



**Duquesne Light**

411 Seventh Avenue  
P.O. Box 1930  
Pittsburgh, PA 15230-1930

**ORIGINAL**

(412) 393-6000

February 16, 2000

**DOCUMENT  
FOLDER**

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

Dear Secretary McNulty:

Enclosed for filing, please find an original and five copies of a Statement of CTC Revenues for the year ended December 31, 1999, pursuant to Appendix C of Duquesne Light Company's first Compliance Filing dated June 18, 1998, at R-00974104. The filing set forth that "Prior to the completion of the (generation) auction, Duquesne will charge interim CTC rates consistent with the methodology approved in the pilot program. Duquesne will file at the end of the first calendar year (and each year thereafter prior to the auction completion date) a reconciliation statement showing the actual CTC revenues collected by rate class. These CTC revenues will be reconciled on a class-specific basis with final CTC revenue requirements consistent with the final stranded cost determination after completion of the auction."

If there are any questions regarding the information contained in this Statement of CTC Revenues, please call me at (412) 393-6334.

Sincerely,

Nancy J. D. Krajovic  
Manager, Regulatory Affairs

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**FEB 16 2000**

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Enclosures

- |   |              |
|---|--------------|
| c: Mr. D. P. Dougherty – Bureau of Audits                         | w/ enclosure |
| Mr. C. F. Hoffman – Office of Trial Staff                         | "            |
| Ms. T. J. McCloskey – Office of Consumer Advocate                 | "            |
| Mr. B. A. Ryan, Jr. – Office of Small Business Advocate           | "            |
| Mr. D. M. Kleppinger – Counsel to Duquesne Industrial Intervenors | "            |



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**Duquesne Light Company**  
**Statement of CTC Revenues by Rate Schedule**  
**For Year Ended 12/31/99**

Month	RS	RH	RA	GS/GM	GMH	GL	GLH	L
February *	\$7,767,272.23	\$649,170.72	\$79,901.65	\$7,523,782.24	\$688,978.40	\$5,149,706.26	\$799,218.29	\$1,618,673.00
March	9,174,083.12	815,853.15	95,519.49	8,163,096.03	746,592.56	5,599,533.05	848,969.47	1,906,587.12
April	7,805,665.46	597,107.28	81,762.35	8,048,825.90	635,698.24	5,667,778.68	777,580.18	1,836,169.63
May	6,725,810.31	449,932.47	81,501.60	8,198,539.64	541,560.55	5,700,018.11	710,709.11	1,809,953.08
June	9,744,411.79	589,826.19	139,604.57	9,366,735.30	791,358.14	6,260,864.98	925,747.21	1,989,487.17
July	13,346,961.05	694,097.50	187,701.81	9,813,255.80	810,825.27	6,420,011.01	933,361.49	1,751,485.17
August	13,185,610.19	695,819.55	182,516.54	9,783,680.44	808,169.14	6,726,097.30	961,515.86	2,302,373.52
September	10,155,231.54	570,061.38	141,081.48	9,230,780.76	772,131.79	6,292,823.99	893,318.13	1,933,567.93
October	7,562,807.36	526,512.82	106,478.76	8,594,146.62	561,492.82	6,049,416.39	718,996.67	1,903,545.76
November	7,639,132.12	582,501.59	94,840.71	8,023,823.84	574,305.31	5,670,143.06	674,968.12	1,654,653.74
December	8,911,630.13	633,443.06	90,646.67	8,152,361.18	645,366.37	5,439,317.48	762,180.72	1,740,774.43
<b>Total</b>	<b>\$102,018,515.30</b>	<b>\$6,804,325.71</b>	<b>\$1,281,555.63</b>	<b>\$94,899,027.75</b>	<b>\$7,576,478.59</b>	<b>\$64,975,710.31</b>	<b>\$9,006,565.25</b>	<b>\$20,447,270.55</b>

\* Competitive supply consumption began with the first meter read in 1999. Therefore, the first bills reflecting unbundled rates and CTC recovery were issued beginning in February, 1999.

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**Duquesne Light Company**  
**Statement of CTC Revenues by Rate Schedule**  
**For Year Ended 12/31/99**

Month	HVPS	AL	SE	SM	SH	MTS	Total Including GRT	Total Excluding GRT
February *	\$1,182,643.97	\$31.32	\$28,313.68	\$117,891.38	\$9,070.80	\$41,094.36	\$25,655,748.30	\$24,526,895.37
March	1,414,697.39	82.39	27,794.44	59,536.82	4,753.54	39,918.81	28,897,017.38	27,625,548.62
April	1,329,004.87	36.07	1,467.05	59,701.83	4,753.54	39,974.78	26,885,525.86	25,702,562.72
May	1,349,251.46	173.00	28,299.88	59,669.30	4,753.54	39,896.35	25,700,068.40	24,569,265.39
June	1,401,771.30	306.08	28,298.91	59,670.87	4,753.54	39,902.02	31,342,738.07	29,963,657.59
July	1,369,625.64	175.59	28,267.48	59,822.92	4,753.54	39,891.47	35,460,235.74	33,899,985.37
August	1,219,080.76	164.28	28,265.82	59,757.58	4,753.54	40,031.05	35,997,835.57	34,413,930.80
September	1,442,141.74	53.46	28,266.21	59,785.43	4,753.54	40,031.05	31,564,028.43	30,175,211.18
October	1,360,128.34	42.22	28,261.68	59,801.53	4,679.22	40,031.05	27,516,341.24	26,305,622.23
November	1,308,986.80	372.29	28,252.20	59,820.39	4,679.22	40,030.37	26,356,509.76	25,196,823.33
December	<u>1,376,317.93</u>	<u>220.33</u>	<u>28,252.68</u>	<u>59,803.17</u>	<u>4,679.22</u>	<u>40,082.38</u>	<u>27,884,975.75</u>	<u>26,658,036.82</u>
<b>Total</b>	<b>\$14,753,650.20</b>	<b>\$1,657.03</b>	<b>\$283,740.03</b>	<b>\$715,261.22</b>	<b>\$56,383.24</b>	<b>\$440,883.69</b>	<b><u>\$323,261,024.50</u></b>	<b><u>\$309,037,539.42</u></b>

\* Competitive supply consumption began with the first meter read in 1999. Therefore, the first bills reflecting unbundled rates and CTC recovery were issued beginning in February, 1999.

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February 18, 2000

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VIA HAND DELIVERY

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

**Re: Application of Duquesne Light Company for a Certificate of Public Convenience and for Commission Approval of the Transfer of Its Interests in Seven Electric Generation Stations and Related Transmission Assets to Orion Power Holdings, Inc.; Docket No. A-110150 F.0023**

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

Dear Mr. McNulty:

Enclosed for filing with the Commission are Reply Comments of the Duquesne Industrial Intervenor's ("DII") in the above-referenced proceedings. We enclose an original and ten (10) copies for filing in Docket No. R-00974104 and an original and three (3) copies for filing in Docket No. A-110150F.0023.

