

Scott J. Rubin
Attorney • Consultant

3 Lost Creek Drive • Selinsgrove, PA 17870 • (570)743-2233 • Fax: (570)743-8145 • scott@publicutilityhome.com

September 28, 2000

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

DOCKETED ORIGINAL
OCT 05 2000

Re: Petition of Duquesne Light Company for Approval
of Plan for Post-Transition Period Provider of Last
Resort Service, Docket No. R-00974104

Dear Mr. McNulty:

In response to the Commission's Order of September 15, 2000, Local 29 of the International Brotherhood of Electrical Workers hereby indicates its willingness to participate in a collaborative process to resolve this matter and waives any objection it might otherwise have to any Commissioner who participates as a facilitator subsequently voting on the petition.

Sincerely,


Scott J. Rubin

**DOCUMENT
FOLDER**

cc: All parties of record

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

Petition of Duquesne Light Company For
Approval of a Plan for Post-Transition Period
POLR Service

Docket No. R-00974104

731490

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WAIVER OF OBJECTIONS

The undersigned hereby agrees to waive any objection to the participation of Chairman John M. Quain and Commissioner Terrance J. Fitzpatrick in the Collaborative scheduled to convene on October 4, 2000 regarding the Petition for Duquesne Light Company for Approval of a Plan for Post-Transition Period POLR Service, and the Chairman's and Commissioner Fitzpatrick's subsequent participation in the deliberation and vote on any issues, subsequent petitions, settlements or any further proceedings arising as a result of the above-captioned petition.

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DOCKETED
OCT 12 2000

Donald R. Chusman

For: IBEW Local 2357

Dated: 30 September 2000

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OCT 12 2000

ORIGINAL

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

DOCUMENT
FOLDER

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)

731414

Dear Mr. McNulty:

As agent for 600 Grant Street Associates, L.P., owner of the USX Tower in Pittsburgh, Winthrop Management L.L.C. submits these comments on Duquesne Light Company's CTC Reconciliation and Auction Accounting Compliance Filing.

These aspects of Duquesne Light's request for reimbursement of its generation asset sale costs are very troubling to us:

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OCT 12 2000

(1) The company's attempt to recover costs incurred this past summer to serve customers returning to Duquesne Light from alternative suppliers. These costs are unrelated to the sale of Duquesne Light's generation assets. Instead, they are related to the so-called "provider of last resort" service which Duquesne Light sold separately from its assets. Consequently, the claimed costs should be the responsibility of the winning bidder for that service unless the contractual terms of the sale expressly provide otherwise.

(2) The company's proposed extension for several months of the recovery period for collection of its stranded costs. Prolonging this period from the fall of 2001 well into 2002 will cause the owner of the USX Tower to incur approximately \$650,000 in additional Competitive Transition Charges, assuming a six-month extension. Extending the period will also significantly delay the benefits of full electric competition in the Greater Pittsburgh area.

(3) The company's failure to provide supporting information for much of its claim for \$277 million. By any account, the company's request is remarkable, not only for the amount of the claimed costs but also for their breadth and variety—from lawn care and environmental costs to nuclear fuel leases and securities retirement costs. How the Public Utility Commission could possibly approve recovery of these costs—and impose them on Duquesne Light's customers—without demanding adequate supporting data and without subjecting the claims to the scrutiny of public and private parties, is beyond our understanding. We strongly believe that the public

Suite 3050
600 Grant Street
Pittsburgh, PA 15219
412-261-9940
Fax: 412-261-2368

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interest requires that access be given to all supporting data, and that interested parties be given ample opportunity to question the claims.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Thomas Harrington', written in a cursive style.

Thomas Harrington, RPA
Property Manager

cc: Service List

TrizecHahn Office Properties Inc.
Two Gateway Center
Pittsburgh, Pennsylvania 15222
Tel: 412 392 6000
Fax: 412 392 6090

ORIGINAL

October 3, 2000

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

DOCKETED
OCT 12 2000

731682

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

**DOCUMENT
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00 OCT 12 2000
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SECRETARY'S OFFICE

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 TrizecHahn Gateway, LLC, and will seriously delay true electric competition in Western Pennsylvania. TrizecHahn 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 TrizecHahn Gateway, LLC, 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 TrizecHahn of \$170,000 annually. 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.

\$62.94 million tax claim: TrizecHahn Gateway, LLC, 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

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October 3, 2000

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: TrizecHahn Gateway, LLC, 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.

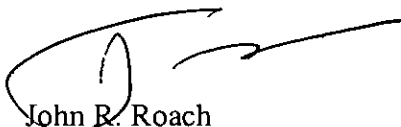
Legal and consulting fees: Duquesne's claim of \$37.7 million for legal and consulting fees should receive close scrutiny. Duquesne submitted no detailed invoices from any of its consultants, legal or otherwise, with the excuse that the invoices contain legally privileged information. Thus, Duquesne 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: TrizecHahn Gateway, LLC, 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.

Sincerely,

TrizecHahn Office Properties Inc.



John R. Roach
General Manager

JRR/pat

cc: PaPUC Service List

ORIGINAL

Frank R. Walters
PNC Realty Services
620 Liberty Avenue
P2-PTPP-19-3
Pittsburgh, PA 15222-2719
412 762 2389 Tel
412 762 5199 Fax

PNC 731694

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October 3, 2000

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

DOCKETED

OCT 13 2000

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:

DOCUMENT
FOLDER

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 my company and will seriously delay true electric competition in Western Pennsylvania. My 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 my company, PNC Financial Services Group, 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 my company, \$346,064.00. 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.

The PNC Financial Services Group

One PNC Plaza 249 Fifth Avenue Pittsburgh Pennsylvania 15222 2707

www.pnc.com

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October 3, 2000
James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Page Two

\$62.94 million tax claim: My 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: PNC Financial Services Group 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: My 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.

Frank R. Walters
PNC Realty Services
620 Liberty Avenue
P2-PTPP-19-3
Pittsburgh, PA 15222-2719
412 762 2389 Tel
412 762 5199 Fax



October 3, 2000
James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Page Three

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,

A handwritten signature in cursive script that reads "Frank R. Walters".

Frank R. Walters
Vice President & Manager
Major Buildings Group

cjv

cc: PaPUC Service List



DEVELOPMENT DIMENSIONS INTERNATIONAL, INC.

1225 Washington Pike
Bridgeville, PA 15017-2838 USA
Phone 412.257.0600
Fax 412.257.0614
info@ddiworld.com
www.ddiworld.com

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October 3, 2000

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OCT 13 2000

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

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:

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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.

- Pittsburgh
- Atlanta
- Auckland
- Bangkok
- Buenos Aires
- Chicago
- Dallas
- Denver
- Detroit
- Düsseldorf
- Hong Kong
- Jakarta
- Johannesburg
- Kuala Lumpur
- London
- Los Angeles
- Manila
- Melbourne
- Monterrey
- Montreal
- New York
- Paris
- Santiago
- San Francisco
- Sao Paulo
- Seoul
- Singapore
- St. Louis
- Sydney
- Tokyo
- Toronto

The above-referenced Duquesne filing, if approved, will impose substantial economic obligations upon Development Dimensions International (DDI) and will seriously delay true electric competition in Western Pennsylvania. DDI 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 DDI 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 my company of approximately **\$24,000** over the next six months. 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.

\$62.94 million tax claim: My 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.

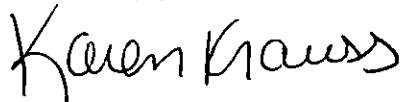
Employee costs: DDI also is concerned with Duquesne's claimed employee costs. Duquesne reduced its workforce by only 450 individuals but at a claimed cost of \$66.2 million. This claim seems excessive and bears further investigation into whether the 450 employees were properly targeted and whether they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



Karen Krauss
Facilities Manager

cc: PaPUC Service List

Byham Family Limited Partnership

October 3, 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

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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 Byham Family Limited Partnership (BFLP) and will seriously delay true electric competition in Western Pennsylvania. BFLP 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 BFLP 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 my company of approximately **\$25,200** over the next six months. 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.

\$62.94 million tax claim: My 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.

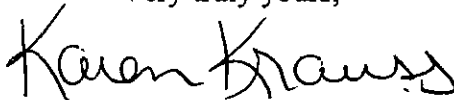
Employee costs: BFLP also is concerned with Duquesne's claimed employee costs. Duquesne reduced its workforce by only 450 individuals but at a claimed cost of \$66.2 million. This claim seems excessive and bears further investigation into whether the 450 employees were properly targeted and whether they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



Karen Krauss
Facilities Manager

cc: PaPUC Service List

South Hills Health System

Coal Valley Road
P.O. Box 18119
Pittsburgh, PA 15236-0119

412-469-5000

DOCUMENT
FOLDER ORIGINAL

October 3, 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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SECRETARY'S BUREAU

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 South Hills Health System and will seriously delay true electric competition in Western Pennsylvania. South Hills Health System objects to any recovery or offset 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 South Hills Health System 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 South Hills Health System. 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.

\$62.94 million tax claim: South Hills Health System 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 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

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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: South Hills Health System 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 of legal and consulting fees should receive also 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: South Hills Health System 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.

Sincerely,



Mark Knefelkamp
Building Manager
South Hills Medical Building

CC: PaPUC Service List





JONES LANG
LASALLE

DOCKETED
OCT 12 2000

731505

October 3, 2000 DOCUMENT ORIGINAL FOLDER

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

RECEIVED
SECRETARY'S
00 OCT -4 PM 3:30
P. S.

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 my company and will seriously delay true electric competition in Western Pennsylvania. My 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.



JONES LANG
LASALLE.

James J. McNulty
October 3, 2000
Page 2

Extension of competitive transition charge ("CTC"): Duquesne's proposed extension of the CTC recovery period will have a detrimental financial impact upon my company [or name of company] 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 my company. 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.

\$62.94 million tax claim: My 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: My 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.



JONES LANG
LASALLE.

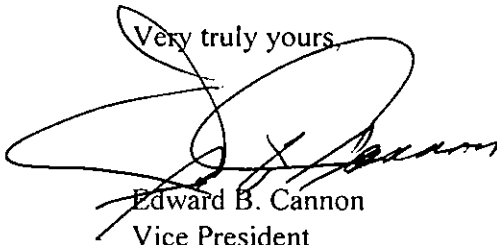
James J. McNulty
October 3, 2000
Page 3

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: My 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,



Edward B. Cannon
Vice President
Corporate Property Services

EBC/smr

cc: PaPUC Service List



DOCKETED
OCT 10 2000

Pittsburgh Public Schools
341 South Bellefield Avenue
Pittsburgh, PA 15213-3516

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John W. Thompson, Ph.D.
Superintendent of Schools

OCT 04 2000

OFFICE OF BUSINESS AFFAIRS/FINANCE

PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

October 4, 2000

ORIGINAL

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

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 Mr. McNulty:

The School District of Pittsburgh, one of Duquesne Light Company's major customers, submits the following comments on the company's CTC Reconciliation and Auction Accounting Compliance Filing.

At the outset, the School District takes as a given that this filing's claimed transactional costs associated with the sale of Duquesne Light's generation assets will be subjected to a verification process with full participation by interested parties. The filing is so far-reaching in its effect on the company's customers that it surely must be subjected to the same public scrutiny as a major rate filing.

Perhaps the most noteworthy aspects of the filing are the diversity of its cost recovery claims amounting to \$277 million and the lack of information supporting these claims. The filing is long on listing payments and recipients but short on establishing the prudence and reasonableness of the payments. Examples include: nearly \$24 million in legal and consulting fees paid to 66 firms and individuals; investment banking fees of \$14 million (including "out-of-pocket expenses" of \$205,000 for travel); \$1.1 million in "plant enhancements charges" to 38 companies; \$167,000 in "tour fees" to 19 entities; and \$750,000 in "government/banking/filing fees."

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Some of the claims appear to have no relation to the sale of the company's assets. What, for example, is the relevance of the \$10 million claim for

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improvements to FirstEnergy's transmission system, apparently to satisfy Ohio's utility regulators?

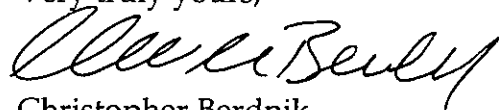
Similarly, how is it possible to justify recovery of unspecified "excessive costs" of this past summer to serve customers who returned to the company after receiving service from an alternative electricity supplier? Were these costs not anticipated by the winning bidder for such "provider of last resort" service? Imposing such costs retroactively on all customers is unfair and an unanticipated budgetary burden.

Surely, the reasonableness and propriety of several claims can only be assessed by experts foreign to the Public Utility Commission's resources. These claims include tax payments, environmental remediation costs, nuclear decommissioning liabilities, real estate lease indebtedness (\$117 million), securities refunding and repurchasing costs, and employee termination costs (\$66 million). If the Commission is not to accept these claims at face value, it must either retain the necessary advisors (at the company's expense) or provide the opportunity for interested parties to procure and present appropriately informed testimony.

Of most concern to the School District is the company's intention to extend by several months the period within which it will recover its stranded costs, apparently necessitated in great measure by the magnitude of the company's claims in this filing. If the Commission approves the extension, the School District estimates that its unbudgeted costs will be approximately \$750,000. This financial burden is serious enough, but the impact does not end there. A lengthy extension of the recovery period will certainly delay enhanced competitive market opportunities for the School District and the company's other customers, adversely affect economic growth in the region, and reflect poorly on the Commission's efforts to encourage electric choice.

Copies of these comments are being sent to all parties in the company's restructuring proceeding.

Very truly yours,



Christopher Berdnik
Acting Director of Finance

CC: Mr. Richard R. Fellers



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October 4, 2000

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Pennsylvania Public Utility Commission
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FOLDER

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 my company and will seriously delay true electric competition in Western Pennsylvania. My company, Alcoa, Inc., 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 Alcoa, Inc. 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 my company (\$50,000). 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.

\$62.94 million tax claim: Alcoa, Inc. 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

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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.

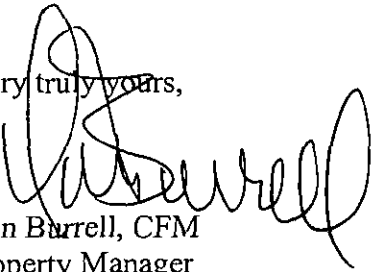
Employee costs: Alcoa, Inc. also is concerned with Duquesne's claimed employee costs. Duquesne reduced its workforce by only 450 individuals but at a claimed cost of \$66.2 million. This claim seems excessive and bears further investigation into whether the 450 employees were properly targeted and whether 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: Alcoa, Inc. 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,


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Property Manager

cc: PaPUC Service List

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MICHAEL W. WINFIELD
KATHRYN G. SOPHY

*ALSO ADMITTED TO THE FLORIDA BAR

Re: Pennsylvania Public Utility Commission v.
Duquesne Light Company Application to Approve
Restructuring Plan Pursuant to 66 Pa. C.S. § 2806(d)

7135/18

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

R-00974104

RECEIVED
00 OCT -5 PM 3:41
PA.P.U.C.
SECRETARY'S BUREAU

Dear Mr. McNulty:

Enclosed for filing please find an original and three of Mid-Atlantic Power Supply Association's Comments to Duquesne Light Company's CTC Reconciliation and Auction Accounting Compliance Filing. Parties have been served according to the Certificate of Service.

Very truly yours,

RHOADS & SINON LLP

By: 
Kathryn G. Sophy

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59

Enclosure

cc: Parties of Record

KGS/mtc

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) :

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PA. PUBLIC UTILITY
SECRETARY'S OFFICE

MID-ATLANTIC POWER SUPPLY ASSOCIATION'S COMMENTS
TO DUQUESNE LIGHT COMPANY'S CTC RECONCILIATION
AND AUCTION ACCOUNTING COMPLIANCE FILING

On August 4, 2000, Duquesne Light Company ("Duquesne") filed its CTC Reconciliation and Auction Accounting Compliance Filing detailing the transaction expenses associated with the sale of its generation assets. Duquesne sponsored a technical conference that was held on August 14, 2000, to address some issues associated with the filing. By Secretarial Letter dated August 24, 2000, the Pennsylvania Public Utility Commission ("Commission") directed that comments regarding Duquesne's filing be submitted on or before October 5, 2000. Pursuant to that Secretarial Letter, Mid-Atlantic Power Supply Association ("MAPSA") hereby submits the following comments:

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MAPSA is an association of power marketers, independent power producers, and a broad range of companies who support the electric services industry with an interest in the emerging electric power supply market within the Commonwealth of Pennsylvania and the Mid-

Atlantic region.¹ MAPSA will be represented in this proceeding by the following counsel who should be placed on the Commission's service list:

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Kathryn G. Sophy
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ksophy@rroads-sinon.com (e-mail)

Duquesne's compliance filing attempts to offset transaction costs associated with the company's auction of its generation assets against the proceeds from that auction and to reconcile the net amount with Duquesne's competitive transition charge ("CTC") recovery. Duquesne claims it incurred the extraordinary amount of \$277 Million in transaction costs.

Duquesne itemized each expense, from the sale and leaseback of Beaver Valley II to lawn care expenses, into the Commission-approved categories from prior PUC orders. Despite its separate petition on post-transition provider of last resort ("POLR") service, Duquesne includes a request to offset against the auction proceeds any approved GRA for customers who returned to POLR service in the Summer of 2000. *See* Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period POLR Service, Docket No. R-00974104, filed June 30, 2000 (POLR II petition).

¹ MAPSA's Board of Directors includes representatives of Amerada Hess; Calpine Eastern; Chevron Energy Solutions; CNG/Dominion; Conectiv Energy; DTE Energy Marketing, Inc.; Dynegy Inc.; Green Mountain Energy Company; Odyssey Strategies, Inc.; PG&E National Energy Group; Shell Energy Services Co., LLC; and Strategic Energy L.L.C. This filing represents the position of MAPSA as an organization, *but not necessarily* the views of any particular member with respect to any specific issue.

Duquesne also intends to offset against the auction proceeds \$62.94 million in tax liability. Duquesne claims the Commission approved recovery of these funds in its Restructuring Order. Duquesne claims to have inadvertently omitted the \$62.94 million from its Auction Application and intends to include the sum now. Duquesne asserts that the proposed reconciliation will extend the recovery of Duquesne's CTC into the Spring of 2002.² This means that commercial and industrial customers will continue to make CTC payment by as much as seven months longer than anticipated.

Despite the size of the filing, Duquesne's petition does not contain enough supporting data for the Commission to make a reasoned determination of the reasonableness of the \$277 million incurred and whether recovery should be approved. Generally, MAPSA opposes Duquesne's petition as an impediment to an open market. Duquesne's proposed extension of CTC recovery would adversely impact Duquesne's customers, marketers, generation suppliers, the region's economic development, and the free market system.

The outcome of this proceeding is vital to the interests of MAPSA, its members and their customers. Extension of CTC recovery and the resulting delay of the evolution of an open and competitive market will adversely affect the marketplace and adversely impact the interests of MAPSA and its members trying to operate in Duquesne's territory. Before the Commission considers approving this petition and adversely affecting the marketplace, further examination is necessary.

Accordingly, MAPSA requests the Commission to refer this matter to the Office of Administrative Law Judge for full evidentiary hearings where Duquesne may justify its claimed

² It is interesting to note that as little as five weeks prior to this filing, in its POLR II petition, Duquesne anticipated termination of CTC recovery by Autumn of 2001.

expenses and the Commission may have the benefit of a complete record before determining whether it should sanction further delay of an open marketplace.

\$62.94 Million Omission

In its Auction Application and subsequent filings, Duquesne indicated that most of its major rate classes would complete CTC payments by late 2001. As late as June 30, 2000, Duquesne maintained that CTC recovery for the major rate classes would terminate by late 2001. *See* POLR II petition. Five weeks later, on August 4, 2000, Duquesne indicates that it will not be terminating its CTC recovery next year after all. Duquesne now claims it needs another six or seven months of CTC collection.

Duquesne claims it must extend its CTC recovery period because the company inadvertently omitted \$62.94 million in tax liability from its Auction Application. Duquesne claims the full \$62.94 million was approved by the Commission in its Restructuring Order of May 29, 1998 at this docket. MAPSA disagrees that the Commission approved deferred collection of the \$62.94 million. In its Restructuring Order, the Commission held:

Prior to claiming the regulatory asset, SFAS 109 net plant was included as "plant in service" for the Perry and Beaver Valley 1 units. In order to avoid the problem of double recovery, and allow for consistency in the application of the analysis of the recovery of stranded costs, we conclude that Duquesne's SFAS 109 obligation should be treated as a tax liability from the balance of plant in service and not as a regulatory asset. We, therefore, reduce the Company's regulatory asset claim by \$62.94 million.

Restructuring Order at 155. It appears that the \$62.94 million in tax liability was fully addressed in the Restructuring Order and need not be revisited here. The Commission denied recovery under SFAS 109 to avoid "double recovery," with the implication that the \$62.94 million was being recovered elsewhere. What would have resulted in double recovery in 1998 also will result in double recovery in 2001.

Duquesne recovered or should have recovered its \$62.94 million tax liability under one of its multiple categories of collections, pursuant to the May 29, 1998 Restructuring Order. However, even if Duquesne's recovery of the tax liability was rejected or reduced, the claim was considered and acted upon in the Restructuring Order. Contrary to Duquesne's interpretation of that order, the Commission did not approve the \$62.94 million for deferred recovery. The Commission did not permit recovery to occur at some later date.

Incremental Power Purchase

Duquesne claims it was under an obligation to supply FirstEnergy with 200 MW of power from the Summer of 1999 until the transaction closed in December 1999. Duquesne claims that, due to the power demand during the heat wave of the Summer of 1999, Duquesne was forced to replace the 200 MW with wholesale market purchases. Duquesne provides the figures supporting its claim of \$11.5 million in costs to purchase incremental power. However, the information provided is insufficient to establish the reasonableness of these costs. Based upon the information provided, the Commission would be unable to make an informed determination as to whether these costs were prudently incurred.

MAPSA argues that the Commission should require Duquesne to demonstrate that the purchases made were necessary and the costs were prudently incurred and are placed on the correct party. An evidentiary hearing is needed to examine these issues and the contract between Duquesne and FirstEnergy to determine the extent of Duquesne's obligations to FirstEnergy.

Transmission System Upgrades

Duquesne claims to have made certain upgrades to its transmission and distribution system which cost \$12.1 million (\$9.6 Million for installation of capacitors and \$2.5 million for upgrades to its transmission feed into downtown Pittsburgh). MAPSA objects to the inclusion of these costs as transaction costs associated with the generation auction. Clearly, costs associated with the upgrade of Duquesne's transmission system should be treated as capital costs and included in transmission and distribution rates, assuming a determination that the costs were just and reasonable.

Employee Costs

Duquesne claims the cost of \$66.2 million in severance and retirement related costs associated with the divestiture of generation assets. Duquesne provides the numbers for offering an early retirement option to and for termination of 450 employees. Duquesne, however, neglects to include sufficient supporting data.

MAPSA questions the reasonableness of these costs. Severance costs of \$66.2 million for 450 employees seems excessive. Duquesne does not provide documentation that the costs were limited to generation-related employees. Duquesne does not provide any indication that the early retirement option and the severance packages were targeted to only appropriate generation employees.

To answer these questions, the Commission should direct this matter for hearing and require Duquesne to prove these costs were prudently incurred. Duquesne should be required to show a comparison to similar employee reduction initiatives associated with generation asset sales. With only the documentation provided by Duquesne's filing, this Commission is unable to make an informed decision regarding these costs.

Summer 2000 Switchback

Referring to its POLR II petition, Duquesne reasserts its claim that customers returning to POLR service during the summer months cause POLR providers to incur excess costs to serve them. In its POLR II petition, Duquesne proposed to impose a Generation Rate Adjustment (“GRA”) on customers who returned to POLR service during the Summer of 2000. Recognizing that it is too late to impose a GRA on those customers, Duquesne uses this filing to request recovery of the retroactive GRA through an offset against the auction proceeds, without documentation of the actual cost to serve returning customers and without any justification that the costs incurred in the Summer of 2000 were not excessive.

A retroactive GRA to cover returning Summer of 2000 customers has no place in this proceeding because: (1) it is not a transaction expenses; and (2) it is not Duquesne’s expense. Any additional costs to serve returning customers during the Summer of 2000, were incurred by Orion, the winning bidder for Duquesne’s POLR service. MAPSA opposes Duquesne’s attempts to charge returning customers a premium to return to the marketplace and has expressed this opinion in its response to Duquesne’s POLR II petition. MAPSA refers the Commission to that response for its full position. As the issue is again raised in the context of CTC reconciliation with the auction proceeds, MAPSA strongly opposes recovery of claimed, yet unsubstantiated, additional costs incurred by Orion to provide POLR service to Duquesne’s returning customers.

Duquesne requested bids for the privilege of serving its POLR customers, including those customers returning to POLR service from the marketplace. As the low bidder, Orion won that privilege. As low bidder, Orion cannot now claim it is entitled to additional funds for serving the very customers it should have expected to serve. Duquesne customers should not be expected to provide Orion with additional compensation, over and above a contracted price, through the CTC.

MAPSA urges the Commission to address this matter in the context of the POLR II collaborative and to reject any notion that GRA recovery may be tacked onto the coattails of Duquesne's transaction costs.

Development and Implementation Costs

Duquesne claims it incurred \$37.6 million in legal and consulting fees. Duquesne provides a summary of the expenses, listing the entity involved and the amount owed. Duquesne provides no detailed invoices for any of these fees, claiming legal privilege regarding invoices from legal advisors and consultants. With nothing more than Duquesne's asking, the Commission is expected to take the entire sum from the pockets of Duquesne's customers.

MAPSA believes \$37.6 million in consulting fees is excessive. MAPSA does not suggest that legally privileged information should be revealed, but notes that the fees require closer scrutiny before the Commission can reasonably determine whether they should be approved. The Commission should demand some support for these figures. At the very least, Duquesne should be required to provide information on how its consulting fees compare to those incurred in similar asset sales.

