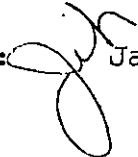


DATE: AUGUST 7, 2000

SUBJECT: R-00974104

TO: Bureau of Fixed Utility Services

FROM:  James J. McNulty, Secretary

INDEXED  
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Enclosed is a copy of Duquesne Light Company's final accounting of the proceeds of the auction of its generation assets and the methodology for reconciling stranded costs with stranded cost collections.

This matter is assigned to your Bureau for appropriate action.

Attachment

cc: OTS  
LAW

jih

DAVID J. MAYERNIK, MEMBER

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August 8, 2000

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

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00 AUG 10 AM 7:46

*RE: Pennsylvania PUC v. Duquesne Light Company*  
*Docket number: R-00974104*

Dear Secretary McNulty:

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

Sincerely,

~~DAVID~~

David J. Mayernik  
State Representative

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

DJM/jvb

✓



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and General Counsel

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PENNSYLVANIA PUBLIC UTILITY COMMISSION  
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August 11, 2000

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Ronald L. Zack  
Assistant General Counsel

James McNulty, Secretary  
Pennsylvania Public Utility Commission  
North Office Building, Room 206  
Harrisburg, PA 17105-3265

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

Dear Mr. McNulty:

Enclosed for filing with the Pennsylvania Public Utility Commission is an original and three (3) copies of PECO Energy Company's Petition to Intervene in the above-captioned docket.

Please date stamp and return the extra copy of this letter in the envelope provided as proof of filing.

Very truly yours,

Delia W. Stroud  
Assistant General Counsel  
DWS/jap

cc: Certificate of Service

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AUG 11 2000

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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

Docket No. R-009741014

DOCKETED

AUG 16 2000

PECO ENERGY COMPANY'S PETITION TO INTERVENE

Pursuant to 52 Pa. Code §§ 5.71-5.74, PECO Energy Company ("PECO Energy") hereby petitions to intervene in the above-captioned proceeding. All pleadings, correspondence and other communications concerning this pleading should be directed to the following:

Delia W. Stroud  
Ward Smith  
PECO Energy Company  
2301 Market Street, S23-1  
Philadelphia, Pennsylvania 19103  
(215) 841-4257  
(215) 568-3389 (FAX)  
dstroud@peco-energy.com

DOCUMENT  
FOLDER

In support of its Petition to Intervene in the above-captioned proceeding, PECO Energy states:

1. PECO Energy is a public utility engaged in, among other things, furnishing electric transmission and distribution service in Pennsylvania.
2. Duquesne Light Company's ("Duquesne") Petition for Approval of Plan for Post-Transition Period POLR Service is the first plan presented to the Commission that addresses the obligations of an electric distribution company ("EDC") to serve in a post-transition period under Section 2807(e) of the Electric Generation Customer Choice and Competition Act.
3. As an EDC in Pennsylvania, PECO Energy submits that it may be directly affected by the proceeding inasmuch as the Commission's determination or other outcome in the proceeding could lead to a standard for other post-transition plans for EDC's.
4. PECO Energy requests to be permitted to intervene because PECO Energy has a

significant interest in this proceeding that cannot be adequately represented by any other party. Moreover, PECO Energy's Petition to Intervene will not result in an unfair prejudice to any party in this proceeding. For these reasons, PECO Energy requests that its Petition to Intervene be granted.

WHEREFORE, PECO Energy respectfully requests Leave to Intervene in, and to be made a party to, these proceedings and to be afforded all rights appropriate to that status.

Respectfully submitted,

PECO ENERGY COMPANY

By: Delia W. Stroud

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August 11, 2000

## CERTIFICATE OF SERVICE

I hereby certify that on the 11<sup>th</sup> day of August 2000, a true and correct copy of the foregoing document will be served via first-class mail, postage prepaid, upon the following:

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August 14, 2000

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VIA OVERNIGHT DELIVERY

James J. McNulty, Secretary  
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Post Office Box 3265  
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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

DOCUMENT  
FOLDER

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 to the Answers of Intervenors on Duquesne's Petition for Approval of Plan for Post-Transition Period POLR Service. Please date-stamp the extra copy and return it to me in the enclosed self-addressed, stamped envelope.