As evidenced by the attached Certificate of Service, parties to the Duquesne restructuring proceeding have been duly served. Please date stamp the extra 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 Intervenor's

EF

PCP:jer  
Enclosures  
c: Certificate of Service

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**ORIGINAL**

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

APPLICATION OF DUQUESNE LIGHT  
COMPANY FOR A CERTIFICATE OF  
PUBLIC CONVENIENCE AND FOR  
COMMISSION APPROVAL OF THE  
TRANSFER OF ITS INTERESTS IN  
SEVEN ELECTRIC GENERATION  
STATIONS AND RELATED TRANSMISSION  
ASSETS TO ORION POWER HOLDINGS, INC. :

DOCKET NO. A-110150F.0023

PENNSYLVANIA PUBLIC UTILITY  
COMMISSION, ET. AL. :

v. :

DUQUESNE LIGHT COMPANY :

DOCKET NO. R-00974104

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**REPLY COMMENTS OF THE  
DUQUESNE INDUSTRIAL INTERVENORS  
ON ORION ASSET TRANSFER APPLICATION**

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

Nova Chemicals, Inc.  
USX Corporation - US Steel Group

**DOCKETED**  
FEB 23 2000

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David M. Kleppinger  
James P. Dougherty  
Pamela C. Polacek  
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(717) 232-8000

Counsel to the Duquesne Industrial Intervenors

Dated: February 18, 2000

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## I. INTRODUCTION

On February 7, 2000, various parties (including the Duquesne Industrial Intervenors ("DII")), filed Comments regarding Duquesne Light Company's ("DLC" or "Company") most recent Application related to its generation asset divestiture. DII received Comments from the Office of Consumer Advocate and Office of Small Business Advocate. DII also received *Petitions to Intervene filed by the Mid-Atlantic Power Supply Association and Strategic Energy L.L.C. ("SEL")*. DII submits these Reply Comments to respond to an issue raised by SEL.

## II. REPLY COMMENTS

**A. SEL's Suggestion that the Commercial Customers on Rate L Should Have Different Shopping Credits and Competitive Transition Charges than Industrial Customers on Same Rate Schedule After the Orion Transfer Closes is Inappropriate and May Lead to Intraclass Cost Shifting.**

In its Petition to Intervene, SEL raises concerns regarding the Competitive Transition Charges ("CTCs") and shopping credits applicable to Rate L customers after the Orion transaction closes. See SEL Petition, pp. 2-3 & Attachment 1. SEL suggests that DLC should not have a single shopping credit and CTC level applicable to all customers on Rate L and should, instead, apply a distinct shopping credit to Commercial customers on Rate L other than the charge shown on Schedule 3 to the Provider of Last Resort Supply Agreement. SEL alleges that the failure to provide two distinct levels of shopping credits and CTCs for Rate L customers will inhibit competitive supply procurement opportunities and will result in Commercial customers paying a portion of Industrial customers' stranded costs. See id. Attachment 1.

SEL's suggestion is inappropriate and should be rejected. As the Commission is aware, the only reason that Commercial and Industrial customers on Rate L were charged different CTCs and shopping credits during the period from January 1, 1999, to the closing of the Orion transfer is because the Commission mandated that different participation credits should apply to Commercial and Industrial customers during the pilot program. For the pilot period, the Company determined that the Commission's directive required it to segregate customers within some Rate Schedules, including Rate L, into Commercial and Industrial categories. Prior to the pilot, *only one rate structure existed in Rate L that applied to all customers eligible to take service under the Rate Schedule.*

As part of the Restructuring Proceeding, the Commission ordered that the pilot program credits should continue for the period from January 1, 1999, until divestiture is completed. DLC submitted Compliance Filings that maintained the segregation between Commercial and Industrial customers during the interim period, but that clearly indicated that Rate L would be recombined after the divestiture (or if the merger with Allegheny Power was completed). No party objected to that proposal.

No basis exists to continue the segregation in Rate L between Commercial and Industrial customers after the Orion transaction closes. The Competition Act's rate caps do not prohibit recombination of Rate L into a single rate structure. The Act caps customers' rates at the level that was in effect on January 1, 1997. See 66 Pa. C.S. § 2804(4). As of January 1, 1997, both Commercial and Industrial customers were served on Rate L under a single rate. The unbundled rates shown on Schedule 3 appear to be rate cap compliant for all Rate L customers. Thus, the rate caps are not implicated by applying a single rate structure to the Commercial and Industrial customers on Rate L after the Orion transaction closes.

In addition, recombining the Rate L customers does not result in impermissible cost-shifting under the Competition Act. The Act mandates that stranded costs must be allocated to and collected from customers in a manner that does result in interclass or intraclass cost shifting. 66 Pa. C.S. § 2808(a). As a result of the litigated Restructuring Proceeding, DLC allocated stranded costs to its customer classes on a Rate Schedule basis. All customers on Rate L will contribute to paying the allocated amount of stranded costs. In addition, although SEL appears to insinuate that the existence of special contracts between DLC and some Rate L customers unfairly penalizes Commercial customers on Rate L, the Commission has previously addressed

special contract issues (including contract unbundling, stranded cost recovery attribution and rate cap compliance) on numerous occasions during DLC's Restructuring Proceeding. The cumulative result of the Commission's prior consideration of special contract issues is that any discount provided to customers on special contracts is absorbed by all other customers on the same underlying Rate Schedule regardless of whether the customer is Commercial or Industrial. Commercial customers in Rate L are not somehow inappropriately paying Industrial customers' stranded costs on the Rate Schedule by being charged a unitary CTC.

Furthermore, acceptance of SEL's suggestion will complicate the CTC reconciliation process and will, if not properly implemented, produce inappropriate cost-shifting. To the extent the Commission accepts SEL's request and segregates Commercial and Industrial customers on Rate L, a complete segregation of revenues collected since January 1, 1999, must occur. As shown on SEL's Attachment No. 1, Industrial customers have been paying a higher per kWh CTC charge since January 1, 1999, than Commercial customers with similar load characteristics. See SEL Petition, Attachment 1. Any segregation of the CTCs and shopping credits applicable to Commercial and Industrial customers after the Orion transaction closes must take into account and segregate the CTC revenues already collected, as well as segregating the total stranded cost revenues allocated to and due from Rate L as a class. Even if the Company has the capability to perform these calculations and SEL's suggestion is appropriate (which it is not), SEL's proposal involves complex allocation and attribution issues that, if inappropriately implemented, will shift costs between Commercial and Industrial customers on Rate L. The Commission can avoid this contentious process by continuing the unified rate structure for Rate L customers.

DII is sympathetic to SEL's concerns regarding the ability of Rate L customers to access competitive supply alternatives. State-wide surveys demonstrate that Industrial customers in DLC's territory are accessing competitive supply alternatives at a lower percentage relative to Industrial customers in other Pennsylvania electric distribution company service territories. DII believes this is due, in part, to continuation of the pilot program credit while the Company's divestiture is being implemented. Although Commercial customers on Rate L may have benefitted from continuation of the pilot credits, the Commission has already determined (over DII's objection) that it will not revisit the shopping credits as part of the final reconciliation process. The Commission should not revise that decision now for a single sub-category of the Rate L customer class.

