark  
905 Denston Drive  
Ambler, PA 19002-3901

Scott J. Rubin  
3 Lost Creek Drive  
Selinsgrove, PA 17870

John O'Brien  
Wheeled Electric Power Company  
50 Charles Lindburgh Boulevard  
Suite 207  
Uniondale, NY 11553

Environmental Law Project  
Widener University School of Law  
3700 Vartan Way  
Harrisburg, PA 17110

Brian Kalcic  
Excel Consulting  
Suite 720-T  
225 S. Meramec Avenue  
St. Louis, MO 63105

Paul E. Russell  
PPL Utilities  
Two North Ninth Street  
Allentown, PA 18101

Lisa Yoho  
Enron Power Marketing, Inc.  
1400 Smith Street  
P.O. Box 4428  
Houston, TX 77002

Patricia Armstrong  
Thomas, Thomas, Armstrong & Niesen  
212 Locust Street  
P.O. Box 9500  
Harrisburg, PA 17108-9500

Daniel Clearfield  
Gerald Gornish  
Alan Kohler  
Wolf, Block, Schorr & Solis-Cohen  
212 Locust Street, Ste. 300  
Harrisburg, PA 17101

Albert M. Benincasa  
Skipping Stone  
46 9<sup>th</sup> Ave.  
Sea Cliff, NY 11579

Larry Crayne  
Richard S. Herskovitz  
Duquesne Light Company  
411 Seventh Avenue  
P.O. Box 1930  
Pittsburgh, PA 15230-1930

Bruce A. Americus  
Samuel W. Braver  
Buchanan Ingersoll P.C.  
One Oxford Center, 20<sup>th</sup> Fl.  
301 Grant Street  
Pittsburgh, PA 15219-1410

Vickiren S. Aeschleman  
QST Energy  
300 Hamilton Blvd., Ste. 300  
Peoria, IL 61602

John Wilson, Exec. Director  
Community Action Assoc. of PA  
222 Pine Street  
Harrisburg, PA 17101

Sheila Hollis  
Mary Ann Ralls  
Stephanie Sugrue  
Duane, Morris & Hecksher, LLP  
1667 K Street, N.W., Ste. 700  
Washington, DC 20006-1608

Douglas F. John  
Gordon J. Smith  
Joelle Ogg  
John & Hengerer  
1200 17<sup>th</sup> Street, NW, Ste. 600  
Washington, DC 20036

Mary McFall Hopper  
Paul Bonney  
PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699

Donald A. Kaplan  
Lisa M. Helpert  
Preston Gates Ellis & Rouvelas Meeds, LLP  
Suite 500, 1735 New York Avenue, NW  
Washington, DC 20006-4759

Dr. Roger Odisio  
170 Drake Road  
Bethel Park, PA 15102

David Cruthirds  
Electric Clearinghouse  
1000 Louisiana Street, Ste. 5800  
Houston, TX 77002-5050

Timothy Moran  
IBEW, System Council U-10  
986 Greentree Road  
Pittsburgh, PA 15220

Rodney R. Akers  
Asst. City Solicitor, Dept. of Law  
313 City County Building  
414 Grant Street  
Pittsburgh, PA 15219

Deneice Covert Zeve  
Office of Attorney General  
14<sup>th</sup> Floor, Strawberry Square  
Harrisburg, PA 17120

Darlene Westfall, Agent  
564 Forbes Avenue  
Pittsburgh, PA 15219

Jim Ferlo, Councilman  
District 7  
510 City County Building  
414 Grant Street  
Pittsburgh, PA 15219

Allegheny Electric Cooperative  
212 Locust Street  
P.O. Box 1266  
Harrisburg, PA 17108-1266

Cynthia Datig  
Dollar Energy Fund  
P.O. Box 42329  
Pittsburgh, PA 15203

Harvey Marcus  
5644 Hempstead Road  
Pittsburgh, PA 15219

Lou Sauers  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
7<sup>th</sup> Fl., Barto Bldg.  
Harrisburg, PA 17105-3265

Honorable Ricahrd A. Kasunic  
Democratic Policy Chairman  
Senate of Pennsylvania  
Senate Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable Richard F. Vidmer  
Chairman  
Westmoreland County Commissioners  
101 Courthouse Square  
Greensburg, PA 15601

Honorable Patrick E. Fleagle  
90<sup>th</sup> Legislative District  
House Post Office Box-202020  
Main Capitol Building  
Harrisburg, PA 17120

John Molinda  
Wanda M. Schiller, Esquire  
Strategic Energy L.L.C.  
2 Gateway Center  
Pittsburgh, PA 15222-1458

Honorable Lawrence Roberts  
Pennsylvania House of Representatives  
51<sup>st</sup> District  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Robert L. Simpson  
Executive Director  
Crispus Attucks Assoc. Inc.  
605 South Duke Street  
York, PA 17403

Michael W. Krajovic  
Exec. Vice President  
Fay-Penn Economic Development Council  
Two West Main Street, Ste. 407  
P.O. Box 2101  
Uniontown, PA 15401

Jeffrey Bladen  
Manager, Corporate Development  
New Energy Ventures-Mid Atlantic  
1845 Walnut Street, Ste. 2525  
Philadelphia, PA 19103

Mary Rugh  
Facilities Management Division  
University of Pittsburgh  
Eureka Bldg., 3400 Forbes Ave.  
Pittsburgh, PA 15260

Honorable Michael R. Veon  
Pennsylvania State Representative  
Main Capitol Building  
House Box 202020  
Harrisburg, PA 17120-2020

Honorable Tim Murphy  
37<sup>th</sup> Senatorial District  
Senate Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable Susan Laughlin  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Honorable Frank Dermody  
Allegheny County Democratic Delegation  
801 Freeport Road  
Cheswick, PA 15024-1209

Honorable Francis J. Dermody  
600 Woodland Avenue  
Oakmont, PA 15139

Honorable Jack Wagner  
42<sup>nd</sup> District  
Seante Box 203042  
Harrisburg, PA 17120-3042

Honorable Melissa Hart  
40<sup>th</sup> Senatorial District  
Senate Post Office – Main Capitol  
Harrisburg, PA 17120

David E. Pomper  
Cynthia Bogorad  
Spiegel & McDiarmid  
1350 New York Avenue, NW, Ste. 100  
Washington, DC 20005

Honorable Anthony Deluca  
Allegheny County Democratic Delegation  
11609 Penn Hills Drive  
Pittsburgh, PA 15235-3329

Honorable David Levdansky  
Allegheny County Democratic Delegation  
112 Second Avenue  
Elizabeth, PA 15037-1539

Honorable Tom Michlovic  
Allegheny County Democratic Delegation  
519 Penn Avenue  
Turtle Creek, PA 15145

-----  
Honorable Frank J. Pistella  
Allegheny County Democratic Delegation  
506 S. Millvale Avenue  
Pittsburgh, PA 15224-2118

Honorable Harry Readshaw  
Allegheny County Democratic Delegation  
5101 Old Clairton Road  
Pittsburgh, PA 15236

Honorable Susan Laughlin  
Allegheny County Democratic Delegation  
555 Merchant Street  
Ambridge, PA 15003-2464

Honorable Terry E. Van Horne  
Allegheny County Democratic Delegation  
1625 Fifth Avenue  
Arnold, PA 15068-4415

Honorable Tom C. Petrone  
Allegheny County Democratic Delegation  
179 Steuben Street  
P.O. Box 8557  
Pittsburgh, PA 15220

Honorable Richard D. Olasz  
Allegheny County Democratic Delegation  
3702 Greensprings Ave.  
West Mifflin, PA 15122-1753

Honorable Joseph Preston, Jr.  
Allegheny County Democratic Delegation  
6203 Penn Avenue  
Pittsburgh, PA 15206-4005

Honorable Dave Mayernik  
Allegheny County Democratic Delegation  
440 Perry Highway  
Pittsburgh, PA 15229

Honorable Gerald Lavallo  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Bea Schulte, Commissioner  
Dan Donatella, Commissioner  
County of Beaver, Board of Commissioners  
Beaver County Courthouse  
Beaver, PA 15009

Honorable Don Walko  
Allegheny County Democratic Delegation  
3722 Brighton Road  
Pittsburgh, PA 15212

Honorable Joseph Markosek  
Allegheny County Democratic Delegation  
4232 Northern Pike  
Monroeville, PA 15146-2732

Honorable Nicholas Colafella  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Honorable Michael R. Veon  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Dennis Bloom  
IBEW Local 272  
617 Midland Avenue  
Midland, PA 15059

Honorable G. Travaglio  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable V. J. Lescovitz  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable L. LaGrotta  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable H. William Deweese  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable J. Casorio, Jr.  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable T. Tangretti  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

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

David T. Kotecki, President  
Local 270  
Utility Workers Union of America  
4205 Chester Avenue  
Cleveland, OH 44103-3616

GPU Energy  
2800 Pottsville Pike  
Reading, PA 19640-0001

Honorable S. Steelman  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable J. Shaner  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable T. Harhai  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable P. Daley, II  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable A. Colaizzo  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable Albert Belan  
Senate of Pennsylvania  
Senate Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable David Levdansky  
311 South Office Bldg.  
House Box 202020  
Harrisburg, PA 17120-2020

Honorable Jeffrey Haban  
House Box 202020  
Room 163B East Wing  
Harrisburg, PA 17120-2020

David E. Wightman, President  
Utility Workers Union of America  
220 Forbes Road, Ste. 210  
Braintree, MA 02184

John L. Munsch, Esquire  
Allegheny Energy  
800 Cabin Hill Drive  
Greensburg, PA 15601-1689

David Hodgden  
Ohio Public Utility Commission  
180 East Broad Street  
Columbus, OH 43215-3793

Carl Wood  
National Representative  
Utility Workers Union of America  
168 Amigos Way  
Fallbrook, CA 92028

James McCormick  
1940 Robert Road  
Meadowbrook, PA 19046

Todd S. Stewart  
Malatesta Hawke & McKeon LLP  
Harrisburg Energy Center  
100 North Tenth Street  
Harrisburg, PA 17101

  
James H. Cawley

Dated: July 24, 2000

ORIGINAL

RHOADS & SINON LLP

ATTORNEYS AT LAW

TWELFTH FLOOR

ONE SOUTH MARKET SQUARE

P.O. BOX 1146

HARRISBURG, PA 17108-1146

TELEPHONE (717) 233-5731

FAX (717) 231-6600

EMAIL ksophy@rhoads-sinon.com

July 24, 2000

OF COUNSEL  
FRANK A. SINON  
HENRY W. RHOADS  
JOHN C. DOWLING  
R. STEPHEN SHIBLA  
NATHAN H. WATERS, JR.

PAUL H. RHOADS  
1907-1984

JOHN M. MUSSELMAN  
1919-1980

CLYDE R. HENDERSHOT  
1922-1980

DIRECT DIAL NO.

(717) 237-6736

FILE NO.

ROBERT H. LONG, JR.\*  
SHERILL T. MOYER  
JAN P. PADEN  
RICHARD B. WOOD  
LAWRENCE B. ABRAMS III\*  
J. BRUCE WALTER  
JOHN P. MANBECK  
FRANK J. LEBER  
PAUL A. LUNDEEN  
JACK F. HURLEY, JR.  
DAVID B. DOWLING  
DAVID F. O'LEARY  
DAVID O. TWADDELL  
CHARLES J. FERRY  
STANLEY A. SMITH  
JENS H. DAMGAARD\*  
DRAKE D. NICHOLAS  
THOMAS A. FRENCH  
DEAN H. DUSINBERRE  
DONNA M.J. CLARK  
CHARLES E. GUTSHALL

PAUL F. WESSELL  
SHAWN D. LOCHINGER  
JAMES H. CAWLEY  
DEAN F. PIERMATTEI  
KENNETH L. JOEL  
LORI J. MCELROY  
TODD J. SHILL  
THOMAS J. NEHILLA  
KEVIN M. GOLD  
CARL D. LUNDBLAD  
JAMES E. ELLISON  
RICHARD E. ARTELL  
ROBERT J. TRIBECK  
TIMOTHY J. NIEMAN  
PAUL J. BRUDER, JR.  
JOANNE BOOK CHRISTINE  
SUSAN E. SCHWAB  
AMY J. MENDELSON\*  
MICHAEL W. WINFIELD  
KATHRYN G. SOPHY  
SHAWN P. KENNY

\*ALSO ADMITTED TO THE FLORIDA BAR

Re: Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period POLR Service, Docket No. R-00974104

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
North Office Building, Room B-20  
Harrisburg, PA 17105-3265

DOCUMENT  
FOLDER

Dear Mr. McNulty:

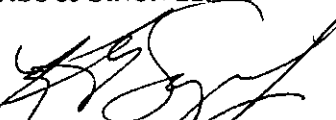
Enclosed herewith for filing please find an original and three (3) copies of Mid-Atlantic Power Supply Association's Answer to the Petition of Duquesne Light Company in connection with the above-referenced matter.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

RHOADS & SINON LLP

By:

  
Kathryn G. Sophy

KGS/dah

Enclosures

cc: Certificate of Service

EEF

RECEIVED  
00 JUL 24 PM 4:09  
PA.P.U.C.  
SECRETARY'S BUREAU

**ORIGINAL**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY  
COMMISSION**

v.

**DUQUESNE LIGHT COMPANY**

**DOCUMENT  
FOLDER**

**Docket No. R-00974104**

**DOCKETED**  
**JUL 25 2000**

---

**MID-ATLANTIC POWER SUPPLY ASSOCIATION'S ANSWER  
TO THE PETITION OF DUQUESNE LIGHT COMPANY  
FOR APPROVAL OF PLAN FOR  
POST-TRANSITION PERIOD POLR SERVICE**

---

**RECEIVED**  
**00 JUL 24 PM 4:09**  
**PA P.U.C. SECRETARY'S BUREAU**

Now comes the Mid-Atlantic Power Supply Association (MAPSA), pursuant to 52 Pa. Code Section 5.61, and answers the petition of Duquesne Light Company (Duquesne) for approval of a plan for post-transition period Provider of Last Resort (POLR) service. While MAPSA applauds Duquesne's effort and cooperation, it is unable to support the plan as a whole.

**I. MAPSA Supports Duquesne's Efforts to Reach Consensus in Its Search for a Post-Transition POLR II Plan**

Duquesne engaged in dialogues with interested parties in an attempt to address the competitive marketplace after recovery of transition costs has terminated and to find a workable solution to the problem of customers returning to POLR service for capped rates during high-cost months and then returning to the marketplace during the lower-cost months. In assembling its POLR II Plan, Duquesne attempted to address the needs or concerns of each of the stakeholders.

In fact, Duquesne made several concessions to MAPSA. MAPSA appreciates the cooperation and conciliation of Duquesne. Unfortunately, MAPSA is unable to support the entire POLR II Plan as drafted.

## **II. The Commission Should Examine the Broader Policy Issues Raised By the POLR II Proposal**

A critical fact raising important policy issues now faces the Commission. Duquesne will fully recover its stranded cost collected through the CTC by the end of 2001. The transition period for Duquesne will end. However, the Commission has not promulgated rules or policy guidance governing the post-transition period for any utility. Duquesne points out that the Commission has not yet developed regulations for post-transition POLR service. The Commission should use this opportunity to formulate such policy guidance regarding the nature of competition, including the introduction of market-based rates, elimination of shopping credits, and review of T&D rate caps.

