

GUSTINE

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September 02, 2000

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

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Re: *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*
CTC Reconciliation and Auction Accounting Compliance Filing

Dear Secretary McNulty:

This letter is in response to your Secretarial Letter inviting comments before October 5, 2000 regarding Duquesne's CTC Reconciliation and Auction Accounting Compliance Filing.

The above-referenced Duquesne filing, if approved, will impose substantial economic obligations upon The Gustine Company and its clients and will seriously delay true electric competition in Western Pennsylvania. The Gustine Company objects to any recovery or offset of transaction costs prior to full evidentiary hearings with Duquesne bearing the burden to prove that each of its claimed costs was reasonably incurred and directly related to its generation auction. Accordingly, we request that the Pennsylvania Public Utility Commission conduct hearings into the appropriateness of Duquesne's claimed \$277 million in transaction costs and the required recovery period.

Extension of competitive transition charge ("CTC"): Duquesne's proposed extension of the CTC recovery period will have a detrimental financial impact upon The Gustine Company and its clients and upon the market within Duquesne's territory. Despite Duquesne's characterization of the extension as a "modest change," extension of the CTC will impose significant additional and unbudgeted costs on The Gustine Company and its clients [over \$200,000]. We urge the Commission to carefully scrutinize Duquesne's extraordinary claim of \$277 million in transaction costs, and not to accept the company's numbers without question. *Duquesne should be required to demonstrate that each cost contained in its reconciliation filing is reasonable and related to the auction.*

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\$62.94 million tax claim: The Gustine Company is particularly concerned about Duquesne's claim of \$62.94 million in tax liability that Duquesne claims to have inadvertently omitted from its auction application, while also claiming earlier Commission approval of the amount in Duquesne's Restructuring Order of May 29, 1998. In the Restructuring Order, however, the Commission denied recovery of \$62.94 million to avoid double recovery under applicable accounting principles. Despite the Commission's decision that Duquesne has already recovered the \$62.94 million, Duquesne is seeking a second unjustified recovery. Even assuming Duquesne has not recovered the \$62.94 million, allowing an extension of CTC to recover it now would act to circumvent Duquesne's rate cap. The \$62.94 million in tax liability should be addressed now only in a separate request for an exception to its rate cap.


Employee costs: The Gustine Company also is concerned with Duquesne's claimed employee costs. Duquesne reduced its workforce by only 450 individuals but at a claimed cost of \$66.2 million. This claim seems excessive and bears further investigation into whether the 450 employees were properly targeted and whether they held generation-related positions.

Legal and consulting fees: Duquesne's claim of \$37.7 million for legal and consulting fees should receive close scrutiny. Duquesne submitted no detailed invoices from any of its consultants, legal or otherwise, with the excuse that the invoices contain legally privileged information. Thus, Duquesne expects its customers to write a check for its legal/consulting bills without any demonstration that the fees were reasonably incurred or related to the generation auction.

Upgrades to FirstEnergy's system: The Gustine Company opposes Duquesne's recovery of \$10 million for upgrades to the FirstEnergy system to satisfy the Public Utility Commission of Ohio. These upgrades addressed Ohio concerns and will only benefit Ohio residents. Pennsylvania's ratepayers should not be required to support Ohio's transmission system as well as their own.

In conclusion, the Commission should require Duquesne to prove that each and every one of its claimed expenses is just, reasonable, and related to the auction of its generation assets. To accomplish this, the Commission should direct this matter to hearings where Duquesne should be required to produce evidence to support its astonishing claim of \$277 million in transaction costs.

Very truly yours,


Patrick J. Tkocs
Director of Operations

cc: PaPUC Service List