Market Impact

Hearings on this matter are essential. The market implications associated with Duquesne's petition are immeasurable. A six or seven month extension of CTC recovery means several hundreds of thousands of dollars for many commercial and industrial customers. Extension of CTC recovery will impede the growth of the region. Extension of CTC recovery will delay customers' enhanced competitive market opportunities. Extension of CTC recovery

will inhibit the development of a visible, liquid market and will debilitate marketers' opportunities to evolve a market.

This Commission should be absolutely sure these costs are reasonable and prudently incurred before it allows Duquesne to delay the evolution of the market.

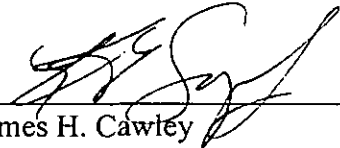
Conclusion

For the foregoing reasons, MAPSA requests that the Commission refer this matter to the Office of Administrative Law Judge for full evidentiary hearings and require Duquesne to provide support for each item claimed in its petition.

Respectfully submitted,

RHOADS & SINON LLP

By:



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Attorneys for
Mid-Atlantic Power Supply Association

Before the
Pennsylvania Public Utility Commission

ORIGINAL

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 I have this day served a true and correct copy of the foregoing document upon the following persons and in the manner indicated below:

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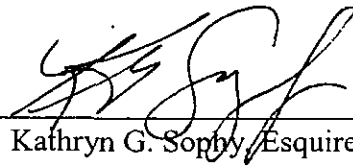
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FILE NO.

7182/05

Re: Pennsylvania Public Utility Commission v.
Duquesne Light Company Application to Approve
Restructuring Plan Pursuant to 66 Pa. C.S. § 2806(d)

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R-00974104

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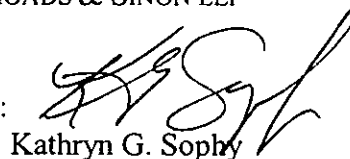
Dear Mr. McNulty:

Enclosed for filing please find an original and three of Strategic Energy L.L.C's
Comments to Duquesne Light Company's CTC Reconciliation and Auction Accounting
Compliance Filing. Parties have been served according to the Certificate of Service.

Very truly yours,

RHOADS & SINON LLP

By:



Kathryn G. Sophy

Enclosure

cc: Parties of Record

KGS/mtc

50

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

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) :

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COMMENTS OF STRATEGIC ENERGY L.L.C.
TO DUQUESNE LIGHT COMPANY'S CTC RECONCILIATION
AND AUCTION ACCOUNTING COMPLIANCE FILING

On August 4, 2000, Duquesne Light Company ("Duquesne") filed its CTC Reconciliation and Auction Accounting Compliance Filing detailing the transaction expenses associated with the sale of its generation assets. A technical conference was held on August 14, 2000, to raise some issues associated with the filing. By Secretarial Letter dated August 24, 2000, the Pennsylvania Public Utility Commission ("Commission") directed that comments regarding Duquesne's filing be submitted on or before October 5, 2000. Pursuant to that Secretarial Letter, Strategic Energy L.L.C. hereby submits the following comments:

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Strategic Energy L.L.C. ("SEL") is a wholesale and retail electric power marketer conducting business in Pennsylvania, California, Maryland, New Jersey, Delaware, New York and Ohio. SEL will be represented in this proceeding by the following counsel who should be placed on the Commission's service list:

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Duquesne's filing attempts to offset transaction costs associated with the company's auction of its generation assets against the proceeds from that auction. Duquesne claims it incurred a stunning \$277 Million in transaction costs, itemizing each expense, from the sale and leaseback of Beaver Valley II to painting and lawn care expenses,¹ into the Commission-approved categories from prior PUC orders. Despite its separate petition on post-transition provider of last resort ("POLR") service, Duquesne includes a request to offset against the auction proceeds any approved GRA for customers who returned to POLR service in the Summer of 2000. *See* Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period POLR Service, Docket No. R-00974104, filed June 30, 2000 (POLR II petition). Duquesne also intends to offset against the auction proceeds \$62.94 Million in tax liability; Duquesne claims the Commission approved recovery of these funds in its Restructuring Order but Duquesne neglected to include the recovery in its Auction Application. Duquesne asserts that the proposed reconciliation will extend the recovery of Duquesne's competitive

¹ SEL questions whether the significant expense of more than \$200,000 associated with painting and lawn care was incurred as a result of deferred routine maintenance.

transition charge ("CTC"), by as much as seven months for commercial and industrial customers, into Spring of 2002.²

Duquesne's petition does not contain enough supporting data for the Commission to make a reasoned determination of the reasonableness of the costs incurred and whether recovery should be approved. Generally, SEL opposes Duquesne's petition as an impediment to an open market. Duquesne's proposed extension of CTC recovery would adversely impact Duquesne's customers, marketers, generation suppliers, the region's economic development and the free market system.

Thus, the outcome of this proceeding is vital to the interests of SEL and its customers. As a competitive electric market supplier, SEL commits to its customers to serve their commercial interests by providing long-term, least-cost energy available consistent with reliable supply. Because Duquesne's proposal will extend CTC recovery and delay the evolution of an open and competitive market, approving the petition without further examination will adversely affect the marketplace and adversely impact SEL's interests as a marketer trying to operate in Duquesne's territory.

Accordingly, SEL requests this Commission to refer this matter to the Office of Administrative Law Judge for full evidentiary hearings where Duquesne may justify its claimed expenses and the Commission may have the benefit of a full record before determining whether the sanction of a delay of an open marketplace is warranted.

² It is interesting to note that as little as five weeks prior to this filing, in its POLR II petition, Duquesne anticipated termination of CTC recovery by Autumn of 2001.

\$62.94 Million Omission

In its Auction Application and subsequent filings, Duquesne indicated that most of its major rate classes would complete CTC payments by late 2001. As late as June 30, 2000, Duquesne maintained that CTC recovery for the major rate classes would terminate by late 2001. *See* POLR II petition. Five weeks later, on August 4, 2000, Duquesne indicates that it will not be terminating its CTC recovery next year after all. Duquesne now claims it needs another six to eight months of CTC collection for most commercial and industrial customers and another four months of additional CTC collection for residential customers.

Duquesne blames much of the need for an extension of CTC recovery on its \$62.94 million tax liability the company inadvertently omitted from its Auction Application. Duquesne claims entitlement to the funds because they were approved by the Commission in its Restructuring Order of May 29, 1998 at this docket. SEL disagrees that the Commission approved deferred collection of the \$62.94 million. In its Restructuring Order, the Commission held:

Prior to claiming the regulatory asset, SFAS 109 net plant was included as “plant in service” for the Perry and Beaver Valley 1 units. In order to avoid the problem of double recovery, and allow for consistency in the application of the analysis of the recovery of stranded costs, we conclude that Duquesne’s SFAS 109 obligation should be treated as a tax liability from the balance of plant in service and not as a regulatory asset. We, therefore, reduce the Company’s regulatory asset claim by \$62.94 million.

Restructuring Order at 155. It appears that the \$62.94 million in tax liability was addressed in the Restructuring Order. The Commission denied recovery under SFAS 109 to avoid “double recovery,” with the implication that the \$62.94 million was recovered elsewhere. What would have resulted in double recovery in 1998 also will result in double recovery in 2001.

Duquesne recovered or should have recovered its \$62.94 million tax liability under one of its multiple categories of collections. However, even if Duquesne’s recovery of the tax liability

was rejected or reduced, the claim was considered and acted upon in the Restructuring Order. Contrary to Duquesne's interpretation of that order, the Commission did not approve the \$62.94 million for deferred recovery. The Commission did not permit recovery to occur at some later date and did not approve adding another \$62.94 million to the considerable amount of stranded costs already approved.

Incremental Power Purchase

As part of its negotiations with FirstEnergy, Duquesne agreed to supply FirstEnergy with 200 MW power from the Summer of 1999 until the transaction closed in December 1999. Duquesne claims that, due to the power demand during the heat wave of the Summer of 1999, Duquesne was forced to replace the 200 MW with wholesale market purchases. Duquesne provides some figures supporting its claim of \$11.5 million in costs to purchase incremental power. However, the information provided is insufficient to establish the reasonableness of these costs. Based only upon the information provided, the Commission would be unable to make an informed determination as to whether these costs were prudently incurred.

- SEL argues that the Commission should require Duquesne to demonstrate that the purchases made were necessary and the costs were prudently incurred. An evidentiary hearing is needed to examine these issues and the contract between Duquesne and FirstEnergy to determine the extent of Duquesne's obligations to FirstEnergy.

Transmission System Upgrades

Duquesne claims \$9.6 Million in upgrades to its transmission and distribution system and \$2.5 million in upgrades to its transmission feed into downtown Pittsburgh. Duquesne claims these costs as transaction costs associated with the generation auction. SEL objects to the

inclusion of these costs in Duquesne's CTC. Clearly, costs associated with the upgrade of Duquesne's transmission system should be treated as capital costs and, after a determination that the costs were just and reasonable, included in transmission and distribution rates.

Employee Costs

Duquesne claims the cost of \$66.2 million in severance and retirement related costs associated with the divestiture of generation assets. Duquesne provides the numbers for offering an early retirement option to and for termination of 450 employees. Duquesne, however, neglects to include sufficient supporting data.

SEL questions the reasonableness of these costs and whether Duquesne reduced its total workforce, without regard to whether the positions were generation-related. Severance costs of \$66.2 million for 450 employees seems excessive. Duquesne does not provide documentation that the costs were limited to generation-related employees. Duquesne does not provide any indication that the early retirement option and the severance packages were targeted to only appropriate generation employees.

To answer these questions, the Commission should direct this matter for hearing and require Duquesne to prove these costs were prudently incurred. At the very least, the Commission should be provided with a comparison to other employee reduction initiatives associated with generation asset sales. With only the documentation provided by Duquesne's filing, this Commission is unable to make an informed decision regarding these costs.

Summer 2000 Switchback

Referring to its POLR II petition, Duquesne reasserts its claim that customers returning to POLR service during the summer months cause POLR providers to incur excess costs to serve

them. In its POLR II petition, Duquesne proposed to impose a Generation Rate Adjustment (“GRA”) on customers who returned to POLR service during the Summer of 2000. Recognizing that it is too late to impose a GRA on those customers, Duquesne uses this filing to request recovery of the retroactive GRA through an offset against the auction proceeds, without documentation of Duquesne’s actual cost to serve returning customers and without any supporting information to justify that the costs incurred were not excessive.

The Commission should not allow these costs to be offset against the auction proceeds nor added to Duquesne’s CTC. These costs are not recoverable here because: (1) they are not transaction costs; (2) they are not related to the generation auction; and (3) they were not incurred by Duquesne. Duquesne attempts to provide Orion, the winning bidder of Duquesne’s POLR I service, with additional funding over and above the bid price.

SEL opposes the summer switchback rules and Duquesne’s attempts to charge returning customers a premium to return to the marketplace and has expressed this opinion in its response to Duquesne’s POLR II petition. SEL refers the Commission to that response for its full position. As the issue is again raised in the context of CTC reconciliation with the auction proceeds, SEL strongly opposes recovery of claimed, yet unsubstantiated, additional costs to provide POLR service to returning customers.

Duquesne requested bids for the privilege of serving its POLR customers, including those customers returning to POLR service from the marketplace. As the low bidder, Orion won that privilege. As low bidder, Orion cannot now claim it is entitled to additional funds for serving the very customers it should have expected to serve. Duquesne customers should not be expected to provide Orion with additional compensation, over and above a contracted price, through the CTC.

SEL urges the Commission to address this matter in the context of the POLR II collaborative and to reject any notion that GRA recovery may be tacked onto the coattails of Duquesne's transaction costs.

Development and Implementation Costs

Duquesne claims it incurred \$37.6 million in legal and consulting fees. Duquesne provides a summary of the expenses, listing the entity involved and the amount owed. Duquesne provides no detailed invoices for any of these fees, claiming legal privilege regarding invoices from legal advisors and consultants. With nothing more than Duquesne's asking, the Commission is expected to take the entire sum from the pockets of Duquesne's customers.

SEL believes \$37.6 million in consulting fees is excessive. SEL does not suggest that legally privileged information should be revealed, but the fees require closer scrutiny before the Commission can determine whether they should be approved. Duquesne should be required to provide information on how its consulting fees compare to those incurred in similar asset sales. The Commission should demand support for these costs so they may be verified and determined reasonable before passing the costs on to Duquesne's customers. In the interest of public confidence, SEL urges the Commission to order an audit of Duquesne's auction accounting.

Market Impact

Hearings on this matter are essential. The market implications associated with Duquesne's petition are immeasurable. A six to eight month extension of CTC recovery means several hundreds of thousands of dollars for each of many commercial, industrial, and institutional customers. Extension of CTC recovery will impede the growth of the region. Extension of CTC recovery will delay customers' enhanced competitive market opportunities.

Extension of CTC recovery will inhibit the development of a visible, liquid market and will debilitate marketers' opportunities to evolve a market.

This Commission should be absolutely sure these costs are reasonable and prudently incurred before it allows Duquesne to delay the evolution of the market. -


Conclusion

For the foregoing reasons, SEL requests that the Commission refer this matter to the Office of Administrative Law Judge for full evidentiary hearings and require Duquesne to provide support for each item claimed in its petition.

Respectfully submitted,

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Dated: October 5, 2000

Before the
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Duquesne Light Company :
Application to Approve Restructuring :
Plan Pursuant to 66 Pa. C.S. § 2806(d) :

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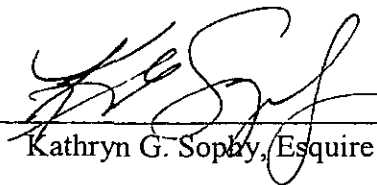
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**Re: Pennsylvania Public Utility Commission v. Duquesne Light Company for
Approval of Its Restructuring Plan Under Section 2806 of the Public Utility
Code; Docket No. R-00974104**

Dear Mr. McNulty:

Enclosed for filing with the Commission are an original and nine (9) copies of the
Comments of the Duquesne Industrial Intervenors ("DII") in the above-referenced proceeding.

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 Intervenors

DOCUMENT
FOLDER

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Enclosures

c: Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, ET. AL.

V.

DUQUESNE LIGHT COMPANY

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

)
)
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) DOCKET NO. R-00974104
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original

COMMENTS OF THE DUQUESNE INDUSTRIAL INTERVENORS
ON COMPETITIVE TRANSITION CHARGE RECONCILIATION
AND AUCTION ACCOUNTING COMPLIANCE FILING

DOCKETED
OCT 05 2000

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I. INTRODUCTION

On August 4, 2000, Duquesne Light Company ("Duquesne" or "Company") filed with the Pennsylvania Public Utility Commission ("Commission") its Competitive Transition Charge ("CTC") Reconciliation and Auction Accounting Compliance Filing (hereinafter "Compliance Filing"). The Compliance Filing is one of the final implementation steps for the generation asset auction that Duquesne voluntarily agreed to conduct in its Restructuring Proceeding filed pursuant to the Electricity Generation Customer Choice and Competition Act ("Competition Act") to establish the level of generation-related stranded costs the Company can recover from ratepayers. The Compliance Filing contains the following items: (1) a final accounting of auction proceeds and proposed transaction costs; (2) a methodology for reconciling CTC recoveries with the allowed level of stranded costs; and (3) a proposal to compensate Orion Power Midwest, L.P. ("Orion"), the buyer of the generation assets, for costs allegedly incurred during the Summer of 2000 to provide supply for Duquesne's customers that returned to Provider of Last Resort ("POLR") supply service.

The Duquesne Industrial Intervenors ("DII") has been an active participant in all phases of Duquesne's Restructuring Proceeding, including litigating and/or commenting on Duquesne's original Restructuring Plan, the Generation Auction Plan, Duquesne's generation asset exchange with FirstEnergy, the Application to transfer the generation assets to Orion and the proposal to address Duquesne's continuing role as the POLR after stranded cost recovery terminates ("POLR Phase II"). DII has expended significant resources throughout this process in attending hearings, analyzing the Company's filings, attending technical conferences and submitting pleadings and other documents to the Commission to ensure that the Company's proposals and actions conform with the requirements of the Competition Act and are in the best interests of ratepayers.

The Company's Compliance Filing rightfully stresses the results of the auction as demonstrating that the process was a success. The Commission has at least one more crucial task in transforming this apparent success into reality by carefully scrutinizing the transaction costs and other proposals in the Compliance Filing. In prior Orders, the Commission approved various categories of transaction costs that could be claimed in the final accounting. See Application of Duquesne Light Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code, Docket No. R-00974104, Order entered December 18, 1998, p. 45, Ordering ¶ 3 (hereinafter "December 1998 Order"). Throughout this process, DII and the Office of Consumer Advocate ("OCA") have steadfastly maintained that the actual claims within those categories must be scrutinized at the time the final accounting is submitted. As set forth herein, the final accounting is presently before the Commission for review, and DII objects to several transaction costs claimed by the Company. DII attaches an affidavit by Mr. Lane Kollen of J. Kennedy & Associates, Inc., in support of many of its objections. See Appendix A, Affidavit of Lane Kollen (hereinafter "Kollen Affidavit").

In addition, two other claims in the filing should be rejected: (1) the Company's request for ratepayers to compensate Orion for costs allegedly incurred during the Summer of 2000 due to customers returning to POLR supply service; and (2) the attempt to reinsert the SFAS 109 regulatory asset into the Company's stranded cost claim.

II. COMMENTS ON COMPLIANCE FILING

The Compliance Filing requests approval by the Commission for \$277 million in quantified transaction costs. Of that amount, DII has identified approximately \$96 million in costs that have been improperly claimed and should not be included as transaction costs. In addition, the Company has requested to reduce the purchase price previously agreed to by Orion by an unquantified amount in order to compensate Orion for costs allegedly incurred during the Summer of 2000 due to customers exercising their rights under the Competition Act to return to Duquesne's POLR service. *This request for retroactive ratemaking is clearly unjust, unreasonable and violates the generation rate cap.* Finally, Duquesne has improperly attempted to obtain recovery for a \$62.94 million SFAS 109 regulatory asset that the Company itself previously agreed was not recoverable in this process.

DII addresses each of these costs and issues, in turn, below.¹

A. Authorizing Recovery For Several Claimed Transaction Costs Will Violate The Rate Caps Under The Competition Act And Is Otherwise Contrary To Cost Causation Principles.

DII's objections to the claimed transaction costs discussed in this section are based on two arguments: (1) the claim is improper because the costs involved are not caused by the asset divestiture; or (2) the claim violates the generation and/or transmission and distribution rate caps under the Competition Act. Due to the recurring nature of these arguments, DII sets forth below the general description of each, followed by explanations of the specific transaction costs to which DII objects.

¹DII's failure to address aspects of Duquesne's transaction cost claims should not be construed as an endorsement of those claims.

1. **All Costs Authorized By the Commission for Recovery as "Transaction Costs" Must Be Related To and Caused By Divestiture Activities.**

From the beginning of the generation asset auction process, it was clear that the Commission would authorize recovery only for transaction costs that are related to and caused by divestiture activities. The Commission's Restructuring Order specifically provided that the Company's Generation Auction Plan should "include tracking and accounting for the transaction costs associated with divestiture activities, both internal and external." See Application of Duquesne Light Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code, Docket No. R-00971401, Order entered on May 29, 1998, slip op. at 81 (hereinafter "Restructuring Order"). The Order addressing the Company's Generation Auction Plan approved general, broad categories of potential transaction costs that the Company could claim.

DII interprets the Commission's prior Orders as requiring that the actual transaction costs have a causal relationship to the divestiture activities. Ratepayers should not compensate Duquesne for costs that are not caused by the divestiture. DII urges the Commission to employ a "but for" analysis in reviewing the claims (i.e., would the Company incur these costs "but for" the divestiture activities). Two examples of proper transaction costs that Duquesne would not incur "but for" the divestiture activities are legal/consulting fees and real estate transfer taxes. The final accounting should not be used to provide Duquesne with recovery for costs that are unrelated to divestiture activities, such as transmission system upgrades or general corporate tax obligations. These have not been caused by the divestiture activities and should not be paid by ratepayers through stranded cost recovery.

2. Authorizing Recovery For Generation Supply Costs or Activities Purportedly Necessary to Maintain or Upgrade the Transmission and Distribution System Will Violate the Competition Act's Rate Caps.

Under the Competition Act, Duquesne's customers are entitled to a statutory rate cap on service charges as follows:

For a period of 54 months after the effective date of this chapter or until an electric distribution utility is no longer recovering its transition or stranded costs through a competitive transition charge or intangible transition charge and all the customers of an electric distribution utility can choose an alternative provider of electric generation, whichever is shorter:

(A) the total charges of an electric distribution utility for service to any customer who purchases generation from that utility shall not exceed the total charges that have been approved by the Commission for such service as of the effective date of this chapter; and

(B) for customers who purchase generation from a supplier other than the electric distribution utility, the charges of the utility for non-generation services that are regulated as of the effective date of this chapter, exclusive of the competitive transition charge and intangible transition charge, shall not exceed non-generation charges that have been approved by the Commission for such service as of the effective date of this chapter.

66 Pa. C.S. § 2804(4)(i). As part of the Restructuring Proceeding, the Company was required to unbundle its rates effective January 1, 1997, into distribution, transmission and generation elements, with the generation element further divided into supply and CTC components.

Section 2804(4)(i)(A) provides that any customer purchasing generation from the utility shall maintain total charges that are capped as of January 1, 1997, for a period of 54 months. 66 Pa. C.S. § 2804(4)(i)(A). Likewise, Section 2804(4)(i)(B) provides that for any customer purchasing generation from a supplier other than the electric distribution utility, the charges for any non-generation services shall not exceed the level of those charges as of January 1, 1997. Id. §

2804(4)(i)(B). In short, a customer's total charges, including charges for generation, are capped for an extended period, to the extent that the customer continues to receive generation service from the utility; all other non-generation charges are to be similarly capped, in the event that the customer receives generation service from an entity other than the utility. The rate caps in Section 2804(4) and the prohibition against inter- and intraclass cost shifting in the Act create caps on the individual unbundled rate elements. Ratepayers cannot be charged more for the particular service than the individual unbundled rate element.

Several of Duquesne's transaction cost claims seek recovery for transmission and/or distribution costs through the CTC. This request for recovery results in a violation of the rate cap because the customer is paying higher charges for transmission or distribution than the unbundled rate element. The categorization of the cost as a "transaction" cost does not obscure the reality that the amounts received by Duquesne will be used by the distribution and/or transmission portion of its business and are admittedly charges related to transmission and distribution. Furthermore, the definition of "stranded cost" in the Competition Act does not authorize recovery for non-generation-related items (such as transmission costs). See 66 Pa. C.S. § 2803. The attempt to circumvent the transmission and distribution rate cap and claim non-generation-related costs as "stranded costs" must be rejected.

In addition, Duquesne's request to be compensated additional amounts for generation supply provided to customers during the summers of 1999 and 2000 violates the generation rate cap under the Act. These requests must be rejected.

3. **Objections to Specific Transaction Costs.**

a. *Duquesne's claim for incremental transmission expenses of \$3.8 million in 1999 violates the transmission and distribution rate cap.*

As one of the transaction costs of the auction, Duquesne requests compensation for incremental transmission costs that the Company paid to FirstEnergy for the period between the closing on the exchange between FirstEnergy and Duquesne and the divestiture closing. Compliance Filing, pp. 17-18. Duquesne calculates that this transaction cost amounts to \$3.8 million. This request is inappropriate and should be rejected.

During the period of time for which Duquesne requests the incremental transmission costs, customers receiving supply service from Duquesne were compensating the Company for transmission service at the rate cap level. In addition, customers that were purchasing supply from a competitive supplier were compensating their competitive supplier for transmission service. Regardless of whether the incremental transmission expense is recovered as a transaction cost or as a separately stated additional transmission charge, Duquesne's request results in customers paying higher charges for transmission service during the relevant period than the unbundled and capped transmission rate. This violates Section 2804(4)(i) of the Competition Act and should be rejected.

In the alternative, as DII argued in the Restructuring Proceeding and various Comments, Duquesne could recover this increase in transmission costs and provide a correlating decrease in distribution costs for the relevant time period. This would be an operation of the "T&D Flex-Down," which the Commission acknowledged in the Restructuring Proceedings must be performed to ensure integrity of the total rate cap. See Application of Duquesne Light Company for Approval of Restructuring Plan Under Section 2806 of the Public Utility Code, Docket No. R-00974104, Order

on Second Compliance Filing entered October 16, 1998, slip op. at 21. To the extent Duquesne elects to pursue this option to maintain integrity and compliance with the rate caps, all parties must be provided with access to information and calculations necessary to ensure that customers are appropriately credited.

b. Duquesne's request to include as a transaction cost incremental power purchases of \$11.5 million for the Summer of 1999 violates the generation rate cap.

The Company also requests compensation for wholesale market purchases that it made during the Summer of 1999 to replace power it was providing to FirstEnergy during this period. Compliance Filing, pp. 18-19. Duquesne argues that these purchases would not have been necessary if it were not implementing the transaction with FirstEnergy to exchange generation assets in order to have wholly-owned plants to be auctioned in the generation asset auction. Duquesne calculates this transaction cost as approximately \$11.5 million and requests that this amount be included for recovery as a transaction cost.

The Company's claimed transaction cost violates the generation rate cap and should be rejected. As aforementioned, customers in Duquesne's territory have the statutory right to pay generation, transmission and distribution rates compliant with the rate caps while Duquesne is recovering stranded costs. See 66 Pa. C.S. § 2804(4)(i). The manner in which the incumbent utility chooses to procure or manage its generation supplies during the rate cap period does not impact the applicability of and entitlement to capped generation rates. Including these charges as a "transaction cost" results in Duquesne collecting charges for generation service that exceed the rate cap.

In addition, the incremental power purchases during peak periods on the wholesale market are a cost of doing business for Duquesne, just as they would be for any other electric distribution

company ("EDC") in Pennsylvania. The tangential relationship (if any) of these costs to the final auction does not create sufficient nexus to claim these costs as a transaction cost to be recovered from ratepayers. Duquesne's request must be rejected.