### III. CONCLUSION

**WHEREFORE**, the Duquesne Industrial Intervenors ("DII") respectfully requests that the Commission issue an Order addressing Duquesne's filing consistent with the arguments raised in DII's Comments and these Reply Comments.

Respectfully submitted,

McNEES, WALLACE & NURICK

By Pamela C. Polacek

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Counsel to the Duquesne Industrial Intervenors

Dated: February 18, 2000

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ORIGINAL

February 21, 2000

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James J. McNulty  
Secretary  
Office of the Prothonotary  
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Harrisburg, Pa. 17105-3265

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FEB 28 2000

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Re: Application of Duquesne Light Company,  
Docket Nos. R-00974104 and A-110150 F0023

Dear Secretary McNulty:

Duquesne Light Company hereby submits an original and four copies of its Reply Comments in the above-captioned dockets. 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

EEF

COMMENTS  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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) )

Application of Duquesne Light Company )  
for Certificate of Public Convenience and )  
for Commission Approval of the Transfer )  
of Property Used or Useful in the Public )  
Service )

Docket No. A-00110150F0023

REPLY COMMENTS OF DUQUESNE LIGHT COMPANY

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Dated: February 21, 2000

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**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) )**

**Application of Duquesne Light Company )  
for Certificate of Public Convenience and )  
for Commission Approval of the Transfer )  
of Property Used or Useful in the Public )  
Service )**

**Docket No. A-00110150F0023**

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**REPLY COMMENTS OF DUQUESNE LIGHT COMPANY**

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Duquesne Light Company ("Duquesne") hereby submits its reply to the comments of intervenors on Duquesne's application for Commission approval to transfer Duquesne's interest in seven electric generation stations and related transmission assets to Orion Power Holdings, Inc. ("Orion"), the winning bidder in Duquesne's generation auction ("Auction").

**INTRODUCTION**

The comments on Duquesne's application fall into two groups. First, the intervenors advocating on behalf of Duquesne's customers largely support the

transaction and its terms. These intervenors, the Office of Consumer Advocate ("OCA"), the Duquesne Industrial Intervenors ("DII"), and the Office of Small Business Advocate ("OSBA") do not challenge (with few discrete exceptions, discussed below) the terms and conditions of the transfer to Orion, the safeguards Duquesne has put in place to guarantee continuous reliable service for all of its customers, or the process of collecting and accounting for transaction costs. The few areas on which the consumer advocate parties have commented do not reveal a significant difference in opinion between Duquesne and the commenters.

The second group of comments are offered by the two intervenors representing electric generation suppliers ("EGSs"), Mid-Atlantic Power Supply Association ("MAPSA") and Strategic Energy, L.L.C. ("SEL"), who raise several issues relating to the provision by Orion of wholesale power to meet Duquesne's provider of last resort ("POLR") load. With few exceptions, these comments seek to raise issues previously resolved by the Commission or issues that are unchanged by this application. As a result, the Commission should issue an order expeditiously approving Duquesne's request and allow the closing of the transaction to proceed on schedule.

#### **I. REQUEST FOR ELIGIBLE FACILITIES DETERMINATION**

Duquesne has requested that the Commission issue a specific determination under the Public Utility Holding Company Act ("PUHCA") that allowing the

Cheswick, Elrama, Brunot Island, and Phillips plants to be eligible facilities "(1) will benefit consumers, (2) is in the public interest, and (3) does not violate State law."

15 U.S.C. § 79z-5a(c). The Ohio Public Utilities Commission issued such an order on February 3, 2000 with respect to the Avon Lake, New Castle, and Niles plants, the other three plants to be transferred to Orion.<sup>1</sup> Orion must receive this determination from the Commission *before* it can request exempt wholesale generator ("EWG") status from the Federal Energy Regulatory Commission ("FERC"), and a FERC EWG order is a prerequisite to closing the Auction. Duquesne therefore requested the determination from the Commission by the end of February 2000.

No party has objected to the request that the Commission allow the Cheswick, Elrama, Brunot Island, and Phillips plants to be eligible facilities. However, DII has expressed concern that Duquesne's request, coupled with requests by other entities, may limit too many assets from participating in a competitive retail market. DII at 8-11. Even so, DII acknowledges that "certain unique aspects of [Duquesne's] request may militate in favor of granting the requested findings." *Id.* at 10. DII therefore does *not* oppose granting the requested findings regarding EWG status.

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<sup>1</sup> *In the Matter of the Request for Orion Power MidWest, LLC for Findings Required For an Application Under Section 32(c) of The Public Utility Holding Company Act of 1935*, Case No. 99-1710-EL-UNC (Feb. 3, 2000).

Duquesne agrees with DII that its transaction with Orion, and the numerous ratepayer benefits that will result from the shortening of the CTC collection period, are "unique" and should be preserved.<sup>2</sup> Duquesne marketed its facilities to obtain the highest possible value and thereby reduce the stranded cost burden on its customers. Virtually every entity bidding on such generation assets in Duquesne's and other domestic auctions is in the *wholesale* electricity commodity supply market, *i.e.*, the business of selling energy as a wholesale commodity, not the direct marketing of energy and services to retail customers. As it happened, the highest bidder was also an entity without any generation in ECAR, thereby allowing Duquesne to maximize value without raising competitive issues. In sum, an eligible facilities determination is consistent with the results in virtually every auction nationwide and will not harm competition. Moreover, it will benefit consumers by exempting Orion from costly regulations and requirements imposed on public utilities, thereby

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<sup>2</sup> Duquesne appended an affidavit to its December 22, 1999 application reflecting the opinion of Michael Schnitzer that the divestiture to Orion is procompetitive and will result in substantial benefits to Duquesne's customers. As Appendix B to this filing, Duquesne submits a revised affidavit because Paragraph 11 of the original affidavit erroneously omitted 101 MW of capacity owned by Orion in the New York Power Pool. The correction of this error has a *de minimus* impact on Mr. Schnitzer's calculations. Previously, Mr. Schnitzer showed that Orion's market share in the combined ECAR-NYPP market increased from 1.8% before the divestiture to 3.7% after the divestiture. With this correction, Orion's market share changes from 1.9% to 3.8%.

lowering the cost of producing electricity from the plants and encouraging competitive wholesale electricity prices.

Finally, and as indicated, DII encourages the Commission to investigate "the impact of multiple EWG requests and of requests that do not contain the unique aspects present in Duquesne's request," DII at 10, but it does *not* urge the Commission to deny Duquesne's request. For this reason, and because Duquesne's request meets the statutory standards, the Commission should make the requested determination. As noted above, Duquesne respectfully requests that the Commission issue the eligible facilities determination by the end of February 2000 to allow the Auction to close on schedule.

## **II. STRANDED COST RECONCILIATION**

OCA, OSBA and DII raise two questions regarding Duquesne's plan for reconciling the amount of stranded costs collected through the CTC with the amount of such costs properly allocated to each customer class. Each is addressed in turn.

First, OCA accurately describes Duquesne's intention to reconcile CTC collections to reflect changes in sales volumes that may occur during the CTC recovery period, first on a monthly basis and then on a daily basis as each rate schedule approaches full CTC amortization. OCA at 8-9. OCA suggests, however, that if an over-collection of stranded costs nevertheless results, Duquesne should use

a refund mechanism to "effect a final true-up for those customers." *Id.* at 9. OSBA also expresses concern about the reconciliation process and the timing of actual CTC retirement. OSBA at 2.