Because Duquesne will fully recover its stranded costs by the end of 2001, the EDC is the perfect candidate to move immediately to market-based rates for its generation services provided to all customers. At the very least, the shopping credit level -- as a residual figure -- should increase to the cost of unbundled, market generation now that stranded costs have been fully recovered. It is troubling that Duquesne takes a wait-and-see approach to determine if a "visible and liquid spot market" develops. Under Duquesne's proposal, the wait likely would continue through 2004. Indeed, Duquesne perpetuates the idea that due to an illiquid market, no marketer would supply POLR power on "reasonable terms." This begs the question. The problem in the Commonwealth of Pennsylvania is straightforward: the shopping credits are not "dynamic" --

responsive to the wholesale capacity marketplace -- and, in turn, cannot reflect the true cost of retail generation service.

The Commission should seriously consider in this case the implementation of market-based rates for Duquesne (and any other utility reaching the end of its stranded cost recovery period). In this way, customers will receive correct -- market-based -- price signals, rather than artificially low shopping credits. EGSs, in turn, will be attracted to the marketplace because they can compete in a rationally functioning market free of shopping credits that do not reflect true retail costs and a corresponding fixed-price POLR service that ignores the true cost to provide service. Despite Duquesne's obtuse argument to the contrary, consumers are best protected in a fully competitive and viable market, not one where monopoly control by the EDC is the primary economic determinant of price. Duquesne's anti-market notions should be rejected. Indeed, the Commission should take this opportunity to examine and introduce its policy for the next step of the post-transition market place -- market-based rates.

The Commission should order Duquesne to implement market-based rates, reform its shopping credit, and subject any further rate reductions or increases to rate case scrutiny. In the alternative, the Commission should use the instant proceeding as an opportunity to institute an investigation regarding its policies for the retail competitive market after stranded costs are recovered. The "transition" period to a truly competitive market must eventually come to an end.

### **III. The Transmission and Distribution Rate Cap Extension Is Based Upon Assumptions Never Supported**

Duquesne offers to extend its transmission and distribution (T&D) rate cap, expecting everyone to assume this is a benefit to consumers. Looming in the background is Duquesne's threat of significant T&D rate increases once the rate cap expires at the end of 2001. Granting an extension of T&D rates without question, however, allows Duquesne to avoid the scrutiny of a

rate case and prevents the Commission from examining whether the T&D rate cap truly is a blessing worth continuing. Without investigation, the Commission would lose any opportunity to secure lower T&D rates for Duquesne customers. No utility -- having fully recovered its stranded costs -- should be allowed to threaten a rate increase without the corresponding scrutiny of a cost of service/rate setting proceeding.

The cost of this T&D rate cap extension is to allow Duquesne to retain a margin via a 10% adder to the POLR II generation sales. To avoid increasing rates in Column A, Duquesne proposes to increase rates in Column B. Duquesne promotes this re-bundling of Orion's generation rates with Duquesne's T&D margin as an innovative and pro-competitive solution to the problem of a T&D rate cap. Although this solution would increase the shopping credits and would benefit EGSs, it seems contrary to the unbundling efforts of the past and allows Duquesne to decide what is a "fair return."

Duquesne offers no data to support its need for this 10% adder and offers no explanation why 10% is the magic number. The residential rate reductions and Duquesne's 10% adder are coming out of the money that had gone for CTC. Rather than repackage the money consumers are spending so that Duquesne is guaranteed a profit, the Commission should let true competition decide who will make money by maintaining the rate caps but allowing a larger shopping credit. A larger shopping credit would resolve the summer switching problem. Better still, a swift move to true competition could be achieved in this instance. The CTC will expire in 2001. The Commission should accelerate CTC termination and move directly to market prices.

#### **IV. Summer Switchback Rule for 2001**

MAPSA does not support a 12-month stay provision. If returning customers are creating a problem to serve at the capped rates, this only demonstrates that the generation component of the rates is not at a reasonable level. While the 60-day window offers some relief, the 12-month stay-in provision cannot be viewed as promoting competition. This provision inhibits the development of a visible and liquid market. Again, the stay-in provision addresses a symptom and not the real problem. If the generation component is set at the proper level, returning customers would not be an issue.

#### **V. Summer Switchback Rule for 2000**

MAPSA disagrees that recovery of Duquesne's costs for customer switching during the summer of 2000 is consistent with the Commission's Final Order. Although Duquesne states that the switching "has caused Orion to incur millions in power acquisition costs that its POLR I rates are not designed to recover," it offers no evidence regarding Orion's acquisition costs or whether Orion could recover its generation costs. Nor does Duquesne assert that it will not recover its generation costs for providing the short-term POLR service.

MAPSA disagrees that Duquesne's plan balances the interests of all concerned. Other than Orion, which is being saved from its own bargain, beneficiaries are difficult to find. Duquesne, in its effort to rescue Orion, proposes to accelerate only one aspect of the plan, the GRA, without regard to other aspects of the plan, such as shopping credits.

Imposition of the switchback rule for this summer is unfair to the electric customers who have made decisions based upon the rules in place. Imposition of a GRA after the fact is tantamount to a retroactive fine for behavior that was not illegal when it occurred. Duquesne

itself noted that imposition of a switching rule for this summer is unfair to customers who expected that a return to POLR service would not prevent their return to the market without incurring additional costs. Nevertheless, Duquesne proposes just that. Duquesne proposes to prevent customers who returned to POLR service from leaving that service without incurring the additional costs of a GRA. Duquesne proposes to impose this additional charge to its customers who made the decision to return based on their understanding of the existing rules of competition. This proposal is patently unfair with respect to customer expectations to shop whenever they chose and without incurring a penalty in the form of a GRA.

To overcome the fairness argument, Duquesne argues that its auction bidders would have reasonably assumed that the Commission would have addressed summer switching before it posed a problem for them and that it was reasonable for the bidders to *not* submit bids which reflected the cost of allowing customers to switch to POLR service only during the high-cost months. Duquesne concludes that "allowing recovery of the costs of switching during the summer of 2000 is consistent with the reasonable expectations of Orion in bidding to purchase Duquesne's generating assets." Duquesne Petition at 26-27.

Thus, Duquesne suggests that the Commission should issue a retroactive order which protects the expectations of a contracted generation supplier who *knew* summer switching may pose a problem, yet presumably failed to account for that problem in formulating its winning bid. At the same time, Duquesne urges the Commission to ignore the expectations of Duquesne's customers who have been playing by the rules already in place.

## **VI. The Silence of Orion**

The real winner of this plan is Orion, which expects to be rescued without so much as a simple request for help. Orion was the winning bidder for Duquesne's generation assets with a bid that presumably failed to consider the costs of summer switching. Under this plan, Orion will not have to live with the deal it made as winning bidder. Duquesne proposes that Orion be lifted out of a problem of its own making on the backs of Duquesne's returning customers who must stay with Orion for one year or pay for the privilege to shop. In consequence, other EGSs will be denied customers due to the stay-out provision and electric competition in Pennsylvania will be stunted by the stay-out provision.

While it is noble that Duquesne attempts to promote and protect Orion's interests in providing POLR service, Duquesne's altruism is misplaced. Rather than attempting to shelter an electric power supplier from the consequences competition may wreak on its contract to provide POLR service, Duquesne should focus on its customers who will be penalized for actions already taken and its shareholders who should reasonably expect Duquesne to hold Orion to its contract.

## **VII. The Public Interest**

MAPSA objects to all the machinations designed to "protect" consumers from the supposed evils of competition. Competition is a benefit to us all. The Commission knows this or it never would have embarked on this journey of deregulation. The marketplace is a good place for consumers to be, not an area where they need "protection" from an unknown and ill-defined menace.

If left unfettered, competition will work and will work well. The only way to produce a visible and liquid market is by allowing the market to operate. We cannot encumber competition with all sorts of artificial restraints and expect the marketplace to flourish.

This Commission has made the policy decision that the time for competition in the electric industry has come. The open market is where we all want consumers to be. Our Nation regards Pennsylvania as electric competition's success story. Now Pennsylvania should boldly take the next step and move to full competition. There should be no further extensions of rate caps, which also act as rate floors to many consumers, and no re-bundling.

Duquesne will fully recover its CTC by the end of 2001. Once the CTC terminates, Duquesne should move immediately to market-based rates for all customers. There simply is no justification for dragging out the transition period and delaying real competition. After all, competition is where we all want to be.

#### **VIII. The Need for Evidentiary Hearings**

MAPSA requests that the Commission refer this matter to the Office of Administrative Law Judge (OALJ) for evidentiary hearings and a Recommended Decision. Duquesne's petition raises material questions of fact which may be determined only through evidentiary hearings and development of a full record. Some of the many material questions of fact raised by Duquesne's petition include:

1. What are Duquesne's obligations to Orion and does Duquesne have standing to raise issues which Orion alone should be raising?

2. Does Duquesne have binding contracts regarding POLR and POLR II service with Orion?<sup>1</sup>
3. Does the contract condition the provision of power upon implementation of a rule to protect Orion against POLR customers returning during the summer months?
4. If so, when was this provision added to the contract?
5. What are Duquesne's generation costs under the contract?
6. What are Orion's generation costs?
7. Does the POLR II contract address consequences for Orion's threat to abandon service if it cannot recover additional costs for this summer's POLR I service?
8. What are the actual costs to provide T&D service?
9. After an arms-length negotiation for the POLR II contract, why is Orion being protected?
10. What were Orion's expectations prior to bidding?
11. Is Orion actually suffering a loss or merely the opportunity to earn greater profits?

A reasonable remedy cannot be fashioned until the Commission has answers to these and other material questions of fact. Until the Commission has answers to these questions, it will not be able to accurately identify the real problem.

## **IX. Conclusion**

Pursuant to 66 Pa. C.S. Section 315(a) and (b), Duquesne has the burden of proof to show that its proposal is just and reasonable and in compliance with the Public Utility Code and Commission regulations and orders. On its face, Duquesne's petition fails to meet that burden.

---

<sup>1</sup> At the meeting of April 17, 2000, Duquesne committed to file POLR II power purchase agreement with Orion as part of its petition to the Commission.

WHEREFORE, the Mid-Atlantic Power Supply Association respectfully requests this Commission to refer this matter to the Office of Administrative Law Judge for evidentiary hearings where the parties may submit evidence and Duquesne may prove its need for the extraordinary relief it seeks for itself and Orion and that, upon a final hearing, the Commission make such Order as it deems necessary and appropriate.

Respectfully submitted,

RHOADS & SINON LLP

By: 

James H. Cawley  
Kathryn G. Sophy  
One South Market Square  
P. O. Box 1146  
Harrisburg, PA 17108-1146  
(717) 233-5731  
(717) 231-6600 (fax)  
ksophy@rhoads-sinon.com (e-mail)

Attorneys for  
Mid-Atlantic Power Supply Association

Dated: July 24, 2000

Before the  
Pennsylvania Public Utility Commission

Petition of Duquesne Light Company for :  
Approval of Plan for Post-Transition Period : Docket No. R-00974104  
POLR Service :

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the following persons and in the manner indicated below:

**SERVICE BY FIRST CLASS U.S. MAIL:**

Kenneth Zielonis  
Stevens & Lee  
Suite 310-208 North Third Street  
P.O. Box 12090  
Harrisburg, PA 17108-2090

Howard M. Louik  
Allegheny County Law Department  
300 Fort Pitt Commons  
445 Fort Pitt Boulevard  
Pittsburgh, PA 15219

Jacqueline R. Morrow  
Assistant City Solicitor  
313 City County Building  
414 Grant Street  
Pittsburgh, PA 15219

Robert Weishaar, Jr.  
David Kleppinger  
McNees, Wallace & Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

Tanya McCloskey  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17120

Angela T. Jones  
Office of Small Business Advocate  
Commerce Building, Suite 1102  
300 North 2<sup>nd</sup> Street  
Harrisburg, PA 17101

Kandace F. Melillo  
Wayne Scott  
Office of Trial Staff  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Brian A. Rider, President  
Pennsylvania Retailers' Association  
224 Pine Street  
Harrisburg, PA 17101-1325

Stephen J. Baron  
J. Kennedy and Associates, Inc.  
570 Colonial Park Drive, Ste. 305  
Roswell, GA 30075

Kenneth L. Wiseman  
Mark F. Sundback  
Andrews & Kurth, LLP  
1701 Pennsylvania Avenue NW  
Washington, DC 20006

Exter Associates, Inc.  
12510 Prosperity Drive, Suite 350  
Silver Spring, MD 20904

Michael Reid, Director  
Materials Management Services  
Administrative Resources, Inc.  
500 Commonwealth Drive  
Warrendale, PA 15086-7513

Robert B. Weisenmiller  
MRW & Associates, Inc.  
Suite 1440 – 1999 Harrison Street  
Oakland, CA 94612-3517

John Stember  
Low Income Advocate Parties  
1705 Allegheny Bldg.  
429 Forbes Avenue  
Pittsburgh, PA 15219

W. Edwin Ogden  
Jeffrey a. Franklin  
Ryan Russell Ogden & Seltzer  
1100 Berkshire Blvd., Ste. 301  
Reading, PA 19610-1221

Michael L. Kurtz  
Boehm, Kurtz & Lowry  
2110 CBLD Center  
36 East Seventh Street  
Cincinnati, OH 45202

Robert J. Stefanko  
341 South Bellefield Avenue  
Pittsburgh, PA 15213

Stephen L. Feld  
First Energy Corp.  
76 South Main Street  
Akron, OH 44308

Mark McGuire  
Jenner & Block  
601 Thirteenth St., NW  
12<sup>th</sup> Floor  
Washington, DC 20005

Donald Ayersman  
IBEW Local 2357  
1125 Denver Ave.  
Morgantown, WV 26505

Thomas Gadsden  
Morgan, Lewis & Bockius  
2000 One Logan Square  
Philadelphia, PA 19103

Joseph A. Dworetzky  
John Lavelle, Jr.  
Luke Demnbrosky  
Hangley Aronchick Segal & Pudlin  
One Logan Square, 12<sup>th</sup> Floor  
Philadelphia, PA 19103

David Hughes  
4037 Ludwick Street  
Pittsburgh, PA 15217

Timothy Merrill  
The Eastern Group  
4 Penn Center West, Ste. 200  
Pittsburgh, PA 15276

Roger Clark  
905 Denston Drive  
Ambler, PA 19002-3901

Scott J. Rubin  
3 Lost Creek Drive  
Selinsgrove, PA 17870

John O'Brien  
Wheeled Electric Power Company  
50 Charles Lindburgh Boulevard  
Suite 207  
Uniondale, NY 11553

Environmental Law Project  
Widener University School of Law  
3700 Vartan Way  
Harrisburg, PA 17110

Brian Kalcic  
Excel Consulting  
Suite 720-T  
225 S. Meramec Avenue  
St. Louis, MO 63105

Paul E. Russell  
Pennsylvania Power & Light Company  
Two North Ninth Street  
Allentown, PA 18101

Lisa Yoho  
Enron Power Marketing, Inc.  
1400 Smith Street  
P.O. Box 4428  
Houston, TX 77002

Patricia Armstrong  
Thomas, Thomas, Armstrong & Niesen  
212 Locust Street  
P.O. Box 9500  
Harrisburg, PA 17108-9500

Daniel Clearfield  
Gerald Gornish  
Alan Kohler  
Wolf, Block, Schorr & Solis-Cohen  
212 Locust Street, Ste. 300  
Harrisburg, PA 17101