- c. ***The Company's claim for reimbursement of future capital stock tax payments of \$3.9 million is not caused by the divestiture activities and should be rejected.***

Duquesne requests reimbursement as a transaction cost for anticipated incremental capital stock tax payments to the Commonwealth of Pennsylvania in the amount of \$3.9 million. Compliance Filing, pp. 19-20. Duquesne claims that it is entitled to recover the incremental portion of these payments because, although it will no longer be holding the generation assets, it will be required to pay tax through 2004 that includes generation book income. This occurs due to the formula used to calculate the tax obligations, which for every corporation in Pennsylvania is based on average book income over the prior five years.

This claim is improper and should be rejected. The incremental capital stock payments are not caused by the divestiture of the assets. See Kollen Affidavit, ¶¶ 14-15. This tax is not caused by divestiture, but by ownership of the asset within the relevant consideration period. In fact, in future years the Company will see a decrease in its capital stock tax payments as the book income from the generation assets is no longer included in the five-year period used to calculate the tax obligation. Any company or corporation that owns assets and subsequently sells those assets is required to pay tax on the income for the next five years. Duquesne's payments are caused by the General Assembly and not by the asset divestiture. The claim should be rejected.

The Company posits that its claim is consistent with the Commission's allowance in its December 1998 Order for recovery as a transaction cost of tax implications of the auction. See

Compliance Filing, p. 20. Clearly, the Commission only intended to include in this category tax implications that are a direct result of the asset transfers. An example of taxes caused by the divestiture (and properly claimed by Duquesne) are real estate transfer taxes. DII does not object to paying taxes actually related to divestiture of the assets; DII does object to reimbursing the Company for its general tax obligations to the Commonwealth of Pennsylvania. The claim should be rejected.

- d. Duquesne's request to be compensated as a transaction cost for \$9.6 million in anticipated future distribution and transmission facility upgrades in the Duquesne Control Area is inappropriate ratemaking and violates the transmission and distribution rate cap.*

Duquesne requests to recover as a transaction cost \$9.6 million for costs that it anticipates incurring beginning in 2007 to perform facility upgrades to the transmission and distribution system in the Duquesne Control Area. Compliance Filing, pp. 21-22. Duquesne states that these upgrades will be necessary after the Must-Run Agreements executed with Orion for the Cheswick and Elrama stations expire.

The Company's request is inappropriate on many grounds. First and foremost, the request clearly violates the transmission and distribution rate cap under the Competition Act. Through including these costs as a transaction cost, the Company is increasing its stranded cost recovery from ratepayers and proposing to recover additional transmission or distribution charges from ratepayers in the CTC. As previously explained, during the stranded cost recovery period a total and individual element rate cap exists that entitles Duquesne's ratepayers to pay no more for the services than the charges that were in effect on January 1, 1997. The attempt to re-categorize transmission or distribution costs as a generation cost for recovery through the CTC does not alleviate the rate cap

violation created by the proposal.

Second, it is not clear that the improvements proposed for recovery as transaction costs are related to the divestiture of assets. Even if Duquesne had not sold the assets, the capacitor investments may have been necessary within the same time frame to ensure reliability of the transmission system. The Commission should not approve items as transaction costs that are not related to the divestiture.

Third, the request to include transmission and distribution upgrade costs as a transaction cost is inappropriate ratemaking. See Kollen Affidavit, ¶ 16. Duquesne anticipates incurring the actual costs at issue beginning in 2007. At that time, the transmission and distribution rate cap under the Competition Act will no longer apply, and the Company will be free to make an appropriate filing with the Federal Energy Regulatory Commission or this Commission to adjust its transmission or distribution rates to reflect the necessary improvements to the capacitors and other aspects of the system. This will enable all interested parties to ensure that the improvements are necessary and prudent and that the actual costs incurred are known, measurable, and just and reasonable; the Commission can not address these issues at this time because the claim is based on projected costs and current technology. Id. In addition, if Duquesne claims these costs in a transmission or distribution rate proceeding, recovery for the upgrades, including the capacitor investments, would be spread over a longer period of time (twenty to forty years); recovery of the capacitor costs as a transaction cost will provide Duquesne with up-front recovery of the costs in three to four years. Recovery over a longer time period benefits consumers and was traditionally the only method for the Company to recover these costs.

On all accounts, the more reasonable and prudent action is to reject the claim for recovery

of these costs as a transaction cost without prejudice for Duquesne to claim similar costs as part of a transmission or distribution rate case after expiration of the rate caps. To the extent, however, the Commission will allow the current claim as a transaction cost, the Commission must ensure that Duquesne will refund these amounts if Orion performs system upgrades necessary to terminate the Must-Run Agreements. In addition, the Commission must ensure that the Company does not attempt to claim similar costs in a future transmission or distribution rate case. The Company indicated at the technical conference that it would be willing to commit to these actions if the transaction cost is approved.

e. The Company's request to recover \$66.2 million in employee costs may be overstated and inappropriate.

Duquesne requests recovery for \$66.2 million in employee costs related to downsizing its workforce to accommodate divestiture of its generation assets. See Compliance Filing, pp. 28-30. Duquesne asserts that the Competition Act and the previously-approved Accounting Protocols authorize the Company to recover costs of "employee severance, retraining, early retirement, out placement and related expenses, at reasonable levels, for employees who are affected by changes that occur as a result of the restructuring of the electric industry." Id. at 28 & 30. Duquesne provides in the Compliance Filing an explanation of individual elements of its claim and also provided DII with further information for preparation of these Comments.

Duquesne should be permitted to recover valid employee costs; however, any costs claimed must be examined to determine whether the Company experienced savings or other gains to offset the costs. In addition, Duquesne's employee costs must be viewed in the context of the Company's overall employee cost obligations, which are currently overfunded. The Company's \$66.2 million

claim should be eliminated (or at least reduced) for both reasons.

First, the Commission must look at any savings or gains that the Company has or will experience as a result of the workforce reductions. As Mr. Kollen explains, the Company's 1999 Annual Report to Shareholders indicates that the Company recognized only \$17.549 million of a total claim of \$29.4 million in early retirement window pension expenses as an expense on its 1999 income statement. Kollen Affidavit, ¶ 19. The remaining \$12.0 million of the pension cost was used to offset a one-time gain that the Company experienced due to the workforce reductions. As Mr. Kollen explains, the Company inappropriately has not reduced its transaction cost claim to reflect this previously recognized \$12 million gain. Id. This netting must occur to ensure that the transaction costs levied on customers are just and reasonable. The claim must be reduced by at least \$12 million.

Second, the remaining portions of the Company's claim should be offset against gains in the overfunding of pensions and post-retirement benefits that the Company realized during 1999. A portion of current base rates is directed to accounts to fund pensions and other post-retirement benefits for the Company's employees. As Mr. Kollen explains, at the beginning of 1999, the Company's pension fund was overfunded by approximately \$75.6 million. Id. ¶ 20. During 1999, this overfunding increased by \$91.732 million. During the same year, the Company's underfunding of the account for other post-retirement benefits increased by \$11.840 million. Id. The net impact is an increase in the overfunding for pensions and other post-retirement benefits by \$79.892 million. Id.

The Company should be required to use the overfunding increase to offset its transaction cost claim. Id. The costs claimed as transaction costs and the overfunded accounts are related to similar

costs and activities. In the process of determining the transaction costs to be paid by Duquesne's ratepayers, it is just and reasonable to consider offsetting gains that the Company experienced during the same time period. As Mr. Kollen explains, the net increase in overfunded accounts should consequently be used to eliminate the employee transaction cost claim in its entirety.²

f. The transaction cost claim for \$1.4 million to repurchase preferred stock is inappropriate.

Duquesne requests recovery of \$1.39 million that the Company may incur to solicit shareholders of preferred stock to tender their shares for purchase by the Company. See Compliance Filing, pp. 26-28. Duquesne claims the repurchase is necessary to facilitate "new investments to maintain the reliability of the transmission and distribution system." Id. at 28.

The Company's claim is not caused by the divestiture and should be disallowed. The Company admits this cost is related to transmission and distribution system maintenance. Although the proposed repurchase may be reasonable, it is not caused by the divestiture process. In addition, this cost is related to the transmission and distribution function and should not be included in the CTC due to the rate caps. Ratepayers should not pay for this transaction cost.

B. The Summer 2000 Switchback Costs Claimed As A Transaction Cost Are Unreasonable, Violate The Generation Rate Cap, Represent Retroactive Ratemaking And Must Be Rejected.

As part of the Compliance Filing, the Company notes that it asserted in its POLR Phase II filing that Orion's purchase price should be credited for costs that Orion incurred due to customers returning to POLR supply service during the Summer of 2000. See Compliance Filing, pp. 30-31.

²DII has not been able to definitively determine that all of the claimed costs are related to divestiture of the generation assets, as opposed to reductions in the Company's transmission and distribution workforce.

Duquesne requests to calculate a Generation Rate Adjustment ("GRA") for the customers that returned during the Summer of 2000 and offset that amount against the purchase price paid by Orion. Duquesne has not calculated the amount of the offset at this time.

The Company's request is unreasonable and must be rejected. DII previously addressed this issue in its Answer to Duquesne's POLR Phase II filing. For the Commission's convenience and because this issue is of sufficient importance to merit an additional response, DII reiterates and supplements those comments below.

First, DII disagrees with the conclusion (voiced in the Company's POLR Phase II filing) that Orion would not have foreseen that customers would be returning to POLR service this summer. Prudent market participants 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.

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. 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. Orion should not have reasonably expected that it would receive an offset to the purchase price for the Summer 2000 POLR costs.

Third, Duquesne's request clearly violates the generation rate cap. Under the Competition Act, all customers are entitled to receive supply service at rates that are compliant with the generation rate cap. 66 Pa. C.S. § 2804(4). In addition, no restriction exists on the ability of customers to enter the competitive market and subsequently return to POLR supply service at capped rates.³ The inclusion of a Summer 2000 GRA as a credit to the auction price increases the stranded costs paid by ratepayers. This results in customers (collectively and on an individual basis) paying higher charges for generation supply that was obtained during the Summer of 2000 than the capped generation supply rate. This clearly violates the rate cap.⁴

Fourth, under the rule against retroactive ratemaking, the Commission may not set future rates at amounts calculated to allow a utility to recover past losses. Popowsky v. Pennsylvania Pub. Util. Comm'n, No. 1315 C.D. 1993, 1994 Pa. Commw. LEXIS 253, at *10-11. The Company's request results in CTC rates being established at an inflated level to compensate for Orion's alleged loss during the Summer of 2000. This is unjust, unreasonable and illegal. See Kollen Affidavit, ¶ 7.

It is important to note that the Company has not quantified this proposed "transaction" cost. As a result, the Commission and the parties can not estimate the potential magnitude of the eventual

³In the POLR Phase II filing, DII has generously agreed that the Company could implement a requirement for customers returning to POLR supply service to remain for a single twelve-month (non-renewing) supply commitment.

⁴In addition, there is no arguable assertion in this circumstance that the decision to pay rates in excess of the cap is "voluntary."

claim. If the Commission addresses this issue prior to the Company providing an actual proposed GRA calculation, the Commission must assume the amount will be significant. In addition, as Mr. Kollen explains, if this claim is allowed, calculation of the "GRA" will likely be a contentious issue for which all parties must retain their full rights and opportunities to respond. Kollen Affidavit, ¶ 17.

C. The Company's Attempt To Reinsert Recovery For The SFAS 109 Regulatory Asset Must Be Rejected.

The Compliance Filing notes that the Company "inadvertently" omitted recovery of a \$62.94 million SFAS 109 costs regulatory asset from its Auction Application. See Compliance Filing, p. 32. The Company claims that the Commission approved this tax liability in the Restructuring Proceeding. Id. The Company misinterprets the Commission's Order and appears to have overlooked that it previously agreed with DII (and others) that no SFAS 109 costs are recoverable if the auction accounting in the Compliance Filing is accomplished on an after-tax basis (which it is).

As discussed in the attached affidavit, the Commission's Restructuring Order and prior discussions between the parties specifically addressed SFAS 109 costs. See Kollen Affidavit, ¶¶ 7-14. Mr. Kollen revealed in his testimony in the Restructuring Proceeding that the Company had inappropriately included the \$62.94 million in SFAS 109 costs in both generation net book value and as a separate regulatory asset claim. Id. ¶ 8. The Commission agreed that the double recovery existed in the Company's proposal and ruled that the value should be included in net book value but not in the allowed regulatory assets. Id.

More importantly, the parties and the Commission also addressed and agreed on the proper treatment of SFAS 109 costs in the original Generation Auction Plan filing. See Id. ¶¶ 9-11 The

Company agreed with DII that it should not recover any FAS 109⁵ amount as part of the auction reconciliation because the reconciliation of sales proceeds and stranded costs is being performed on an after-tax basis. As Mr. Kollen's affidavit explains, the parties reached agreement that the SFAS 109 regulatory assets would be eliminated and removed from stranded costs in exchange for utilizing the after tax, rather than before tax, auction proceeds to reduce stranded costs. Id. ¶ 10. The Commission specifically noted and endorsed this agreement between DII and the Company in its Order regarding the Plan. Id. ¶ 11; Application of Duquesne Light Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code, Docket No. R-00974104, Opinion and Order entered on December 18, 2000, slip op. at 28. The Company did not "inadvertently" exclude the \$62.94 million; rather it agreed with DII that this amount should be excluded.

To refamiliarize the Commission with the debate regarding this issue during the first review of the Generation Auction Plan, Mr. Kollen explains in his affidavit the prior pleadings and Order addressing this issue. See Kollen Affidavit, ¶¶ 9-12. Mr. Kollen also attaches a copy of his prior affidavit addressing this issue. See Kollen Affidavit, Attachment 2. As Mr. Kollen concludes:

Based upon Duquesne's previous agreement with DII and OCA, as well as the Commission's acceptance of and reliance upon Duquesne's agreement with DII and OCA on the exclusion of SFAS 109 regulatory assets, the Commission should reject Duquesne's attempt to recover this new \$62.940 million SFAS 109 claim. In addition, the Commission should reject the premise of the Company's request that it had "inadvertently omitted" recovery of this amount in its previous Auction Plan filings. Duquesne cannot have it both ways. It cannot utilize after tax proceeds to apply against the Commission's determination of stranded costs and recover any amount of SFAS 109, which by definition is eliminated and removed with no income statement loss from both the asset and liability sides of the Company's balance sheet.

⁵"FAS 109" and "SFAS 109" are interchangeable labels for the same regulatory asset.

Kollen Affidavit, ¶ 12. The Commission should endorse Mr. Kollen's reasoning and disallow the request to reinsert the \$62.94 million SFAS 109 regulatory asset into the Company's stranded cost allowance.

III. CONCLUSION

WHEREFORE, the Duquesne Industrial Intervenors respectfully request that the Commission reject the following aspects and claimed costs in Duquesne's Compliance Filing:

- \$3.8 million in "incremental" 1999 transmission costs;
- \$11.5 million in "incremental" power purchases during 1999;
- \$3.9 million in future capital stock tax payments;
- \$9.6 million in potential future transmission and distribution system upgrades;
- \$66.2 million in employee costs;
- \$1.4 million to implement a future preferred stock repurchase;
- Unquantified amounts for 2000 Summer POLR customer service; and
- \$62.9 million in SFAS 109 costs.

Respectfully submitted,

McNEES, WALLACE & NURICK

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Counsel to the Duquesne Industrial Intervenors

Dated: October 5, 2000

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY)
COMMISSION, ET. AL.)

V.)

DUQUESNE LIGHT COMPANY)

) DOCKET NO. R-00974104

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

AFFIDAVIT
OF
LANE KOLLEN

J. KENNEDY AND ASSOCIATES, INC.
ROSWELL, GEORGIA

OCTOBER 5, 2000

AFFIDAVIT OF LANE KOLLEN

**STATE OF GEORGIA
COUNTY OF FULTON**

Before me, the undersigned Notary Public in and for the County of Fulton, State of Georgia, personally came and appeared Lane Kollen, who was sworn by me and attested to the following facts:

1. My name is Lane Kollen. I am a Vice President and Principal with J. Kennedy and Associates, Inc. ("Kennedy and Associates"), 570 Colonial Park Drive, Roswell, Georgia 30075. Kennedy and Associates is an economic consulting firm that specializes in utility planning and ratemaking issues.
2. I am a Certified Public Accountant, with a live practice certificate, and a Certified Management Accountant. I earned a Bachelor of Business Administration (Accounting) degree and a Master of Business Administration degree from the University of Toledo.
3. I have testified as an expert witness on utility economic, planning, financial, accounting, taxation, and ratemaking issues before state and federal regulatory commissions and courts on more than 100 occasions. My qualifications and expert testimony appearances are detailed on Attachment 1.
4. I have testified as an expert witness in Duquesne's restructuring proceeding before the Pennsylvania Public Utility Commission in Docket No. R-00974104 on issues relating to the accounting, tax, and ratemaking implications of restructuring, including the treatment of divestiture proceeds.

5. I have reviewed the various filings made by Duquesne subsequent to the Commission's Restructuring Order relating to the divestiture of its generation assets. In addition, I have reviewed the Commission's Orders in the Restructuring Docket and related dockets, including the Orders related to the generation divestiture dated December 17, 1998, July 15, 1999, and April 13, 2000.
6. In addition to the testimony that I filed in the restructuring proceeding, I have filed an affidavit attached to the Comments of Duquesne Industrial Intervenors on the Generation Auction Plan of Duquesne Light Company dated November 9, 1998. In that affidavit, I addressed various components of the Duquesne Accounting Protocol and the related effects on the Commission's determination of stranded costs.
7. I have reviewed the most recent filing made by Duquesne dated August 4, 2000 and described as Duquesne's "CTC Reconciliation and Auction Accounting Compliance Filing," which is described therein as Duquesne's "final accounting of the proceeds of the auction of its generation assets . . ." In this filing and for the first time, Duquesne claims that it is entitled to a \$62.940 million SFAS 109 regulatory asset based upon its assertion that its Auction Application had "inadvertently omitted recovery" of this amount. In addition, Duquesne identifies and quantifies certain transaction costs, which it claims it is entitled to offset against the auction proceeds before the net proceeds are applied to reduce the remaining balance of stranded costs.
8. The Commission should reject the Company's claim for a SFAS 109 regulatory asset of \$62.940 million. The Company is not entitled to any amount for SFAS 109 regulatory assets. This issue has been addressed by the parties previously and resolved. It was litigated during the main restructuring proceeding. In the main restructuring

proceeding, the Company was allowed to include this SFAS 109 regulatory asset balance in the net book value of generation plant. It was not allowed to double count it as a regulatory asset. Subsequently, the parties to the Restructuring proceeding resolved the SFAS 109 issue in its entirety in 1998 in conjunction with the Commission's review of the Company's proposed Auction Accounting Protocol. The parties reached agreement that the SFAS 109 regulatory assets would be eliminated and removed from stranded costs in exchange for utilizing the after tax, rather than before tax, auction proceeds to reduce stranded costs.

9. In my Affidavit attached to DII's Comments on the Duquesne Accounting Protocol dated November 9, 1998, I addressed the error in the Company's initial proposal to utilize the after tax auction proceeds against the Commission's authorized level of stranded costs without eliminating the SFAS 109 regulatory asset amounts from recoverable stranded costs. I have attached a copy of my November 9, 1998 Affidavit as Attachment 2 to avoid repeating the same arguments in this Affidavit.
10. In its Reply Comments dated November 23, 1998, Duquesne agreed with DII that the SFAS 109 regulatory assets should be removed from its stranded costs if its auction proceeds were utilized to reduce stranded costs on an after tax basis rather than on a before tax basis. Duquesne stated the following in its Reply Comments:

“After considering the comments from these parties during the technical conferences, Duquesne agrees that the FAS 109 Regulatory Asset (and associated deferred tax balance) should be eliminated if Duquesne's proposal to account for auction proceeds on a net of tax basis is accepted.”

11. The Commission accepted the resolution between the parties of the SFAS 109 issue in its Order adopted December 17, 1998. In its Order, the Commission reiterated its understanding of the status of the issue stating:

“Duquesne agrees that the FAS 109 Regulatory Asset should be eliminated if its proposal to account for the auction proceeds on a net of tax basis is accepted.”

The Commission then stated its Resolution of the issue as follows:

“We accept Duquesne’s Agreement with the OCA and DII position that the FAS 109 Regulatory Asset (and associated deferred tax balance) should be eliminated if the accounting for auction proceeds is on a net of tax basis.”

12. Based upon Duquesne’s previous agreement with DII and OCA, as well as the Commission’s acceptance of and reliance upon Duquesne’s agreement with DII and OCA on the exclusion of SFAS 109 regulatory assets, the Commission should reject Duquesne’s attempt to recover this new \$62.940 million SFAS 109 claim. In addition, the Commission should reject the premise of the Company’s request that it had “inadvertently omitted” recovery of this amount in its previous Auction Plan filings. Duquesne cannot have it both ways. It cannot utilize after tax proceeds to apply against the Commission’s determination of stranded costs and recover any amount of SFAS 109, which by definition is eliminated and removed with no income statement loss from both the asset and liability sides of the Company’s balance sheet.
13. Certain of the transaction costs identified and quantified by Duquesne in this filing are not transaction costs and should not be utilized to reduce the auction proceeds. These costs are as follows:

- a. Incremental capital stock payments (\$3.9 million).
 - b. Duquesne control area facility upgrades (\$9.6 million).
 - c. Summer 2000 switchback costs (not quantified by Duquesne).
14. The “incremental” capital stock payments are not incremental and are not a transaction cost related to the Auction or the asset divestiture. The capital stock expense is an ongoing expense of the Company that has been included in the bundled revenue requirement in prior years. The Company has recovered this expense historically on a current basis from its ratepayers. The Company has not recovered this expense historically in arrears from its ratepayers. Thus, ratepayers provided full and current recovery of this expense until the date of deregulation in January 1999. Any attempt to now recover amounts for 1999 - 2004 that the Company argues were related to generation based upon income for the years 1993 - 1998 at best represents an attempt at prohibited retroactive ratemaking. This attempt should not be allowed.
15. Duquesne has made no showing that the capital stock payments were not included in its stranded cost quantifications as an expense in the determination of the market value of its generation assets in the Restructuring Docket. Assuming that these costs already were included in the Commission’s determination of stranded costs, then the Company already has been granted recovery of these costs and the inclusion of such costs as a reduction to the Auction proceeds represents double recovery of the same costs.
16. The Duquesne control area facility upgrades are not a transaction cost. Instead, these costs, which have not yet been incurred and rely upon a contractor’s estimate for capital costs some seven years into the future, are transmission and/or distribution capital costs and should be treated as such, if and when incurred, and included in transmission and/or

distribution rate base and depreciation expense over the useful lives of the assets. These costs presumably will have value to transmission and/or distribution ratepayers over the physical lives of the assets and thus, if and when incurred, should be included in transmission and/or distribution rate base and then depreciated over those useful lives for ratemaking recovery purposes. Alternatively, Duquesne may be able to avoid these capital costs altogether by purchasing voltage and other reliability support services from generation suppliers. Thus, there is no valid basis for this transaction cost claim because it is not a transaction cost, it is not known, and it is not measurable.

17. The Summer 2000 switchback costs are not transaction costs associated with the Auction and should not be utilized to reduce the amount of Auction proceeds that can be applied to the Company's stranded costs. The Commission should not allow the Company to recover costs unrelated to the Auction. Furthermore, the Company has not provided any quantification of these costs in this proceeding, presumably relying upon a potential Commission decision in Docket No. M-00960890F0017 before it makes another compliance filing in this docket. However, the quantification of such costs, if allowed by the Commission in the other docket, may not be a simple mathematical exercise. Consequently, the Commission would have to hold open the quantification of these amounts in this docket for all parties to review.
18. The Company's claim for employee costs (\$66.2 million), while arguably a transaction cost related to the generation auction, is overstated and should be reduced to \$0. The Company's quantification of the employee costs do not reflect the net gains that the Company recognized in 1999 in its pension plan that should be utilized to "fund" these employee costs. The Company's claim for employee costs consists of \$31.471 million in ERO (early retirement window) pension and \$4.698 million in ERO other

postretirement benefits costs, an additional \$24.884 million in salary continuation/severance costs, an additional \$1.119 million in costs for remaining positions to be eliminated in August 2000, and \$2.490 million in costs to sublease office space.

19. During 1999, Duquesne recognized only \$17.549 million of the total \$29.4 million in ERO pension costs in pension expense on the income statement. The remaining \$12.0 million of the one-time pension cost was utilized to offset the \$12.0 million one-time gain the Company achieved from terminating these employees. Since December 31, 1999, the Company's total costs have increased from \$29.4 million to \$31.471 million. However, at least \$12.0 million should be disallowed by the Commission based upon the fact that it was admittedly recovered by Duquesne through the gains due to terminating the employees. The amounts cited are detailed in the Company's 1999 Annual Report to Shareholders, the relevant excerpt of which is attached as Attachment 3.

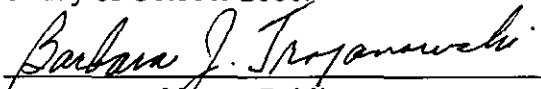
20. During 1999, in addition to the \$12.0 million in pension gains achieved by the Company as the result of terminating employees, the Company increased the overfunding of its pension fund by \$91.732 million to \$167.379 million. Also during 1999, the Company's underfunding of other postretirement benefits increased by \$11.840 million. Consequently, the Company's increased the overfunding of pensions and other postretirement benefits by a net \$79.892 million. The amounts cited are detailed in the Company's 1999 Annual Report to Shareholders, relevant excerpts of which are attached as Attachment 3.