Duquesne concurs that customers should be responsible for no more, and no less, than the amount of stranded costs properly allocated to them, and has structured its reconciliation process to ensure that this result occurs. Duquesne is willing to consider any further procedures to guarantee that it does not overcollect the CTC from any customer, and expects to provide more detail on its reconciliation process in the sixty-day reconciliation filing. Duquesne's goal is to eliminate the need for customer refunds; if, however, overcollection does occur, refunds will be made.

Second, DII's concern relates to the reconciliation of CTC revenues collected from special contract customers. Along with its annual report to the Commission, DII requests that Duquesne provide additional CTC collection and usage information to ensure that proper crediting of stranded cost revenues from special contract customers has occurred and continues to occur. DII at 7. Duquesne will provide a detailed breakdown in its annual report to the Commission of the CTC revenues collected by rate class from customers on special contracts.

### **III. ACCOUNTING FOR AUCTION PROCEEDS**

Duquesne included, as part of its application (at Appendix B), projections of the final stranded cost balance and corresponding dates for termination of CTC collections. Duquesne also stated that, sixty days after the closing of the Auction, it would make a detailed filing requesting Commission approval of the Auction accounting, including a determination that each transaction cost is just and reasonable.

No party opposes this procedure. Rather, certain parties, including OCA and DII, have merely requested additional support and explanation for certain transaction expenses. Duquesne understands that additional support and explanation for certain costs is appropriate and hereby commits to provide it in support of its final Auction accounting. Duquesne also commits to holding a third technical conference on the Auction shortly after its sixty-day reconciliation filing to answer any questions interested parties may have about the final accounting. Any specific issues regarding the final accounting may be addressed at that time.

### **IV. CUSTOMER SHOPPING CREDITS**

#### **A. Rate RH Shopping Credit**

OCA expresses concern regarding a reduction in the average shopping credit for Rate RH customers caused by a transition from the pilot shopping credits to the credits accepted by the Commission in the Third Compliance Order, but

recognizes that this issue has been resolved in prior Commission orders. *See* Dec. 17, 1998 Order in Docket No. R-00974104 at 11 ("it is too late to revisit this issue at this stage in the proceedings"). OCA suggests instead that Duquesne provide certain information to Rate RH customers to alert them to their alternate supply opportunities. OCA at 4-5. OCA suggests that Duquesne (1) set a date certain for the change in the Rate RH shopping credit to permit customers time to plan for a supplier switch; (2) develop an information campaign explaining the process of selecting a new supplier, comparing prices and other attributes of service, and returning to Duquesne POLR service; and (3) advise customers on their termination rights under their contracts with other suppliers.

At the outset, Duquesne notes that it is currently providing to all customers much of the information OCA requests that Duquesne provide the Rate RH customers. Throughout the pilot program and the transition to competition, Duquesne has sent all of its customers "price to compare" letters setting forth the breakdown of generation and transmission rates if the customer remains with Duquesne and the method of calculating savings if the customer switches to an EGS. Consistent with prior Commission orders, Duquesne will send another such letter in March 2000.

Notwithstanding its current efforts, Duquesne is not opposed to adding a Rate RH customer information program to its consumer education efforts.<sup>3</sup> Duquesne is not convinced, however, that setting a date certain for the change in the Rate RH shopping credit as suggested by OCA is appropriate at this time. The Commission has ruled that the pilot shopping credits should stay in place until Duquesne closes the Auction, when it should begin assessing new CTC charges that reconcile actual stranded costs with the interim amount collected. May 29, 1998 Order at 81-82.<sup>4</sup> Because of the required regulatory approvals and other uncertainties, Duquesne cannot set a date certain to close the Auction at this point. Accordingly, in order to set a date certain for the change in the Rate RH shopping credit, Duquesne would need to select a date after the Auction closing. This would require Duquesne to (1) renegotiate the POLR Agreement with Orion to address the rates it would be paid in the interim period, and (2) develop the software programs necessary to set a different proration date for the Rate RH class. In addition, this would require Duquesne to treat the Rate RH class differently than other classes. On balance,

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<sup>3</sup> Duquesne expects that such information would be included in Rate RH customer bills prior to the expected Auction closing, and would include information similar to the data described by OCA. Duquesne also assumes that the cost of such program will be borne from its consumer education budget.

<sup>4</sup> As a result, MAPSA's proposal to allow Duquesne's 2000 retail tariff rates to take effect immediately is misplaced. MAPSA at 4.

Duquesne believes an information campaign is sufficient, assuming the campaign informs customers that the shopping credit will decrease upon closing of the Auction.

Finally, Duquesne does not believe it is appropriate to advise its customers regarding their termination rights under contracts with third party suppliers, and expects that such EGSs would justifiably object to an order requiring Duquesne to interpret their agreements with customers. Any customer information regarding third party contracts must, therefore, be provided by those suppliers.

**B. Street Lighting Shopping Credit**

SEL implies that Duquesne's application seeks to increase the CTC (and decrease the shopping credit) assessed to the rate class SM - Street Lighting Municipal in a manner that is inconsistent with the method used for other rate classes. SEL at 3. This is incorrect. The CTC allocation to rate class SM is based on the production capacity allocator used in Duquesne's last rate case. The Restructuring Order requires Duquesne to use that allocator for *every* class. May 29, 1998 Order at 206. It is therefore too late to revisit that issue now. *See* Dec. 17, 1998 Order at 11 (refusing to adjust RH shopping credit).

**C. Commercial and Industrial Shopping Credits (and CTC charges)**

The pilot shopping credits currently in effect distinguish between commercial and industrial customers within the same class; however, the final post-

Auction credits approved by the Commission do not. SEL objects to this approach (at 2-3), but again, it is too late for it to do so. The Restructuring Order required Duquesne to allocate stranded costs to each rate class on the basis of the production capacity allocator used in Duquesne's last rate case, in which there was no distinction between commercial and industrial customers. May 29, 1998 Order at 206. Consequently, in the Third Compliance Order, the Commission accepted Duquesne's average shopping credits and average CTC charges for each rate class with no distinction between commercial and industrial customers.

SEL simply fails to recognize that, other than for the limited purposes of the pilot proceeding, there is no basis to distinguish between commercial and industrial customers. Duquesne's rates have always been calculated by *class*, not by the customers within each class. Therefore, no production capacity allocators or shopping credits were developed specific to commercial and industrial customers in Duquesne's restructuring case; they were developed by class. The Commission therefore has already ordered Duquesne to eliminate the separate rate offerings for commercial and industrial customers that were adopted solely for the purpose of establishing shopping credits across the state in the pilot program. Thus, Duquesne has not proposed a "change" as alleged by SEL, but rather has complied with the Commission's instruction to allocate costs and develop rates according to Duquesne's longstanding rate methodology. Finally, SEL's proposal would require Duquesne to

renegotiate the POLR Agreement with Orion and could potentially harm all customers by extending the recovery period. The Commission should therefore reject SEL's proposal.