Albert M. Benincasa  
Skipping Stone  
46 9<sup>th</sup> Ave.  
Sea Cliff, NY 11579

Larry Crayne  
Richard S. Herskovitz  
Duquesne Light Company  
411 Seventh Avenue  
P.O. Box 1930  
Pittsburgh, PA 15230-1930

Bruce A. Americus  
Samuel W. Braver  
Buchanan Ingersoll P.C.  
One Oxford Center, 20<sup>th</sup> Fl.  
301 Grant Street  
Pittsburgh, PA 15219-1410

Vickiren S. Aeschleman  
QST Energy  
300 Hamilton Blvd., Ste. 300  
Peoria, IL 61602

John Wilson, Exec. Director  
Community Action Assoc. of PA  
222 Pine Street  
Harrisburg, PA 17101

Sheila Hollis  
Mary Ann Ralls  
Stephanie Sugrue  
Duane, Morr & Hecksher, LLP  
1667 K Street, N.W., Ste. 700  
Washington, DC 20006-1608

Douglas F. John  
Gordon J. Smith  
Joelle Ogg  
John & Hengerer  
1200 17<sup>th</sup> Street, NW, Ste. 600  
Washington, DC 20036

Mary McFall Hopper  
Paul Bonney  
PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699

Donald A. Kaplan  
Lisa M. Helpert  
Preston Gates Ellis & Rouvelas Meeds, LLP  
Suite 500, 1735 New York Avenue, NW  
Washington, DC 20006-4759

Dr. Roger Odisio  
170 Drake Road  
Bethel Park, PA 15102

David Cruthirds  
Electric Clearinghouse  
1000 Louisiana Street, Ste. 5800  
Houston, TX 77002-5050

Timothy Moran  
IBEW, System Council U-10  
986 Greentree Road  
Pittsburgh, PA 15220

Rodney R. Akers  
Asst. City Solicitor, Dept. of Law  
313 City County Building  
414 Grant Street  
Pittsburgh, PA 15219

Deneice Covert Zeve  
Office of Attorney General  
14<sup>th</sup> Floor, Strawberry Square  
Harrisburg, PA 17120

Darlene Westfall, Agent  
564 Forbes Avenue  
Pittsburgh, PA 15219

Jim Ferlo, Councilman  
District 7  
510 City County Building  
414 Grant Street  
Pittsburgh, PA 15219

Allegheny Electric Cooperative  
212 Locust Street  
P.O. Box 1266  
Harrisburg, PA 17108-1266

Cynthia Datig  
Dollar Energy Fund  
P.O. Box 42329  
Pittsburgh, PA 15203

Harvey Marcus  
5644 Hempstead Road  
Pittsburgh, PA 15219

Lou Sauers  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
7<sup>th</sup> Fl., Barto Bldg.  
Harrisburg, PA 17105-3265

Honorable Ricahrd A. Kasunic  
Democratic Policy Chairman  
Senate of Pennsylvania  
Senate Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable Richard F. Vidmer  
Chairman  
Westmoreland County Commissioners  
101 Courthouse Square  
Greensburg, PA 15601

Honorable Patrick E. Fleagle  
90<sup>th</sup> Legislative District  
House Post Office Box 202020  
Main Capitol Building  
Harrisburg, PA 17120

John Molinda  
Wanda M. Schiller  
Strategic Energy Ltd.  
2 Gateway Center  
Pittsburgh, PA 15222-1458

Honorable Lawrence Roberts  
Pennsylvania House of Representatives  
51<sup>st</sup> District  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Robert L. Simpson  
Executive Director  
Crispus Attucks Assoc. Inc.  
605 South Duke Street  
York, PA 17403

Michael W. Krajovic  
Exec. Vice President  
Fay-Penn Economic Development Council  
Two West Main Street, Ste. 407  
P.O. Box 2101  
Uniontown, PA 15401

Jeffrey Bladen  
Manager, Corporate Development  
New Energy Ventures-Mid Atlantic  
1845 Walnut Street, Ste. 2525  
Philadelphia, PA 19103

Mary Rugh  
Facilities Management Division  
University of Pittsburgh  
Eureka Bldg., 3400 Forbes Ave.  
Pittsburgh, PA 15260

Honorable Michael R. Veon  
Pennsylvania State Representative  
Main Capitol Building  
House Box 202020  
Harrisburg, PA 17120-2020

Honorable Tim Murphy  
37<sup>th</sup> Senatorial District  
Senate Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable Susan Laughlin  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Honorable Frank Dermody  
Allegheny County Democratic Delegation  
801 Freeport Road  
Cheswick, PA 15024-1209

Honorable Francis J. Dermody  
600 Woodland Avenue  
Oakmont, PA 15139

Honorable Jack Wagner  
42<sup>nd</sup> District  
Seante Box 203042  
Harrisburg, PA 17120-3042

Honorable Melissa Hart  
40<sup>th</sup> Senatorial District  
Senate Post Office – Main Capitol  
Harrisburg, PA 17120

David E. Pomper  
Cynthia Bogorad  
Spiegel & McDiarmid  
1350 New York Avenue, NW, Ste. 100  
Washington, DC 20005

Honorable Anthony Deluca  
Allegheny County Democratic Delegation  
11609 Penn Hills Drive  
Pittsburgh, PA 15235-3329

Honorable David Levdansky  
Allegheny County Democratic Delegation  
112 Second Avenue  
Elizabeth, PA 15037-1539

Honorable Tom Michlovic  
Allegheny County Democratic Delegation  
519 Penn Avenue  
Turtle Creek, PA 15145

Honorable Ivan Itkin  
Allegheny County Democratic Delegation  
1148 Greenfield Avenue  
Pittsburgh, PA 15217-2953

Honorable Frank J. Pistella  
Allegheny County Democratic Delegation  
506 S. Millvale Avenue  
Pittsburgh, PA 15224-2118

Honorable Harry Readshaw  
Allegheny County Democratic Delegation  
5101 Old Clairton Road  
Pittsburgh, PA 15236

Honorable Susan Laughlin  
Allegheny County Democratic Delegation  
555 Merchant Street  
Ambridge, PA 15003-2464

Honorable Terry E. Van Horne  
Allegheny County Democratic Delegation  
1625 Fifth Avenue  
Arnold, PA 15068-4415

Honorable Frank Gigliotti  
Allegheny County Democratic Delegation  
2023 E. Carson Street  
Pittsburgh, PA 15203-1929

Honorable Tom C. Petrone  
Allegheny County Democratic Delegation  
179 Steuben Street  
P.O. Box 8557  
Pittsburgh, PA 15220

Honorable Richard D. Olasz  
Allegheny County Democratic Delegation  
3702 Greensprings Ave.  
West Mifflin, PA 15122-1753

Honorable Joseph Preston, Jr.  
Allegheny County Democratic Delegation  
6203 Penn Avenue  
Pittsburgh, PA 15206-4005

Honorable Dave Mayernik  
Allegheny County Democratic Delegation  
440 Perry Highway  
Pittsburgh, PA 15229

Honorable GERAL Lavalley  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Bea Schulte, Commissioner  
Dan Donatella, Commissioner  
County of Beaver, Board of Commissioners  
Beaver County Courthouse  
Beaver, PA 15009

Honorable Don Walko  
Allegheny County Democratic Delegation  
3722 Brighton Road  
Pittsburgh, PA 15212

Honorable Joseph Markosek  
Allegheny County Democratic Delegation  
4232 Northern Pike  
Monroeville, PA 15146-2732

Honorable Nicholas Colafella  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Honorable Michael R. Veon  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Dennis Bloom  
IBEW Local 272  
617 Midland Avenue  
Midland, PA 15059

Honorable G. Travaglio  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable V. J. Lescovitz  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable L. LaGrotta  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable H. William Deweese  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable J. Casorio, Jr.  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable T. Tangretti  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

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

David T. Kotecki, President  
Local 270  
Utility Workers Union of America  
4205 Chester Avenue  
Cleveland, OH 44103-3616

GPU Energy  
2800 Pottsville Pike  
Reading, PA 19640-0001

Honorable S. Steelman  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable J. Shaner  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable T. Harhai  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable P. Daley, II  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable A. Colaizzo  
Pennsylvania House of Representatives  
House Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable Albert Belan  
Senate of Pennsylvania  
Senate Post Office – Main Capitol  
Harrisburg, PA 17120

Honorable David Levdansky  
311 South Office Bldg.  
House Box 202020  
Harrisburg, PA 17120-2020

Honorable Jeffrey Haban  
House Box 202020  
Room 163B East Wing  
Harrisburg, PA 17120-2020

David E. Wightman, President  
Utility Workers Union of America  
220 Forbes Road, Ste. 210  
Braintree, MA 02184

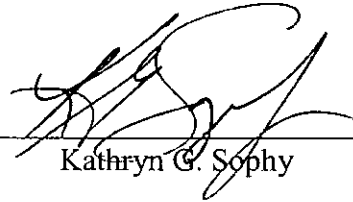
John L. Munsch  
Allegheny Energy  
800 Cabin Hill Drive  
Greensburg, PA 15601-1689

David Hodgden  
Ohio Public Utility Commission  
180 East Broad Street  
Columbus, OH 43215-3793

Carl Wood  
National Representative  
Utility Workers Union of America  
168 Amigos Way  
Fallbrook, CA 92028

James McCormick  
1940 Robert Road  
Meadbrook, PA 19046

Todd S. Stewart  
Malatesta Hawke & McKJeon LLP  
Harrisburg Energy Center  
100 North Tenth Street  
Harrisburg, PA 17101



---

Kathryn G. Sophy

Dated: July 24, 2000

RECEIVED  
00 JUL 24 PM 4:09  
PA P.U.C. BUREAU  
SECRETARY'S BUREAU

COMMONWEALTH OF PENNSYLVANIA



ORIGINAL

OFFICE OF SMALL BUSINESS ADVOCATE  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, Pennsylvania 17101

Bernard A. Ryan, Jr  
Small Business Advocate

(717) 783-2525  
(717) 783-2831 (FAX)

DOCUMENT  
FOLDER

July 25, 2000

HAND\_DELIVERED

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Room B-20, North Office Building  
P. O. Box 3265  
Harrisburg, PA 17105-3265

DOCKETED  
JUL 26 2000

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

Dear Secretary McNulty:

Answers to Duquesne's Petition for Approval of Plan for Post-Transition Period POLR Service were due July 24, 2000. On behalf of the Office of Small Business Advocate ("OSBA"), I am requesting an extension to 4:30 pm on July 27, 2000 to file our Answer to Duquesne's Petition for Approval. This extension is made necessary by my litigation obligations and other OSBA matters. I have contacted Ms. Kathleen Barron as counsel for Duquesne in this matter. She has no objection to this request.

Sincerely,

*Angela T. Jones*

Angela T. Jones  
Assistant Small Business Advocate

cc: All Parties of Record

Robert Rosenthal, Director  
Bureau of Fixed Utility Services

RECEIVED  
00 JUL 25 PM 2:38  
PA.P.U.C.  
SECRETARY'S BUREAU

39

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Duquesne Light Company :  
For Approval Of Its Restructuring Plan : Docket No. R-00974104  
Under Section 2806 Of The Public :  
Utility Code :

CERTIFICATE\_OF\_SERVICE

I certify that I am serving a copy of the foregoing document on behalf of the Office of Small Business Advocate by first class mail (unless otherwise indicated) upon the persons addressed below:

Robert Rosenthal, Director  
Fixed Utility Services  
Pa. Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265  
(hand delivered)

Tanya J. McCloskey, Esquire  
Steven K. Steinmetz, Esquire  
Office of Consumer Advocate  
555 Walnut Street 5th FL Forum Place  
Harrisburg, PA 17101-1923  
(717) 783-5048  
(717) 783-7152

Larry R. Crayne, Esquire  
Legal Unit  
Duquesne Light Company  
411 Seventh Avenue  
P.O. Box 1930  
Pittsburgh, PA 15230-1930  
(412) 393-6049  
(412) 393-6645 (fax)

David Kleppinger, Esquire  
Derrick P. Williamson, Esquire  
McNees, Wallace & Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
(Duquesne Industrial Intervenors)  
(717) 232-8000  
(717) 237-5300 (fax)

John S. Moot, Esquire  
Kathleen Barron, Esquire  
Skadden, Arps, Slate, Meagher & Flom LLP  
1440 New York Avenue, N.W.  
Washington, DC 20005-2111  
(202) 371-7310  
(202) 371-7939 (fax)  
(FAX and first class mail)

Stephen J. Baron  
J. Kennedy and Associates, Inc.  
Suite 475  
35 Glenlake Parkway  
Atlanta, GA 30328  
(Duquesne Industrial Intervenors)  
(770) 395-1288  
(770) 396-0151 (fax)

Leonard W. Belter, Esquire  
Raymond B. Wuslich, Esquire  
Winston & Strawn  
1400 L Street, N.W.  
Washington, DC 20005-3502  
(Allegheny Power)  
(202) 371-5700  
(202) 371-5950 (fax)

Patricia Armstrong, Esquire  
Thomas, Thomas, Armstrong & Nissen  
212 Locust Street, Suite 500  
P. O. Box 9500  
Harrisburg, PA 17108-9500  
(Allegheny Elec. Cooperative)  
(717) 255-7600  
(717) 236-8278 (fax)

John L. Munsch, Esquire  
Allegheny Power  
800 Cabin Hill Drive  
Greensburg, PA 15601  
(412) 838-6210  
(412) 838-6177 (fax)

Robert F. Young, Esquire  
Deputy General Counsel  
212 Locust Street  
P.O. Box 1266  
Harrisburg, PA 17108-1266  
(Allegheny Elec. Cooperative)  
(717) 233-5704  
(717) 236-0248 (fax)

Kandace F. Melillo, Esquire  
Wayne T. Scott, Esquire  
Office of Trial Staff  
Pa. Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17101  
(717) 787-1976

Stephen L. Feld, Esquire  
FirstEnergy Corp.  
76 South Main Street  
Akron, OH 44308  
(330) 761-4207  
(330) 384-3875 (fax)

Lauren S. McAndrews, Esquire  
Allegheny Teledyne, Inc.  
1000 Six PPG Place  
Pittsburgh, PA 15222-5479  
(412) 394-2974  
(412) 394-3010 (fax)

Thomas P. Gadsden, Esquire  
Morgan, Lewis & Bockius  
2000 One Logan Square  
Philadelphia, PA 19103  
(Penn Power Company)  
(215) 963-5234  
(215) 963-5299 (fax)

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

00 JUL 25 PM 2:38

RECEIVED

Scott J. Rubin, Esquire  
3 Lost Creek Drive  
Selinsgrove, PA 17870  
(Elec. Workers, Local 1600)  
(717) 743-2233  
(717) 743-8145 (fax)

Mary McFall Hopper, Esquire  
Assistant General Counsel  
PECO Energy Company  
2301 Market Street, S23-1  
Philadelphia, PA 19103  
(215) 841-4917  
(215) 568-3389 (fax)

Kenneth Zielonis, Esquire  
Stevens & Lee  
208 North Third Street  
Suite 310  
P.O. Box 12090  
Harrisburg, PA 17108-2090  
(717) 234-1250  
(717) 234-1939 (fax)

Brian A. Rider, President  
Pennsylvania Retailers' Assoc.  
224 Pine Street  
Harrisburg, PA 17101-1325  
(717) 233-7976