Thank you for your consideration and assistance in this matter.

Sincerely,

Kathleen L. Barrón  
Counsel to Duquesne Light Company

cc: Service List  
Bob Bennett

80

**ORIGINAL**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY )  
COMMISSION )**

**v. )**

**Docket No. R-00974104**

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

**RECEIVED**

**REPLY OF DUQUESNE LIGHT COMPANY**

**AUG 14 2000**

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

**DOCUMENT  
FOLDER**

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**Dated: August 14, 2000**

**DOCKETED  
AUG 16 2000**

## TABLE OF CONTENTS

INTRODUCTION .....	1
I. SUMMER SWITCHING RULES .....	6
A. Summer 2000 Switching Costs .....	7
B. Residential Switching .....	11
C. Switching During 2001 and Beyond .....	13
II. GENERATION RATES .....	14
A. 2004 C&I Market-Based Rate Pilot .....	14
B. GS/GM Rate Redesign .....	15
C. Levelized Shopping Credits .....	16
D. RTO/Power Exchange .....	17
E. Special Contracts .....	17
III. TRANSMISSION AND DISTRIBUTION RATES .....	18
A. Rate Cap .....	18
B. 5 Mill/kWh Adder .....	20
C. Transmission Service .....	23
IV. FURTHER PROCEDURES .....	23

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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AUG 14 2000

REPLY OF DUQUESNE LIGHT COMPANY

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Duquesne Light Company ("Duquesne") hereby submits its reply to the answers of intervenors on Duquesne's petition for Commission approval of its plan for post-transition period provider of last resort ("POLR II") service.

INTRODUCTION

Duquesne's POLR II plan sought to balance the varying, and often conflicting, interests of all parties: the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), Duquesne's industrial customers represented by the Duquesne Industrial Intervenors ("DII"), and supplier groups such as the Mid-Atlantic Power Supply Association ("MAPSA"), Strategic Energy Ltd. ("SEL"), and Enron Power Marketing, Inc. ("Enron"). Each of these parties praises certain aspects of the plan and criticizes Duquesne for other aspects. Only the OCA,

however, recognizes that Duquesne's plan is a package of compromises, intending to create a workable structure for Duquesne's unique market, in which the statutory transition period will end before a visible, liquid market is available. Faced with a plan that seeks to accommodate all groups but cannot completely satisfy any one, the OCA acknowledges that if Duquesne's is a "take it or leave it" proposal, "quite frankly, the OCA will take it." OCA at 3.

The Commission should be aware that there are two aspects to the plan that are "take it or leave it." The first, and central, issue is the proposed summer switching rules. Duquesne has proposed summer switching rules because they are fair, supported by Duquesne's Restructuring Order and consistent with the Commission recent generic findings on the matter. Even more fundamentally, Orion Power Midwest, L.P. ("Orion Power"), the wholesale supplier of energy to serve Duquesne's POLR load, will not supply fixed-price power at POLR II rates without them; thus, if the Commission does not approve these rules, the POLR II plan is dead.

In addressing this difficult issue, the Commission should bear in mind the experience of California. San Diego Gas & Electric Company ("SDG&E") was the first utility in the Nation to recover its stranded costs and thereby terminate rate cap protection for its customers. SDG&E did not, however, negotiate fixed price protection for its POLR customers, as Duquesne is proposing here, but rather

purchased power at spot prices and passed the costs through to its customers. The result is a public policy debacle. Customer rates have doubled. *California on Edge of Failing to Meet Electricity Needs*, N.Y. Times, Aug. 2, 2000, at A1. The Governor has criticized the state commission. *California's Governor Orders Regulators To Slash Electric Rates in Southern State*, Wall St. J., Aug. 10, 2000, at A4. The state commission has criticized the independent system operator ("ISO") and the Federal Energy Regulatory Commission ("FERC"). *CPUC Blames FERC, ISO, Generators for Market Woes*, Energy Daily, Aug. 8, 2000, at 1. A member of the ISO has resigned. *California on Edge of Failing to Meet Electricity Needs*, N.Y. Times, Aug. 2, 2000, at A1; *Pressure Builds to Lower Electricity Costs; State Panel Will Retake Vote on Cutting Key Rate*, San Diego Union-Trib., July 6, 2000, at C1.