## **V. POLR**

### **A. Information Access Issues**

Several intervenors raise questions related to the provision of customer information to Orion and the sharing of Orion's marketing information with Duquesne's POLR customers. In both cases, the intervenors assert that Orion, as a wholesale supplier, should have no interest in communicating with retail customers. OCA at 6; SEL at 5; MAPSA at 3. Although Duquesne provides below specific responses to comments on each issue, we note, at the outset, that all of the marketers' objections suffer from a common flaw. They each start from the premise that the marketers and customers should receive all the benefits of the Auction -- particularly the acceleration of full retail competition through early termination of the CTC -- but nevertheless can pick and choose among provisions of the POLR Agreement that they do or don't support. This is clearly an unsupportable position. Orion's bid has enabled Duquesne to reduce the transition period to the shortest in the Commonwealth, providing substantial benefits to all customers. Thus, no party alleges that these benefits are outweighed by any perceived "harm" from specific provisions of the POLR Agreement discussed below. Thus, without any record evidence that these

opportunities hinder the competitive market in Duquesne's service area, the transaction with Orion should not be disturbed.

**1. Customer Information**

OCA and SEL raise questions regarding the provision of certain customer information to Orion under Section 4.2(h)(i) of the POLR Agreement, potentially including customer account numbers, names, addresses, phone numbers, rate classes and historical usage information. *See* POLR Agreement § 4.2(h)(i). The contract specifically provides, however, that none of this information will be released to Orion if doing so conflicts with any law or regulation governing Duquesne. *Id.* § 4.2(h)(i)(y). Even if Duquesne is permitted to release the information to Orion, Orion itself agreed to be bound by all Commission confidentiality guidelines related to that information. *Id.* § 14.2. Orion's information access rights therefore are *identical* to those of EGSs, who may access the same eligible customer information at any time on Duquesne's web site. As a result, the POLR Agreement conforms to the rules governing EGSs and ensures that the Commission's guidelines with respect to customer information will be fully obeyed by Duquesne and Orion. SEL's objection therefore should be denied.

**2. Marketing Information**

SEL and MAPSA object to the provision in the POLR Agreement that allows Orion to request that certain marketing information, including its name and

logo, be placed on Duquesne's retail customers' bills. *Id.* § 4.2(e). This complaint is without merit. First, Orion's marketing statement will appear on Duquesne's bills only to the extent permitted by applicable law and regulation. POLR Agreement § 4.2(e). Second, all parties were on notice of Duquesne's intention, as a method of maximizing value in the Auction, to permit the POLR supplier to share its marketing information with POLR customers. *See* Jan. 26, 1999 Letter from John S. Moot to James J. McNulty, Att. at 5. Finally, the marketers can establish no competitive harm because Orion is a wholesale supplier only, not an EGS. The argument therefore should be rejected.

**B. Method of Determining Orion's Load Obligation**

SEL objects to the method Duquesne and Orion will use to calculate Orion's hourly energy requirements, instead suggesting an alternative approach. SEL at 4. MAPSA appears to agree. MAPSA at 2. The method employed by the POLR Agreement, however, is identical to the procedure in use today for determining what load share remains Duquesne's POLR obligation. Orion has simply been substituted for Duquesne in this process and assumes the risk and responsibility of serving all of Duquesne's load that is not served by the EGSs. There is thus no issue for Commission resolution here.

**C. Fees For Duquesne Services**

MAPSA queries whether Orion will be charged the same "fees" for Duquesne's services as EGSs are charged. MAPSA at 2. MAPSA does not, however, identify any such fees, and Duquesne is aware of only two: late payment fees and the Technical Support and Assistance Charge approved by the Commission under the Supplier Tariff. Neither are applicable to Orion. As to the first, Duquesne's remedies in the event of an Orion payment default far exceed its right to collect a late payment fee from EGSs. As described in Sections 7.4, 7.5, and 7.6 of the POLR Agreement, if Orion fails to remit charges, Duquesne may either withhold payment otherwise owed Orion, offset Orion's shortfall from amounts owed Orion, or draw on a letter of credit Orion is required to post, each under the circumstances described in the POLR Agreement. As to the second charge, the purchase price paid by Orion includes the right to a dedicated communication link to Duquesne that would obviate the need for further technical assistance. As a result, MAPSA's comment should be rejected.

**D. Energy Imbalances**

MAPSA expresses concern that Orion somehow will be able to influence the price for imbalance energy charged to EGSs. MAPSA at 3. Contrary to MAPSA's implication, the procedures for determining EGS energy imbalances are unchanged by the POLR Agreement. Duquesne will continue to assess energy

imbalance charges pursuant to its FERC-approved rates;<sup>5</sup> any challenge to those rates must be resolved at the FERC.

In any event, MAPSA's concern is unfounded. EGSs themselves determine whether they will incur imbalance charges by scheduling to meet their load. If, as MAPSA postulates, both the EGSs and Orion are short, each will be separately responsible for purchasing imbalance energy from Duquesne. The price paid by EGSs under Duquesne's FERC open access transmission tariff is the lambda on Duquesne's system, which is defined as the costs associated with producing or purchasing the last MWH of energy in a given hour on Duquesne's system. In most cases, Duquesne will be required to call on ancillary services it has purchased from FirstEnergy, and therefore Duquesne's lambda will be the lambda on the *FirstEnergy* system. As Orion will not be a price maker on FirstEnergy's system, it will be unable to affect the price of imbalances charged to EGSs. If Orion is also short, it could pay *more* than EGSs due to the POLR Agreement penalty provisions that do not apply to EGSs. These penalties were adopted because of Orion's larger load share and the importance of maintaining a reliable POLR supply. In any case, Orion

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<sup>5</sup> *Duquesne Light Co.*, 88 FERC ¶ 61,273 (1999); *see also Duquesne Light Co.*, 87 FERC ¶ 61,352 (1999).

currently has no control over whether or how much EGSs pay for imbalance energy.<sup>6</sup> Thus, the remedies proposed by MAPSA are unnecessary.

**E. Company Use Energy**

MAPSA objects to the provision in the POLR Agreement acknowledging that Duquesne will not be billed by Orion for energy Duquesne consumes. MAPSA at 2. This is a non-issue. Duquesne is not billed for so-called company use energy because Orion is already compensated for this energy through Duquesne's generation rates. Duquesne's generation rates were developed on the basis of a total revenue requirement that included the cost of Duquesne's energy needs. Thus, current rates already compensate for Duquesne's electricity consumption. Therefore, when Duquesne passes through to Orion the generation rates it charges POLR customers, Orion is compensated for the cost of company use energy. Orion simply has been substituted for Duquesne in this process.

**F. Compensation for Black Start Service**

Duquesne noted in its application that the Connection and Site Agreements permit Orion to be compensated by Duquesne for the reasonable costs of maintaining black start capability. Application at 9-10. SEL requests that the

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<sup>6</sup> Even if, in the future, Orion provides ancillary services to Duquesne, any challenge to the price charged by Duquesne for energy imbalances would need to be resolved by the FERC. *Duquesne Light Co.*, 88 FERC ¶ 61,273 (1999); *Duquesne Light Co.*, 87 FERC ¶ 61,352 (1999).