21. The net increase in the Company's overfunded pension and other postretirement benefits of \$79.892 million during 1999 far exceeds the Company's residual \$54.201 million

claim for employee costs (\$66.201 million claim less \$12.0 million in gains from the terminations). Thus, the Commission should deny the recovery of any employee related costs on the basis that the net increase in overfunded pension and other postretirement benefits is more than sufficient to "fund" the residual claim for employee costs.


Lane Kollen

Sworn to and subscribed before me on this
6th day of October 2000.


Notary Public

Notary Public, Cobb County, Georgia.
My Commission Expires January 26, 2001

ATTACHMENT 1

RESUME OF LANE KOLLEN, VICE PRESIDENT

EDUCATION

University of Toledo, BBA
Accounting

University of Toledo, MBA

PROFESSIONAL CERTIFICATIONS

Certified Public Accountant (CPA)

Certified Management Accountant (CMA)

PROFESSIONAL AFFILIATIONS

American Institute of Certified Public Accountants

Georgia Society of Certified Public Accountants

Institute of Management Accountants

More than twenty years of utility industry experience in the financial, rate, tax, and planning areas. Specialization in revenue requirements analyses, taxes, evaluation of rate and financial impacts of traditional and nontraditional ratemaking, utility mergers/acquisition diversification. Expertise in proprietary and nonproprietary software systems used by utilities for budgeting, rate case support and strategic and financial planning.

RESUME OF LANE KOLLEN, VICE PRESIDENT

EXPERIENCE

1986 to
Present:

Kennedy and Associates: Vice President and Principal. Responsible for utility stranded cost analysis, revenue requirements analysis, cash flow projections and solvency, financial and cash effects of traditional and nontraditional ratemaking, and research, speaking and writing on the effects of tax law changes. Testimony before Connecticut, Florida, Georgia, Indiana, Louisiana, Kentucky, Maine, Minnesota, North Carolina, Ohio, Pennsylvania, Tennessee, Texas, and West Virginia state regulatory commissions and the Federal Energy Regulatory Commission.

1983 to
1986:

Energy Management Associates: Lead Consultant.
Consulting in the areas of strategic and financial planning, traditional and nontraditional ratemaking, rate case support and testimony, diversification and generation expansion planning. Directed consulting and software development projects utilizing PROSCREEN II and ACUMEN proprietary software products. Utilized ACUMEN detailed corporate simulation system, PROSCREEN II strategic planning system and other custom developed software to support utility rate case filings including test year revenue requirements, rate base, operating income and pro-forma adjustments. Also utilized these software products for revenue simulation, budget preparation and cost-of-service analyses.

1976 to
1983:

The Toledo Edison Company: Planning Supervisor.
Responsible for financial planning activities including generation expansion planning, capital and expense budgeting, evaluation of tax law changes, rate case strategy and support and computerized financial modeling using proprietary and nonproprietary software products. Directed the modeling and evaluation of planning alternatives including:

- Rate phase-ins.
- Construction project cancellations and write-offs.
- Construction project delays.
- Capacity swaps.
- Financing alternatives.
- Competitive pricing for off-system sales.
- Sale/leasebacks.

J. KENNEDY AND ASSOCIATES, INC.

RESUME OF LANE KOLLEN, VICE PRESIDENT

CLIENTS SERVED

Industrial Companies and Groups

Air Products and Chemicals, Inc.	Lehigh Valley Power Committee
Airco Industrial Gases	Maryland Industrial Group
Alcan Aluminum	Multiple Intervenors (New York)
Armco Advanced Materials Co.	National Southwire
Armco Steel	North Carolina Industrial
Bethlehem Steel	Energy Consumers
Connecticut Industrial Energy Consumers	Occidental Chemical Corporation
ELCON	Ohio Industrial Energy Consumers
Enron Gas Pipeline Company	Ohio Manufacturers Association
Florida Industrial Power Users Group	Philadelphia Area Industrial Energy
General Electric Company	Users Group
GPU Industrial Intervenors	PSI Industrial Group
Indiana Industrial Group	Smith Cogeneration
Industrial Consumers for	Taconite Intervenors (Minnesota)
Fair Utility Rates - Indiana	West Penn Power Industrial Intervenors
Industrial Energy Consumers - Ohio	West Virginia Energy Users Group
Kentucky Industrial Utility Consumers	Westvaco Corporation

Regulatory Commissions and Government Agencies

Georgia Public Service Commission Staff
Kentucky Attorney General's Office, Division of Consumer Protection
Louisiana Public Service Commission Staff
Maine Office of Public Advocate
New York State Energy Office
Office of Public Utility Counsel (Texas)

RESUME OF LANE KOLLEN, VICE PRESIDENT

Utilities

Allegheny Power System
Atlantic City Electric Company
Carolina Power & Light Company
Cleveland Electric Illuminating Company
Delmarva Power & Light Company
Duquesne Light Company
General Public Utilities
Georgia Power Company
Middle South Services
Nevada Power Company
Niagara Mohawk Power Corporation

Otter Tail Power Company
Pacific Gas & Electric Company
Public Service Electric & Gas
Public Service of Oklahoma
Rochester Gas and Electric
Savannah Electric & Power Company
Seminole Electric Cooperative
Southern California Edison
Talquin Electric Cooperative
Tampa Electric
Texas Utilities
Toledo Edison Company

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Date	Case	Jurisdict.	Party	Utility	Subject
10/86	U-17282 Interim	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Cash revenue requirements financial solvency.
11/86	U-17282 Interim Rebuttal	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Cash revenue requirements financial solvency.
12/86	9613	KY	Attorney General Div. of Consumer Protection	Big Rivers Electric Corp.	Revenue requirements accounting adjustments financial workout plan.
1/87	U-17282 Interim 19th Judicial District Ct.	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Cash revenue requirements, financial solvency.
3/87	General Order 236	WV	West Virginia Energy Users' Group	Monongahela Power Co.	Tax Reform Act of 1986.
4/87	U-17282 Prudence	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Prudence of River Bend 1, economic analyses, cancellation studies.
4/87	M-100 Sub 113	NC	North Carolina Industrial Energy Consumers	Duke Power Co.	Tax Reform Act of 1986.
5/87	86-524-E-	WV	West Virginia Energy Users' Group	Monongahela Power Co.	Revenue requirements. Tax Reform Act of 1986.
5/87	U-17282 Case In Chief	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements, River Bend 1 phase-in plan, financial solvency.
7/87	U-17282 Case In Chief Surrebut	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements River Bend 1 phase-in plan, financial solvency.
7/87	U-17282 Prudence Surrebut	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Prudence of River Bend 1, economic analyses, cancellation studies.
7/87	86-524 E-SC Rebuttal	WV	West Virginia Energy Users' Group	Monongahela Power Co.	Revenue requirements, Tax Reform Act of 1986.
8/87	9885	KY	Attorney General Div. of Consumer Protection	Big Rivers Electric Corp.	Financial workout plan.
8/87	E-015/GR- 87-223	MN	Taconite Intervenors	Minnesota Power & Light Co.	Revenue requirements, O&M expense, Tax Reform Act of 1986.

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Date	Case	Jurisdct.	Party	Utility	Subject
10/87	870220-EI	FL	Occidental Chemical Corp.	Florida Power Corp.	Revenue requirements, O&M expense, Tax Reform Act of 1986.
11/87	87-07-01	CT	Connecticut Industrial Energy Consumers	Connecticut Light & Power Co.	Tax Reform Act of 1986.
1/88	U-17282	LA 19th Judicial District Ct.	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements, River Bend 1 phase-in plan, rate of return.
2/88	9934	KY	Kentucky Industrial Utility Customers	Louisville Gas & Electric Co.	Economics of Trimble County completion.
2/88	10064	KY	Kentucky Industrial Utility Customers	Louisville Gas & Electric Co.	Revenue requirements, O&M expense, capital structure, excess deferred income taxes.
5/88	10217	KY	Alcan Aluminum National Southwire	Big Rivers Electric Corp.	Financial workout plan.
5/88	M-87017-1C001	PA	GPU Industrial Intervenors	Metropolitan Edison Co.	Nonutility generator deferred cost recovery.
5/88	M-87017-2C005	PA	GPU Industrial Intervenors	Pennsylvania Electric Co.	Nonutility generator deferred cost recovery.
6/88	U-17282	LA 19th Judicial District Ct.	Louisiana Public Service Commission Staff	Gulf States Utilities	Prudence of River Bend 1 economic analyses, cancellation studies, financial modeling.
7/88	M-87017-1C001 Rebuttal	PA	GPU Industrial Intervenors	Metropolitan Edison Co.	Nonutility generator deferred cost recovery, SFAS No. 92
7/88	M-87017-2C005 Rebuttal	PA	GPU Industrial Intervenors	Pennsylvania Electric Co.	Nonutility generator deferred cost recovery, SFAS No. 92
9/88	88-05-25	CT	Connecticut Industrial Energy Consumers	Connecticut Light & Power Co.	Excess deferred taxes, O&M expenses.
9/88	10064 Rehearing	KY	Kentucky Industrial Utility Customers	Louisville Gas & Electric Co.	Premature retirements, interest expense.
10/88	88-170-EL-AIR	OH	Ohio Industrial Energy Consumers	Cleveland Electric Illuminating Co.	Revenue requirements, phase-in, excess deferred taxes, O&M expenses, financial considerations, working capital.

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<u>Date</u>	<u>Case</u>	<u>Jurisdict.</u>	<u>Party</u>	<u>Utility</u>	<u>Subject</u>
10/88	88-171-EL-AIR	OH	Ohio Industrial Energy Consumers	Toledo Edison Co.	Revenue requirements, phase-in, excess deferred taxes, O&M expenses, financial considerations, working capital.
10/88	8800 355-EI	FL	Florida Industrial Power Users' Group	Florida Power & Light Co.	Tax Reform Act of 1986, tax expenses, O&M expenses, pension expense (SFAS No. 87).
10/88	3780-U	GA	Georgia Public Service Commission Staff	Atlanta Gas Light Co.	Pension expense (SFAS No. 87).
11/88	U-17282 Remand	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Rate base exclusion plan (SFAS No. 71)
12/88	U-17970	LA	Louisiana Public Service Commission Staff	AT&T Communications of South Central States	Pension expense (SFAS No. 87).
12/88	U-17949 Rebuttal	LA	Louisiana Public Service Commission Staff	South Central Bell	Compensated absences (SFAS No. 43), pension expense (SFAS No. 87), Part 32, income tax normalization.
2/89	U-17282 Phase II	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements, phase-in of River Bend 1, recovery of canceled plant.
6/89	881602-EU 890326-EU	FL	Talquin Electric Cooperative	Talquin/City of Tallahassee	Economic analyses, incremental cost-of-service, average customer rates.
7/89	U-17970	LA	Louisiana Public Service Commission Staff	AT&T Communications of South Central States	Pension expense (SFAS No. 87), compensated absences (SFAS No. 43), Part 32.
8/89	8555	TX	Occidental Chemical Corp.	Houston Lighting & Power Co.	Cancellation cost recovery, tax expense, revenue requirements.
8/89	3840-U	GA	Georgia Public Service Commission Staff	Georgia Power Co.	Promotional practices, advertising, economic development.
9/89	U-17282 Phase II Detailed	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements, detailed investigation.
10/89	8880	TX	Enron Gas Pipeline	Texas-New Mexico Power Co.	Deferred accounting treatment, sale/leaseback.
10/89	8928	TX	Enron Gas Pipeline	Texas-New Mexico Power Co.	Revenue requirements, imputed capital structure, cash working capital.

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Date	Case	Jurisdct.	Party	Utility	Subject
10/89	R-891364	PA	Philadelphia Area Industrial Energy Users Group	Philadelphia Electric Co.	Revenue requirements.
11/89 12/89	R-891364 Surrebuttal (2 Filings)	PA	Philadelphia Area Industrial Energy Users Group	Philadelphia Electric Co.	Revenue requirements, sale/leaseback.
1/90	U-17282 Phase II Detailed Rebuttal	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements, detailed investigation.
1/90	U-17282 Phase III	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Phase-in of River Bend 1, deregulated asset plan.
3/90	890319-EI	FL	Florida Industrial Power Users Group	Florida Power & Light Co.	O&M expenses, Tax Reform Act of 1986.
4/90	890319-EI Rebuttal	FL	Florida Industrial Power Users Group	Florida Power & Light Co.	O&M expenses, Tax Reform Act of 1986.
4/90	U-17282	LA 19th Judicial District Ct.	Louisiana Public Service Commission Staff	Gulf States Utilities	Fuel clause, gain on sale of utility assets.
9/90	90-158	KY	Kentucky Industrial Utility Customers	Louisville Gas & Electric Co.	Revenue requirements, post-test year additions, forecasted test year.
12/90	U-17282 Phase IV	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements.
3/91	29327, et. al.	NY	Multiple Intervenors	Niagara Mohawk Power Corp.	Incentive regulation.
5/91	9945	TX	Office of Public Utility Counsel of Texas	El Paso Electric Co.	Financial modeling, economic analyses, prudence of Palo Verde 3.
9/91	P-910511 P-910512	PA	Allegheny Ludlum Corp., Armco Advanced Materials Co., The West Penn Power Industrial Users' Group	West Penn Power Co.	Recovery of CAAA costs, least cost financing.
9/91	91-231 -E-NC	WV	West Virginia Energy Users Group	Monongahela Power Co.	Recovery of CAAA costs, least cost financing.
11/91	U-17282	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Asset impairment, deregulated asset plan, revenue requirements.

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Date	Case	Jurisdiction	Party	Utility	Subject
12/91	91-410-EL-AIR	OH	Air Products and Chemicals, Inc., Armco Steel Co., General Electric Co., Industrial Energy Consumers	Cincinnati Gas & Electric Co.	Revenue requirements, phase-in plan.
12/91	10200	TX	Office of Public Utility Counsel of Texas	Texas-New Mexico Power Co.	Financial integrity, strategic planning, declined business affiliations.
5/92	910890-EI	FL	Occidental Chemical Corp.	Florida Power Corp.	Revenue requirements, O&M expense, pension expense, OPEB expense, fossil dismantling, nuclear decommissioning.
8/92	R-00922314	PA	GPU Industrial Intervenor	Metropolitan Edison Co.	Incentive regulation, performance rewards, purchased power risk, OPEB expense.
9/92	92-043	KY	Kentucky Industrial Utility Consumers	Generic Proceeding	OPEB expense.
9/92	920324-EI	FL	Florida Industrial Power Users' Group	Tampa Electric Co.	OPEB expense.
9/92	39348	IN	Indiana Industrial Group	Generic Proceeding	OPEB expense.
9/92	910840-PU	FL	Florida Industrial Power Users' Group	Generic Proceeding	OPEB expense.
9/92	39314	IN	Industrial Consumers for Fair Utility Rates	Indiana Michigan Power Co.	OPEB expense.
11/92	U-19904	LA	Louisiana Public Service Commission Staff	Gulf States Utilities/Entergy Corp.	Merger.
11/92	8649	MD	Westvaco Corp., Eastalco Aluminum Co.	Potomac Edison Co.	OPEB expense.
11/92	92-1715-AU-CO1	OH	Ohio Manufacturers Association	Generic Proceeding	OPEB expense.
12/92	R-00922378	PA	Armco Advanced Materials Co., The WPP Industrial Intervenor	West Penn Power Co.	Incentive regulation, performance rewards, purchased power risk, OPEB expense.
12/92	U-19949	LA	Louisiana Public Service Commission Staff	South Central Bell	Affiliate transactions, cost allocations, merger.

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Date	Case	Jurisdiction	Party	Utility	Subject
12/92	R-00922479	PA	Philadelphia Area Industrial Energy Users' Group	Philadelphia Electric Co.	OPEB expense.
1/93	8487	MD	Maryland Industrial Group	Baltimore Gas & Electric Co., Bethlehem Steel Corp.	OPEB expense, deferred fuel, CWIP in rate base
1/93	39498	IN	PSI Industrial Group	PSI Energy, Inc.	Refunds due to over-collection of taxes on Marble Hill cancellation.
3/93	92-11-11	CT	Connecticut Industrial Energy Consumers	Connecticut Light & Power Co.	OPEB expense.
3/93	U-19904 (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Gulf States Utilities/Entergy Corp.	Merger.
3/93	93-01 EL-EFC	OH	Ohio Industrial Energy Consumers	Ohio Power Co.	Affiliate transactions, fuel.
3/93	EC92-21000 ER92-806-000	FERC	Louisiana Public Service Commission Staff	Gulf States Utilities/Entergy Corp.	Merger.
4/93	92-1464-EL-AIR	OH	Air Products Armco Steel Industrial Energy Consumers	Cincinnati Gas & Electric Co.	Revenue requirements, phase-in plan.
4/93	EC92-21000 ER92-806-000 (Rebuttal)	FERC	Louisiana Public Service Commission Staff	Gulf States Utilities/Entergy Corp.	Merger.
9/93	93-113	KY	Kentucky Industrial Utility Customers	Kentucky Utilities	Fuel clause and coal contract refund.
9/93	92-490, 92-490A, 90-360-C	KY	Kentucky Industrial Utility Customers and Kentucky Attorney General	Big Rivers Electric Corp.	Disallowances and restitution for excessive fuel costs, illegal and improper payments, recovery of mine closure costs.
10/93	U-17735	LA	Louisiana Public Service Commission Staff	Cajun Electric Power Cooperative	Revenue requirements, debt restructuring agreement, River Bend cost recovery.
1/94	U-20647	LA	Louisiana Public Service Commission Staff	Gulf States Utilities Co.	Audit and investigation into fuel clause costs.

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Date	Case	Jurisdiction	Party	Utility	Subject
4/94	U-20647 (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Nuclear and fossil unit performance, fuel costs, fuel clause principles and guidelines.
5/94	U-20178	LA	Louisiana Public Service Commission	Louisiana Power & Light Co.	Planning and quantification issues of least cost integrated resource plan.
9/94	U-19904 Initial Post-Merger Earnings Review	LA	Louisiana Public Service Commission	Gulf States Utilities Co.	River Bend phase-in plan, deregulated asset plan, capital structure, other revenue requirement issues.
9/94	U-17735	LA	Louisiana Public Service Commission	Cajun Electric Power Cooperative	G&T cooperative ratemaking policies, exclusion of River Bend, other revenue requirement issues.
10/94	3905-U	GA	Georgia Public Service Commission	Southern Bell Telephone Co.	Incentive rate plan, earnings review.
10/94	5258-U	GA	Georgia Public Service Commission	Southern Bell Telephone Co.	Alternative regulation, cost allocation.
11/94	U-19904 Initial Post-Merger Earnings Review (Rebuttal)	LA	Louisiana Public Service Commission	Gulf States Utilities Co.	River Bend phase-in plan, deregulated asset plan, capital structure, other revenue requirement issues.
11/94	U-17735 (Rebuttal)	LA	Louisiana Public Service Commission	Cajun Electric Power Cooperative	G&T cooperative ratemaking policy, exclusion of River Bend, other revenue requirement issues.
4/95	R-00943271	PA	PP&L Industrial Customer Alliance	Pennsylvania Power & Light Co.	Revenue requirements. Fossil dismantling, nuclear decommissioning.
6/95	3905-U	GA	Georgia Public Service Commission	Southern Bell Telephone Co.	Incentive regulation, affiliate transactions, revenue requirements, rate refund.
6/95	U-19904 (Direct)	LA	Louisiana Public Service Commission	Gulf States Utilities Co.	Gas, coal, nuclear fuel costs, contract prudence, base/fuel realignment.
10/95	95-02614	TN	Tennessee Office of the Attorney General Consumer Advocate	BellSouth Telecommunications, Inc.	Affiliate transactions.
10/95	U-21485 (Direct)	LA	Louisiana Public Service Commission	Gulf States Utilities Co.	Nuclear O&M, River Bend phase-in plan, base/fuel realignment, NOL and AltMin asset deferred taxes, other revenue requirement issues.

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Date	Case	Jurisdct.	Party	Utility	Subject
11/95	U-19904 (Surrebuttal)	LA	Louisiana Public Service Commission Division	Gulf States Utilities Co.	Gas, coal, nuclear fuel costs, contract prudence, base/fuel realignment.
11/95	U-21485 (Supplemental Direct)	LA	Louisiana Public Service Commission	Gulf States Utilities Co.	Nuclear O&M, River Bend phase-in plan, base/fuel realignment, NOL and AltMin asset deferred taxes, other revenue requirement issues.
12/95	U-21485 (Surrebuttal)				
1/96	95-299- EL-AIR 95-300- EL-AIR	OH	Industrial Energy Consumers	The Toledo Edison Co. The Cleveland Electric Illuminating Co.	Competition, asset writeoffs and revaluation, O&M expense, other revenue requirement issues.
2/96	PUC No. 14967	TX	Office of Public Utility Counsel	Central Power & Light	Nuclear decommissioning.
5/96	95-485-LCS	NM	City of Las Cruces	El Paso Electric Co.	Stranded cost recovery, municipalization.
7/96	8725	MD	The Maryland Industrial Group and Redland Genstar, Inc.	Baltimore Gas & Electric Co., Potomac Electric Power Co. and Constellation Energy Corp.	Merger savings, tracking mechanism, earnings sharing plan, revenue requirement issues.
9/96	U-22092	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	River Bend phase-in plan, base/fuel realignment, NOL and AltMin asset deferred taxes, other revenue requirement issues, allocation of regulated/nonregulated costs.
11/96	U-22092 (Surrebuttal)				
10/96	96-327	KY	Kentucky Industrial Utility Customers, Inc.	Big Rivers Electric Corp.	Environmental surcharge recoverable costs.
2/97	R-00973877	PA	Philadelphia Area Industrial Energy Users Group	PECO Energy Co.	Stranded cost recovery, regulatory assets and liabilities, intangible transition charge, revenue requirements.
3/97	96-489	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Power Co.	Environmental surcharge recoverable costs, system agreements, allowance inventory, jurisdictional allocation.
6/97	TO-97-397	MO	MCI Telecommunications Corp., Inc., MCImetro Access Transmission Services, Inc.	Southwestern Bell Telephone Co.	Price cap regulation, revenue requirements, rate of return.

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Date	Case	Jurisdic.	Party	Utility	Subject
6/97	R-00973953	PA	Philadelphia Area Industrial Energy Users Group	PECO Energy Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning.
7/97	R-00973954	PA	PP&L Industrial Customer Alliance	Pennsylvania Power & Light Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning.
7/97	U-22092	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Depreciation rates and methodologies, River Bend phase-in plan.
8/97	97-300	KY	Kentucky Industrial Utility Customers, Inc.	Louisville Gas & Electric Co. and Kentucky Utilities Co.	Merger policy, cost savings, surcredit sharing mechanism, revenue requirements, rate of return.
8/97	R-00973954 PA (Surrebuttal)		PP&L Industrial Customer Alliance	Pennsylvania Power & Light Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning.
10/97	97-204	KY	Alcan Aluminum Corp. Southwire Co.	Big Rivers Electric Corp.	Restructuring, revenue requirements, reasonableness of rates.
10/97	R-974008	PA	Metropolitan Edison Industrial Users Group	Metropolitan Edison Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning, revenue requirements.
10/97	R-974009	PA	Penelec Industrial Customer Alliance	Pennsylvania Electric Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning, revenue requirements.
11/97	97-204 (Rebuttal)	KY	Alcan Aluminum Corp. Southwire Co.	Big Rivers Electric Corp.	Restructuring, revenue requirements, reasonableness of rates, cost allocation.
11/97	U-22491	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, other revenue requirement issues.
11/97	R-00973953 PA (Surrebuttal)		Philadelphia Area Industrial Energy Users Group	PECO Energy Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning.

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Date	Case	Jurisdiction	Party	Utility	Subject
11/97	R-973981	PA	West Penn Power Industrial Intervenors	West Penn Power Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, fossil decommissioning, revenue requirements, securitization.
11/97	R-974104	PA	Duquesne Industrial Intervenors	Duquesne Light Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning, revenue requirements, securitization.
12/97	R-973981 (Surrebuttal)	PA	West Penn Power Industrial Intervenors	West Penn Power Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, fossil decommissioning, revenue requirements.
12/97	R-974104 (Surrebuttal)	PA	Duquesne Industrial Intervenors	Duquesne Light Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning, revenue requirements, securitization.
1/98	U-22491 (Surrebuttal)	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, other revenue requirement issues.
2/98	8774	MD	Westvaco	Potomac Edison Co.	Merger of Duquesne, AE, customer safeguards, savings sharing.
3/98	U-22092 (Allocated Stranded Cost Issues)	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Restructuring, stranded costs, regulatory assets, securitization, regulatory mitigation.
3/98	8390-U	GA	Georgia Natural Gas Group, Georgia Textile Manufacturers Assoc.	Atlanta Gas Light Co.	Restructuring, unbundling, stranded costs, incentive regulation, revenue requirements.
3/98	U-22092 (Allocated Stranded Cost Issues) (Surrebuttal)	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Restructuring, stranded costs, regulatory assets, securitization, regulatory mitigation.
10/98	97-596	ME	Maine Office of the Public Advocate	Bangor Hydro-Electric Co.	Restructuring, unbundling, stranded costs, T&D revenue requirements.
10/98	9355-U	GA	Georgia Public Service Commission Advocate Staff	Georgia Power Co.	Affiliate transactions.