Cynthia S. Bogorad, Esquire  
Spiegel & McDiarmid  
Suite 1100  
1350 New York Avenue, N.W.  
Washington, DC 20005-4798  
(Utility Workers Union)  
(202) 879-4000  
(202) 393-2866 (fax)

Daniel Clearfield, Esquire  
Wolf, Block, Schorr & Solis-Cohen  
Locust Court Building  
212 Locust St., Suite 300  
Harrisburg, PA 17101  
(Enron Corp.)  
(717) 237-7160  
(717) 237-7161 (fax)

Kevin McKeon, Esquire  
Malatesta, Hawke & McKeon  
100 North Tenth Street  
P. O. Box 1778  
Harrisburg, PA 17105  
(Peoples Natural Gas Company)  
(717) 236-1300  
(717) 236-4841 (fax)

Howard M. Louik, Esquire  
Allegheny County Law Department  
300 Fort Pitt Commons  
445 Fort Pitt Boulevard  
Pittsburgh, PA 15219  
(Allegheny County)  
(412) 350-1182

Deneice Covert Zeve, Esquire  
Terry Lupia, Esquire  
Office of Attorney General  
14th Floor, Strawberry Square  
Harrisburg, PA 17120  
(717) 787-4530  
(717) 787-1190 (fax)

James Ferlo, Councilman  
510 City-County Building  
Pittsburgh, PA 15219

Sheila S. Hollis, Esquire  
Mary Ann Ralls, Esquire  
Duane, Morris & Heckscher LLP  
1667 K Street, N.W. Suite 700  
Washington, DC 20006-1608  
(QST Energy Inc.)  
(202) 776-7800  
(202) 776-7801 (fax)

Vickiren S. Aeschleman, Director  
Regulatory Policy  
QST Energy Inc.  
300 Hamilton Blvd., Suite 300  
Peoria, IL 61602  
(309) 655-1356

Environmental Energy Project  
Attorney of Record  
3700 Vartan Way  
Harrisburg, PA 17110  
(Environmentalists)  
(717) 540-5106  
(717) 541-1970 (fax)

John E. Stember, Esquire  
1705 Allegheny Building  
429 Forbes Avenue  
Pittsburgh, PA 15219  
(Low Income Advocates)  
(412) 338-1445  
(412) 232-3730 (fax)

Rodney R. Akers, Esquire  
City of Pittsburgh  
Department of Law  
313 City-County Building  
414 Grant Street  
Pittsburgh, PA 15219  
(412) 255-2015  
(412) 255-2285 (fax)

Samuel W. Braver, Esquire  
Bruce A. Americus, Esquire  
Buchanan Ingersoll Professional Corp.  
One Oxford Centre, 20th Floor  
301 Grant Street  
Pittsburgh, PA 15219-1410  
(City of Pittsburgh)  
(412) 562-8800  
(412) 562-1041 (fax)

Margaret H. Peters, Esquire  
Peoples Natural Gas Company  
625 Liberty Avenue  
Pittsburgh, PA 15222-3197  
(412) 497-6892  
(412) 497-6838 (fax)

David M. DeSalle, Esquire  
Ryan, Russell, Ogden & Seltzer LLP  
Suite 101  
800 North Third Street  
Harrisburg, PA 17102-2025  
(GPU Energy)  
(717) 236-7714  
(717) 236-7816 (fax)

Kenneth L. Wiseman, Esquire  
Andrews & Kurth LLP  
1701 Pennsylvania Avenue NW  
Washington DC 20006  
(Hospital Shared Services)  
(202) 662-2700  
(202) 662-2739 (fax)

Mark F. Sundback, Esquire  
Andrews & Kurth LLP  
1701 Pennsylvania Avenue NW  
Washington DC 20006  
(Administrative Resources, Inc.)  
(202) 662-2755  
(202) 662-2747 (fax)

Michael Reid, Director  
Materials Management Services  
Administrative Resources, Inc.  
500 Commonwealth Drive  
Warrendale, PA 15086-7513  
(412) 772-7223  
(412) 776-6969 (fax)

Mark J. McGuire, Esquire  
Ronald N. Carroll, Esquire  
Jenner & Block  
Suite 1200, 601 13th Street NW  
Washington DC 20005  
(MidCon Gas Services Corp.)  
(202) 639-6000  
(202) 639-6066 (fax)

Tim Merrill, Esquire  
Suite 200, 4 Penn Center West  
Pittsburgh, PA 15276  
(The Eastern Group)  
(412) 490-0925

Joseph A. Dworetzky, Esquire  
Hangley Aronchick Segal & Pudlin  
One Logan Square, Twelfth Floor  
Philadelphia, PA 19103-6933  
(New Energy Ventures)  
(215) 496-7014  
(215) 568-0300 (fax)

Mr. David M. Boonin  
New Energy Ventures, Inc.  
1845 Walnut Street, Suite 2525  
Philadelphia, PA 19103  
(215) 563-9290  
(215) 563-9292 (fax)

James D. Steffes  
Enron Power Marketing, Inc.  
Box 4428  
Houston, TX 77002  
(713) 853-7500  
(713) 646-8160 (fax)

Albert M. Benincasa, Esquire  
Director, Regulatory Affairs  
Skipping Stone  
46 9th Avenue  
Sea Cliff, NY 11579  
(516) 674-4186

Michael L. Kurtz, Esquire  
Boehm, Kurtz & Lowry  
2110 Society Bank Center  
36 East Seventh Street  
Cincinnati, OH 45202  
(Counsel for ARMCO)  
(513) 421-2255  
(513) 421-2764 (fax)

Robert B. Weisenmiller  
MRW & Associates, Inc.  
Suite 1440  
1999 Harrison Street  
Oakland, CA 94612-3517  
(Hospital Shared Services)  
(510) 834-1999  
(510) 834-0918 (fax)

Robert J. Stefanko, Esquire  
341 South Bellefield Avenue  
Pittsburgh, PA 15213  
(Pittsburgh School District)  
(412) 622-3780

Donald R. Ayersman, Jr., Esquire  
1125 Denver Avenue  
Morgantown, WV 26505  
(IBEW Local 2357)  
(304) 296-3958

Thomas J. Augspurger, Esquire  
MidCon Corporation  
Office of General Counsel  
701 East 22nd Street  
Lombard, IL 60148  
(MidCon Gas Services Corp.)

Craig Nifong  
MidCon Corporation  
3200 Southwest Freeway  
Houston, TX 77027

William T. Hawke, Esquire  
Malatesta, Hawke & McKeon LLP  
100 North Tenth Street  
P.O. Box 1778  
Harrisburg, PA 17101  
(Mid Atlantic Power Supply Assoc.)  
(717) 236-1300  
(717) 236-4841 (fax)


Paul E. Russell, Esquire  
Pennsylvania Power & Light Co.  
Two North Ninth Street  
Allentown, PA 18101-1179  
(610) 774-4254  
(610) 774-6726 (fax)

Donald A. Kaplan, Esquire  
Lisa M. Helpert, Esq.  
Preston Gates Ellis & Rouvelas Meeds  
Suite 500  
1735 New York Avenue, N.W.  
Washington DC 20006-4759  
(PP&L)  
(202) 628-1700  
(202) 331-1024 (fax)

Robert E. Cooper, P.E.  
Manager, Engineering Services  
The Pennsylvania State University  
Physical Plant Building  
University Park, PA 16802-1118

Roger Clark, Esquire  
The Environmentalists  
905 Denston Drive  
Ambler, PA 19002-3901  
(215) 643-2364  
(215) 628-2630 (fax)

John O'Brien, Esquire  
Wheeled Electric Power Company  
Suite 207  
50 Charles Lindburgh Boulevard  
Uniondale, NY 11553  
(516) 390-7600

  
Angela T. Jones  
Assistant Small Business Advocate

Date: July 27, 2000

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

1440 NEW YORK AVENUE, N.W.

WASHINGTON, D.C. 20005-2111

TEL: (202) 371-7000

FAX: (202) 393-5760

FIRM/AFFILIATE OFFICES

BOSTON  
CHICAGO  
HOUSTON  
LOS ANGELES  
NEWARK  
NEW YORK  
PALO ALTO  
SAN FRANCISCO  
WILMINGTON

BEIJING  
BRUSSELS  
FRANKFURT  
HONG KONG  
LONDON  
MOSCOW  
PARIS  
SINGAPORE  
SYDNEY  
TOKYO  
TORONTO

ORIGINAL

DOCUMENT  
FOLDER

DIRECT DIAL  
(202) 371-7049  
DIRECT FAX  
(202) 371-7914

July 26, 2000

RECEIVED

JUL 26 2000

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

VIA OVERNIGHT DELIVERY

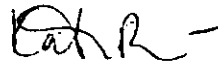
James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Post Office Box 3265  
North Office Building  
North Street and Commonwealth Avenue  
Harrisburg, Pennsylvania 17105-3265

Re: Duquesne Light Company, Docket No. R-00974104

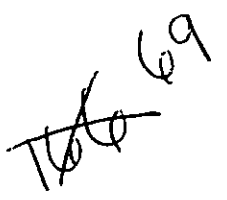
Dear Mr. McNulty:

Enclosed is an original and four copies of the Motion of Duquesne Light Company for Extension of Time in the above-captioned proceeding. Please date-stamp the extra copy and return it to me in the enclosed self-addressed, stamped envelope. Thank you for your consideration and assistance in this matter.

Sincerely,



Kathleen L. Barron  
Counsel to Duquesne Light Company



cc: Service List

**ORIGINAL**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY )  
COMMISSION )**

**v. )**

**Docket No. R-00974104**

**DUQUESNE LIGHT COMPANY )  
Application to Approve Restructuring )  
Plan Pursuant to 66 Pa.C.S. § 2806(d) )  
)**

**RECEIVED**

**JUL 26 2000**

**MOTION OF DUQUESNE LIGHT COMPANY )  
FOR EXTENSION OF TIME )  
PENNSYLVANIA PUBLIC UTILITY COMMISSION )  
SECRETARY'S BUREAU )**

Pursuant to 52 Pa. Code § 1.15, Duquesne Light Company

("Duquesne") hereby requests a short extension of time in which to file a reconciliation of proceeds from the auction of its generation assets. In support of its motion, Duquesne states as follows:

1. Pursuant to the Commission's April 13, 2000 order in this docket,

Duquesne must file a reconciliation of auction proceeds and transaction costs resulting from the divestiture of its generation assets, as well as a proposal for future reconciliation filings of competitive transition charge amortization. Duquesne originally offered to submit this filing 60 days after the auction closing, but requested a 30-day extension when the timing of the auction closing caused the reconciliation filing and Duquesne's "POLR II" petition to be due simultaneously. The Commission granted Duquesne's request for extension on June 22, 2000, holding that a short

**DOCUMENT  
FOLDER**

**DOCKETED  
JUL 27 2000**

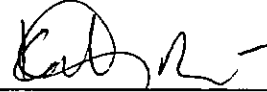
delay would "not affect the benefits to ratepayers of the \$1.705 billion purchase price for Duquesne's assets." June 22, 2000 Order at 3. The reconciliation is now due on July 27, 2000.

2. Duquesne is in the final stages of compiling the necessary support for the costs incurred as a result of the auction and in performing the complex calculations associated with the final accounting of stranded costs with auction proceeds. To prepare a full and complete submittal, it will take several more days to finalize this process. Duquesne expects that it will be able to submit the filing by August 4, 2000.

3. Good cause exists to grant Duquesne's request for an extension. No prejudice to other parties will result from a delay of several additional days. As the Commission previously noted, the benefits of the auction to Duquesne's ratepayers will not be affected if the filing is submitted several days later. Further, there is no time deadline by which the Commission must act on the filing.

WHEREFORE, Duquesne respectfully moves the Commission to issue an order extending to August 4, 2000 the period of time in which Duquesne must file the reconciliation of auction proceeds or submit a status report setting forth a date certain by which it will submit the filing.

Respectfully submitted,



---

John S. Moot  
Kathleen L. Barrón  
SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP  
1440 New York Avenue, N.W.  
Washington, D.C. 20005  
(202) 371-7310  
(202) 371-7012 (fax)

Dated: July 26, 2000

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY )  
COMMISSION )

v. )

DUQUESNE LIGHT COMPANY )  
Application to Approve Restructuring )  
Plan Pursuant to 66 Pa.C.S. § 2806(d) )

Docket No. R-00974104

RECEIVED

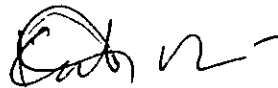
JUL 26 2000

PA. PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion of Duquesne Light Company for Extension of Time was served, by first class mail, upon the participants on the attached service list in accordance with Section 1.54 of the Commission's regulations.

Dated this 26<sup>th</sup> day of July, 2000.



Kathleen L. Barron  
SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP  
1440 New York Avenue, N.W.  
Washington, D.C. 20005  
(202) 371-7049

Counsel to Duquesne Light Company

Kenneth Zielonis  
Pennsylvania Retailers Association  
Stevens & Lee  
208 North Third Street, Suite 310  
P.O. Box 12090  
Harrisburg, PA 17108-2090

James P. Dougherty  
Pamela C. Polacek  
McNees, Wallace & Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108

Jacqueline R Morrow  
Assistant City Solicitor  
City of Pittsburgh  
313 City County Building  
414 Grant Street  
Pittsburgh, PA 15219

Angela T. Jones  
Office of Small Business Advocate  
Commerce Building, Suite 1102  
300 North 2nd Street  
Harrisburg, PA 17101

Edmund J. Berger  
Tanya McCloskey  
Office of Consumer Advocate  
555 Walnut Street, Forum Place,  
Fifth Floor  
Harrisburg, PA 17101-1921

Brian A. Rider  
President  
Pennsylvania Retailers' Association  
224 Pine Street  
Harrisburg, PA 17101-1325

Kandace F. Melillo, Esq.  
Wayne Scott, Esq.  
Office of Trial Staff  
PA Public Utility Commission  
901 N. 7th Street, Rear  
Third Floor, Pitnick Building.  
Harrisburg, PA 17105-3265

Stephen J. Baron  
J. Kennedy & Associates, Inc.  
570 Colonial Park Drive, Suite 305  
Roswell, GA 30075

Howard Louik  
Allegheny County Law Department  
300 Fort Pitt Commons  
445 Fort Pitt Boulevard  
Pittsburgh, PA 15219

Kenneth L. Wiseman  
P. Thompson  
M. Sundback  
R. Lamkin  
Andrews & Kurth, LLP  
1701 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

Exter Associates, Inc.  
12510 Prosperity Drive, Suite 350  
Silver Spring, MD 20904

David M. DeSalle  
Terrance J. Fitzpatrick  
Ryan, Russell, Ogden & Seltzer, LLP  
800 North Third Street, Suite 101  
Harrisburg, PA 17102-2025

Michael Reid  
Director, Materials Management  
Services  
Administrative Resources, Inc.  
500 Commonwealth Drive  
Warrendale, PA 15086-7513

Margaret Peters  
Peoples Natural Gas Co.  
625 Liberty Avenue  
Pittsburgh, PA 15222

Mark F. Sundback  
Andrews & Kurth, LLP  
1701 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

Michael L. Kurtz, Esq.  
Boehm, Kurtz & Lowry  
2110 CBLD Center  
36 East Seventh Street  
Cincinnati, OH 45202

Robert B. Weisenmiller  
MRW & Associates, Inc.  
1999 Harrison Street, Suite 1440  
Oakland, CA 94612-3517