Commission determine whether these costs should be assigned to distribution or transmission. If assigned to transmission, SEL suggests that Duquesne be directed to file a transmission rate case at FERC. This suggestion – that Duquesne file for a transmission rate *increase* – is, to say the least, odd. In any event, the request is premature. Orion has not filed a rate for black start service, nor has it sought to assess any costs to Duquesne. If and when it does so, the issue will be ripe and can be revisited in the appropriate forum.

**G. Continuing Duquesne POLR Obligation (POLR II)**

Several commenters note that Duquesne is currently meeting with interested parties to develop a proposal for serving non-switching customers following the end of the transition period, which will occur in 2001 for most customers. Duquesne expects to make a filing with the Commission by the end of March proposing a structure for "POLR II." OCA expresses a concern that this process will not be completed before CTC recovery ceases and suggests that the Commission require Duquesne to serve all customers at the rates in Schedule 3 to the POLR Agreement until the Commission resolves Duquesne's POLR responsibilities beyond the transition period. OCA at 2.

Duquesne has already agreed to continue serving the Architectural Lighting rate class at the rates in Schedule 3 to the POLR Agreement through the end of 2001, as that class will have completed CTC recovery by the Auction closing.

The next rate class to complete CTC recovery is Street Lighting -- Highway (SH), for which CTC recovery is predicted to expire in October 2000. Duquesne is hopeful that the Commission will resolve POLR II by then. If not, as with the AL class, Duquesne will service rate class SH at the rates in Schedule 3 through the end of 2001, subject to an earlier Commission order. While OCA is correct that the Electricity Generation Customer Choice and Competition Act obligates Duquesne to continue as the POLR provider after the transition period, the Act clearly allows Duquesne to do so at "prevailing market prices." 66 Pa.C.S.A. § 2807(e)(2) & (e)(3). Duquesne is therefore unwilling to commit to serving all customers at existing rates indefinitely as suggested by OCA. With Duquesne's previous commitments and the commitments in this filing, however, current estimates indicate that customers will be served at the rates in Schedule 3 through at least May 2001 (the expected CTC completion date for the MTS rate class), which will give the Commission more than adequate time to resolve Duquesne's POLR II filing.<sup>7</sup>

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<sup>7</sup> As an aside, SEL suggests that Duquesne's application cannot be granted until POLR II is resolved. SEL at 5. Duquesne's POLR II obligations are clearly irrelevant to whether the transfer to Orion is in the public interest.

## VI. MISCELLANEOUS

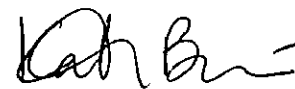
SEL and MAPSA raise several additional issues that are unrelated to Duquesne's application and therefore beyond the scope of this proceeding. These include:

- (a) SEL (at 2) objects to the language in Duquesne's Retail Tariff for 2000 addressing special contracts with industrial and commercial customers, asserting that Duquesne should not be permitted to establish new special contracts. This tariff language was unchanged by this application and is therefore not at issue in this proceeding.
- (b) SEL (at 5) believes the EGS Coordination Tariff "needs to be reviewed and amended," listing several issues it believes should be addressed. Whether or not SEL's concerns have merit, this docket is not the place to resolve them.
- (c) SEL (at 3) requests that the Commission review situations in which a must-run unit is needed for reliability and establish criteria to maintain EGS access to competitive markets during must-run periods. This issue is both premature and outside the purpose of the Must-Run Agreements. The Agreements have not yet taken effect and therefore there are not yet any situations for the Commission to review. Even if there were, the purpose of the Agreements is to ensure reliability during periods when there is *not* a competitive supply market in the local area surrounding the must-run plants. In any event, the Must-Run Agreements are FERC-jurisdictional; hence, any such issues should be addressed to the FERC, not this Commission.
- (d) MAPSA at (2-3) suggests that the Commission develop a mechanism to give Duquesne the proper incentives in the development of model load profiles. While Duquesne does not dispute that this is an important issue, it does not relate to the requested approval of the transfer to Orion and therefore is inappropriate for resolution in this proceeding.

The Commission should decline to address these issues in its order.

WHEREFORE, the Commission should issue the requested PUHCA eligible facilities determination by the end of February and grant Duquesne's application consistent with the foregoing reply comments and the form of order attached hereto.

Respectfully submitted,



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(412) 393-6049

Dated: February 21, 2000

Index of Appendices

Appendix A Form of Order

Appendix B Revised Affidavit of Michael M. Schnitzer

**APPENDIX A**

**FORM OF ORDER**  
on Duquesne's Auction Application

**THEREFORE IT IS ORDERED:**

1. Duquesne's Application for a Certificate of Public Convenience and for Commission approval of the transfer of property used or useful in the public service is hereby approved consistent with the findings in this Order.
2. That a Certificate of Public Convenience approving the transfer and acquisition of property used and useful in the public service be issued.
3. The transfer to Orion is in the public interest under the terms set forth in the Application and its attachments.
4. Duquesne is directed to submit, within sixty days after the Auction closing, a reconciliation filing that includes a reconciliation of Auction proceeds and transaction costs, as well as a proposal for future reconciliation filings of CTC amortization, which filings shall include CTC amortization for special contract customers. Duquesne is also directed to convene a technical conference within 15 days of its sixty-day reconciliation filing.
5. Duquesne is directed to develop a customer information program for Rate RH customers informing such customers of the reduction in the shopping credit that will take effect upon the Auction closing and explaining the process of selecting a new supplier, comparing prices and other attributes of service, and returning to Duquesne POLR service. Duquesne shall not be required to set a date certain for the Rate RH shopping credit decrease or advise customers on their termination rights under their contracts with other suppliers.
6. Duquesne's generation and CTC rates for the transition period are hereby approved as just and reasonable.
7. The new tariff language in Duquesne's Retail Tariff for 2000, attached as Schedule 2 to the POLR Agreement, is hereby approved as just and reasonable.

8. The comments of SEL and MAPSA are rejected consistent with this Order.

9. Duquesne is directed to continue its collaboration with interested parties on the proper form of POLR II and submit a proposal to the Commission at the conclusion of those discussions.

## BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

DUQUESNE LIGHT COMPANY ) Docket # R-00974104

Commonwealth of Massachusetts )  
 ) ss.:  
 County of Middlesex )

## AFFIDAVIT OF MICHAEL SCHNITZER

Michael Schnitzer, being duly sworn, deposes and says:

1. I have been asked by Duquesne Light Company ("Duquesne") to provide information regarding the effect of the sale of generation to Orion Power Holdings, Inc., on competition.
2. I am currently employed as a Director in the economic consulting firm of The NorthBridge Group ("NorthBridge"). I have held this position since 1992. Before joining NorthBridge, I was a Managing Director at Putnam, Hayes & Bartlett, where I co-directed the regulated industries practice. I received my undergraduate degree from Harvard College and a Masters in Management from the Sloan School at MIT.