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Date	Case	Jurisdct.	Party	Utility	Subject
10/98	U-17735	LA	Louisiana Public Service Commission Staff	Cajun Electric Power Cooperative	G&T cooperative ratemaking policy, other revenue requirement issues.
11/98	U-23327	LA	Louisiana Public Service Commission Staff	SWEPCO, CSW and AEP	Merger policy, savings sharing mechanism, affiliate transaction conditions.
12/98	U-23358 (Direct)	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, tax issues, and other revenue requirement issues.
12/98	98-577	ME	Maine Office of Public Advocate	Maine Public Service Co.	Restructuring, unbundling, stranded cost, T&D revenue requirements.
1/99	98-10-07	CT	Connecticut Industrial Energy Consumers	United Illuminating Co.	Stranded costs, investment tax credits, accumulated deferred income taxes, excess deferred income taxes.
3/99	U-23358 (Surrebuttal)	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, tax issues, and other revenue requirement issues.
3/99	98-474	KY	Kentucky Industrial Utility Customers	Louisville Gas and Electric Co.	Revenue requirements, alternative forms of regulation.
3/99	98-426	KY	Kentucky Industrial Utility Customers	Kentucky Utilities Co.	Revenue requirements, alternative forms of regulation.
3/99	99-082	KY	Kentucky Industrial Utility Customers	Louisville Gas and Electric Co.	Revenue requirements.
3/99	99-083	KY	Kentucky Industrial Utility Customers	Kentucky Utilities Co.	Revenue requirements.
4/99	U-23358 (Supplemental Surrebuttal)	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, tax issues, and other revenue requirement issues.
4/99	99-03-04	CT	Connecticut Industrial Energy Consumers	United Illuminating Co.	Regulatory assets and liabilities, stranded costs, recovery mechanisms.
4/99	99-02-05	CT	Connecticut Industrial Utility Customers	Connecticut Light and Power Co.	Regulatory assets and liabilities stranded costs, recovery mechanisms.
5/99	98-426 99-082 (Additional Direct)	KY	Kentucky Industrial Utility Customers	Louisville Gas and Electric Co.	Revenue requirements.

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Date	Case	Jurisdict.	Party	Utility	Subject
5/99	98-474 99-083 (Additional Direct)	KY	Kentucky Industrial Utility Customers	Kentucky Utilities Co.	Revenue requirements.
5/99	98-426 98-474 (Response to Amended Applications)	KY	Kentucky Industrial Utility Customers	Louisville Gas and Electric Co. and Kentucky Utilities Co.	Alternative regulation.
6/99	97-596	ME	Maine Office of Public Advocate	Bangor Hydro-Electric Co.	Request for accounting order regarding electric industry restructuring costs.
6/99	U-23358	LA	Louisiana Public Public Service Comm.	Entergy Gulf States, Inc.	Affiliate transactions, cost allocations.
7/99	99-03-35	CT	Connecticut Industrial Energy Consumers	United Illuminating Co.	Stranded costs, regulatory assets, tax effects of asset divestiture.
7/99	U-23327	LA	Louisiana Public Service Commission	Southwestern Electric Power Co., Central and South West Corp, and American Electric Power Co.	Merger Settlement Stipulation.
7/99	97-596 (Surrebuttal)	ME	Maine Office of Public Advocate	Bangor Hydro-Electric Co.	Restructuring, unbundling, stranded cost, T&D revenue requirements.
7/99	98-0452-E-GI	WVa	West Virginia Energy Users Group	Monongahela Power, Potomac Edison, Appalachian Power, Wheeling Power	Regulatory assets and liabilities.
8/99	98-577 (Surrebuttal)	ME	Maine Office of Public Advocate	Maine Public Service Co.	Restructuring, unbundling, stranded costs, T&D revenue requirements.
8/99	98-426 99-082 (Rebuttal)	KY	Kentucky Industrial Utility Customers	Kentucky Utilities Co.	Revenue requirements.
8/99	98-474 98-083 (Rebuttal)	KY	Kentucky Industrial Utility Customers Kentucky Utilities Co.	Louisville Gas and Electric Co. and Kentucky Utilities Co.	Alternative forms of regulation.
8/99	98-0452-E-GI (Rebuttal)	WVa	West Virginia Energy Users Group	Monongahela Power, Potomac Edison, Appalachian Power, Wheeling Power	Regulatory assets and liabilities.

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Date	Case	Jurisdic.	Party	Utility	Subject
10/99	U-24182 (Direct)	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, affiliate transactions, tax issues, and other revenue requirement issues.
11/99	21527	TX	Dallas-Ft.Worth Hospital Council and Coalition of Independent Colleges and Universities	TXU Electric	Restructuring, stranded costs, taxes, securitization.
11/99	U-23358 Surrebuttal Affiliate Transactions	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Service company affiliate transaction costs.
01/00	U-24182 (Surrebuttal)	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, affiliate transactions, tax issues, and other revenue requirement issues.
05/00	U-21482 (Supplemental Direct)	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Affiliate expense proforma adjustments.
05/00	A-110550F0147	PA	Philadelphia Area Industrial Energy Users Group	PECO Energy	Merger with Unicom.
07/00	22344	TX	The Dallas-Fort Worth Hospital Council and The Coalition of Independent Colleges and Universities	Statewide Generic Proceeding	Escalation of O&M expenses for unbundled T&D revenue requirements in projected test year.
08/00	U-24064	LA	Louisiana Public Service Commission	CLECO	Affiliate transaction pricing principles, subsidization of nonregulated affiliates, ratemaking adjustments.

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As of September 2000**

Date	Case	Jurisdct.	Party	Utility	Subject
10/99	U-24182 (Direct)	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, affiliate transactions, tax issues, and other revenue requirement issues.
11/99	21527	TX	Dallas-Ft.Worth Hospital Council and Coalition of Independent Colleges and Universities	TXU Electric	Restructuring, stranded costs, taxes, securitization.
11/99	U-23358 Surrebuttal Affiliate Transactions	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Service company affiliate transaction costs.
01/00	U-24182 (Surrebuttal)	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, affiliate transactions, tax issues, and other revenue requirement issues.
05/00	U-21482 (Supplemental Direct)	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Affiliate expense proforma adjustments.
05/00	A-110550F0147	PA	Philadelphia Area Industrial Energy Users Group	PECO Energy	Merger with Unicom.
07/00	22344	TX	The Dallas-Fort Worth Hospital Council and The Coalition of Independent Colleges and Universities	Statewide Generic Proceeding	Escalation of O&M expenses for unbundled T&D revenue requirements in projected test year.
08/00	U-24064	LA	Louisiana Public Service Commission	CLECO	Affiliate transaction pricing principles, subsidization of nonregulated affiliates, ratemaking adjustments.

ATTACHMENT 2

BEFORE THE

PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY
COMMISSION, ET. AL.

V.

DUQUESNE LIGHT COMPANY
FOR APPROVAL OF ITS
RESTRUCTURING PLAN UNDER
SECTION 2806 OF THE
PUBLIC UTILITY CODE

)
)
)
) DOCKET NO. R-00974104
)
)
)
)
)

AFFIDAVIT
OF
LANE KOLLEN

J. KENNEDY AND ASSOCIATES, INC.
ATLANTA, GEORGIA

NOVEMBER 1998

AFFIDAVIT OF LANE KOLLEN

**STATE OF GEORGIA
COUNTY OF FULTON**

Before me, the undersigned Notary Public in and for the County of Fulton, State of Georgia, personally came and appeared Lane Kollen, who was sworn by me and attested to the following facts:

1. I am a Vice President and Principal of J. Kennedy and Associates, Inc. ("Kennedy and Associates"). Kennedy and Associates provides rate, planning, accounting, financial, and economic consulting services in the electric, gas, and telecommunications utility industries.
2. I am a Certified Public Accountant and a Certified Management Accountant. I have earned Bachelor of Business Administration (Accounting) and Master of Business Administration degrees from the University of Toledo.
3. I have been actively involved in the electric utility industry for more than twenty years as an employee of an electric utility, as a consultant to electric and gas utilities, and as a consultant to consumers of utility services and state government agencies. My specializations are accounting, tax, and finance.
4. I have testified as an expert witness in more than 100 proceedings on accounting, tax, and finance issues, including deferred taxes and regulatory assets. I have testified in seven Pennsylvania restructuring proceedings, including the Duquesne restructuring proceeding. I have testified on SFAS 109 regulatory assets in five of those Pennsylvania proceedings.

5. I have reviewed the "Generation Auction Plan of Duquesne Light Company" ("Plan") dated August 27, 1998 filed with this Commission, including all appendices. I have reviewed the Duquesne "Accounting Protocol" described in detail in Appendix G to the Plan. The Duquesne Accounting Protocol describes the computational methodologies proposed by the Company to quantify the effects of its divestiture plan on the Commission's determination of stranded costs.

6. The Company proposes a market credit and a deferred tax credit, both of which represent appropriate reductions to the Commission's determination of stranded costs and the related deferred taxes, respectively.

7. The market credit is computed as the gross sales proceeds less transaction costs less current income taxes. The deferred tax credit is computed as the market credit times the income tax rate divided by one minus the income tax rate, which the Company simplified to the market credit times .71.

8. The Company's market credit and deferred tax credit proposals fail to fully identify and quantify the effects of Duquesne's divestiture. The Company has failed to remove the SFAS 109 regulatory asset of \$179.00 million and the related deferred taxes of \$57.48 million from the stranded regulatory assets authorized for recovery by the Commission. These amounts are detailed in the Commission's Order and reflected on Duquesne's Appendix G page 2A.

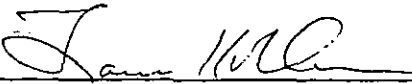
9. The SFAS 109 regulatory asset represents the revenue requirement effect of deferred taxes that have not yet been collected from customers, and which are created due to book/tax

basis differences (primarily AFUDC included in the book basis but not in the tax basis) and the previous flow through of tax benefits.

10. The Duquesne Accounting Protocol defines the computation of "net proceeds" on an after tax basis. Net proceeds, which are used to compute the market credit, are reduced for the current income tax effects of the sale proceeds. Because the net proceeds are reduced for the entire income tax effect of the sale and because Duquesne no longer will own the divested assets, there will be no longer any future tax obligation. All tax obligations will be paid fully by the Company and its customers under this formula. Thus, the SFAS 109 accumulated deferred tax liability and the SFAS 109 regulatory asset will no longer exist under Generally Accepted Accounting Principles ("GAAP").

11. At the closing date for the assets divested, the accounting entry to recognize the complete elimination of the future tax obligation in accordance with GAAP will be to debit (eliminate) the SFAS 109 deferred tax liability and to credit (eliminate) the equivalent SFAS 109 regulatory asset. These are balance sheet reversals that simply reflect the reality that there is no longer any future tax obligation of the Company or its customers related to the assets divested. There is no income statement effect and thus, no loss to the Company, just as there was no income statement effect and thus, no loss to the Company when the SFAS 109 deferred tax liability and SFAS 109 regulatory asset balances were created.

12. In addition to the market credit and the deferred tax credit described by Duquesne, the Commission should direct that additional credits be made to remove the \$179.00 million SFAS 109 regulatory asset and the \$57.48 million related deferred tax amounts from the total stranded costs detailed in the Commission's Order. Only in this manner will Duquesne's customers receive the proper credits to which they are entitled upon divestiture.


Lane Kollen

Sworn to and subscribed before me on this
5th day of November 1998.


Notary Public

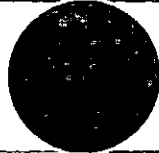
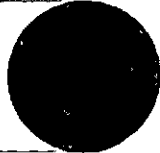
Notary Public, State of New York
Commission Expires 12/31/2001

ATTACHMENT 3



ring Results

Delivering Results



Delivering



DQE

1999 Annual Report
to Shareholders

Incorporation, and by obligations of Duquesne Light's subsidiaries to holders of their preferred securities. No dividends or distributions may be made on Duquesne Light's common stock if Duquesne Light has not paid dividends or sinking fund obligations on its preferred or preference stock. Further, the aggregate amount of Duquesne Light's common stock dividend payments or distributions may not exceed certain percentages of net income, if the ratio of total common shareholder's equity to total capitalization is less than specified percentages. Because we own all of Duquesne Light's common stock, if Duquesne Light cannot pay common dividends, we may not be able to pay dividends on our common stock or DQE Preferred Stock. No part of the retained earnings of DQE was restricted at December 31, 1999.

Effective December 31, 1998, DQE adopted SFAS No. 130, *Reporting Comprehensive Income*. This statement establishes standards for reporting and display of comprehensive income and its components (revenues, expenses, gains and losses) in a full set of general purpose financial statements. The objective of the statement is to report a measure of all changes in equity of a business enterprise that result from recognized transactions and other economic events of the period, other than transactions with owners in their capacity as owners (comprehensive income).

Accumulated Other Comprehensive Income Balances as of December 31,

	(Thousands of Dollars)	
	1999	1998
January 1	\$ 294	\$ 3,742
Unrealized gains (losses), net	1,540	(3,448)
December 31	\$ 1,834	\$ 294

N. EMPLOYEE BENEFITS

Pension and Postretirement Benefits

We maintain retirement plans to provide pensions for all eligible employees. Upon retirement, an eligible employee receives a monthly pension based on his or her length of service and compensation. The cost of funding the pension plan is determined by the unit credit actuarial cost method.

Our policy is to record this cost as an expense and to fund the pension plans by an amount that is at least equal to the minimum funding requirements of the *Employee Retirement Income Security Act of 1974*, but which does not exceed the maximum tax-deductible amount for the year. Pension costs charged to expense or construction were \$12.8 million for 1999, \$12.0 million for 1998 and \$12.7 million for 1997.

In 1999, we offered an early retirement program for certain employees affected by the generation asset divestiture. The total increase in the projected benefit obligation to the retirement plans is estimated to be \$29.4 million. Of this amount, \$17.4 million is recognized as special termination benefits in the table on page 62. The remaining \$12.0 million is reflected in the unrecognized actuarial gain/loss account in the table.

In addition to pension benefits, we provide certain health care benefits and life insurance for some retired employees. Participating retirees make contributions, which may be adjusted annually, to the health care plan. The life insurance plan is non-contributory. Health care benefits terminate when covered individuals become eligible for Medicare benefits or reach age 65, whichever comes first. We fund actual expenditures for obligations under the plans on a "pay-as-you-go" basis. We have the right to modify or terminate the plans.

We accrue the actuarially determined costs of the aforementioned postretirement benefits over the period from the date of hire until the date the employee becomes fully eligible for benefits. We have elected to amortize the transition obligation over a 20-year period.

We sponsor several qualified and nonqualified pension plans and other postretirement benefit plans for our employees. The following tables provide a reconciliation of the changes in the plans' benefit obligations and fair value of plan assets over the two-year period ending December 31, 1999, a statement of the funded status as of December 31, 1999 and 1998, and summary of assumptions used in the measurement of our benefit obligation:

Funded Status of the Pension and Postretirement Benefit Plans at December 31,

	(Thousands of Dollars)			
	Pension		Postretirement	
	1999	1998	1999	1998
Change in benefit obligation:				
Benefit obligation at beginning of year	\$ 605,597	\$ 554,302	\$ 46,358	\$ 46,330
Service cost	15,976	14,042	2,212	1,832
Interest cost	40,249	37,723	3,134	3,078
Actuarial (gain) loss	(73,622)	26,231	4,607	(3,003)
Benefits paid	(29,533)	(26,592)	(2,306)	(1,879)
Plan amendments	—	—	(207)	—
Curtailments	8,372	—	4,400	—
Settlements	(41)	(109)	—	—
Special termination benefits	17,376	—	—	—
Benefit obligation at end of year	584,374	605,597	58,198	46,358
Change in plan assets:				
Fair value of plan assets at beginning of year	681,244	605,457	—	—
Actual return on plan assets	99,929	91,561	—	—
Employer contributions	—	10,706	—	—
Benefits paid	(29,420)	(26,480)	—	—
Fair value of plan assets at end of year	751,753	681,244	—	—
Funded status	167,379	75,647	(58,198)	(46,358)
Unrecognized net actuarial (gain) loss	(289,579)	(173,974)	5,253	(1,795)
Unrecognized prior service cost	32,160	36,285	(207)	—
Unrecognized net transition obligation	8,264	10,227	21,463	23,607
Accrued benefit cost	\$ (81,776)	\$ (51,815)	\$ (31,689)	\$ (24,546)

Weighted-Average Assumptions as of December 31,

	Pension		Postretirement	
	1999	1998	1999	1998
Discount rate used to determine projected benefits obligation	7.50%	6.50%	7.50%	6.50%
Assumed rate of return on plan assets	7.50%	7.50%	—	—
Assumed change in compensation levels	4.25%	4.25%	—	—
Ultimate health care cost trend rate	—	—	6.00%	5.00%

All of our plans for postretirement benefits, other than pensions, have no plan assets. The aggregate benefit obligation for those plans was \$58.2 million as of December 31, 1999, and \$46.4 million as of December 31, 1998. The accumulated postretirement benefit obligation comprises the present value of the estimated future benefits payable to current retirees, and a pro rata portion of estimated benefits payable to active employees after retirement.

In 1999, we offered an early retirement program for certain employees affected by the generation asset divestiture. The total increase in the projected benefit obligation of the postretirement benefits is estimated to be \$4 million. This increase is reflected in the unrecognized actuarial gain/loss account in the above table.

Pension assets consist primarily of common stocks exclusive of DQE common stock, United States obligations and corporate debt securities.

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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Pamela C. Polacek, Esq.

Counsel to the Duquesne Industrial Intervenors

Dated this 5th day of October 2000, in Harrisburg, Pennsylvania.



OFFICE OF CONSUMER ADVOCATE
555 Walnut Street 5th Floor, Forum Place
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(717) 783-5048

IRWIN A. POPOWSKY
Consumer Advocate

FAX (717) 783-7152
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ORIGINAL

DOCUMENT
FOLDER

October 5, 2000

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

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

Re: Pennsylvania Public Utility Commission
v.
Duquesne Light Company
CTC Reconciliation and Auction
Accounting Compliance Filing
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 Comments in the above-captioned proceeding.

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

Sincerely,

Stephen J. Keene
Senior Assistant Consumer Advocate

Enclosures

cc: All Parties of Record

*55633

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

DUQUESNE LIGHT COMPANY

Docket No. R-00974104

ORIGINAL

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COMMENTS
OF THE OFFICE OF CONSUMER ADVOCATE
TO THE CTC RECONCILIATION AND
AUCTION ACCOUNTING COMPLIANCE FILING

DOCUMENT
FOLDER

DOCKETED
OCT 10 2000

Tanya J. McCloskey
Senior Assistant Consumer Advocate
Stephen J. Keene
Assistant Consumer Advocate

For:

Irwin A. Popowsky
Consumer Advocate

Office of Attorney General
Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
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(717) 783-5048

DATED: October 5, 2000

I. INTRODUCTION

The Office of Consumer Advocate ("OCA") is in receipt of the CTC Reconciliation and Auction Accounting Compliance Filing ("Compliance Filing") of Duquesne Light Company ("Duquesne" or "Company") which was filed with the Public Utility Commission ("Commission") on August 4, 2000. This Compliance Filing is one of the last steps in what has been largely a successful auction of Duquesne's generation assets ("Auction"). As the winning bidder in the Auction, Orion Power Holdings, Inc. ("Orion") agreed to pay \$1.705 billion for the generating assets, transmission assets and the rights and obligations to supply power at wholesale to serve Duquesne's provider of last resort customers until the expiration of the CTC. As a result of the Auction, Duquesne's stranded costs have been significantly reduced, and Duquesne will be able to end its stranded cost collection for most major rate classes by early 2002.

The filing contains (1) a final accounting of proceeds and transaction costs, (2) a proposed CTC reconciliation, and (3) a proposal to recover an unspecified amount of compensation for Orion for costs allegedly incurred during the summer of 2000 due to customers returning to Duquesne's Provider of Last Resort ("POLR") service.

In the Company's original Application for Certificate of Public Convenience and for Commission Approval of the Transfer of Property Used or Useful in the Public Service ("Auction Application"), filed December 22, 1999, the Company projected that it would realize net proceeds of \$1.405 billion from the Auction. Auction Application, App. B at 1. In the final reconciliation presented in the Compliance Filing,

the Company's net proceeds actually increase to \$1.428 billion. In spite of the increase in net proceeds, the amount of after-tax proceeds to be used to reduce the Company's level of stranded cost was reduced from \$1.159 billion as projected in the Auction Application to \$966.6 million in the Compliance Filing. *Compare* Auction Application, App. B at 1, *with* Compliance Filing, Exh. A at 1. This decrease in after-tax proceeds is attributed primarily to a different tax basis used to calculate the taxable gain on the sale of the assets. *Id.* In the original Auction Application, the Company projected the overall stranded cost level to be recovered through the CTC to be \$406.3 million plus related deferred taxes of \$450.4 million. At that level of stranded cost, the CTC for residential customers in Rate RS was projected to expire in October 2001. Auction Application, App. B at 10, 14. In the Compliance Filing, the overall level of stranded costs increased to \$580.7 million plus related deferred taxes of \$371.1 million. At this level of stranded cost, the CTC for residential Rate RS won't expire until February 2002. Compliance Filing, Exh. A at 6, 13. It is important to note that the stranded cost numbers presented in the Company's Compliance Filing may increase if the Commission approves Duquesne's request for Orion's Summer 2000 Switchback Costs. As set forth below, the OCA continues to oppose recovery of any Summer 2000 Switchback Costs.

The OCA has reviewed Duquesne's Compliance Filing and has had several informal technical conferences with the Company. The OCA provides the following comments.

II. COMMENTS

A. Incremental Capital Stock Tax Payments (Compliance Filing at 19-20).

The Company has included a claim for \$3.9 million for incremental capital stock tax payments it will be obligated to make for 2000 through 2004 for tax on average book income. The tax is based in part on the Company's average book income over the past five years. As a consequence, the tax obligations in years 2000-2004 will include tax on generation book income even though Duquesne will no longer own the generation assets that are generating the tax.

The OCA has some concern about whether this is an appropriate transaction or auction-related cost which should be deducted from the proceeds of the divestiture. Furthermore, based on the technical conferences held with the Company it is the OCA's understanding that the \$3.9 million requested by Duquesne was calculated using the decrease in the tax rate from 10.99% to 8.99% which occurred in 2000. However, the tax rate is also scheduled to be reduced to 7.49% in 2001, and thereafter by 1 mill each year through 2008. Duquesne has agreed to revise its calculations to reflect the additional decreases in the tax rate in years 2001 and beyond. As set forth in Duquesne's Letter to OCA dated September 22, 2000, the Company will amend its claim to reduce Duquesne's claim for capital stock tax payments from \$3.9 million to \$3.34 million.¹ Therefore, if the Commission deems this to be an appropriate transaction or

¹ A copy of the September 22, 2000 Letter from Duquesne's Counsel, Kathleen Barron, Esq., to OCA along with the attached Appendices is attached hereto and marked OCA Appendix A.

auction-related cost, the amount of the tax obligation should be \$3.34 million.

Finally, since these additional taxes will be incurred over the period 2000-2003, the amount of the total offset to the divestiture proceeds should be stated on a net present value basis.

B. Transmission Upgrades Required By Divestiture. (Compliance Filing at 21-25).

In its Compliance Filing, the Company seeks to recover as an auction-related cost the costs for three types of transmission upgrades which it claims are necessary as a result of the divestiture. The three transmission upgrade costs which the Company seeks to recover are: (1) \$9.6 million for Duquesne Control Area Facility upgrades; (2) \$10 million for transmission upgrades to the First Energy Control Area; and (3) \$2.5 million of incremental capital costs associated with demarcation of Duquesne's generation facilities transferred in the Generation Exchange and Auction.

The OCA has some concern about whether the costs for the Duquesne Control Area upgrades and the FirstEnergy Control Area upgrades are appropriate costs to be recovered as a transaction or auction-related cost. The Company will not begin to incur costs for the Duquesne Control Area Facility upgrades until 2007. The First Energy Control Area upgrades will not be undertaken until expiration of the five-year Must-Run Agreements associated with the FirstEnergy plants which were part of the Generation Exchange.

Furthermore, the OCA submits that if the Commission allows Duquesne to

recover these costs as a transaction or auction-related cost as part of this proceeding, then there must be assurances that the Company will not seek to recover these costs in any future rate proceedings at FERC or the Pennsylvania Public Utility Commission.

Therefore, the OCA submits that if these costs are paid for out of the divestiture proceeds during this proceeding, then Duquesne should be required to commit to not seek rate consideration of these investments in any future rate proceedings at the Commission or at FERC.

C. Pollution Control Revenue Refunding Bonds. (Compliance Filing at 25-26).

The Company is seeking to recover \$961,233 in costs it incurred for incremental insurance and legal costs associated with completing a maturity extension on bonds which it had to restructure as a result of the divestiture. It appears as though this cost was incurred only because Duquesne failed to complete the bond refinancing prior to closing on the Generation Exchange. That is, these costs were avoidable had Duquesne completed the transaction on a timely basis. Responsibility for completing this refinancing belongs to Duquesne's management, not its ratepayers. Therefore, the OCA submits that this transaction cost is improper and Duquesne's claim for \$961,233 should be rejected.

D. Early Retirement Option ("ERO") Pension Costs and Retiree Welfare Costs and Pension Vesting Costs. (Compliance Filing at 29).

The Company is seeking to recover \$36.2 million for ERO pension and retiree welfare costs and an additional \$0.6 million in pension vesting costs. The OCA does not oppose recovery of these costs as a transaction cost, as long as certain conditions are met. First, the Commission should ensure that if these costs are recovered as part of this proceeding, that the Company does not seek to recover these same costs in a future rate proceeding. In addition, these funds should be tracked separately and discreetly to ensure that they are used for the purposes intended. The Commission should also ensure that if the Company overcollects contributions from ratepayers for pensions and other post-retirement benefits, that such overcollections be subject to refund.

The Company has committed to establish an account for collection of the ERO costs which will be used to pay the premiums of retirees who participated in the ERO plan. Duquesne has also committed to establish an account dedicated to collecting and disbursing funds necessary to pay premiums for post-retirement healthcare premiums. *See OCA Appendix A.* The establishment of such accounts should enable the Commission and other parties to track the contributions and payments made for pensions and other post-retirement benefit. The OCA submits, however, that any amounts remaining in these accounts which are not necessary to fund the Company's pension and other post-retirement benefit plans should be refunded to ratepayers.

E. Summer 2000 Switchback Costs. (Compliance Filing at 30-31).

The Company's Compliance Filing also includes a reference to the Company's request in its POLR II filing to compensate Orion for costs incurred in serving customers who returned to POLR II service for the Summer 2000. In its POLR II Petition, Duquesne proposed that it be permitted to calculate a generation rate adjustment ("GRA") for those customers that returned to POLR service for Summer 2000 and apply it as an offset to the Auction proceeds. This mechanism would allow Duquesne to compensate Orion for the cost of serving those customers who returned for the Summer of 2000.