Robert J. Stefanko  
341 South Bellefield Avenue  
Pittsburgh, PA 15213

John Stember  
Low Income Advocate Parties  
1705 Allegheny Building  
429 Forbes Avenue  
Pittsburgh, PA 15219

Stephen L. Feld  
FirstEnergy Corp.  
76 South Main Street  
Akron, OH 44308

Mark J. McGuire, Esq.  
Ronald Carroll, Esq.  
Jenner & Block  
601 13th Street, N.W.  
Suite 1200  
Washington, D.C. 20005

David Hughes  
4037 Ludwick Street  
Pittsburgh, PA 15217

James Cawley, Esq.  
(Mid-Atlantic Power Supply  
Association)  
Rhoads & Sinon, LLP  
One South Market Square, 12th Floor  
Harrisburg, PA 17101

Kevin McKeon, Esq.  
(Peoples Natural Gas Company)  
Malatesta Hawke & McKeon  
Harrisburg Energy Center, P.O. Box  
1778  
Harrisburg, PA 17101

Donald Ayersman, Jr.  
1125 Denver Avenue  
Morgantown, WV 26505

Tim Merrill  
The Eastern Group  
4 Penn Center West, Suite 200  
Pittsburgh, PA 15276

Thomas Gadsden  
Morgan, Lewis & Bockius  
2000 One Logan Square  
Philadelphia, PA 19103

Emmitt House  
Thomas J. Augspurger  
Office of General Counsel  
Midcon Gas Services Corp. and MC<sup>2</sup>,  
Inc.  
701 East 22nd Street  
Lombard, IL 60148

Joseph A. Dworetzky.  
John Lavelle, Jr.  
Luke Dembosky  
Hangley, Aronchick, Segal & Pudlin  
One Logan Square, 12th Floor  
Philadelphia, PA 19103

Roger E. Clark, Esq.  
Attorney for the Environmentalists  
905 Denston Drive  
Ambler, PA 19002-3901

Scott J. Rubin  
3 Lost Creek Drive  
Selinsgrove, PA 17870-9357

Paul Russell  
Pennsylvania Power & Light Co.  
2 North 9th Street  
Allentown, PA 18101

John O'Brien  
Wheeled Electric Power Co.  
50 Charles Lindburgh Boulevard  
Suite 207  
Uniondale, NY 11553

Lisa Yoho  
Enron Power Marketing, Inc.  
1400 Smith Street  
P.O. Box 4428  
Houston, TX 77002

Environmental Energy Project  
3700 Vartan Way  
Harrisburg, PA 17110

Patricia Armstrong  
Thomas, Thomas, Armstrong & Niesen  
212 Locust Street, Suite 500  
P.O. Box 9500  
Harrisburg, PA 17106-9500

David M. Boonin  
New Energy Ventures East, LLC  
1845 Walnut Street  
Suite 2525  
Philadelphia, PA 19103

Daniel Clearfield  
Gerald Gornish  
Alan Kohler  
T. Leshko  
Enron Power Marketing, Inc.  
212 Locust Street, Suite 300  
Locust Court Building  
Harrisburg, PA 17101

Brian Kalcic  
Excel Consulting  
225 S. Meramec Avenue, Suite 720-T  
St. Louis, MO 63105

Albert M. Benincasa  
Director, Regulatory Affairs  
Skipping Stone  
46 9th Avenue  
Sea Cliff, NY 11579

Larry R. Crayne  
Richard S. Herskovitz  
Duquesne Light Company  
411 Seventh Avenue, P.O. Box 1930  
Pittsburgh, PA 15230-1930

Bruce A. Americus  
Samuel W. Braver  
Buchanan Ingersoll, P.C.  
One Oxford Centre, 20th Floor  
301 Grant Street  
Pittsburgh, PA 15219-1410

Vickiren S. Aeschleman  
Director, Regulatory Policy  
QST Energy, Inc.  
300 Hamilton Blvd.  
Suite 300  
Peoria, IL 61602

John Wilson  
Executive Director  
Community Action Association  
of Pennsylvania  
222 Pine Street  
Harrisburg, PA 17101

Gary A. Jeffries  
CNG Energy Services Corporation  
One Park Ridge Center  
P.O. Box 15746  
Pittsburgh, PA 15244-0746

Sheila Hollis  
Mary Ann Ralls  
Stephanie Sugrue  
Duane, Morris & Heckscher LLP  
1667 K Street, N.W.  
Suite 700  
Washington, D.C. 20006

Douglas F. John  
Gordon J. Smith  
Joelle K. Ogg  
John & Hengerer  
1200 17th Street, N.W.  
Suite 600  
Washington, D.C. 20036-3006

Mary McFall Hopper, Esq.  
Paul Bonney, Esq.  
PECO Energy Company  
2301 Market Street, S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699

Donald A. Kaplan, Esq.  
Lisa M. Helpert, Esq.  
Preston, Gates, Ellis & Rouvelas  
Meeds LLP  
1735 New York Ave., N.W.  
Suite 500  
Washington, D.C. 20006-4759

Dr. Roger Odisio  
170 Drake Road  
Bethel Park, PA 15102

David Cruthirds  
Electric Clearinghouse, Inc.  
100 Louisiana, Suite 5800  
Houston, TX 77002-5050

Jim Ferlo  
Councilman  
District 7  
510 City-County Building  
Pittsburgh, PA 15219

Timothy Moran  
IBEW, System Council U-10  
986 Greentree Road  
Pittsburgh, PA 15220

Allegheny Electric Cooperative, Inc.  
212 Locust Street, P.O.Box 1266  
Harrisburg, PA 17108-1266

Rodney Akers  
Assistant City Solicitor, Department  
of Law  
City of Pittsburgh  
313 City-County Building  
Pittsburgh, PA 15219

Kenneth Maiman  
Andrews & Kurth L.L.P.  
805 Third Avenue, 7th Floor  
New York, NY 10022-7509

Deneice Covert Zeve, Esq.  
Terry Lupia, Esq.  
14th Floor Strawberry Square  
Harrisburg, PA 17120

Cindy Datig  
\$1 Energy Fund  
P.O. Box 42329  
Pittsburgh, PA 15203

Darlene Westfall  
Agent  
564 Forbes Avenue  
Pittsburgh, PA 15219

Harvey Marcus  
5644 Hempstead Road  
Pittsburgh, PA 15217

Lou Sauers  
Pennsylvania Public Utility  
Commission  
7th Floor Barto Building, P.O. Box  
3265  
Harrisburg, PA 17105-3265

The Honorable Lawrence Roberts  
Pennsylvania House of  
Representatives - 51st District  
House Post Office - Main Capitol  
Harrisburg, PA 17120

The Honorable Richard A. Kasunic  
Democratic Policy Chairman  
Senate of Pennsylvania  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

Robert L. Simpson  
Executive Director  
Crispus Attucks Association Inc.  
605 South Duke Street  
York, PA 17403

The Honorable Richard F. Vidmer  
Chairman  
Westmoreland County Commissioners  
101 Courthouse Square  
Greensburg, PA 15601

Michael W. Krajovic  
Executive Vice President  
Fay-Penn Economic Development  
Council  
Two West Main Street, Suite 407,  
P.O. Box 2101  
Uniontown, PA 15401-170

The Honorable Patrick E. Fleagle  
90th Legislative District  
House Post Office Box 202020 - Main  
Capitol Building  
Harrisburg, PA 17120-2020

Jeffrey M. Bladen  
Manager, Corporate Development  
New Energy Ventures East LLC  
1845 Walnut Street, Suite 2525  
Philadelphia, PA 19103

John E. Molinda  
Strategic Energy Ltd.  
2 Gateway Center  
Pittsburgh, PA 15222-1458

James E. Cawley  
Rhoads & Sinon  
Dauphin Bank Building, Twelfth Floor  
One South Market Square, P.O. Box  
1146  
Harrisburg, PA 17108-1146

Mary Rugh  
Facilities Management Division  
University of Pittsburgh  
Eureka Building, 3400 Forbes Avenue  
Pittsburgh, PA 15260

The Honorable Jack Wagner  
42nd District  
Senate Box 203042  
Harrisburgh, PA 17120-3042

The Honorable Michael R. Veon  
Pennsylvania State Representative  
Main Capitol Building, House Box  
202020  
Harrisburg, PA 17120-2020

The Honorable Melissa Hart  
40th Senatorial District  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

The Honorable Tim Murphy  
37th Senatorial District  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

David E. Pomper  
Cynthia S. Bogorad  
Speigel & McDiarmid  
1350 New York Avenue, N.W.  
Washington, D.C. 20005-4798

The Honorable Susan Laughlin  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

The Honorable Francis J. Dermody  
600 Woodland Avenue  
Oakmont, PA 15139

The Honorable Frank Dermody  
Allegheny Co. Democratic Delegation  
801 Freeport Road  
Cheswick, PA 15024-1209

The Honorable Anthony Deluca  
Allegheny Co. Democratic Delegation  
11609 Penn Hills Drive  
Pittsburgh, PA 15235-3329

The Honorable David Levdansky  
Allegheny Co. Democratic Delegation  
112 Second Avenue  
Elizabeth, PA 15037-1539

The Honorable Susan Laughlin  
Allegheny Co. Democratic Delegation  
555 Merchant Street  
Ambridge, PA 15003-2464

The Honorable Tom Michlovic  
Allegheny Co. Democratic Delegation  
519 Penn Avenue  
Turtle Creek, PA 15145

The Honorable Ivan Itkin  
Allegheny Co. Democratic Delegation  
6954 Reynolds Street  
Pittsburgh, PA 15208-2953

The Honorable Ivan Itkin  
Allegheny Co. Democratic Delegation  
1148 Greenfield Avenue  
Pittsburgh, PA 15217-2953

The Honorable Terry E. Van Horne  
Allegheny Co. Democratic Delegation  
1625 Fifth Avenue  
Arnold, PA 15068-4415

The Honorable Frank J. Pistella  
Allegheny Co. Democratic Delegation  
506 S. Millvale Avenue  
Pittsburgh, PA 15224-2118

The Honorable Frank Gigliotti  
Allegheny Co. Democratic Delegation  
2023 E. Carson Street  
Pittsburgh, PA 15203-1929

The Honorable Harry Readshaw  
Allegheny Co. Democratic Delegation  
5101 Old Clairton Road  
Pittsburgh, PA 15236

The Honorable Tom C. Petrone  
Allegheny Co. Democratic Delegation  
179 Steuben Street, P.O. Box 8557  
Pittsburgh, PA 15220

The Honorable Richard D. Olasz  
Allegheny Co. Democratic Delegation  
3702 Greensprings Avenue  
West Mifflin, PA 15122-1753

The Honorable Don Walko  
Allegheny Co. Democratic Delegation  
3722 Brighton Road  
Pittsburgh, PA 15212

The Honorable Joseph Preston, Jr.  
Allegheny Co. Democratic Delegation  
6203 Penn Avenue  
Pittsburgh, PA 15206-4005

The Honorable Joseph Markosek  
Allegheny Co. Democratic Delegation  
4232 Northern Pike  
Monroeville, PA 15146-2732

The Honorable Dave Mayernik  
Allegheny Co. Democratic Delegation  
440 Perry Highway  
Pittsburgh, PA 15229

The Honorable Nicholas Colafella  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

The Honorable Gerald Lavalley  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

The Honorable Michael R. Veon  
c/o R. David Myers  
16 East Wing  
Harrisburg, PA 17120

Bea Schulte, Commissioner  
Dan Donatella, Commissioner  
County of Beaver Board of  
Commissioners  
Beaver County Courthouse  
Beaver, PA 15009

Dennis Bloom  
IBEW Local 272  
617 Midland Avenue  
Midland, PA 15059

The Honorable G. Travaglio  
The Honorable V. J. Lescovitz  
The Honorable F. LaGrotta  
The Honorable H. William Deweese  
House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

The Honorable S. Steelman  
The Honorable J. Shaner  
The Honorable T. Harhai  
The Honorable P. Daley II  
The Honorable A. Colaizzo  
House of Representatives  
House Post Office - Main Capitol  
Harrisburg, PA 17120

The Honorable J. Casorio, Jr.  
The Honorable T. Tangretti  
House of Representatives  
House Post Office - Main Capitol  
Harrisburg  
PA, 17120

The Honorable Albert Belan  
Senate of Pennsylvania  
Senate Post Office - Main Capitol  
Harrisburg, PA 17120

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

The Honorable David Levdansky  
311 South Office Building, House Box  
202020  
Harrisburg, PA 17120-2020

David T. Kotecki  
President  
Local 270, Utility Workers Union of  
America  
4205 Chester Avenue  
Cleveland, OH 44103-3615

John Horton  
Senior Regulatory Analyst  
Midcon Corporation  
701 East 22nd Street  
Lombard, IL 60148

GPU Energy  
2800 Pottsville Pike  
Reading, PA 19640-0001

James Dougherty  
Robert Weishaar, Jr.  
Pamela Polacek  
David Kleppinger  
100 Pine Street, P.O. Box 1166  
Harrisburg, PA 17108-1166

Honorable Jeffrey Habay  
House Box 202020  
Room 163B East Wing  
Harrisburg, PA 17120-2020

David Hodgden  
Ohio Public Utility Commission  
180 East Broad Street  
Columbus, OH 43215-3793

David E. Wightman  
President  
Utility Workers Union of America  
220 Forbes Road, Suite 210  
Braintree, MA 02184

Carl Wood  
National Representative  
Utility Workers Union of America  
168 Amigos Way  
Fallbrook, CA 92028

John L. Munsch, Esq.  
Allegheny Energy, Inc.  
800 Cabin Hill Drive  
Greensburg, PA 15601-1689

W. Edwin Ogden, Esq.  
Jeffrey A. Franklin, Esq.  
Ryan, Russell, Ogden & Seltzer LLP  
1100 Berkshire Boulevard, Suite 301  
Reading, PA 19610-1221

Wanda M. Schiller, Esq.  
(Strategic Energy)  
Two Gateway Center  
Pittsburgh, PA 15222

James McCormick  
1940 Robert Road  
Meadbrook, PA 19046

Wolf, Block, Schorr and Solis-Cohen LLP

212 Locust Street  
Suite 300  
Harrisburg, PA 17101

T: 717 237 7160  
F: 717 237 7161  
www.wolfblock.com

DOCUMENT  
FOLDER

ORIGINAL

DANIEL CLEARFIELD  
DIRECT DIAL: (717) 237-7173  
E-MAIL: DCLEARFIELD@WOLFBLOCK.COM

July 26, 2000

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

RECEIVED  
00 JUL 26 PM 4: 26  
PA P.U.C.  
SECRETARY'S BUREAU

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

Dear Secretary McNulty:

Enclosed herewith for filing please find an original and three (3) copies of Enron Energy Inc's., Answer to the Petition of Duquesne Light Company in connection with the above-referenced matter. We have earlier requested a two (2) day extension of the deadline for filing this Answer. Copies of this Answer are being served on all parties as the attached certificate of service.

Should you have any questions please do not hesitate to contact me

Very truly yours,



Daniel Clearfield  
For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DC/md

cc: All Parties of Record

DSH:23314.1



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.