## CONTEXT FOR THE AUCTION

3. All of the Pennsylvania investor-owned electric utilities have concluded statutorily-mandated restructuring proceedings before the Pennsylvania Public Utility Commission (PaPUC) to permit retail electric competition to begin on January 1, 1999. Duquesne's

order in its restructuring proceeding required it to auction all of its generating assets as soon as practicable to establish, on a market rather than an administrative basis, the level of its stranded costs.

4. Because much of Duquesne's generation ownership was in the form of minority shares of units jointly owned with FirstEnergy Corporation ("FirstEnergy") which would be more difficult to auction, Duquesne entered into an exchange agreement with FirstEnergy under which Duquesne would swap its minority interest in eight nuclear and coal units for a 100 percent interest in three fossil stations owned by subsidiaries of FirstEnergy. Duquesne believed that this exchange would expedite the generation auction, further mitigate Duquesne's stranded costs, and enhance the competitiveness of the wholesale generation market.
5. On December 18, 1998, the PaPUC determined on a preliminary basis that the swap was in the public interest, directed Duquesne to finalize the contractual arrangements with FirstEnergy and approved Duquesne's generation auction plan. On July 15, the PaPUC gave final approval to the generation exchange and to the auction of the post-exchange generation assets. On September 24, 1999, Duquesne entered into an agreement with Orion Power Holdings, Incorporated ("Orion") to sell all of its post-exchange generation (the three FirstEnergy units plus Cheswick, Elrama, Phillips and Brunot Island) for \$1.7 billion. On December 3, 1999, Duquesne and FirstEnergy closed the exchange agreement, and thus Duquesne now owns all of the generating assets that it has contracted to sell to Orion.
6. Thus, this application for approval to sell the generating assets to Orion represents the final step in the exchange/auction plan that Duquesne has been pursuing over the last 18

months, and with the Commission's approval, Duquesne's customers will receive substantial benefits:

- A reduction in stranded costs of approximately \$1.1 billion (after-tax) compared to the Commission's administrative determination, and hence a much shorter CTC collection period,
- Enhanced competitiveness in the generation market through competitive ownership of a 100 percent interest (with associated site and operating control) of three additional fossil stations,
- Decreased concerns over vertical market power due to the separation of generation and transmission ownership.

#### **MARKET INFORMATION**

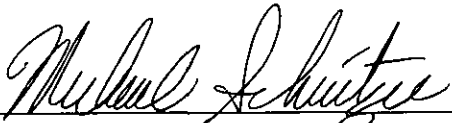
7. I have been asked to consider the effect of the sale to Orion on competition. In reply comments in support of its Auction Plan, Duquesne stated that it would "provid[e] the Commission with the information necessary to consider market power issues at the time a winning bidder is selected and final approval of the auction is requested." Duquesne Reply Comments at 44. In the Auction Plan, Duquesne stated that it would "request that each bidder that owns substantial assets in the market area (ECAR) submit an analysis of the degree to which its planned acquisition would impact wholesale or retail power markets." Duquesne Auction Plan at 12.
8. Duquesne was fortunate in that the winning bidder, Orion, does not own any generation assets in the East Central Area Reliability Council ("ECAR"), the region in which Duquesne operates. Duquesne therefore was not forced to balance "value" issues with "competitive" issues – i.e., because the highest bidder, Orion, did not own assets in the

region, Duquesne did not need to consider whether other, lower-value bids might be more attractive, on balance, from both a value and market power perspective. Consequently, the market power analysis that follows is short and straightforward.

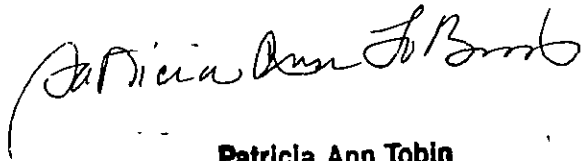
9. I will first address the vertical aspects of the divestiture. It is clear that, from a vertical market power perspective, the divestiture is pro-competitive. The FERC and many state commissions have been advocating for years that the control of transmission facilities should be separated from the ownership and control of generation. The FERC established rules for a "functional" separation of transmission from generation in Order No. 889, and it recently adopted a rule on Regional Transmission Organizations ("RTO") that would go much further. In Duquesne's region, there is, however, as yet no RTO. Consequently, Duquesne's divestiture is the only means available, at present, to vertically separate transmission control from generation ownership. This fact should support a Commission finding that the divestiture is pro-competitive.
10. I will now turn to the horizontal aspects of the divestiture. As I mentioned previously, this portion of the analysis is relatively straightforward because Orion does not own any other generating assets in ECAR. As a consequence, there will be no material change in the level of market concentration (or market shares) in ECAR when Duquesne divests its plants to Orion. The most significant change will, as discussed above, be pro-competitive because of the vertical divestiture. It also is worth noting that Orion will, as the owner of Duquesne's generation, be a relatively small market participant. ECAR has an installed capacity of approximately 104,000 MW and, post-divestiture, Orion will own approximately 2,614 MW, or approximately 2.5% of that capacity.

11. For completeness, I also note that Orion owns a modest amount of generation in another region, the New York Power Pool. Even if that generation (a total of 2,617 MW) is assumed to economically compete in the ECAR region – which, due to transmission constraints, is an aggressive assumption – there is no significant increase in market shares or concentration because of the divestiture. Orion's share of generation capacity in a combined ECAR-NYPP market is 1.9% before the divestiture and 3.8% after the divestiture. (NYPP's total capacity is approximately 34,650 MW.)
12. Finally, I note that Orion is a joint venture in which Constellation, the parent of Baltimore Gas & Electric Co., owns an interest. Here too, even if that interest is considered relevant to the analysis, the competitive effect of the divestiture is *de minimis*. Assuming that BG&E's capacity (which is located in the Pennsylvania-New Jersey-Maryland Pool) competes in ECAR – which, again, due to transmission constraints, is an aggressive assumption – there is no significant increase in market shares or concentration because of the divestiture. Orion's share of capacity in a combined ECAR-PJM market is 4.0% before the divestiture and 5.6% after the divestiture. (PJM's total capacity is approximately 56,000 MW and BG&E owns approximately 6,400 MW in that region.).
13. In summary, the sale of Duquesne's generation assets to Orion will result in substantial benefits to Duquesne's customers. There do not appear to be any market power issues associated with the sale, both because Duquesne has a small share – 2.5 percent – of the ECAR market and because Orion owns no other generation assets within ECAR. Completing the exchange/auction package also has affirmative competitive benefits with respect to the development of the generation market and the elimination of the potential

for any vertical market power concerns associated with Duquesne's continued ownership of both transmission and generation.

  
Michael Schnitzer

Sworn to me before  
this 24<sup>th</sup> day  
of January, 2000



**Patricia Ann Tobin  
Notary Public  
My Commission Expires  
June 23, 2008**

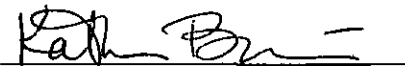
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>PENNSYLVANIA PUBLIC UTILITY</b>	)	
<b>COMMISSION</b>	)	
	)	
v.	)	<b>Docket No. R-00974104</b>
	)	
<b>DUQUESNE LIGHT COMPANY</b>	)	
<b>Application to Approve Restructuring</b>	)	
<b>Plan Pursuant to 66 Pa.C.S. § 2806(d)</b>	)	
	)	
<b>Application of Duquesne Light Company</b>	)	<b>Docket No. A-00110150F0023</b>
<b>for Certificate of Public Convenience and</b>	)	
<b>for Commission Approval of the Transfer</b>	)	
<b>of Property Used or Useful in the Public</b>	)	
<b>Service</b>	)	

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing reply comments of Duquesne Light Company 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 21<sup>st</sup> day of February, 2000.