As the OCA set forth in its Answer to Duquesne's POLR II Petition, the Duquesne proposal has several problems which make it unacceptable. 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. POLR II Petition at 26-27. The OCA submits, however, that Orion submitted its bid based on the facts at the time, including the Commission's Restructuring Order which rejected a 12-month stay-in for customers who returned to POLR service. This was a fact that Orion should have taken into consideration when it 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 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 is attempting to do 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.

Furthermore, 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. The OCA submits that residential ratepayers are not the source of the additional costs from returning to POLR service. The number of Duquesne residential shopping customers increased throughout the Summer of 2000.² 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 were 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 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

² 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.

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 did, in fact, incur incremental costs to serve the load.

F. SFAS 109 Costs. (Compliance Filing at 32).

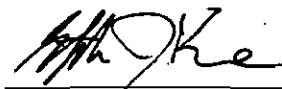
The Company's Compliance Filing also includes an increase in Duquesne's SFAS 109 liability by \$62.94 million over that which was claimed in the Auction Application. The Company claims that this amount was originally approved by the Commission in the Restructuring Order, but was inadvertently omitted by Duquesne in its Auction Application. Compliance Filing at 32.

The OCA questions the propriety of Duquesne's claim to include the SFAS 109 plant liability balance as part of the divestiture reconciliation. Duquesne's divestiture proceeds have been determined on a net of tax basis, making it unnecessary to separately recognize SFAS 109 taxes. Duquesne has provided no justification for making an exception to this procedure to include the SFAS 109 plant obligation of \$62.9 million as a stranded cost.

III. CONCLUSION

As set forth above, the OCA submits that certain modifications must be made to Duquesne's Compliance Filing. While the OCA agrees that Duquesne has done a commendable job in carrying out the divestiture of its generation assets in a manner that has significantly reduced the amount of stranded cost to be recovered from ratepayers, the OCA submits that these few modifications are necessary in order to properly account for all of the costs and benefits of this complex transaction.

Respectfully submitted,



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Senior Assistant Consumer Advocate

Stephen J. Keene
Assistant Consumer Advocate

Counsel for:
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Dated: October 5, 2000
*60346

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OCA APPENDIX A

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September 22, 2000

VIA FACSIMILE AND OVERNIGHT DELIVERY

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OFFICE OF
CONSUMER ADVOCATE

Re: Duquesne Light Company CTC Reconciliation and
Auction Accounting Compliance Filing, Docket No.
R-00974104

Dear Steve:

During our conference call on September 5, 2000, Duquesne Light Company ("Duquesne") committed to provide further information on several issues raised by Tom Catlin and the Office of Consumer Advocate on Duquesne's August 4, 2000 filing ("Accounting Filing") in the above-captioned docket.

First, Tom asked whether Duquesne's capital stock tax claim was adjusted for the recent legislation reducing the tax rate. As we indicated, Duquesne's calculations reflected the drop in the tax rate from 10.99% to 8.99% as set forth in 2000 Pa. Laws 23. Under that law, however, the tax rate is slated to fall to 7.49% in 2001, and thereafter by 1 mill each year through 2008. Although Duquesne's initial claim inadvertently did not reflect this additional decrease, the revised calculations (attached as App. 1) incorporate this change. Duquesne will amend its claim as part of its reply comments in this docket.

Second, Tom asked about the circumstances surrounding the buyout of the nuclear fuel leases for the Beaver Valley 2 and Perry units. This cost, de-

scribed at pages 20-21 of the Accounting Filing, was incurred because Duquesne allowed the nuclear fuel leases, and the credit facility supporting the leases, to terminate by their terms before Duquesne transferred the plants to FirstEnergy. On the termination date, Duquesne had essentially two options: it could have FirstEnergy assume the leases and credit facility, or it could extend them from September 30, 1999 until the closing. Neither option was feasible. FirstEnergy was unwilling to assume the credit facility underlying the lease because the credit support would not transfer to FirstEnergy under the same terms and conditions that Duquesne enjoyed. Duquesne opted not to extend the credit facility itself because it did provide the flexibility needed to release the liens on the nuclear fuel assets to complete the asset exchange on a timely basis. In addition, the timing of the closing with FirstEnergy was uncertain, which further complicated the prospect of extending the credit facility. In all, Duquesne believes it chose the most beneficial course of action to maximize the value of the assets divested in the auction.

Third, Tom queried whether any of Duquesne's incremental O&M costs were offset by O&M savings associated with divestiture of the plants. As we discussed, existing data cannot accurately compare the difference between what Duquesne projected to expend on O&M on its generation fleet (wholly- and partially-owned, fossil and nuclear) and its actual expenditures on the plants it held following the exchange but prior to the divestiture. Even if such a comparison were possible, and even if such comparison revealed that Duquesne spent less on O&M notwithstanding the incremental O&M costs incurred due to the auction,¹ it would not be appropriate to discount Duquesne's transaction costs by the difference. Duquesne has not claimed in the Accounting Filing any increased costs that were incurred prior to the divestiture except those incurred as a result of the auction. In several cases, these costs were substantial, such as purchased power costs during the Summer of 1999 (other than those claimed as a result of the power sale to FirstEnergy Corp.) and costs to defend the auction against Allegheny Energy, Inc. If Duquesne is not permitted to recover cost increases during this period, cost decreases (if any) should likewise not be reflected.

¹ Duquesne can confirm that for the two wholly-owned plants that were not exchanged with FirstEnergy (Cheswick and Elrama), Duquesne spent \$1.9 MM and \$2.9 MM, respectively, less than forecasted fixed and variable O&M and actual O&M during 1999.

Stephen Keene
September 22, 2000
Page 3

Fourth, we discussed the process by which Duquesne will collect and account for ERO costs. Duquesne has proposed to offset these costs against auction proceeds, and therefore collect them through the CTC over time. Tom expressed concern about the possibility that these costs could be overcollected from ratepayers in future years if contributions to Duquesne's pension or post-retirement healthcare funds are not made with CTC collections. Duquesne proposes to address these concerns as follows: with respect to post-retirement healthcare premiums (FAS 106), Duquesne proposes to establish a bank account dedicated to collecting and disbursing the funds necessary to pay these premiums. As funds are collected through the CTC for these costs, they will accumulate in the account and be used to pay the premiums of retirees who participated in the ERO. With respect to Duquesne's pension funds, Duquesne likewise will establish a dedicated bank account to gather these CTC collections. All money deposited into this account will be used to make allowable pension contributions to Duquesne's funds. Both accounts will be subject to Commission audit.

Finally, Tom requested further information on transaction costs related to the increase in healthcare premiums that will result from the number of employees that were severed as a result of the divestiture. Pursuant to Tom's request, attached as Appendix 2 is an analysis of the claims experience for 24 management employees severed during 1999.² As predicted by the analysis included in the Accounting Filing (at Exh. T), the claims paid for these employees during 2000 is on a pace to exceed by 68% the claims paid during 1999.

Thank you for the opportunity to further explain (and in one instance, correct), Duquesne's transaction costs. Please do not hesitate to contact me if you require any further information.

² Duquesne selected a random sample of management employees severed during late 1999 to obtain employees with sufficient history and information.

Stephen Keene
September 22, 2000
Page 4

Sincerely,

A handwritten signature in black ink, appearing to read 'Kathleen L. Barrón' with a horizontal line extending to the right.

Kathleen L. Barrón
Counsel to Duquesne Light Company

cc: Tom Catlin
John Eberlein
Stevan Schott

**DUQUESNE LIGHT COMPANY
CAPITAL STOCK TAX CALCULATION PROJECTION
WITHOUT GENERATION BOOK INCOME INCLUDED**

Appendix 1

	Book Income	Year Ended 1999	Year Ended 2000	Year Ended 2001	Year Ended 2002	Year Ended 2003	Year Ended 2004
Oldest Period							
12/31/94	148,460,810						
12/31/95	142,323,086	142,323,086					
12/31/96	118,506,526	118,506,526	118,506,526				
12/31/97	108,538,299	108,538,299	108,538,299	108,538,299			
12/31/98	25,808,099	25,808,099	25,808,099	25,808,099	25,808,099		
12/31/99	129,753,672	129,753,672	129,753,672	129,753,672	129,753,672	129,753,672	
12/31/00	61,962,000		61,962,000	61,962,000	61,962,000	61,962,000	61,962,000
12/31/01	43,800,000			43,800,000	43,800,000	43,800,000	43,800,000
12/31/02	43,800,000				43,800,000	43,800,000	43,800,000
12/31/03	43,800,000					43,800,000	43,800,000
12/31/04	43,800,000						43,800,000
Adjustment To Eliminate Generation Book Income For Years:							
1996			(77,579,000)				
1997			(60,546,000)	(60,546,000)			
1998			10,678,000	10,678,000	10,678,000		
1999			(60,546,000)	(60,546,000)	(60,546,000)	(60,546,000)	
		524,929,682	256,575,596	259,448,070	255,255,771	262,569,672	237,162,000
Average Book Income		104,985,936	51,315,119	51,889,614	51,051,154	52,513,934	47,432,400
Divide Avg Bk Income by .095		1,105,115,116	540,159,147	546,206,463	537,380,568	552,778,253	499,288,421
Average Net Worth		1,113,140,989	900,000,000	670,000,000	670,000,000	670,000,000	670,000,000
Multiply by .75		834,855,742	675,000,000	502,500,000	502,500,000	502,500,000	502,500,000
Capital Stock Taxable Value		717,789,217	607,579,574	524,353,232	519,940,284	527,639,127	500,894,211
Capital Stock Tax		7,888,503	5,462,140	3,927,406	3,374,412	2,896,739	2,249,015
Summary:							<u>Total</u>
Tax With Generation Income		7,888,503	7,241,148	4,797,933	3,715,090	3,246,631	2,249,015
Tax Without Generation Income		7,888,503	5,462,140	3,927,406	3,374,412	2,896,739	2,249,015
Difference in Tax		0	1,779,008	870,527	340,678	349,892	0 3,340,105

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DUQUESNE LIGHT COMPANY

**CAPITAL STOCK TAX CALCULATION PROJECTION
WITH GENERATION BOOK INCOME INCLUDED**

Oldest Period	Book Income	Year Ended 1999	Year Ended 2000	Year Ended 2001	Year Ended 2002	Year Ended 2003	Year Ended 2004
12/31/94	148,460,810						
12/31/95	142,323,086	142,323,086					
12/31/96	118,506,526	118,506,526	118,506,526				
12/31/97	108,538,299	108,538,299	108,538,299	108,538,299			
12/31/98	25,808,099	25,808,099	25,808,099	25,808,099	25,808,099		
12/31/99	129,753,672	129,753,672	129,753,672	129,753,672	129,753,672	129,753,672	
12/31/00	61,962,000		61,962,000	61,962,000	61,962,000	61,962,000	61,962,000
12/31/01	43,800,000			43,800,000	43,800,000	43,800,000	43,800,000
12/31/02	43,800,000				43,800,000	43,800,000	43,800,000
12/31/03	43,800,000					43,800,000	43,800,000
12/31/04	43,800,000						43,800,000
		524,929,682	444,568,596	369,862,070	305,123,771	323,115,672	237,162,000
Average Book Income		104,985,936	88,913,719	73,972,414	61,024,754	64,623,134	47,432,400
Divide Avg Bk Income by .095		1,105,115,116	935,933,884	778,656,989	642,365,832	680,243,516	499,288,421
Average Net Worth		1,113,140,989	900,000,000	670,000,000	670,000,000	670,000,000	670,000,000
Multiply by .75		834,855,742	675,000,000	502,500,000	502,500,000	502,500,000	502,500,000
Capital Stock Taxable Value		717,789,217	805,466,942	640,578,495	572,432,916	591,371,758	500,894,211
Capital Stock Tax		7,888,503	7,241,148	4,797,933	3,715,090	3,246,631	2,249,015

Appendix 2

	SALARY CONT DATE	PROJECTED TERM DATE	1999 ACTUAL CLAIM COSTS Full Year	2000 ACTUAL CLAIMS COSTS Through July	Difference
1	10/19/99	5/19/00	\$ 1,053.31	\$ 8,285.85	\$ 7,232.54
2	10/19/99	4/15/00	\$ 581.63	\$ 171.81	\$ (409.82)
3	10/1/99	6/8/00	\$ 169.13	\$ 0	\$ (169.13)
4	8/30/99	8/29/00	\$ 65.80	\$ 28.91	\$ (36.89)
5	10/21/99	7/12/00	\$ -	\$ 0	\$ -
6	12/17/99	12/15/00	\$ 77.85	\$ 432.19	\$ 354.34
7	10/25/99	10/22/00	\$ -	\$ 329.04	\$ 329.04
8	10/21/99	10/4/00	\$ -	\$ 1,330.61	\$ 1,330.61
9	11/15/99	5/16/00	\$ 319.00	\$ -	\$ (319.00)
10	12/20/99	9/21/00	\$ -	\$ 1,555.76	\$ 1,555.76
11	10/21/99	10/18/00	\$ -	\$ 1,792.41	\$ 1,792.41
12	10/21/99	7/12/00	\$ -	\$ 97.66	\$ 97.66
13	12/17/99	10/20/00	\$ 0.00	\$ 1,514.32	\$ 1,514.32
14	10/21/99	6/13/00	\$ 525.66	\$ 673.62	\$ 147.96
15	10/21/99	10/12/01	\$ 0.00	\$ 2,744.86	\$ 2,744.86
16	11/1/99	10/29/00	\$ -	\$ 34.15	\$ 34.15
17	10/21/99	10/18/00	\$ -	\$ 65.88	\$ 65.88
18	10/21/99	10/18/00	\$ 15,609.63	\$ 2278.3	\$ (13,331.33)
19	10/21/99	10/18/00	\$ -	\$ 2,698.64	\$ 2,698.64
20	10/25/99	4/23/00	\$ 2,058.82	\$ 949.97	\$ (1,108.85)
21	10/21/99	10/18/00	\$ 5.68	\$ 286.60	\$ 280.92
22	10/21/99	10/18/00	\$ 66.50	\$ 458.92	\$ 392.42
23	10/21/99	5/31/00	\$ 354.27	\$ 1,411.60	\$ 1,057.33
24	10/21/99	10/18/00	\$ -	\$ 918.40	\$ 918.40
Total			\$ 20,887.28	\$ 28,059.50	\$ 1.34
Number with Claims			12	21	1.75

CERTIFICATE OF SERVICE

Re: Pennsylvania Public Utility Commission
v.
Duquesne Light Company
CTC Reconciliation and Auction
Accounting Compliance Filing
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 5th day of October, 2000

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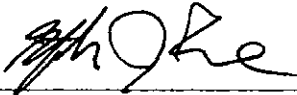
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FOLDER

October 26, 2000

VIA OVERNIGHT DELIVERY

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Harrisburg, PA 17120

RECEIVED
OCT 26 2000
A PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Duquesne Light Company, Docket No. R-00974104

Dear Mr. McNulty:

Enclosed is an original and four copies of Duquesne Light Company's ("Duquesne's") Reply Comments to the Comments of Intervenors on Duquesne's CTC Reconciliation and Auction Accounting Compliance Filing. 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: All Parties

41

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))
)**

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REPLY COMMENTS OF DUQUESNE LIGHT COMPANY

**OCT 26 2000
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

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Counsel to Duquesne Light Company

Dated: October 26, 2000

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

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))

DOCKETED

OCT 30 2000

RECEIVED

REPLY COMMENTS OF DUQUESNE LIGHT COMPANY

OCT 26 2000
PENNSYLVANIA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Duquesne Light Company ("Duquesne") hereby submits its reply to

the comments of intervenors on Duquesne's CTC Reconciliation and Auction
Accounting Compliance Filing ("Auction Accounting Filing").

DOCUMENT
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INTRODUCTION

These reply comments address comments on, and objections to, the recovery of costs associated with Duquesne's generation exchange with FirstEnergy Corp. ("FirstEnergy") and its sale of generation to Orion Power Midwest, L.P ("Orion"). These two transactions have shortened the transition period for Duquesne's customers by approximately five years, even *with* the recovery of all requested transaction costs. Despite this, several parties request that certain costs be disallowed.

These requests fall into four main categories. First, the Office of Consumer Advocate (“OCA”) has requested several adjustments, clarifications and commitments to ensure a proper accounting of costs. Duquesne has agreed to accept virtually all of these suggestions. Second, the Duquesne Industrial Intervenors (“DII”) have requested an across-the-board disallowance of any generation purchase costs or transmission upgrades as a violation of the “rate cap.” These arguments have no merit for the simple reason that transaction cost recovery, by definition, does not affect *rate levels* and therefore does not violate statutory rate caps. Third, the Mid-Atlantic Power Supply Association (“MAPSA”) and Strategic Energy Limited (“SEL”) suggest that several costs are “excessive,” but provide no justification for that claim. Their unsupported claims should be rejected. Finally, there is significant confusion regarding Duquesne’s recovery of FAS 109-related costs. As explained further below, Duquesne’s requested recovery is consistent with all the Commission’s orders to date and, as explained in the Affidavit of Morgan K. O’Brien, the methodology used by Duquesne ensures that it recovers no more than its stranded costs.

I. REVISIONS TO DUQUESNE'S AUCTION ACCOUNTING FILING

The following is a discussion of revisions to Duquesne's auction accounting filing that Duquesne has agreed to make at the request of the OCA.¹ Other parties, particularly DII, contest the recovery of these items, even as adjusted. DII's claims will be addressed separately in Section II hereof.

A. Capital Stock Tax

The Pennsylvania capital stock tax is a tax based on a company's average net income. 72 P.S. § 7601. The tax is calculated based on a lagging, five-year formula. Prior to the divestiture, this tax was levied on Duquesne's total book income, which, of necessity, included income from Duquesne's generation assets. Because of the lagging, five-year nature of the tax, the capital stock tax Duquesne pays through 2004 will be based, in part, on pre-divestiture generation book income, despite the fact that Duquesne will no longer own the generation assets that are creating the tax and Duquesne will no longer derive any benefit from those assets. The Auction Accounting Filing (at Exhibit J) therefore sought recovery of the revenues necessary to pay the generation-portion of the capital stock tax through 2004. This calculation was based on the recently reduced capital stock tax rate of 8.99%.

¹ A revised summary of Duquesne's transaction costs is included as Appendix 1.

The OCA has raised the concern that Duquesne's calculations failed to account for decreases in the tax rate slated to take effect in the future under 2000 Pa. Laws 23. OCA Comm. At 3. The OCA also argues that these reduced amounts should be stated on a net present value basis. *Id.* at 4. Duquesne agrees with the OCA. Duquesne has therefore agreed (*see id.* OCA App. A) to recalculate its claim to reflect the reduced tax rates and to state the claim on a net present value basis. As a result, Duquesne, by this filing, reduces the claim from \$3.9 million to \$3.1 million, as calculated in Appendix 2.

B. Employee Costs

Duquesne's employee costs claim includes \$36 million associated with the early retirement option ("ERO") for eligible management and union employees. Auction Accounting Filing at 29. These costs are associated with the workforce reductions resulting from the divestiture of Duquesne's generation business.

The OCA "does not oppose recovery of these costs as a transaction cost." OCA Comm. at 6. The OCA has recommended, however, that three conditions be met: (i) the company should commit not to request recovery of these costs in a future proceeding, (ii) the funds "should be tracked separately and discretely to ensure that they are used for the purposes intended," and (iii) any overcollection of these costs should be subject to refund. *Id.*

Duquesne agrees with the OCA and proposes to address its concerns as follows. First, Duquesne will not request recovery of these same amounts in a future proceeding. Second, with respect to post-retirement healthcare premiums (FAS 106), Duquesne proposes to establish a bank account dedicated to collecting and disbursing the funds necessary to pay these premiums. As funds are collected through the CTC for these costs, they will accumulate in the account and be used to pay the premiums of retirees who participated in the ERO. Third, with respect to Duquesne's pension funds, Duquesne likewise will establish a dedicated bank account to gather these CTC collections. All money deposited into this account will be used to make allowable pension contributions to Duquesne's funds. Fourth, as suggested by the OCA, any amounts remaining in these accounts that is not used as described above will be subject to refund, and both accounts will be subject to Commission audit.

II. REPLY COMMENTS ON TRANSACTION COSTS

The following is a reply to intervenor arguments that certain transaction costs and other items should be disallowed. These claims should be rejected for the reasons stated below.

A. Development and Implementation Costs

MAPSA and SEL question the recovery of costs paid by Duquesne to its legal, technical and investment banking advisors.² MAPSA Comm. at 8; SEL Comm. at 8.³ According to MAPSA and SEL, they “believe” that the fees are “excessive” and suggest that Duquesne “compare” its fees “to those incurred in similar asset sales.” *Id.*

These arguments have no merit. First, the fact that MAPSA “believes” the fees are “excessive” is hardly dispositive. MAPSA has submitted no evidence to support its claim and it can be rejected on that basis alone. Second, MAPSA’s argument that Duquesne compare its costs to advisor costs in other “similar asset sales” is equally unpersuasive. There are no “similar” asset sales. Duquesne is the *only* utility in the country to conduct an auction process that included (i) a first-ever swap of nuclear generation for fossil generation, (ii) the subsequent auction of generation portfolios in two different control areas (FirstEnergy and Duquesne), and (iii) the auction and sale of a provider of last resort

² Duquesne notes that the comments of MAPSA and SEL are identical to each other, and are echoed in letters submitted to the Commission by certain of SEL's customers.

³ MAPSA and SEL are the *only* parties to do so; by contrast, the OCA and DII do not question the recovery of these amounts.

service. The complexity of these interrelated transactions – as the parties to this case are well aware – was unprecedented.

Finally, MAPSA's argument is conspicuously one-sided. According to MAPSA and SEL, only Duquesne's advisor *costs* – but not the *benefits* of the auction proceeds – should be compared to other auctions. But Duquesne's customers, of course, are affected by the *net* auction proceeds. Thus, the only *even-handed* approach is to compare both the costs *and* benefits of Duquesne's auction to other transactions. Under that comparison – comparing the *net* proceeds of Duquesne's auction on a per/kW basis with other auctions, even with the *gross* proceeds of other auctions – Duquesne's auction is one of the most successful in the country. See Appendix 3.⁴

B. Incremental O&M Costs

1. Incremental Transmission

To secure the benefits of the FirstEnergy swap, Duquesne closed the swap on December 3, 1999 prior to closing of the auction. Duquesne did so to protect the swap from a proposed injunction by Allegheny Energy, Inc. The Commission, and Chairman Quain in particular, were instrumental in effecting that

⁴ MAPSA and SEL also criticize Duquesne for maintaining the confidentiality of their legal and consulting invoices. MAPSA Comm. at 8. These invoices are, of course, available for audit by the Commission should it desire to do so.

closing, arguing before the federal judge on December 3, 1999 that the swap should be permitted to close that day.

A direct consequence of that timely closing was the necessity of Duquesne purchasing transmission from FirstEnergy to deliver energy from the FirstEnergy plants (Avon Lake, Niles and New Castle) to Duquesne's control area to serve its POLR customers prior to the closing of the Auction (the period December 1999 through April 2000). Duquesne has requested recovery of these transmission costs (\$3.8 million). The OCA does not oppose the recovery of these costs, but DII does. According to DII, "[t]his violates Section 2804(4)(i) of the Competition Act and should be rejected." DII Comm. at 7.

This argument has no merit and, furthermore, is a collateral attack on the Commission's July 15, 1999 Order that approved the accounting protocols. First, the argument has no merit because it confuses the level of *cost* recovery with *rate* levels. Section 2804(4) establishes a "rate cap." 66 Pa.C.S. § 2804(4)(ii). It does not govern the level of *costs* that can be recovered under that rate cap. The fact that auction-related costs increase by \$3.8 million – or any other amount for that matter – is irrelevant for these purposes.⁵ The issue is whether Duquesne's total *rates* will

⁵ As DII is well aware, the level of transaction costs determines the *length* of the transition period by deducting from auction proceeds the amounts incurred by Duquesne to achieve the auction results. Had Duquesne opted not
(continued...)

exceed the caps set forth in Section 2804(4). Obviously, they will not and DII does not claim otherwise.

Second, the Commission has already approved – and DII did not object to – the recovery of incremental O&M and capital expenditures arising out of the swap. Duquesne’s Accounting Protocols clearly set forth that all O&M and capital expenditures “relating to the Swap Agreement or this Auction Plan” would qualify for treatment as transaction costs. Application for Approval of Generation Exchange, May 3, 1999, Appendix E at iii. The Commission’s July 15 Order approving the swap held that “the accounting protocols proposed by Duquesne are reasonable and shall be used to account for the net proceeds from the Auction.” July 15 Order at 40. DII did not contest that finding and it is now final and unappealable. In fact, DII itself concedes that “the Commission [has] authorize[d] recovery . . . for transaction costs that are related to and caused by divestiture activities.” DII Comm. at 4. Clearly, these costs are the *direct* result of closing the swap before the auction – a step the Commission itself urged Duquesne to take and argued that federal court should not preclude. DII’s arguments should therefore be rejected.

⁵ (...continued)
to divest its generation assets, the transition period would have extended to 2007 or beyond to recoup Duquesne's stranded costs.

2. Incremental Power Purchases

DII makes the very same argument with respect to Duquesne's cost of procuring power from the FirstEnergy units during Summer 1999. According to DII, this "violates the generation rate cap." DII Comm. at 8.

This argument has no merit for the same reasons discussed above. Recovery of a transaction cost affects the length of the transition period; it has no effect on *rate levels*. It therefore does not violate the rate caps established by Section 2804(4). Moreover, the costs are directly related to closing the swap before the auction – a result strongly encouraged and supported by the Commission and Chairman Quain.