Kandace Melillo, Esq.  
Office of Trial Staff  
PA Public Utility Commission  
Pitnick Bldg., 3rd Fl.  
901 North 7th St, Rear  
Harrisburg, PA 17102

John S. Moot, Esq.  
Kathleen Barron  
Skadden, Arps, Slate, Meagher  
& Flom, LLP  
1440 New York Ave., NW  
Washington, DC 20005

Larry R. Crayne, Esquire  
Duquesne Light Company  
411 Seventh Ave.  
P.O. Box 1930  
Pittsburgh, PA 15230-1930

Angela T. Jones, Esquire  
Office of Small Business Adv.  
Suite 1102, Commerce Bldg.  
300 North Second Street  
Harrisburg, PA 17120

Brian Kalcic  
Excel Consulting  
Suite 720-T  
225 S. Meramec Ave.  
St. Louis, MO 63105

Mary Ann Ralls, Esquire  
Duane, Morris & Heckscher LLP  
Suite 700  
1667 K Street, NW  
Washington, DC 20006-1608

Scott J. Rubin, Esquire  
3 Lost Creek  
Selinsgrove, PA 17870

Mary McFall Hooper, Esq.  
PECO Energy Company  
2301 Market Street S23-1  
Philadelphia, PA 19103

Vickiren S. Aeshleman  
QST Energy Inc.  
Suite 300  
300 Hamilton Blvd.  
Peoria, IL 61602

David Hughes  
4037 Ludwick Street  
Pittsburgh, PA 15217

Brian A. Rider, President  
Pennsylvania Retailers' Assoc.  
224 Pine Street  
Harrisburg, Pa 17101-1325

Patricia Armstrong, Esquire  
Thomas, Thomas, Armstrong  
& Niesen  
212 Locust Street  
P.O. Box 9500  
Harrisburg, PA 17108-9500

PA P.U.C.  
SECRETARY'S BUREAU

00 JUL 26 PM 4:26

RECEIVED

Craig R. Kuennen, Ph.D.  
904 Melaleuca Ave., #N  
Carlsbad, CA 92009

Kenneth L. Wiseman, Esq.  
Mark F. Sundback, Esq.  
Andrews & Kurth, LLP  
1701 Pennsylvania Ave., NW  
Washington, DC 20006

Michael L. Kurtz, Esq.  
David F. Boehm, Esq.  
Boehm, Kurtz & Lowry  
2110 CBLD Center  
36 East Seventh Street  
Cincinnati, OH 45202

Thomas P. Gadsden, Esq.  
Morgan, Lewis & Bockius  
2000 One Logan Square  
Philadelphia, PA 19103-6993

David M. DeSalle, Esq.  
Ryan, Russell, Ogden & Seltzer, LLP  
800 N. Third St., Suite 101  
Harrisburg, PA 17102-2025

Robert B. Weisenmiller  
MRW& Associates, Inc.  
1999 Harrison St., Suite 1440  
Oakland, CA 94612-3517

Michael Reid, Director  
Materials Management Services  
Administrative Resources, Inc.  
500 Commonwealth Drive  
Warrendale, PA 15086-7513

Thomas J. Augspurger, Esq.  
Midcon Corporation  
Office of General Counsel  
701 East 22nd St.  
Lombard, IL 60148

William T. Hawke, Esq.  
Kevin J. McKeon, Esq.  
Malatesta, Hawke & McKeon  
100 North 10th St.  
P.O. Box 1778  
Harrisburg, PA 17108

Joseph A. Dworetzky, Esq.  
John P. Lavell, Jr., Esq.  
Hangley, Aronchick, Segal & Pudlin  
12th Fl., One Logan Square  
Philadelphia, PA 19103

Alan J. Barak, Esq.  
Environmentalists  
1417 Blue Mountain Parkway  
Harrisburg, PA 17112

Donald R. Ayersman, Jr., Esq.  
1125 Denver Avenue  
Morgantown, PA 26505

Mark J. McGuire, Esq.  
Ronald N. Carroll, Esq.  
Jenner & Block, Suite 1200  
601 13th St., NW  
Washington, DC 20005

Tim Merrill, Esq.  
4 Penn Center West, Suite 200  
Pittsburgh, PA 15276

Attorney of Record  
Environmental Energy Project  
3700 Vartan Way  
Harrisburg, PA 17110

Paul E. Russell, Esq.  
Pennsylvania Power and Light Company  
2 North 9th Street  
Allentown, PA 18101

David M. Boonin  
New Energy Ventures East, LLC  
1845 Walnut Street, Suite 2525  
Philadelphia, PA 19103

Roger Clark, Esq.  
The Environmentalists  
905 Denston Drive  
Andler, PA 19002-3901

Albert M. Benincasa, Esq.  
Director, Regulatory Affairs  
Skipping Stone  
46 9th Ave.  
Sea Cliff, NY 11579

Douglas F. John, Esq.  
John & Hengerer  
1200 17th St., NW, Suite 600  
Washington, DC 20036

John O'Brien, Esq.  
Wheeled Electric Power Company  
50 Charles Lindburgh, Blvd., Suite 207  
Uniondale, NY 11553

Rodney R. Akers, Esq.  
Assistant City Solicitor  
313 City-County Building  
414 Grant Street  
Pittsburgh, PA 15219

James P. Dougherty, Esq.  
Robert A. Weishaar, Esq.  
McNees, Wallace & Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108

Stephen J. Baron  
J. Kennedy & Assoc. Inc.  
Suite 475  
35 Glenlake Parkway  
Atlanta, GA 30328

Howard M. Louik, Esq.  
Allegheny County Law Dept.  
300 Fort Pitt Commons  
445 Fort Pitt Blvd.  
Pittsburgh, PA 15219

Robert J. Stefanko, Esq.  
341 South Bellefield Ave.  
Pittsburgh, PA 15213

Margaret Peters, Esq.  
The Peoples Natural Gas Co.  
625 Liberty Ave.  
Pittsburgh, PA 15222-3197

John Stember, Esq.  
Low Income Advocate Parties  
1705 Allegheny Bldg.  
429 Forbes Ave.  
Pittsburgh, PA 15219

Kenneth Zielonis, Esq.  
Stevens & Lee  
Suite 310  
208 North Third Street  
Harrisburg, PA 17108-2090

Stephen L. Feld, Esq.  
Pennsylvania Power Co.  
1 East Washington Street  
P.O. Box 891  
New Castle, PA 16103-0891

Exeter Associates, Inc.  
Suite 350  
12510 Prosperity Drive  
Silver Springs, MD 20904

Donald A. Kaplan, Esq.  
Lisa M. Helpert, Esq.  
Preston, Gates, Ellis & Rouvelas,  
Meeds, LLP  
Suite 500

1735 New York Ave., NW  
Washington, DC 20006-4759

Gary A. Jeffries, Esq.  
CNG Energy Services Corp.  
One Park Ridge Center  
P.O. Box 15746  
Pittsburgh, PA 15244-0746

David Cruthirds, Esq.  
Electric Clearinghouse, Ins.  
Suite 5800  
100 Louisiana  
Houston, TX 77002-5050

Keith M. Sappenfield, II  
Director of Marketing Support  
NorAm Energy Management Inc.  
P.O. Box 2628  
Houston, TX 77252-2628

John R. Orr, Esq.  
Duke Energy Trading & Marketing, LLC  
One Westchester Center  
Suite 650  
10777 Wesheimer  
Houston, TX 77042

Lawrence E. Moncrief, Esq.  
1364 Silverton Ave  
Pittsburgh, PA 15206

Samuel W. Braver, Esq.  
Bruce A. Americus, Esq.  
BUCHANAN INGERSOLL P.C.  
One Oxford Centre, 20th Floor  
301 Grant Street  
Pittsburgh, PA 15219-1410

Irwin A. Popowsky, Esquire  
Marisa A. Sifontes, Esquire  
Office of Consumer Advocate  
Office of Consumer Advocate  
Forum Building, 5th Floor  
555 Walnut Street  
Harrisburg, PA 17101-1923

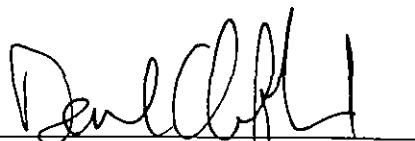
John Wilson, Executive Director  
Community Action Assoc. of PA  
222 Pine Street  
Harrisburg, PA 17101

Mark F. Sundback  
Robert M. Lamkin  
Andrews & Kurth, LLP  
1701 Pennsylvania Ave., N.W.  
Washington, DC 20006

Wanda Schiller  
Steven Baicker-McKee  
Babst, Calland, Clements & Zomnir PC  
8th Floor, Two Gateway Center  
Pittsburgh, PA 15222

Douglas C. Smith  
La Capra Associates  
333 Washington Street  
Boston, MA 02108

Date: July 26, 2000

  
Daniel Clearfield

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY )  
COMMISSION )

v. )

Docket No. R-00974104 )

DUQUESNE LIGHT COMPANY )  
Application to Approve Restructuring )  
Plan Pursuant to 66 Pa. C.S. § 2806 (d) )

---

RESPONSE OF ENRON ENERGY SERVICES, INC. TO  
DUQUESNE'S PETITION FOR APPROVAL OF POLR II PLAN

---

DOCUMENT  
FOLDER

DOCKETED

JUL 27 2000

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

00 JUL 26 PM 4:28

RECEIVED

Daniel Clearfield  
Wolf, Block, Schorr & Solis Cohen LLP  
212 Locust Street, Suite 300  
Harrisburg, PA 17101-  
(717) 237-7160

Dated: July 21, 2000

## I. INTRODUCTION AND BACKGROUND

Enron Energy Services, Inc., ("Enron"), a licenced electric generation service provider (EGS), in the Commonwealth of Pennsylvania, presents this response to the Petition of Duquesne Light Company ("Duquesne") for approval of a plan for post transition period POLR service. Enron supports Duquesne's plan, with the proposed modifications suggested herein, because, overall, it provides a reasonable transition to a fully deregulated, post-stranded cost recovery environment in the Duquesne service territory. While, from Enron's standpoint, there are aspects of the plan that could be improved, the plan represents a reasonable first step towards the creation of a fully deregulated competitive market where prices for electric generation are based on market conditions and competitive offers -- not on regulatory fiat. We believe this is what the legislature envisioned.

The most important aspect of the POLR II plan from Enron's standpoint is Duquesne's proposal to establish a market-based POLR service in 2004 for large commercial and industrial customers.<sup>2</sup> While a POLR or a default service will likely continue to exist for customers for sometime, it is essential that it be structured in a way that allows for the development of a fully functioning market and does not act as a competitive damper any longer than absolutely necessary. A fixed, regulatorily derived POLR service gives incumbents an unfair competitive advantage, frequently creating an unbeatable "price to compare" for competing EGSs when wholesale market prices increase -- as they have recently -- while manufacturing potentially

---

<sup>2</sup> Rate classes, LGL, GLH and HVPS.

unrecoverable costs for the EDC itself. This is particularly true where the EDC no longer owns its generating assets.

Make no mistake, Enron would like to see the establishment of market-based rates for all customer classes as soon as Duquesne has completed its CTC recovery. However, in the interest of compromise, Enron is willing to accept Duquesne's proposal to establish a market-based POLR rate for large industrial and commercial customers— identical to the kinds of rates that have been agreed to in other states. Enron believes that this is a good first step that will turbo charge the competitive market for the customers who, by all indications, are the most capable of participating in such a market, while, at the same time, sending accurate price signals to generation suppliers and creating a fairer cost recovery system in a manner consistent with the mandates of the Electric Competition Act.<sup>3</sup> The Commission should approve this aspect of the plan and, as well, order that it will conduct an investigation of the propriety of extending it to other classes closer to the time that the market based POLR pricing would go into effect.

In addition, Duquesne's Plan to extend the cap on transmission service rates should include a representation – which Duquesne agreed to make during the informal collaborative process – that transmission service for the delivery of POLR power will be provided pursuant to Duquesne's OATT, as well as pursuant to the requirements of Order No. 889 respecting OASIS and standards of conduct.

**II. Duquesne's Proposal To Establish Market Based POLR Service For Large Industrial And Commercial Customers Starting In 2004 Is A Key Element Of The POLR II Proposal and Should be Approved**

---

<sup>3</sup> Cite to Electric Competition Act

The success of Duquesne's generation asset auction created new regulatory issues. Principally, the Company, the PUC and other stakeholders must confront, for the first time in Pennsylvania, the nature and structure of a competitive electric market in a post stranded cost recovery environment, specifically, default service.

The *quid pro quo* of stranded cost recovery from a customer standpoint was the establishment of caps on the rate that EDCs could charge for "Provider of Last Resort" ("POLR") service. Once stranded cost recovery has been completed, however, – as it will be for Duquesne starting in 2001 – the legal and policy justification for establishing some PUC- fixed sanctioned price for POLR service will be eliminated. The Electric Competition Act makes this clear, specifically providing that rate caps will exist "until an electric distribution utility is no longer recovering its transition or stranded costs through a competitive transition charge or intangible transition charge. . ." 66 Pa. C.S. § 2804(4)(ii). Once all stranded costs are recovered the POLR default service is governed by 66 Pa. C.S. § 2807(e)(3) which states:

If a customer contracts for electric energy and it is not delivered or if a customer does not choose an alternative electric generation supplier, an electric distribution company or Commission approved alternatives supplier shall acquire electric energy at prevailing markets prices to serve that customer and shall recover fully all reasonable costs. (Emphasis added.)

Accordingly, the Act clearly contemplates that once CTC is fully recovered, Duquesne's POLR service should be priced at rates that reflect "prevailing market rates" and "all reasonable costs."

The policy justification for market-based pricing of the POLR service in a post-stranded cost recovery environment should be clear. The General Assembly wisely projected that retail electric generation markets would not become fully competitive until customers were no longer

burdened with stranded cost payments. By the time those payments were completed, they contemplated, the markets would have had time to develop standard costs paid, so that they would not be dependent on the EDC's POLR service, competition that would become far more robust once the arbitrary, stranded cost recovery mechanism was gone. At that point, the Act provides that the EDC's POLR or "default" service should reflect the market price to costs of actually providing the service, in the same way that EGSs have always been required to do. This allows all market participants to participate on equal footing. Just as important, it sends accurate price signals to the market so that generation suppliers can make rational decisions about offering future supply options and customers can accurately judge the value of conservation, self supply and alternative pricing.

Without this transition, the competitive market will never reach its full potential. EGSs will continue to be subject to a kind of "Monte Carlo Night" scenario: if wholesale generation costs are lower than the POLR rate (i.e., the shopping credit), attractive and competitive offers can be provided and robust competition will start to develop; however, when wholesale energy prices soar above the fixed, regulatorily established shopping credit, competitive offers become impossible and competition evaporates. This has been observed most vividly in the flight of Duquesne customers from EGSs back to Duquesne's POLR service in anticipation of price spikes in the wholesale market this summer. Indeed, even before this summer, the wholesale market had sky rocketed to the point that competitive offers were very difficult.

This not only provides a unfair competitor advantage to the EDC in terms of retaining customers, it also sends incorrect price signals to the market, impeding future generation construction and customer self supply decisions. If these decisions are influenced by artificially

low retail prices, capital will simply go elsewhere and customers ultimately will suffer from even higher prices and possibly generation shortages.

The EDC, on the other had, while retaining customers on its POLR service, can also be injured because of arbitrary caps on its ability to recover increases in power and associated costs. Unless it owns its own generator that can produce power to serve POLR load at costs below the market, or, as in Duquesne's case, it has retained the right to obtain power at the fixed POLR prices, EDCs will be just as disadvantaged from the continued existence of arbitrary rate caps as EGSs frequently find themselves. While Duquesne is presently able to avoid losses because of its contract with Orion, that situation will not last forever. Once Orion is free to sell the power into the competitive market (in 2004, under the POLR II proposal) Duquesne's ability to continue to provide service at a fixed shopping credit significantly below the actual market price will disappear.