  
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25 Feb. 2000

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

R-00974104

DOCKETED

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DOCUMENT  
FOLDER

Sir:

I, Donald R. Ayersman Jr. having been granted intervenor status in the Duquesne Light Company, Allegheny Power Company merger action do hereby request that our status in these matters be withdrawn.

We, the IBEW and myself feel we no longer will be effected by this course of action, and our responsibilities to our membership has been fully served.

Thank you for you time and attention in this matter.

Donald R. Ayersman Jr.

President, Local 2357 IBEW



File → R-974104

Commonwealth Court of Pennsylvania

Charles R. Hostutler  
Deputy Prothonotary/Chief Clerk

P.O. Box 11730  
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www.aopc.org

March 21, 2000

Notice of Discontinuance of Action

RE: DUQUESNE LIGHT CO. v. PUC  
Appeal of:  
Type of Action: Petition for Review  
No.: 2566 CD 1998  
Public Utility Commission  
Agency Docket Number: R-00974104

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LAW BUREAU

The above-captioned matter has been marked "Discontinued" with this court.  
Certification is being sent to the lower court below.

Certified from the Record

MAR 21 2000

and Order Exit

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APR 06 2000

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MAR 28 2000

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FOLDER

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June 6, 2000

JUN 06 2000

VIA OVERNIGHT DELIVERY

A PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Post Office Box 3265  
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DOCUMENT  
FOLDER

Re: Motion of Duquesne Light Company for  
Extension of Time, Docket Nos. R-00974104,  
A-~~00~~110150F0023, & R-00995028

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

50

**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) )**

**Application of Duquesne Light Company )  
for Certificate of Public Convenience and )  
for Commission Approval of the Transfer )  
of Property Used or Useful in the Public )  
Service )**

**Docket No. A-00110150F0023**

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JUN 03 2000

**A PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

**PENNSYLVANIA PUBLIC UTILITY )  
COMMISSION )**

v. )

**Docket No. R-00995028**

**DUQUESNE LIGHT COMPANY )**

**MOTION OF DUQUESNE LIGHT COMPANY  
FOR EXTENSION OF TIME**

Pursuant to 52 Pa. Code § 1.15, Duquesne Light Company

("Duquesne") hereby requests an extension of time in which to file a reconciliation of proceeds from the auction of its generation assets. The Commission's April 13, 2000 order in this docket ("April Order") held, at Duquesne's request, that Duquesne should file, within sixty days of the closing of the auction, a reconciliation of auction

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proceeds and transaction costs, as well as a proposal for future reconciliation filings of CTC amortization. The auction closed on April 28, 2000, causing Duquesne's reconciliation filing to be due on June 27, 2000. The April Order also ordered Duquesne to submit, by July 1, 2000, its proposal for continuing as the provider of last resort after the completion of the transition period ("POLR II"). Duquesne has been working diligently to meet both deadlines, but hereby requests a thirty-day extension of time to submit the reconciliation filing in order to ensure that the POLR II proposal is submitted as soon as possible. In support of its motion, Duquesne states as follows:

1. On December 17, 1998, the Commission approved Duquesne's plan to divest its generating assets through an auction. The Commission's July 15, 1999 order approved Duquesne's plan to swap with FirstEnergy Corp. ("FirstEnergy") certain of Duquesne's minority interests in several generating stations for several of FirstEnergy's plants. Duquesne auctioned its generation assets and those acquired from FirstEnergy to the highest bidder, Orion Power Holdings, Inc. ("Orion"), for \$1.705 billion. Definitive agreements with Orion were signed on September 24, 1999, and Duquesne submitted an application for approval of the divestiture on December 22, 1999. In its reply comments, Duquesne notified the Commission that it would be proposing a POLR II plan to commence upon the completion of the transition period in Duquesne's service territory, and that Duquesne was endeavoring

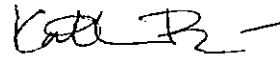
to consult with all active parties before submitting such a plan. In the April Order, the Commission approved the sale and ordered Duquesne to submit the reconciliation filing, continue collaborating with parties regarding POLR II, and submit the POLR II filing.

2. Duquesne has continued its collaboration with the other parties on the details of its POLR II proposal in an effort to reach a plan that is acceptable to all constituents. As a result of the numerous meetings that Duquesne has held during May and June on POLR II, necessary resources have been diverted from the reconciliation filing.

3. Good cause exists for the Commission to grant this motion. Duquesne's counsel and management are developing a plan for POLR II that will be acceptable to all market participants. A short extension of time on the reconciliation filing will permit Duquesne to continue to devote its full efforts to completing that process. No prejudice will result from delaying the reconciliation filing, as the benefits to ratepayers of the \$1.705 billion purchase price for Duquesne's assets will be unaffected. If the Commission grants this motion, Duquesne will make the required filing by July 27, 2000.

WHEREFORE, Duquesne respectfully moves the Commission to issue an order extending to July 27, 2000, the period of time in which Duquesne must file the reconciliation of auction proceeds.

Respectfully submitted,



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Dated: June 6, 2000

**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) )**

**Application of Duquesne Light Company )  
for Certificate of Public Convenience and )  
for Commission Approval of the Transfer )  
of Property Used or Useful in the Public )  
Service )**

**Docket No. A-00110150E0023**

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**PENNSYLVANIA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU**

**PENNSYLVANIA PUBLIC UTILITY )  
COMMISSION )**

**v. )**


**Docket No. R-00995028**

**DUQUESNE LIGHT COMPANY )**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion for Extension of Time of Duquesne Light Company 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 6<sup>th</sup> day of June, 2000.



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DOCKETED

JUN 14 2000

COMMONWEALTH OF PENNSYLVANIA

DATE: June 14, 2000  
SUBJECT: R-00974104; A-110150F0023; R-00995028  
TO: Law Bureau  
FROM: James J. McNulty, Secretary

DOCUMENT  
FOLDER

LAF

R-00974104 - Application to Approve Restructuring Plan Pursuant to 66 Pa. C.S. §2806(d)

A-110150F0023 - Application of Duquesne Light Company for Certificate of Public Convenience and for Commission Approval of the Transfer of its Interest in Seven Electric Generation Stations and Related Transmission Assets to Orion Power Holdings.

R-00995028 - Duquesne Light Company filed Revisions to Tariff Electric Pa. P.U.C. No. 20 in Regards to Duquesne's Generation and CTC Rates for the Transition Period.

Attached is a copy of a Motion for Extension of Time in Which to File a Reconciliation of Proceeds from the Auction of its Generation Assets, filed by Duquesne Light Company in connection with the above docketed proceedings.

This matter is assigned to your Bureau for appropriate action.

Attachment

cc: FUS

laf