Finally, these costs clearly meet DII's "but-for" test. *See* DII Comm. at 4 (transaction costs must "have a causal relationship to the divestiture activities"). If Duquesne had retained its generation assets and continued serving its POLR customers from owned generation, it would not have incurred these costs.⁶ DII correctly notes that wholesale purchases made during the transition period are not recoverable by electric distribution companies serving customers under the statutory

⁶ Duquesne submitted an explanation of the methodology used to reach the amount of costs claimed, as well as an hour-by-hour spreadsheet detailing the cost of the market purchases. *See* Exhibit I and Supplemental Volume III. The claim of MAPSA/SEL that the information submitted to support the level of these costs is "insufficient" is therefore unfounded. MAPSA at 5; SEL at 5.

rate cap, and for that reason Duquesne has not requested recovery of any of the other more than \$50 million in wholesale market purchases it made between the time its rates were unbundled and the time it divested its plants to Orion. It is only the costs claimed in the Auction Accounting Filing, caused by the exchange with FirstEnergy, that should be offset against the auction proceeds.

3. Incremental Capital Stock Tax Payments

Duquesne set forth above the modifications it is willing to make to its request for recovery of incremental capital stock tax payments, which decrease its claim from \$3.9 million to \$3.1 million. DII, however, contends that all these costs should be disallowed because they are “not caused by the divestiture activities.” DII Comm. at 9. That is simply not true. The divestiture is the direct cause of there being no generation-related *revenue* to recover the generation-related portion of the tax payments. The divestiture caused an anomalous tax consequence for Duquesne, requiring it to pay taxes for another four years on assets from which it derives no benefit to pay those taxes. If Duquesne had not divested the assets, this anomaly would not exist, and recovery as a cost of the transaction is therefore appropriate.

DII's other argument is equally unpersuasive. Witness Kollen argues that Duquesne has failed to show that the payments were not included in its stranded cost quantifications as an expense in the determination of the market value of its generation assets. Kollen Aff. at ¶ 15. DII's argument is beside the point. Whether

or not capital stock taxes were included in the administrative determination of the value of its assets is irrelevant because the assets were auctioned to determine their market value. The costs were therefore not included in the Commission's determination of stranded costs and will remain stranded if they are not offset against auction proceeds.

C. Incremental Capital Expenditures

There are two types of capital costs at issue (i) transmission upgrades, and (ii) preferred stock repurchases. Each is addressed in turn.

1. Transmission Upgrades

Duquesne is requesting recovery of three transmission upgrade costs: (i) \$9.6 million in upgrades necessary to mitigate “must run” problems in Duquesne’s control area, (ii) \$10 million in payments to FirstEnergy for upgrades in its territory to mitigate “must run” problems, and (iii) \$2.5 million associated with the demarcation of facilities at the plants sold in the auction. Auction Accounting Filing at 21-25.

a. Response to OCA

The OCA does not oppose recovery of these costs *per se*, but rather has stated two concerns with respect to them. The first is that the costs will not be incurred until 2007. OCA Comm. at 4. This is incorrect. The payments to FirstEnergy are expected to commence by early 2001 because FirstEnergy is required

to begin constructing its upgrades immediately. Duquesne's control area upgrades also should commence far in advance of 2007. Many of these upgrades involve significant lead times and therefore, to maintain reliability, it is preferable to begin such upgrades in the near future.

The OCA's second concern is that "if the Commission allows Duquesne to recover these costs as a transaction or auction-related cost as part of this proceeding, then there must be assurances that the Company will not seek to recover these costs in any future rate proceeding at FERC or the Pennsylvania Public Utility Commission." OCA Comm. at 5. Duquesne agrees and, if the costs are accepted here, commits not to request recovery of these costs in any future rate proceeding.

b. Response to DII

DII does not object to recovery of either (i) the \$10 million in payments to FirstEnergy, or (ii) \$2.5 million in demarcation costs. DII objects only to the costs associated with facilities in Duquesne's control area. DII Comm. at 10. DII constructs a plethora of arguments against these costs, but each constitutes a collateral attack on the Commission's December 17, 1998 Order.

In Duquesne's Reply Comments submitted prior to that Order, Duquesne stated that upgrades costing approximately \$10 million would eliminate the must-run problem associated with the Elrama and Cheswick units and requested "guidance from the Commission as to whether . . . the Commission would authorize

this cost to be deducted from auction proceeds as a transaction cost.” Duquesne Reply Comments, November 23, 1998, at page 40-41. In response, the Commission held that “[t]o the extent that the installation of facilities reduces must-run requirements, Duquesne may recover the related costs as transaction costs as modified by this order.” December 17, 1998 Order at 46.

The Commission therefore has already approved the *form* of recovery of these costs and each of DII’s arguments to the contrary constitutes a collateral attack on that Order. The only showing required by the Commission was that the costs be necessary to “reduce must-run requirements.” *Id.* Clearly, they will and DII has not argued to the contrary. To ensure full disclosure on this issue, Duquesne commits, if the costs are approved, to submit, at the time the upgrades are constructed, an informational filing explaining the benefits produced by the upgrades and identifying the manner in which the authorized costs have been spent.⁷

2. Preferred Stock Repurchase

The only remaining element of incremental capital expenditures that received any comment by the parties is Duquesne’s preferred stock repurchase. DII alone objects to recovery of an estimated \$1.4 million to repurchase preferred stock

⁷ DII also argues that Duquesne should wait and recover these costs through a transmission rate increase after the T&D rate cap expires. DII Comm. at 11. This, of course, runs directly contrary to DII’s professed desire that the existing T&D rate caps remain in place for as long as possible.

to eliminate the restriction in Duquesne's articles of incorporation against issuing unsecured debt at a level greater than 20% of outstanding secured debt. DII Comm. at 14. This is only required because of the significant decrease in the amount of bondable property as a result of the divestiture. Absent the divestiture, Duquesne would not be required to initiate this repurchase program, and therefore under DII's test, recovery of the costs to achieve the required result should be offset against auction proceeds.⁸

D. Employee Costs

As indicated *supra*, the OCA does not object to the recovery of employee costs, as requested by Duquesne.⁹ MAPSA and DII, by contrast, take issue with these costs. We address each argument in turn.

MAPSA/SEL comment simply that "[s]everance costs of \$66.2 million for 450 employees seems excessive," and that Duquesne has not proven that the costs were limited to generation-related employees. MAPSA at 6; SEL at 6.

⁸ To the extent that DII objects to this cost because it is an estimate, Duquesne assures DII and the Commission that Duquesne's estimate, contained in Exhibit R, assumes repurchase of the minimum number of shares necessary to achieve the required result. If Duquesne repurchases additional shares or otherwise exceeds this estimate, Duquesne will not recover the additional costs.

⁹ Duquesne has updated its employee costs in Appendix 4 to reflect a reduction due to termination of fewer than expected employees.

Neither of these considerations merits the Commission's attention. The Commission has reviewed and approved Duquesne's plans for addressing the effect of the divestiture of its assets on its employees, both those directly engaged in the generation function, and those indirectly supporting the generation function. The ERO and severance initiatives were targeted at those employees, and were set at levels designed to treat all employees fairly. The largest portion of Duquesne's claim derives from approximately \$36 million related to the ERO for 250 management and union employees, and approximately \$25 million in actual severance to an additional 450 employees who were voluntarily or involuntarily severed. The support provided with the Auction Accounting Filing (at Exhibit S) amply demonstrates that Duquesne expended these amounts to compensate its terminated employees.

DII's comments focus on the alleged overfunding of Duquesne's pension and post-retirement benefits funds. First, DII and its Witness Kollen contend that Duquesne's 1999 Annual Report to Shareholders recognized a \$12 million gain due to workforce reductions, and that Duquesne therefore should net this amount against the transaction costs claimed in the Auction Accounting Filing. DII at 13. DII reaches this conclusion because Duquesne's 1999 income statement reflected only \$17.549 million of its total of \$29.4 million in ERO pension expenses. DII therefore assumes that the "remaining \$12.0 million of the pension cost was used to offset a one-time gain that the Company experienced due to the workforce

reductions." *Id.* DII is mistaken. Duquesne's audited financial statements indeed broke its pension liability into two pieces, but not because of any gains Duquesne recognized as a result of the auction. The initial component of \$17.549 million, representing costs of special benefits enhancements (*e.g.*, granting additional years of service), must be recognized immediately under FASB accounting standards. The remaining \$12 million resulted from a net increase in Duquesne's liability due to paying benefits to these participants sooner due to the ERO. This liability is not recognized immediately but, under FASB standards, must be amortized and recognized over future years. As a result, it was not recognized on Duquesne's 1999 income statement.

DII's second argument is based on Duquesne's pension funding levels during 1999. Under DII's theory, Duquesne's transaction costs should be reduced by the amount of the increase in Duquesne's pension fund's financial status during 1999, or \$79.892 million. DII contends that "it is just and reasonable to consider offsetting gains that the Company experienced during the same period." *Id.* at 14. To the contrary, it is unreasonable to restrict Duquesne from setting aside assets to meet future obligations of the pension fund dedicated to supporting its former employees simply because the fund experienced gains during a particular year. Restricting Duquesne's ability to make contributions because the liability was incurred during a good year for the financial markets jeopardizes the future solvency

of the fund. Furthermore, the FASB accounting methodology requires the company to value the plan based upon yearly changes in the financial markets. As a result, there are significant year-to-year fluctuations in the funded status of the fund. The increase in funded status during 1999 was solely due to the change in financial markets and was not divestiture related. The Internal Revenue Service ("IRS") method of determining cash contributions ensures the least amount of volatility and the most consistent method of evaluating the fund. Because of this consistency, cash contributions are fair to current as well as future ratepayers. In any event, Duquesne is prohibited under ERISA from using gains on its pension fund to fund other company liabilities like severance initiatives. For these reasons, DII's comment should be rejected.

DII's real concerns, however, should be addressed by the commitments Duquesne has undertaken in response to the concerns of the OCA. These measures will ensure that all of the money collected through the CTC for employee costs is actually used for the identified purposes, and that ratepayers in the future will not "pay twice" for these liabilities. Any amounts remaining in the accounts that Duquesne will create that is not used as described above will be subject to refund, and both accounts will be subject to Commission audit.

E. Pollution Control Revenue Refunding Bonds Maturity Extension

The Auction Accounting Filing (at 25-26) described the process by

which Duquesne redeemed and reissued certain tax exempt pollution control revenue refunding bond securities in order to transfer the equipment securing the bonds free of any liens. The costs associated with this transaction (\$8.8 million) have not been questioned by any party. The OCA questioned, however, the propriety of recovering \$961,233 in incremental insurance and legal costs associated with completing a maturity extension on the bonds to match their term to useful life of the underlying equipment. As Duquesne explained, it did not complete the maturity extension prior to the exchange closing in order to ensure that the closing would not be delayed. Auction Accounting Filing at 25-26. Duquesne was concerned that completing the refinancing of the bonds would delay the exchange closing and subject the transaction to the risks posed by the then-pending litigation with Allegheny Energy, Inc. Duquesne will complete the maturity extension later this year or in early 2001, at an estimated cost of \$961,233. This amount would not be incurred in the absence of the auction and Duquesne is justified in recovering it as a transaction cost.

F. Costs Incurred by Orion During Summer 2000

Duquesne's filing indicated that, as part of its POLR II plan, Duquesne was requesting authorization to recover, as a transaction cost, the costs incurred by Orion to serve customers that switched back to POLR service during Summer 2000. To the extent this proposal is approved by the Commission as a result of the collaborative process on POLR II, these costs should be authorized for

recovery as transaction costs.

G. CTC Reconciliation - FAS 109 Costs

The OCA and DII each oppose the recovery of \$63 million in costs associated with FAS 109. OCA Comm. at 9; DII Comm. at 17. These arguments rest on an apparent misunderstanding of two different FAS 109 costs and, in any event, the arguments are foreclosed by the Commission's prior orders in this docket, as explained below.

In Duquesne's restructuring proceeding, Duquesne requested approval of two separate assets associated with FAS 109. The first was a regulatory tax receivable in the amount of \$179 million. The second was a regulatory asset of \$63 million associated with basis differences arising primarily from AFUDC costs. See Appendix 5, Affidavit of Morgan K. O'Brien at ¶ 6 ("O'Brien Affidavit"). After consultations with the OCA, Duquesne agreed to reverse the treatment of the second asset, with the costs being claimed as part of Duquesne's net book value rather than as a regulatory asset. *Id.* at 2. The Commission approved this treatment, holding that this claim "should be treated as a tax liability from the balance of plant in service and not as a regulatory asset." May 29, 1998 Restructuring Order at 155. It also rejected arguments that either FAS 109-related cost be denied as a stranded cost. See *id.* at 154.

In the proceeding to approve Duquesne's auction plan, the DII and

OCA expressed concern that the divestiture would eliminate the need for Duquesne to recover the first category of cost, the \$179 million FAS 109 regulatory asset.

Duquesne agreed with that position in its Reply Comments on the Auction Plan, stating:

The OCA and DII argue that if the net proceeds from the auction are reconciled on a net of tax basis, Duquesne does not need to recover the FAS 109 Regulatory Asset balance of \$179 million and associated deferred tax balance of \$57.48 million. After considering the comments from these parties during the technical conferences, Duquesne agrees

DLC Reply Comments at 25, Nov. 23, 1998. The Commission adopted this position, finding “[w]e accept Duquesne’s Agreement with the OCA and DII position that the FAS 109 Regulatory Asset (and associated deferred tax balance) should be eliminated if the accounting for auction proceeds is on a net of tax basis.” December 17, 1998 Order at 28.¹⁰

Thus, it is clear that the “agreement” with DII and OCA – which DII now trumpets in support of its requested disallowance (DII Comm. at 17) – did not cover the \$63 million claim associated with AFUDC asset that the Restructuring Order had included in Duquesne’s book value. It related only to the \$179 million

¹⁰ This finding was then implemented in the Auction Accounting Protocols (Application for Approval of Generation Exchange, May 3, 1999, Appendix E at ix), which were approved by the Commission in its July 15, 1999 Order at page 40.

regulatory asset. The December 17, 1999 Order, and all of Duquesne's subsequent filings (*see* n.8 *supra*), made that clear. Thus, there is no basis upon which to disallow the claim now.

Finally, and in any event, the issue is a red herring, as explained by Mr. O'Brien. The method of accounting for its SFAS 109 tax liability **has not** increased Duquesne's stranded costs. Duquesne's after-tax stranded costs are the same whether it includes its SFAS 109 tax liability in its deferred tax calculation or it does not. O'Brien Affidavit at ¶ 22. Thus, even if DII and OCA were correct to some degree, the total effect on stranded costs would not change. *Id.* Mr. O'Brien's Affidavit further explains this issue. The Commission should therefore approve Duquesne's claim.

H. Future Adjustments to Transaction Cost Balance

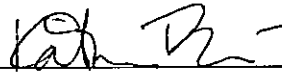
There are certain additional decommissioning liability payments that may be owed to FirstEnergy depending on final rulings from the IRS that had not been received as of the date of the Auction Accounting Filing. Several such rulings were received in September 2000, resulting in a minimum payment to FirstEnergy of \$1.306 million, rather than \$632,000 as originally anticipated in the Auction Accounting Filing. A decision on the remaining issue before the IRS, whether nonqualified funds transferred to FirstEnergy are taxable, is not expected until early 2001. If the IRS rules against Duquesne and FirstEnergy on this matter, the addi-

tional payment to FirstEnergy could increase further.

The Commission's orders in this docket authorize Duquesne to include in its transaction costs excess nuclear decommissioning payments required to be made by Duquesne on behalf of or to FirstEnergy. In its order on the Auction Accounting Filing, therefore, the Commission should approve recovery of \$1.306 million, and preserve Duquesne's ability to request recovery of any additional decommissioning liability that results from remaining IRS rulings in this matter. Duquesne will submit a revised Auction Accounting Filing within 60 days of the final IRS ruling.

WHEREFORE, the Commission should accept Duquesne's CTC Reconciliation and Auction Accounting Compliance filing, with the modifications agreed to in the foregoing reply, and adopt the Form of Order attached hereto as Appendix 6.

Respectfully submitted,



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Dated: October 26, 2000

Appendices

Revised Transaction Costs Summary	1
Revised Capital Stock Tax Calculation	2
Comparison of Auction Proceeds	3
Revised Employee Costs Summary	4
Affidavit of Morgan K. O'Brien	5
Form of Order	6

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY)
COMMISSION)**

v.)

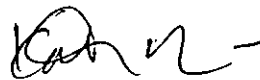
Docket No. R-00974104

**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 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 26th day of October, 2000.



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Counsel to Duquesne Light Company

Duquesne Light Company
Summary of Transaction Costs
(\$000)

Gross Auction Proceeds	1,705,000
<u>Category 1 -- Development and Implementation Costs</u>	
Legal Fees	12,310
Consulting Fees	11,264
Investment Banking Fees	14,122
Subtotal	37,696
<u>Category 2 -- Exchange Implementation Costs</u>	
Beaver Valley II Sale-Leaseback	117,126
First Energy Decommissioning Tax Liability Payments	1,306
Shippingport Environmental Remediation	1,555
Subtotal	119,987
<u>Category 3 -- Incremental O&M Costs</u>	
-Environmental Remediation Cost at Fossil Sites	12,504
Incremental Transmission Payments	3,775
Incremental Purchase Power Expense	11,469
Incremental Capital Stock Tax Payments	3,131
Real Estate Transfer Taxes	4,710
Nuclear Fuel Lease Buyout Expense	444
Miscellaneous O&M Expense	3,590
Subtotal	39,623
<u>Category 4 -- Incremental Capital Expenditures</u>	
Duquesne Share of FirstEnergy Transmission Upgrades	10,000
Cost of Facilities Upgrades	12,094
Cost of Retiring and Reissuing Debt / Preferred	11,122
Subtotal	33,216
<u>Category 5 -- Present Value of Severance and Early Retirement Costs</u>	
Early Retirement and Severance Expense	65,014
Subtotal	65,014
<u>Orion Closing Adjustment</u>	
Credit for M&S and Fuel Inventories Payment to Duquesne (1)	(19,343)
Subtotal	(19,343)
Total Transaction Costs	276,194
Net Auction Proceeds	1,428,806

Note (1): Final adjustment as of October 26, 2000.

**DUQUESNE LIGHT COMPANY
CAPITAL STOCK TAX CALCULATION PROJECTION
WITHOUT GENERATION BOOK INCOME INCLUDED**

	Book Income	Year Ended 1999	Year Ended 2000	Year Ended 2001	Year Ended 2002	Year Ended 2003	Year Ended 2004	
Oldest Period								
12/31/94	148,460,810							
12/31/95	142,323,086	142,323,086						
12/31/96	118,506,526	118,506,526	118,506,526					
12/31/97	108,538,299	108,538,299	108,538,299	108,538,299				
12/31/98	25,808,099	25,808,099	25,808,099	25,808,099	25,808,099			
12/31/99	0	0	0	0	0	0		
12/31/00	15,025,000		15,025,000	15,025,000	15,025,000	15,025,000	15,025,000	
12/31/01	20,537,000			20,537,000	20,537,000	20,537,000	20,537,000	
12/31/02	40,517,000				40,517,000	40,517,000	40,517,000	
12/31/03	48,828,000					48,828,000	48,828,000	
12/31/04	48,828,000						48,828,000	
Adjustment To Eliminate Generation Book Income For Years:			(77,579,000)					
1996			(60,546,000)	(60,546,000)				
1997			10,678,000	10,678,000	10,678,000			
1998			(60,546,000)	(60,546,000)	(60,546,000)	(60,546,000)		
1999								
		395,176,010	79,884,924	59,494,398	52,019,099	64,361,000	173,735,000	
Average Book Income		79,035,202	15,976,985	11,898,880	10,403,820	12,872,200	34,747,000	
Divide Avg Bk Income by .095		831,949,495	168,178,789	125,251,368	109,513,895	135,496,842	365,757,895	
Average Net Worth		1,113,140,989	900,000,000	670,000,000	670,000,000	670,000,000	670,000,000	
Multiply by .75		834,855,742	675,000,000	502,500,000	502,500,000	502,500,000	502,500,000	
Capital Stock Taxable Value		616,717,938	421,589,395	313,875,684	306,006,948	318,998,421	434,128,948	
Capital Stock Tax		6,777,730	3,790,089	2,350,929	1,985,985	1,751,301	1,949,239	
Summary:							<u>Total</u>	
Tax With Generation Income		6,777,730	5,569,096	3,221,456	2,326,662	2,101,193	1,949,239	
Tax Without Generation Income		6,777,730	3,790,089	2,350,929	1,985,985	1,751,301	1,949,239	
Difference in Tax		0	1,779,007	870,527	340,677	349,892	0	3,340,103

NPV Calculation		Mid-Year 7.29%
Expenditures		
Discount Rate		
Year		(Current \$)
2000		1,779,007
2001		870,527
2002		340,677
2003		349,892
NPV @ Closing 4/28/00		3,131,382

Electric Utilities
Auction Results
(more than 1,000 MW)

<u>Utility</u>	<u>Sale Price</u>	<u>\$/kW</u>	<u>Capacity</u>
1 Energy East	\$1,850	\$782	2,368
2 CMP	846	\$714	1,185
3 DQE (Gross)	\$1,705	\$652	2,600
4 Montana Power	\$892	\$573	1,556
5 DQE (Net)	\$1,429	\$550	2,600
6 GPU	\$2,623	\$510	5,146
7 Sithe Energies	\$2,100	\$491	4,276
8 Pepco	\$2,803	\$450	6,055
9 Unicom	\$5,063	\$445	11,370
10 Conectiv	\$800	\$427	1,875
11 NEES	\$1,590	\$402	3,960
12 Northeast Utilities	\$1,373	\$356	3,854
13 Con Ed	\$1,787	\$284	6,293
14 Boston Edison	\$536	\$270	1,983
15 Sempra	\$466	\$244	1,911
16 Niagra Mohawk	\$903	\$230	3,917
17 PG&E	\$1,515	\$215	7,034
18 Edison Int'l	\$1,719	\$165	10,420

Note: All results exclude Nuclear Plants except DQE

**Duquesne Light Company
ERO and Severance Summary**

	8/4/00 Filing	Reversal of Estimates	Revision to 8/4/00 Filing**	Additional Post Filing Costs	Total
ERO COSTS					
Pension (SFAS 87)	31,470,800	-	-	-	31,470,800
Health Care (SFAS 106)	4,698,296	-	-	-	4,698,296
Total ERO	36,169,096	-	-	-	36,169,096
OTHER EMPLOYEE COSTS INCURRED					
Pension Vesting	600,920	-	-	-	600,920
401(k) Vesting	937,640	-	(3,626)	4,789	938,803
Severance					
Salary Continuance/Severance	19,472,430	-	(428,635)	690,872	19,734,667
Salary Continuance/Severance*	1,500,000	(1,500,000)	-	-	-
Outplacement	477,895	-	(16,000)	37,875	499,770
Employer Taxes	1,343,019	-	(34,564)	50,472	1,358,927
Lump Sum Payment	469,000	-	-	-	469,000
Tuition Reimbursement	24,248	-	-	-	24,248
Career Retraining	20,568	-	-	-	20,568
Relocation	23,625	-	-	-	23,625
Benefits Continuance	1,553,287	-	(37,012)	49,423	1,565,698
Total Salary Continuance/Severance Costs	24,884,072	(1,500,000)	(516,211)	828,642	23,696,503
Increased Healthcare Costs	1,119,204	-	-	-	1,119,204
Costs to Sublease Space at 411 Seventh Avenue Location	2,489,712	-	-	-	2,489,712
TOTAL EMPLOYEE COSTS	66,200,644	(1,500,000)	(519,837)	833,431	65,014,238

* \$1.5 million represented an estimate of severance costs Duquesne expected to incur during August 2000. This estimate is eliminated and replaced by actual costs incurred of \$838,642 (see Additional Post Filing Costs).

** Eight management employees, numbers 4, 39, 51, 55, 120, 135, 160, & 193, who appeared in the 8/4/00 filing were not placed on salary continuance.

AFFIDAVIT OF MORGAN K. O'BRIEN

STATE OF PENNSYLVANIA
 COUNTY OF ALLEGHENY

Before me, the undersigned Notary Public in and for the County of Allegheny, State of Pennsylvania, personally came and appeared Morgan K. O'Brien, who was sworn by me and attested to the following facts:

1. My name is Morgan K. O'Brien. I am the Chief Operating Officer of DQE, Inc., (400 Fairway Drive, Cherrington, PA) the parent company of Duquesne Light Company ("Duquesne").
2. I am a Certified Public Accountant. I hold a Bachelor of Science Degree in Business Administration and a Masters of Science Degree in Taxation. Both degrees were awarded from Robert Morris College in Pittsburgh. Prior to joining Duquesne in 1991, I held the position of Assistant Vice President of Corporate Taxes at PNC Bank in Pittsburgh. Prior to PNC, I was employed as a Manager in the Pittsburgh office of Deloitte & Touche, a public accounting firm.
3. Prior to assuming my current position at DQE, I held numerous positions at DQE and Duquesne. I was the Treasurer, Controller and Chief Accounting Officer of Duquesne in 1997 when I testified as an expert witness in Duquesne's restructuring proceeding before the Pennsylvania Public Utility Commission (the "Commission") in Docket No.R-00974104 on issues relating to Duquesne's claim for recovery of its Generation Regulatory Assets.
4. I have been primarily responsible for the various filings made by Duquesne since it filed its Generation Auction Plan on August 27, 1998 (the "Auction Plan") up to and including the August 4, 2000 CTC Reconciliation and Auction Accounting Compliance Filing (the "Compliance Filing"). The preparation of each such filing by Duquesne employees and external attorneys and consultants has been conducted under my direct supervision and control.
5. I have reviewed the Reply Comments of the Office of Consumer Advocate ("OCA"), the Duquesne Industrial Intervenors ("DII"), the Mid-Atlantic Power Supply Association ("MAPSA"), and Strategic Energy LLC ("SEL") filed on or about October 5, 2000. I have also reviewed the Affidavit of Lane Kollen filed as an Exhibit to the Reply Comments of DII. The Reply Comments of each of the above parties have questioned the inclusion by Duquesne in the Compliance Filing of an SFAS 109 deferred tax liability of \$62.94 MM.
6. Duquesne had originally made two separate claims for recovery of SFAS 109 regulatory assets in the Direct Testimony of Donald J. Clayton filed August 1, 1997 (DLC Ex. DJC-4 at 2): (1) a claim for \$236 MM for a regulatory tax receivable ("SFAS 109 Regulatory Asset"); and (2) a claim for \$63 MM of capitalized costs from basis differences arising primarily from AFUDC ("SFAS 109 Plant Balance"). The OCA witness Thomas S. Caitlin characterized these separate claims as follows (OCA St. 3 at 16-17):

Pursuant to Statement of Financial Accounting Standards No. 109 (SFAS 109), Duquesne is required to record its future tax liabilities on its balance sheet. One component of this future tax liability is the future tax obligation associated with tax-book timing for which the benefits have been flowed through to ratepayers. Duquesne has identified this as its "regulatory tax receivable." A second component of this future tax liability relates to the differences between the costs capitalized as part of plant costs for book purposes and tax purposes (basis differences). This component is primarily attributable to the fact that the allowance for funds used during construction (AFUDC) on Duquesne's nuclear units was recorded on a net of tax basis. Duquesne has identified this future tax

liability as "SFAS.No. 109 plant."