Accordingly, movement away from fixed, non-market based POLR pricing is essential for the continued health of the Pennsylvania electric generation market. These reforms are probably justified now but certainly, they need to accompany the pay-off of stranded costs in each service territory. Arguably, therefore, Duquesne's plan – in which a market based POLR rate plan isn't imposed until two years after all of Duquesne's stranded costs are paid off and then only for Duquesne's largest customers – is only a first step and should be completely acceptable to the Commission. Part of the reason that this transitional approach makes sense is that, because of the speed with which Duquesne's stranded costs have been recovered, there are legitimate concerns about the existence of a fully competitive wholesale market that Duquesne's competitors can access in order to procure power at rates that make it possible for them to make

competitive pricing offers to customers. While the existence of such a market sufficient to supply all of Duquesne's POLR load may not exist today, it certainly should exist by 2004, at least for the load represented by Duquesne's largest customers. Indeed, as part of its approval of the POLR II plan, the Commission should urge Duquesne to take all steps in its power to encourage the establishment of such a fully competitive wholesale power market. Even so, the Duquesne POLR II plan includes an "escape clause," making the market based POLR pricing option contingent upon the existence of a "visible, liquid wholesale market." This determination, which obviously must be left to the PUC after hearing from all interested parties, should remove any concern that large customers might have about being subject to excessive monopoly pricing. So long as wholesale power exists within Duquesne's market, EGSs should be able to provide alternative supply options to the largest customers in Duquesne's service territory. Indeed, since the POLR "market price" will be based upon an "average" wholesale market price for power, adjusted for retail costs, including a 5 mil retail service cost adder,<sup>4</sup> Duquesne's competitors

---

<sup>4</sup> Duquesne incorrectly characterizes the 5 mils as "an incentive" to encourage shopping. In fact, the charge reflects a representative level of retail costs that Duquesne will incur in providing service to customers and most likely understates those costs. Note that the formula for establishing the market-based POLR rate is devoid of any other element to capture retail billing, customer service, marketing and a share of administrative and general overhead. A POLR rate without this retail cost add-on would constitute a below cost, anti-competitive subsidy to customers. For example a virtually identical formula established for BGE's POLR service imposes a retail cost adder of 7 mils. Notably, the pricing structure mandated in the Electric Competition Act indicates that the post – CTC POLR price should be the wholesale price of power plus all reasonable costs incurred by the POLR provider. 66 Pa. C.S. § 2807 (e)(3).

should have sufficient potential to propose innovative pricing options that would save customers money and provide value added services.<sup>5</sup>

A very similar pricing formula has already been agreed to by a Maryland utility – BGE – in its settlement of its restructuring case. The default service agreed to there similarly applies to BG&E’s non-residential customers, at rates which reflect monthly changes in wholesale costs, together with retail cost “add-ons.”<sup>6</sup> Thus, the approach that will not be implemented for Duquesne until 2004, and then only for Duquesne’s largest customers, will be in place once the BGE market is open to competition for all non-residential customers. This should give the PUC added comfort that Duquesne’s proposal is reasonable.

In summary, the advantages of Duquesne POLR II proposal are several. Most importantly, it begins the process of transitioning to a non-regulated, electric generation market that will release the full potential of competition, assure that those who are contemplating supplying new generation will have accurate price signals and enhance the price and supply options for customers. Moreover, by focusing on large and commercial customers first, the plan will allow the Commission to gain experience with market based pricing in the context of the most sophisticated energy shoppers. That experience not only will assist in moving towards a market based system for all Duquesne customers but will set the stage for similar transitions for

---

<sup>5</sup> Indeed, since, in 2004, Duquesne will have no better access to the wholesale power market than any other entity, it is hard to see how any other pricing approach could be instituted and still be fair to all concerned.

<sup>6</sup> BGE Stipulation and Settlement Agreement, ¶ 17 (attached hereto as Attachment A). This default pricing plan applies to industrial customers in two years and to large commercial customers four years after the market opens.

all other EDCs, transitions that will eventually be necessary as stranded cost recovery is completed. This part of Duquesne's plan especially should be approved.

**III. The Commission Should Order That In 2004 It Will Initiate a Review of Whether Market-Based POLR Pricing Should Be Established For Other Customer Classes.**

As indicated above, there is ample legal and policy justification for supporting the establishment of market-based POLR pricing for all customer classes in four years – not just the largest industrials and commercials. Enron is accepting the limitations in the POLR plan, however, in recognition that, while not ideal, it is a critical step in the right direction. The Commission should take this opportunity, however, to declare as its policy goal the establishment for all classes of a POLR rate formula that sends accurate and timely price signals to customers and should declare in this docket that it will examine whether the market-based pricing approach could legitimately be extended to other customer classes. That review should begin the same time that the market based approach for large customers is reviewed – six months before January, 2004, if not sooner.

**IV. The Duquesne POLR II Plan Should Contain a Promise That Duquesne Will Provide Equal Transmission Access To All Load Serving Entities In Its Service Territory**

During the informal collaborative process, Duquesne agreed with Enron to add language to its Plan that clarified that Duquesne's provision of POLR service would be pursuant to the same transmission service tariffs and rules as are applicable to all other load serving entities in its service territory. This is important to assure that Duquesne does not utilize its position as POLR provider (now extended beyond the period at which the PUC was to consider eliminating POLL service altogether) to gain or maintain an unfair competitive advantage vis-a-vis other

competitive suppliers. One way that this has occurred in other service territories is when the EDC utilizes its position as POLR provider to obtain special or discriminatory transmission access. To assure that this doesn't occur, Duquesne should be urged to incorporate the following representation in its POLR plan and its FERC OATT tariff:

Duquesne and/or an affiliate will provide transmission service for the delivery of all power including POLR service and to any affiliates or any non-affiliated electric suppliers only under this [OATT] transmission tariff, as well as the OASIS and Standards of Conduct requirements promulgated by the FERC.

### **Conclusion**

The PUC should approve the Duquesne POLR II plan and particularly its proposal to establish a market based rate setting plan for the POLR service available to large industrial and commercial customers.

Respectfully submitted,



---

Daniel Clearfield, Esquire  
Wolf, Block, Schorr and Solis-Cohen LLP  
212 Locust Street, Suite 300  
Harrisburg, PA 17101  
(717) 237-7160

Dated: July 21, 2000

# ATTACHMENT A

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF MARYLAND

In the Matter of the Baltimore Gas And  
Electric Company's Proposed:  
(a) Stranded Cost Quantification  
Mechanism; (b) Price Protection  
Mechanism; and (c) Unbundled Rates

Case Nos. 8794/8804

In the Matter of the Petition of the Office  
of People's Counsel for a Reduction in the  
Rates and Charges of the Baltimore Gas  
and Electric Company

STIPULATION AND SETTLEMENT

AGREEMENT

Baltimore Gas and Electric Company ("BGE"), Maryland Industrial Group and Millennium Inorganic Chemicals, Inc., Maryland Retailers Association, Building Owners and Managers Association of Baltimore, Inc., The Johns Hopkins University and Johns Hopkins Health System Corporation, Department of Defense/Federal Executive Agencies, Board of County Commissioners of Calvert County, Maryland, Maryland Energy Administration, The Power Plant Research Program of the Maryland Department of Natural Resources, Maryland Office of People's Counsel ("OPC"), Enron Energy Services, Inc., National Railroad Passenger Corporation, and the Staff of the Maryland Public Service Commission (individually and collectively referred to as the "Settling Parties"), agree as follows:

transition cost payment(s) pursuant to Paragraph 2 and shall not pay the CTC charge applicable under the customer's newly chosen option.

#### IV.

##### Standard Offer Service

11. Standard Offer Service ("SOS") is an electric supply service that BGE will provide to customers pursuant to Code Section 7-510(C). The SOS provided by BGE shall include energy, capacity, line losses, transmission and related ancillary services.
  
12. BGE will provide two forms of Standard Offer Service: (1) Standard Offer Price Freeze Service ("PFS") and (2) Standard Offer Default Service ("DS").  
Notwithstanding the provision of two forms of SOS, all SOS customers are free to choose a supplier other than BGE at any time, except that PFS customers are subject to the provisions of Paragraph 14.
  
13. PFS is electric supply provided by BGE to certain customers at a set price(s) for a fixed period of time. On July 1, 2000, customers on Schedules R, ES and RL will be PFS customers through June 30, 2006 unless served by an alternative supplier. In addition, the following customers are eligible for PFS: all customers on Schedules G, GS, GL Option 2, P Options 2 and 3, and NRP Options 1 and 4. On July 1, 2000, customers on Schedules G, GS and customers that elect or are deemed to have elected Schedule GL Option 2, Schedule P Options 2 and 3, or

Schedule NRP Options 1 and 4 will be deemed to be PFS customers, as will those customers that are presumptively PFS customers under Paragraphs 29, 30, and 31.

14. A PFS customer may leave PFS at any time and may later return to the same PFS schedule or option if the customer signs a contract for PFS for: (a) at least a one-year term; or (b) the remaining term on BGE's price freeze obligation to other customers on the same PFS schedule or option, whichever is less. A residential customer returning to PFS will not be required to sign a contract, but will be bound by the preceding provisions relating to the term of PFS. Notwithstanding the foregoing, if a supplier defaults, a residential customer will return to PFS and may choose an alternative supplier at any time. Notwithstanding the foregoing, if a supplier defaults, a former non-residential PFS customer may return to PFS, if available, for an initial period of up to 90 days during which time the PFS customer may choose another alternative supplier. At the end of 90 days, any such non-residential PFS customer that has not selected an alternative supplier or signed a PFS contract shall be deemed to be a PFS customer for the remainder of a one-year term or the remaining term on BGE's price freeze obligation to other customers on the same PFS schedule or option, whichever is less. For purposes of this Paragraph, a supplier default occurs when the Office of the Interconnection of the PJM Interconnection L.L.C. ("PJM") has notified PJM members that the supplier is in default. BGE agrees to notify the Commission of this default promptly after receiving such notice from PJM. The Settling Parties agree that

this Paragraph shall have no precedential impact in any Commission proceeding except with regard to BGE.

15. PFS rates are set forth in Appendix A.
  
16. DS is electric supply to be provided by BGE at formula prices as referenced in Paragraph 17, to those non-residential customers who are not PFS customers and, after the initial implementation date of customer choice: (a) contract for electricity with an electricity supplier and it is not delivered; (b) cannot arrange for electricity from an electricity supplier; or (c) do not choose an electricity supplier. In addition, DS is also provided to those non-residential customers who have been denied service or referred to SOS by an electricity supplier in accordance with Code Section 7-507(E)(6).
  
17. DS rates shall be set in accordance with a tariff which will be filed for Commission approval prior to implementation of customer choice. The tariff shall contain a formula that reflects only the following components, or their functional equivalents in the future: the PJM locational marginal price for energy for the BGE zone, the PJM posted and verifiable market capacity price, transmission, ancillary services, line losses, appropriate taxes, and a fixed retail adder of 7 mills per kWh. DS rates may vary by customer class and shall reflect actual costs. The floor price for DS will be the applicable PFS rate, if such a rate

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF SMALL BUSINESS ADVOCATE  
Suite 1102, Commerce Building  
300 North Second Street  
Harrisburg, Pennsylvania 17101

ORIGINAL

(717) 783-2525  
(717) 783-2831 (FAX)

Bernard A. Ryan, Jr  
Small Business Advocate

July 27, 2000

HAND DELIVERED

DOCUMENT  
FOLDER

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Room B-20, North Office Building  
P. O. Box 3265  
Harrisburg, PA 17105-3265

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

Dear Secretary McNulty:

Enclosed for filing are an original and three (3) copies of the Answer of the Office of Small Business Advocate to the Petition of Duquesne Light Company for Approval of Post-Transition Period POLR Service.

As evidenced by the enclosed certificate of service, a copy has been served on all parties to this proceeding.

Sincerely,

*Angela T. Jones*

Angela T. Jones  
Assistant Small Business Advocate

55

Enclosures

cc: Parties of Record

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

00 JUL 27 PM 2: 26

RECEIVED

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**ORIGINAL**

Application of Duquesne Light Company :  
For Approval Of Its Restructuring Plan : Docket No. R-00974104  
Under Section 2806 Of The Public :  
Utility Code :

**DOCUMENT  
FOLDER**

**DOCKETED**  
JUL 27 2000

ANSWER OF THE  
OFFICE OF SMALL BUSINESS ADVOCATE

**RECEIVED**  
00 JUL 27 PM 2:26  
PA.P.U.C.  
SECRETARY'S BUREAU

**I. INTRODUCTION**

The Petition of Duquesne Light Company For Approval of Post-Transition Period POLR Service (Petition) was filed with the Pennsylvania Public Utility Commission (Commission or PUC) by Duquesne Light Company (Duquesne or Company) on June 30, 2000 pursuant to the Commission's Order entered April 13, 2000 at Docket No. A-00110150F0023 (relating to the auction by which Duquesne's generation assets were sold to Orion Power Mid West, L.P). An accurate and detailed description of the events leading to this filing is set forth in the INTRODUCTION and BACKGROUND sections of the Petition (at pages 2-12).

The Office of Small Business Advocate (OSBA) commends Duquesne for its considerable efforts to develop and present a fair and workable plan for dealing with the very important issues the Commission (and indeed all stakeholders) confront as a result of the sooner-than-expected end to the competitive transition period for Duquesne and its customers. The OSBA continues to believe that certain of those proposals should be modified in the manner previously discussed with Duquesne. However in the spirit of compromise that characterized

the collaborative effort in filing the Petition, the OSBA will accept the POLR service plan as set forth with qualification. The OSBA asks only that the Commission consider the following comments and request for clarification when reviewing the Petition.

## II. COMMENT AND REQUEST FOR CLARIFICATION

### A. Rate GS/GM

As to the OSBA's request for a "modest redesign of rates within Class GS/GM" (Petition, p. 14)<sup>1</sup>, the OSBA offers these brief comments to provide the rationale for the rate design changes it asked Duquesne to make prior to the filing of the Petition.<sup>2</sup>

During the collaborative process the OSBA reviewed Duquesne's initial proposal calling for a levelized POLR II rate design for Rate GS/GM. That analysis revealed that the first block (customers that use up to 550 kWh) implicit shopping credit would have risen from 11.2731 cents per kWh at the expiration of POLR I to 13.5843 cents under the Company's original proposal.<sup>3</sup> Both of those levels far exceed the POLR II GS/GM class average shopping credit target of 6.1837 cents per kWh. As a matter of intra-class equity, the OSBA then asked that the first block (energy) and the corresponding kW (demand) POLR II

---

<sup>1</sup>In reality, the POLR II proposal embodied in the Petition involves a redesign of the rates for **all** customer classes, not just Rate GS/GM, because Duquesne via this Petition seeks to increase the generation rates paid by all customer classes beyond their POLR I levels. In that light, the OSBA simply asked Duquesne to make revisions to its own initial redesign of the GS/GM rates.