At the time Duquesne adopted SFAS No. 109, it recorded the future tax liability associated with plant basis differences as an increase in the plant balances for its nuclear generating units. For purposes of its presentation in this proceeding, Duquesne removed the SFAS No. 109 plant tax liability from the balance of plant in service as of January 1, 1999 and included this balance as a regulatory asset. This was necessary to provide for the recovery of the cost during the CTC period based on the Company's proposed procedure for addressing stranded costs.

For purposes of the OCA's analysis, I have removed the SFAS No. 109 plant tax balance from the balance of regulatory assets. This is necessary because the SFAS No. 109 plant tax liability is included in the plant balances associated with the Company's nuclear generating units as of December 31, 1998. Since Mr. Kahal is utilizing the plant balances as of December 31, 1998 to determine stranded costs, he has already accounted for SFAS No. 109 plant tax liability in his analysis and it is unnecessary to also include this balance as a regulatory asset.

7. In the Rebuttal Testimony of Donald J. Clayton (DLC St. 2-R at 19-22 and DLC Ex. DJC-10) Duquesne withdrew its prior claim for the SFAS 109 Plant Balance as a regulatory asset. As stated in its Main Brief (Note 37 at 45): "Duquesne notes that the SFAS 109 plant balance (relating to AFUDC) is included in plant, and not as a regulatory asset (DLC Ex. DJC-10); this is consistent with the OCA method. OCA Ex. TSC-1."
8. Attached, as Exhibit A to my Affidavit, is the Stranded Cost Allowance table (Exhibit A, Compliance Filing, at 44) for the Commission's original administrative determination of stranded costs. The table on page 44 shows the stranded costs (with associated deferred tax balances) allowed in the Commission's Restructuring Order. Under the sub-heading Regulatory Assets, the first allowed claim is for the SFAS 109 Regulatory Asset, denoted as "FAS 109 (including Plant reversal)." This item shows an Amount of \$179.00 MM, with associated deferred taxes of \$57.48 MM, for a total of \$236.48 MM.
9. In the Generation Auction Plan filed August 27, 1998 (the "Auction Plan"), Duquesne had originally included the SFAS 109-Regulatory-Asset as a regulatory-asset. In discussions with the OCA and DII during technical conferences on the Auction Plan, I personally agreed with Mr. Caitlin (advising the OCA) and Mr. Kollen (advising DII) that Duquesne would withdraw its claim for SFAS 109 Regulatory Asset if the accounting for auction proceeds were done on an after-tax basis.
10. Mr. Kollen's Affidavit (at 3-4) recounts DII's understanding of these discussions:

Subsequently, the parties to the Restructuring proceeding resolved the SFAS 109 issue its entirety in 1998 in conjunction with the Commission's review of the proposed Accounting Protocol. The parties reached agreement that SFAS 109 regulatory assets would be eliminated and removed from stranded costs in exchange for utilizing the after tax, rather than before tax auction proceeds to reduce stranded costs.

The Commission accepted the resolution between the parties of the SFAS 109 issue in its Order adopted December 17, 1998. In its Order, the Commission reiterated its understanding of the status of the issue stating: "Duquesne agrees that the FAS 109 Regulatory Asset should be eliminated if its proposal to account for the auction proceeds on a net of tax basis is accepted." The Commission then stated its Resolution of the issue as follows: 'We accept

Duquesne's Agreement with the OCA and DII position that the SFAS 109 Regulatory Asset (and associated deferred tax balance) should be eliminated if the accounting for auction proceeds is on a net of tax basis.' "

11. The Company has indeed agreed with DII and the OCA that the SFAS 109 Regulatory Asset of \$179.00 MM and associated deferred tax balance of \$57.48 MM should be eliminated. In the context of the auction of Duquesne's assets to Orion, the tax bill on the gain from the sale is payable currently for the tax year 2000. There are no taxes on the "earn out" of the market value as there would be in an administrative determination, because all the gain is recognized immediately. Therefore, Duquesne does not need the SFAS 109 Regulatory Asset to pay future taxes, subject to the significant caveat that the accounting for auction proceeds must be done on a net of tax basis.
12. In accounting for the auction, Duquesne has calculated its CTC revenue requirement differently than other utilities in Pennsylvania. Rather than calculate its stranded costs on a pre-tax basis as other utilities have done, Duquesne has presented its stranded cost claim and calculations on an after-tax basis. The deferred tax balance is not a separate claim for stranded costs, but a component of the revenue requirement necessary to recover after-tax stranded costs. As with traditional ratebase ratemaking, Duquesne earns no return on this deferred tax balance and is only allowed to amortize this amount in order to pay the taxes on the CTC revenues its receives.
13. In order to implement the accounting for auction proceeds on a net of tax basis, Duquesne must determine a revenue requirement for the CTC necessary to fully recover its after-tax stranded costs. Attached, as Exhibit B to my Affidavit, is the Stranded Cost Allowance table (Exhibit A, Compliance Filing, at 6). The net-of-tax stranded costs in the Amount column are calculated in the Stranded Cost Allowance table as totaling \$580.691 MM. The calculation in the Amount column sums the Generation Plant Book Value of \$852.03 MM, the Beaver Valley Lease PV of \$300.65 MM, the Working Capital Balance of \$61.53 MM and nets the Offset Credit of (\$880.65 MM) to determine a Total Stranded Generation value of \$333.26 MM. The addition of \$57.40 MM for Decommissioning and \$190.61 MM for Regulatory Assets brings the total in the Amount column to \$580.691 MM.
14. There is no claim for the SFAS 109 Plant Tax Liability or the SFAS 109 Regulatory Asset in the Amount column. The calculation is net of tax pursuant to Duquesne's agreement with the OCA and DII and the Commission's Order referenced in Paragraphs 10 and 11 above. The Offset Credit of (\$880.65 MM) is calculated based on the after-tax proceeds of the auction as follows:

	(\$000)
Sales Price	1,705,000
(Transaction Costs)	<u>(277,014)</u>
Net Auction Proceeds	1,427,986
(Tax Basis)	<u>(316,000)</u>
Taxable Gain	1,111,986
Current Taxes @ 41.4935%	<u>(461,402)</u>
After-tax Auction Proceeds	966,584
January 1, 1999 Market Value (at 7.29%)	880,645
Offset Credit	(880,645)

15. The calculation in the Deferred Tax column of the Stranded Cost Allowance table shown in Exhibit B to my Affidavit is not a determination of stranded costs. Stranded costs have been calculated on an after-tax basis in the Amount column. The calculation in the Deferred Tax

column is used merely to determine the revenue requirement necessary to fully recover the after-tax stranded costs of \$580.691 MM. In Note 9 to the Stranded Cost Allowance Table (Exhibit A, Compliance Filing, at 10) Duquesne clearly set out this methodology:

Duquesne has accounted for its stranded costs on an after-tax basis. Because Duquesne will have no tax basis in the CTC asset, every dollar of CTC revenue (return of and on the CTC asset) will be taxable. In order to recover \$580.691 MM after-tax as of January 1, 1999, Duquesne would need to have \$411.833 MM of recoverable deferred taxes. This calculation is simply $\$580.691 * [t/(1-t)]$, where t is the statutory tax rate and equals 41.4935%.

However, Duquesne will receive a current year tax benefit from a deduction for the \$57.400 MM for Nuclear Decommissioning as described in Note 4 above. The required \$411.833 MM of recoverable deferred taxes can be reduced by \$40.709 MM, calculated as $\$57.400 MM * [t/(1-t)]$, where t is the statutory tax rate and equals 41.4935%. Therefore, the recoverable deferred taxes necessary to allow Duquesne to fully recover its stranded costs on an after-tax basis is reduced to \$371.124 MM. Duquesne has calculated the Deferred Tax Offset Credit by solving for the credit necessary to produce this net amount of recoverable deferred taxes.

16. The calculation of required deferred taxes of \$371.124 MM referenced in Note 9 is set out below:

a.	Required After Tax Stranded Costs (\$MM)	580.691	
b.	t	41.4935 %	
c.	$(1-t)$	58.5065 %	
d.	$t/(1-t)$	70.9212 %	
e.	Deferred Taxes – before deduction (\$MM)	411.833	[a. * d.]
f.	Current Decommissioning Expense (\$MM)	57.400	
g.	Grossed-up Tax Benefit	(40.709)	[-f. * d.]
h.	Required Deferred Taxes (\$MM)	371.124	[e. + g.]

17. The calculation showing that Duquesne will recover \$580.691 MM after tax is set out below:

a.	Required After Tax Stranded Costs (\$MM)	580.691	
b.	Required Deferred Taxes (\$MM)	<u>371.124</u>	
c.	Total Income (\$MM)	951.815	[a. + b.]
d.	Deduction for Decommissioning (\$MM)	<u>(57.400)</u>	
e.	Taxable Income (\$MM)	894.415	[c. + d.]
f.	t	41.4935 %	
g.	Taxes on Income (\$MM)	(371.124)	[-e. * f.]
h.	Recovered After Tax Stranded Costs (\$MM)	580.691	[c. + g.]

18. Duquesne has included the \$62.94 MM of SFAS 109 Plant Balance as a Tax Liability in the Deferred Tax Column. This is an adjustment to the book value of Duquesne's deferred taxes at December 31, 1998 to reflect the Commission's Restructuring Order at 155 where the Commission held:

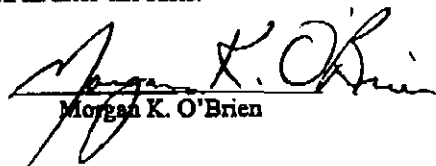
The claimed SFAS 109 regulatory asset is not a "net generation-related" cost pursuant to the Act. Prior to claiming the regulatory asset, SFAS 109 net plant

was included as "plant in service" for the Perry and Beaver Valley 1 units. In order to avoid the problem of double recovery, and allow for consistency in the application of the analysis of the recovery of stranded costs, we conclude that Duquesne's SFAS 109 obligation should be treated as a tax liability from the balance of plant in service and not as a regulatory asset.

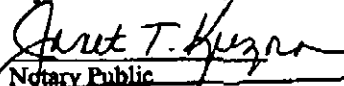
19. Duquesne is not attempting to recover an additional regulatory asset of \$62.94 MM through its Compliance Filing. For purposes of accounting for nearly every item of income or expense that is accounted for in different periods of time for income taxes and accounting purposes, a deferred tax liability or asset is created to reflect either a future tax liability in the case of a deferred tax liability or a future tax benefit in the case of a deferred tax asset associated with the item. However, the accounting or Allowance for Funds Used During Construction ("AFUDC") associated with the debt portion of a construction project funding had previously been an exception to this general rule.
20. The reason for this difference relates to its historical treatment in setting rates for regulated utilities. The AFUDC was capitalized for ratemaking purposes net of the current period tax benefit. In other words, the interest that was added to the rate base was first reduced by the income tax benefit of deducting the interest from the current period taxable income. Economically, this had the same effect as adding all of the interest to the rate base and simultaneously creating a deferred tax liability that would then be a reduction to the rate base used to establish the utility's rates. Simply, no deferred tax liability exists for the AFUDC basis difference in a utility's plant balances. Rather the net book value is already reduced for the future tax liability effect.
21. When Duquesne calculates the impact on its stranded costs of the sale of the generation plants, it would be improper to reduce the balance of the deferred taxes on the books by the total amount of current period income taxes. The reason for this is simply that there is no deferred tax liability to reduce for the amount of taxes attributed to the AFUDC basis difference. The Commission recognized this when it held that "Duquesne's SFAS 109 obligation should be treated as a tax liability from the balance of plant in service." If you simply reduce the total book value of deferred taxes by the amount of current taxes being paid you understate the level of Duquesne's future tax liability and thereby cause Duquesne to under recover its stranded costs.
22. To properly account for the effect of the AFUDC accounting, the \$62.94 MM dollars either needs to be added to the deferred taxes as provided in Duquesne's filing or alternatively, the calculation needs to exclude these dollars from the amount of current taxes being applied against the Company's previously established deferred tax balances. Attached as Exhibit C to my Affidavit is a recalculation of the Stranded Cost Allowance table (Exhibit A, Compliance Filing, at 6) that adopts this alternative approach. I have eliminated the SFAS 109 Plant Balance in this calculation, but the net result has *not* changed. The Deferred Tax Offset Credit in the recalculation declines to (\$303.38 MM) from (\$366.32 MM), resulting in the same \$371.124 MM of recoverable deferred taxes necessary to recover \$580.691 MM on an after-tax basis. The following calculation illustrates why this is so:

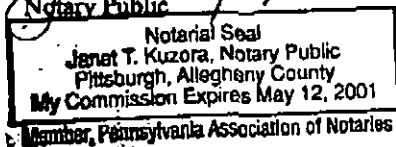
	Deferred Taxes (As Filed) <u>\$ Millions</u>	Deferred Taxes (Recalculated) <u>\$ Millions</u>
Generating Plant Book Value	\$411.34	\$411.34
Beaver Valley 2 Lease PV	\$213.01	\$213.01
Tax Liability SFAS 109 Plant Balance	<u>\$ 62.94</u>	<u>\$ 00.00</u>
Subtotal Plant Book Value	\$687.29	\$624.35
Total Regulatory Assets	<u>\$ 50.52</u>	<u>\$ 50.52</u>
Total Book Value	\$737.81	\$674.87
Required Deferred Taxes for CTC Revenue Requirement	<u>\$371.12</u>	<u>\$371.12</u>
Difference	\$366.69	\$303.75
Deferred Tax Offset Credit (adjusted for 99.9 % Jurisdictional Allocation)	(\$366.32)	(\$303.38)

23. The OCA Reply Comments state (at 9) that including the Tax Liability SFAS 109 Plant Balance in the divestiture reconciliation is superfluous: "Duquesne's divestiture proceeds have been determined on a net of tax basis, making it unnecessary to separately recognize SFAS 109 taxes."
24. The OCA is correct that it is unnecessary to separately recognize the Tax Liability SFAS 109 Plant Balance if the divestiture accounting is done on an after-tax basis. That is because Duquesne is seeking only to recover an after-tax amount of stranded costs. The existence (or not) of the \$62.94 MM line item and the size of the Deferred Tax Offset Credit are only accounting entries required to produce deferred taxes of \$371.12 MM necessary for the correct revenue requirement.
25. The Commission should approve the accounting protocol as filed by Duquesne as this will provide Duquesne with an accounting order that permits an explicit recognition of the treatment of the SFAS 109 Plant Balance in accounting for auction proceeds on an after-tax basis.


Morgan K. O'Brien

Sworn to and subscribed before me on this 26th
day of October 2000.


Notary Public



**FORM OF ORDER
DUQUESNE CTC RECONCILIATION
AND AUCTION ACCOUNTING COMPLIANCE FILING**

THEREFORE, IT IS ORDERED:

1. Duquesne's CTC Reconciliation and Auction Accounting Compliance Filing is approved, as modified below.
2. Duquesne shall reduce its capital stock tax claim from \$3.9 million to \$3.1 million.
3. Duquesne shall, with respect to its \$36.2 million claim for early retirement option costs and retiree welfare costs and its \$0.6 million claim for pension vesting costs, (a) not be permitted to request recovery of these costs in a future proceeding, (b) the funds will be segregated and tracked in separate accounts in the manner set forth in Duquesne's reply comments, (c) any amounts in these accounts that are not used will be subject to refund, and (d) the accounts shall be subject to audit by the Commission.
4. Duquesne shall recover, as auction-related transmission costs, the transmission costs set forth in its Application, but shall be precluded from requesting recovery of those same costs in any future rate proceeding.
5. Duquesne shall submit, at the time its control area upgrades are constructed, an informational filing explaining the benefits produced by the upgrades and identifying the manner in which the transaction costs authorized by this order have been spent.

**Stranded Cost Allowance
with Associated Deferred Taxes
(\$Millions)**

EXHIBIT A

<u>Category/Item:</u>	<u>Deferred Taxes</u>	<u>Amount</u>
Duquesne Light Restructuring		
Book Value:		
Generating Plant Book Value (1)	\$ 411.34	\$ 852.03
Beaver Valley 2 Lease PV	\$ 213.01	\$ 300.35
M&S Fuel Related Sunk Costs	-	-
Working Capital	-	\$ 61.53
Costs Independent of Operation	-	-
Generation Market Value (2)	\$ (78.69)	\$ (110.95)
Merger Savings	\$ (107.99)	\$ (152.28)
Total Stranded Generation:	\$ 437.67	\$ 950.88
Decommissioning:		
Nuclear Decommissioning	-	\$ 42.96
Fossil Decommissioning	-	-
Total Decommissioning	\$ -	\$ 42.96
Regulatory Assets:		
FAS 109 (including Plant reversal)	\$ 57.48	\$ 179.00
Post '05 Unamortized Debt Costs (3)	\$ 10.67	\$ 18.67
Pre '06 Unamortized Debt Costs (3)	\$ 6.82	\$ 9.61
Deferred Rate Synch. (Early Window)	\$ 1.87	\$ 23.50
Deferred Employee Costs	-	\$ 14.24
Deferred Nuclear Maintenance	\$ 1.35	\$ 1.90
US DOE Decommissioning	\$ 2.33	\$ 3.25
Deferred Coal Costs	-	-
Deferred Caretaker Costs	-	-
Pre-Accrued Nuclear Outage	-	-
BV2 Training Costs	\$ 0.84	\$ 1.58
Low Level Radioactive Waste	-	\$ 2.27
Coal Cost Equalization	-	\$ 0.12
Transition Costs	\$ 7.51	\$ 10.59
SFAS 106 Deferral (3)	\$ 1.40	\$ 1.97
Deferred Fuel Costs (4)	\$ 4.78	\$ 6.73
Other Regulatory Assets	-	\$ 0.53
Consumer Education	-	\$ 10.00
Sale-Leaseback Tax Effect (Gain)	-	\$ 55.13
Deferred Rate Synch. Costs	-	-
BV2 Tax Effect	-	\$ 0.17
Total Regulatory Assets:	\$ 95.05	\$ 339.26
PA Jurisdictional % (1-FERC Allocation)	99.900%	99.900%
TOTAL STRANDED, WITH MERGER AND JURISDICTIONAL ALLOCATION	\$332.188	\$ 1,331.587

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Stranded Cost Allowance
with Associated Deferred Taxes
(\$ Millions)

Results of Auction
(April 28, 2000 Closing)

Duquesne Light Restructuring		
Category/Item:	Deferred Taxes	Amount
Book Value:		
Generating Plant Book Value	\$ 411.34	\$ 852.03
Beaver Valley 2 Lease PV	\$ 213.01	\$ 300.35
Tax Liability SFAS 109 Plant Balance	\$ 62.94	\$ -
Working Capital	\$ -	\$ 61.53
Costs Independent of Operation	\$ -	\$ -
Offset Credit	\$ (366.32)	\$ (880.65)
Total Stranded Generation:	\$320.97	\$333.26
Decommissioning:		
Nuclear Decommissioning	\$ -	\$ 57.40
Fossil Decommissioning	\$ -	\$ -
Total Decommissioning	\$ -	\$ 57.40
Regulatory Assets:		
FAS 109 (including Plant reversal)	\$ -	\$ -
Post '05 Unamortized Debt Costs	\$ 10.67	\$ 18.67
Pre '06 Unamortized Debt Costs	\$ 6.82	\$ 9.61
Deferred Rate Synch. (Early Window)	\$ 1.87	\$ 23.50
Deferred Employee Costs	\$ -	\$ 14.24
Deferred Nuclear Maintenance	\$ 1.35	\$ 1.90
US DOE Decommissioning	\$ 2.33	\$ 3.25
Deferred Coal Costs	\$ -	\$ -
Deferred Caretaker Costs	\$ -	\$ -
Pre-Accrued Nuclear Outage	\$ -	\$ -
BV2 Training Costs	\$ 0.84	\$ 1.58
Low Level Radioactive Waste	\$ -	\$ 2.27
Coal Cost Equalization	\$ -	\$ 0.12
Transition Costs	\$ 7.51	\$ 10.59
SFAS 106 Deferral	\$ 1.40	\$ 1.97
Deferred Fuel Costs	\$ 17.73	\$ 25.00
Other Regulatory Assets	\$ -	\$ 0.53
Consumer Education	\$ -	\$ 15.50
Sale-Leaseback Tax Effect (Gain)	\$ -	\$ 55.13
Deferred Rate Synch. Costs	\$ -	\$ -
BV2 Tax Effect	\$ -	\$ 0.17
Utilities Gross Receipts Tax	\$ -	\$ 6.58
Total Regulatory Assets:	\$ 50.52	\$ 190.61
	99.900%	99.900%
TOTAL STRANDED, STAND ALONE	\$ 371.124	\$ 580.691
WITH JURISDICTIONAL ALLOCATION		

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Note 1
Note 2
Note 3
Note 4
Note 5
Note 6
Note 7
Note 8
Note 9

R 00974104

Stranded Cost Allowance
with Associated Deferred Taxes
(\$ Millions)

Results of Auction
(April 28, 2000 Closing)

Category/Item:	Deferred Taxes	Amount	
Duquesne Light Restructuring			
Book Value:			
Generating Plant Book Value	\$ 411.34	\$ 852.03	
Beaver Valley 2 Lease PV	\$ 213.01	\$ 300.35	Note 1
Tax Liability SFAS 109 Plant Balance	\$ -	\$ -	Note 2
Working Capital	\$ -	\$ 61.53	
Costs Independent of Operation	\$ -	\$ -	
Offset Credit	\$ (303.38)	\$ (880.65)	Note 3
Total Stranded Generation:	\$320.97	\$333.26	
Decommissioning:			
Nuclear Decommissioning	\$ -	\$ 57.40	Note 4
Fossil Decommissioning	\$ -	\$ -	
Total Decommissioning	\$ -	\$ 57.40	
Regulatory Assets:			
FAS 109 (including Plant reversal)	\$ -	\$ -	Note 5
Post '05 Unamortized Debt Costs	\$ 10.67	\$ 18.67	
Pre '06 Unamortized Debt Costs	\$ 6.82	\$ 9.61	
Deferred Rate Synch. (Early Window)	\$ 1.87	\$ 23.50	
Deferred Employee Costs	\$ -	\$ 14.24	
Deferred Nuclear Maintenance	\$ 1.35	\$ 1.90	
US DOE Decommissioning	\$ 2.33	\$ 3.25	
Deferred Coal Costs	\$ -	\$ -	
Deferred Caretaker Costs	\$ -	\$ -	
Pre-Accrued Nuclear Outage	\$ -	\$ -	
BV2 Training Costs	\$ 10.84	\$ 1.58	
Low Level Radioactive Waste	\$ -	\$ 2.27	
Coal Cost Equalization	\$ -	\$ 0.12	
Transition Costs	\$ 7.51	\$ 10.59	
SFAS 106 Deferral	\$ 1.40	\$ 1.97	
Deferred Fuel Costs	\$ 17.73	\$ 25.00	Note 6
Other Regulatory Assets	\$ -	\$ 0.53	
Consumer Education	\$ -	\$ 15.50	Note 7
Sale-Leaseback Tax Effect (Gain)	\$ -	\$ 55.13	
Deferred Rate Synch. Costs	\$ -	\$ -	
BV2 Tax Effect	\$ -	\$ 0.17	
Utilities Gross Receipts Tax	\$ -	\$ 6.58	Note 8
Total Regulatory Assets:	\$ 50.52	\$ 190.67	
	99.900%	99.900%	
TOTAL STRANDED, STAND ALONE WITH JURISDICTIONAL ALLOCATION	\$ 371.124	\$ 580.691	Note 9

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November 28, 2000

VIA FEDERAL EXPRESS

Secretary's Bureau
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17120

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PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: *Duquesne Light Company*
Docket No. R-00974104

To Whom It May Concern:

Enclosed is the original hard copy of the signed page for Citizen Power, Inc., which we faxed yesterday to the attention of Karen Moury in the Law Bureau, regarding the Joint Petition for Settlement in the above referenced matter.

Thank you.

Sincerely,



Harvey L. Reiter

Enclosure

::ODMA\PCDOCS\WDCDOCS\27376\1

ORIGINAL

CONCLUSION

WHEREFORE, the Joint Petitioners, intending to be legally bound, respectfully request that the Commission approve this Joint Petition without modification.

Respectfully submitted,

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DEC 06 2000

Morgan K. O'Brien
Duquesne Light Company

Charles Daniel Shields, Esquire
Prosecutor
Office of Trial Staff

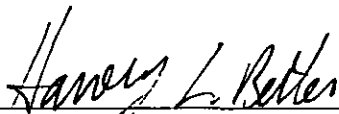
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