<sup>2</sup>In reviewing the Rate GS/GM rates that are found in Appendix 1 to the Petition, the OSBA noted that the GS/GM rates contain a small rounding error, an error that necessitates a small reduction in the first block energy charge (from the reported level of 7.7963 cents to 7.7772 cents per kWh). The OSBA contacted Duquesne regarding this matter prior to filing this Answer but has had no formal response from the Company as yet.

<sup>3</sup> Both of these figures incorporate the average demand-charge related shopping credit associated with a 15 kw customer at a 20% load factor. These shopping credits are, of course, also the generation rates that will be charged by the POLR service provider to those customers who can not or do not take service from a competitive EGS.

generation rates/shopping credits be held at POLR I levels under the new POLR II plan. This request was specifically intended to protect the smallest and most vulnerable GS/GM customers until a truly robust competitive generation market becomes available to them.

Citing concerns regarding revenue adequacy and the possibility that the OSBA's requested revision might be seen as a disincentive for small customer shopping, Duquesne moved only half-way towards the OSBA's position when it filed the Petition. The OSBA does not agree that either of Duquesne's concerns are warranted. Certainly, one can not argue that a Rate GS/GM first block POLR generation rate/shopping credit in excess of the 11.2731 cent POLR I level is necessary to promote competition. The full shopping credit (i.e., the combination of the energy and demand credits) associated with the first 550 kWh of energy usage under Duquesne's 50% compromise proposal could very well exceed 12.41 cents (depending on the customer's load factor), a level that still remains far above both the class and system average shopping credits. Nevertheless, the OSBA will not challenge Duquesne's determination to implement only half of the OSBA's proposed adjustment in the GS/GM rate blocks if the remainder of Duquesne's POLR II plan set forth in the Petition is approved by the Commission.

**B. Summer 2000**

As an alternative to requiring customers who return to POLR service in the summer of 2000 either to (i) stay with POLR service for 12 months, or (ii) pay a generation rate adjustment (GRA), Duquesne has proposed to calculate the GRA associated with all such customers and then apply that total against the auction proceeds. The ultimate effect of Duquesne's approach would be to extend the CTC for a short period, perhaps 30 days or so.

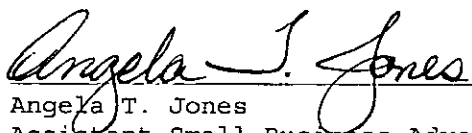
While Duquesne is not specific in this regard, the OSBA recommends that if the Commission does not wish to have Orion separately bill returning customers

for their respective GRA charges, Duquesne should directly assign the foregone GRA revenues to the rate class(es) associated with those returning customers. The extent to which a given class' CTC collection period is prolonged would then be a function of the number of customers within that class who actually return to POLR service. Conversely, if no customers of a class return for POLR service, the class' CTC is not affected.

### III. CONCLUSION

The OSBA accepts the POLR II plan proposed by Duquesne in the Petition. That plan reflects a reasonable and appropriate balancing of the conflicting perspectives of the many stakeholders who participated in the collaborative process undertaken by Duquesne to address these issues. The OSBA respectfully requests, however, that the Commission approve the clarification set forth in this Answer regarding the manner of attributing imputed GRA revenues to the respective rate classes if those GRA revenues are to be applied as an offset to the auction proceeds.

Respectfully submitted,

  
Angela T. Jones  
Assistant Small Business Advocate

Dated: July 27, 2000

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Duquesne Light Company :  
For Approval Of Its Restructuring Plan : Docket No. R-00974104  
Under Section 2806 Of The Public :  
Utility Code :

CERTIFICATE\_OF\_SERVICE

I certify that I am serving a copy of the Answer on behalf of the Office of Small Business Advocate by first class mail (unless otherwise indicated) upon the persons addressed below:

Robert Rosenthal, Director  
Fixed Utility Services  
Pa. Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265  
(hand delivered)

Tanya J. McCloskey, Esquire  
Steven K. Steinmetz, Esquire  
Office of Consumer Advocate  
555 Walnut Street 5th FL Forum Place  
Harrisburg, PA 17101-1923  
(717) 783-5048  
(717) 783-7152

Larry R. Crayne, Esquire  
Legal Unit  
Duquesne Light Company  
411 Seventh Avenue  
P.O. Box 1930  
Pittsburgh, PA 15230-1930  
(412) 393-6049  
(412) 393-6645 (fax)  
(overnight mail)

David Kleppinger, Esquire  
Derrick P. Williamson, Esquire  
McNees, Wallace & Nurick  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166  
(Duquesne Industrial Intervenors)  
(717) 232-8000  
(717) 237-5300 (fax)

John S. Moot, Esquire  
Kathleen Barron, Esquire  
Skadden, Arps, Slate, Meagher & Flom LLP  
1440 New York Avenue, N.W.  
Washington, DC 20005-2111  
(202) 371-7310  
(202) 371-7939 (fax)  
(overnight mail)

Stephen J. Baron  
J. Kennedy and Associates, Inc.  
Suite 475  
35 Glenlake Parkway  
Atlanta, GA 30328  
(Duquesne Industrial Intervenors)  
(770) 395-1288  
(770) 396-0151 (fax)

Leonard W. Belter, Esquire  
Raymond B. Wuslich, Esquire  
Winston & Strawn  
1400 L Street, N.W.  
Washington, DC 20005-3502  
(Allegheny Power)  
(202) 371-5700  
(202) 371-5950 (fax)

Patricia Armstrong, Esquire  
Thomas, Thomas, Armstrong & Niesen  
212 Locust Street, Suite 500  
P. O. Box 9500  
Harrisburg, PA 17108-9500  
(Allegheny Elec. Cooperative)  
(717) 255-7600  
(717) 236-8278 (fax)

John L. Munsch, Esquire  
Allegheny Power  
800 Cabin Hill Drive  
Greensburg, PA 15601  
(412) 838-6210  
(412) 838-6177 (fax)

Robert F. Young, Esquire  
Deputy General Counsel  
212 Locust Street  
P.O. Box 1266  
Harrisburg, PA 17108-1266  
(Allegheny Elec. Cooperative)  
(717) 233-5704  
(717) 236-0248 (fax)

Kandace F. Melillo, Esquire  
Wayne T. Scott, Esquire  
Office of Trial Staff  
Pa. Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17101  
(717) 787-1976

Stephen L. Feld, Esquire  
FirstEnergy Corp.  
76 South Main Street  
Akron, OH 44308  
(330) 761-4207  
(330) 384-3875 (fax)

Lauren S. McAndrews, Esquire  
Allegheny Teledyne, Inc.  
1000 Six PPG Place  
Pittsburgh, PA 15222-5479  
(412) 394-2974  
(412) 394-3010 (fax)

Thomas P. Gadsden, Esquire  
Morgan, Lewis & Bockius  
2000 One Logan Square  
Philadelphia, PA 19103  
(Penn Power Company)  
(215) 963-5234  
(215) 963-5299 (fax)

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

00 JUL 27 PM 2:26

RECEIVED

Scott J. Rubin, Esquire  
3 Lost Creek Drive  
Selinsgrove, PA 17870  
(Elec. Workers, Local 1600)  
(717) 743-2233  
(717) 743-8145 (fax)

Mary McFall Hopper, Esquire  
Assistant General Counsel  
PECO Energy Company  
2301 Market Street, S23-1  
Philadelphia, PA 19103  
(215) 841-4917  
(215) 568-3389 (fax)

Kenneth Zielonis, Esquire  
Stevens & Lee  
208 North Third Street  
Suite 310  
P.O. Box 12090  
Harrisburg, PA 17108-2090  
(717) 234-1250  
(717) 234-1939 (fax)

Brian A. Rider, President  
Pennsylvania Retailers' Assoc.  
224 Pine Street  
Harrisburg, PA 17101-1325  
(717) 233-7976

Cynthia S. Bogorad, Esquire  
Spiegel & McDiarmid  
Suite 1100  
1350 New York Avenue, N.W.  
Washington, DC 20005-4798  
(Utility Workers Union)  
(202) 879-4000  
(202) 393-2866 (fax)

Daniel Clearfield, Esquire  
Wolf, Block, Schorr & Solis-Cohen  
Locust Court Building  
212 Locust St., Suite 300  
Harrisburg, PA 17101  
(Enron Corp.)  
(717) 237-7160  
(717) 237-7161 (fax)

Kevin McKeon, Esquire  
Malatesta, Hawke & McKeon  
100 North Tenth Street  
P. O. Box 1778  
Harrisburg, PA 17105  
(Peoples Natural Gas Company)  
(717) 236-1300  
(717) 236-4841 (fax)

Howard M. Louik, Esquire  
Allegheny County Law Department  
300 Fort Pitt Commons  
445 Fort Pitt Boulevard  
Pittsburgh, PA 15219  
(Allegheny County)  
(412) 350-1182

Deneice Covert Zeve, Esquire  
Terry Lupia, Esquire  
Office of Attorney General  
14th Floor, Strawberry Square  
Harrisburg, PA 17120  
(717) 787-4530  
(717) 787-1190 (fax)

James Ferlo, Councilman  
510 City-County Building  
Pittsburgh, PA 15219

Sheila S. Hollis, Esquire  
Mary Ann Ralls, Esquire  
Duane, Morris & Heckscher LLP  
1667 K Street, N.W. Suite 700  
Washington, DC 20006-1608  
(QST Energy Inc.)  
(202) 776-7800  
(202) 776-7801 (fax)

Vickiren S. Aeschleman, Director  
Regulatory Policy  
QST Energy Inc.  
300 Hamilton Blvd., Suite 300  
Peoria, IL 61602  
(309) 655-1356

Environmental Energy Project  
Attorney of Record  
3700 Vartan Way  
Harrisburg, PA 17110  
(Environmentalists)  
(717) 540-5106  
(717) 541-1970 (fax)

John E. Stember, Esquire  
1705 Allegheny Building  
429 Forbes Avenue  
Pittsburgh, PA 15219  
(Low Income Advocates)  
(412) 338-1445  
(412) 232-3730 (fax)

Rodney R. Akers, Esquire  
City of Pittsburgh  
Department of Law  
313 City-County Building  
414 Grant Street  
Pittsburgh, PA 15219  
(412) 255-2015  
(412) 255-2285 (fax)

Samuel W. Braver, Esquire  
Bruce A. Americus, Esquire  
Buchanan Ingersoll Professional Corp.  
One Oxford Centre, 20th Floor  
301 Grant Street  
Pittsburgh, PA 15219-1410  
(City of Pittsburgh)  
(412) 562-8800  
(412) 562-1041 (fax)

Margaret H. Peters, Esquire  
Peoples Natural Gas Company  
625 Liberty Avenue  
Pittsburgh, PA 15222-3197  
(412) 497-6892  
(412) 497-6838 (fax)

David M. DeSalle, Esquire  
Ryan, Russell, Ogden & Seltzer LLP  
Suite 101  
800 North Third Street  
Harrisburg, PA 17102-2025  
(GPU Energy)  
(717) 236-7714  
(717) 236-7816 (fax)

Kenneth L. Wiseman, Esquire  
Andrews & Kurth LLP  
1701 Pennsylvania Avenue NW  
Washington DC 20006  
(Hospital Shared Services)  
(202) 662-2700  
(202) 662-2739 (fax)

Mark F. Sundback, Esquire  
Andrews & Kurth LLP  
1701 Pennsylvania Avenue NW  
Washington DC 20006  
(Administrative Resources, Inc.)  
(202) 662-2755  
(202) 662-2747 (fax)

Michael Reid, Director  
Materials Management Services  
Administrative Resources, Inc.  
500 Commonwealth Drive  
Warrendale, PA 15086-7513  
(412) 772-7223  
(412) 776-6969 (fax)

Mark J. McGuire, Esquire  
Ronald N. Carroll, Esquire  
Jenner & Block  
Suite 1200, 601 13th Street NW  
Washington DC 20005  
(MidCon Gas Services Corp.)  
(202) 639-6000  
(202) 639-6066 (fax)

Tim Merrill, Esquire  
Suite 200, 4 Penn Center West  
Pittsburgh, PA 15276  
(The Eastern Group)  
(412) 490-0925

Joseph A. Dworetzky, Esquire  
Hangley Aronchick Segal & Pudlin  
One Logan Square, Twelfth Floor  
Philadelphia, PA 19103-6933  
(New Energy Ventures)  
(215) 496-7014  
(215) 568-0300 (fax)

Mr. David M. Boonin  
New Energy Ventures, Inc.  
1845 Walnut Street, Suite 2525  
Philadelphia, PA 19103  
(215) 563-9290  
(215) 563-9292 (fax)

James D. Steffes  
Enron Power Marketing, Inc.  
Box 4428  
Houston, TX 77002  
(713) 853-7500  
(713) 646-8160 (fax)

Albert M. Benincasa, Esquire  
Director, Regulatory Affairs  
Skipping Stone  
46 9th Avenue  
Sea Cliff, NY 11579  
(516) 674-4186

Michael L. Kurtz, Esquire  
Boehm, Kurtz & Lowry  
2110 Society Bank Center  
36 East Seventh Street  
Cincinnati, OH 45202  
(Counsel for ARMCO)  
(513) 421-2255  
(513) 421-2764 (fax)

Robert B. Weisenmiller  
MRW & Associates, Inc.  
Suite 1440  
1999 Harrison Street  
Oakland, CA 94612-3517  
(Hospital Shared Services)  
(510) 834-1999  
(510) 834-0918 (fax)

Robert J. Stefanko, Esquire  
341 South Bellefield Avenue  
Pittsburgh, PA 15213  
(Pittsburgh School District)  
(412) 622-3780

Donald R. Ayersman, Jr., Esquire  
1125 Denver Avenue  
Morgantown, WV 26505  
(IBEW Local 2357)  
(304) 296-3958

Thomas J. Augspurger, Esquire  
MidCon Corporation  
Office of General Counsel  
701 East 22nd Street  
Lombard, IL 60148  
(MidCon Gas Services Corp.)

Craig Nifong  
MidCon Corporation  
3200 Southwest Freeway  
Houston, TX 77027

William T. Hawke, Esquire  
Malatesta, Hawke & McKeon LLP  
100 North Tenth Street  
P.O. Box 1778  
Harrisburg, PA 17101  
(Mid Atlantic Power Supply Assoc.)  
(717) 236-1300  
(717) 236-4841 (fax)

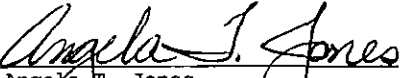
Paul E. Russell, Esquire  
Pennsylvania Power & Light Co.  
Two North Ninth Street  
Allentown, PA 18101-1179  
(610) 774-4254  
(610) 774-6726 (fax)

Donald A. Kaplan, Esquire  
Lisa M. Helpert, Esq.  
Preston Gates Ellis & Rouvelas Meeds  
Suite 500  
1735 New York Avenue, N.W.  
Washington DC 20006-4759  
(PP&L)  
(202) 628-1700  
(202) 331-1024 (fax)

Robert E. Cooper, P.E.  
Manager, Engineering Services  
The Pennsylvania State University  
Physical Plant Building  
University Park, PA 16802-1118

Roger Clark, Esquire  
The Environmentalists  
905 Denston Drive  
Ambler, PA 19002-3901  
(215) 643-2364  
(215) 628-2630 (fax)

John O'Brien, Esquire  
Wheeled Electric Power Company  
Suite 207  
50 Charles Lindburgh Boulevard  
Uniondale, NY 11553  
(516) 390-7600

  
Angela F. Jones  
Assistant Small Business Advocate

Date: July 27, 2000