Duquesne's POLR II plan charts a dramatically different course. Duquesne may be the first utility in the Nation after SDG&E to finish collecting its competitive transition charge ("CTC"), and it faces even greater challenges. The markets in ECAR are less developed than in California. There is no ISO or regional transmission organization ("RTO") in ECAR. There is no power exchange. Market prices reached \$10,000/mWh last summer. Under these conditions, exposing our customers to unstable market structures and prices the day after they finish stranded cost payments poses unacceptable risks. The POLR II plan mitigates these risks.

The Commission therefore has a clear choice. It can approve the POLR II plan as filed and provide rate cap protection through 2004 for Duquesne's residential and small commercial customers. Or it can subject those customers to volatile and escalating market prices. These volatile and high prices drive customers back to Duquesne during the summer season. That is the reason Duquesne has requested a summer switching rule. Neither Orion Power, nor any other rational supplier, would agree to offer customers an *option* to return to POLR service at *below market* rates. Certainly, the EGS's have not offered that option. That is the reason customers have fled back to Duquesne and to every other POLR supplier in Pennsylvania this summer. The Commission should therefore stay the course charted in its general order on returning customers and approve the POLR II plan.

There is one other dealbreaker. It is the opposition of some parties (but not the OCA) to the adder to POLR II rates needed to offset a transmission and distribution rate increase. We will explain below why this adder is procompetitive and why Duquesne is at risk that it will underrecover its costs. More fundamentally, however, the point is that Duquesne has no interest in negotiating and implementing a *multi-faceted POLR II plan – and retaining its responsibility as the provider of last resort – if there is no benefit at all to Duquesne*. The only benefit requested here is a small adder that encourages shopping and allows Duquesne to extend, for two more years, transmission and distribution rates that have been in effect *since 1987*. That is

hardly an unreasonable request. It should be granted. Without it, Duquesne would reconsider its role as the POLR.

There are other disputes that, although important, are not dealbreakers for Duquesne or Orion Power; rather, they present disputes among the stakeholders and pose policy questions for the Commission to resolve. An example is the dispute between DII and the marketers regarding the market-based program for large C&I customers in 2004. Another example is the dispute between DII and the OSBA regarding rate redesign for Class GS/GM. Duquesne explains below its position on these issues and its recommendation for the Commission to resolve them. In each instance, we attempt to offer modifications where possible to address stakeholder concerns, but recommend that the entire package remain intact.

*One final issue merits attention.* Of all the stakeholders, DII appears to be the least satisfied with the POLR II proposal. This is disappointing because we respect the views of DII and thought it would generally support the POLR II plan. We do not understand DII's harsh perspective on the plan. Its members are large industrial companies that, as a matter of course, negotiate the purchase of their inputs to production through arms-length transactions in the marketplace. They are sophisticated and have leverage to negotiate reasonable terms with their suppliers. They have done so in reaching long-term "special contracts" with Duquesne.

There is nothing in the Restructuring Legislation that suggests that electricity, like their other inputs to production, will be procured at anything other than market prices at the end of the transition period. Precisely for this reason, Enron and others argued to Duquesne that this should be the case immediately upon termination of the CTC in 2002. Duquesne did not, however, agree with their position because it felt strongly that DII's customers should have rate cap protection at least through 2003. Duquesne therefore fought and received EGS support for two additional years of rate cap protection for these customers. DII now argues that "Duquesne's final proposal has unfortunately stripped the package of . . . benefits" for DII's customers (DII Comments at 2). We find that view unsupportable. If anything, these customers could be viewed, in light of their sophistication and alternatives, as receiving the most benefits compared to what they could reasonably have expected in a post-transition period.

For all these reasons, we believe that POLR II, taken as a package, is clearly in the public interest and should be approved.

#### **I. SUMMER SWITCHING RULES**

Duquesne's POLR II petition included several proposals to address the situation described in the Commission's Final Order in *Guidelines Addressing Return of Customers to Provider of Last Resort Service*, Docket No. M-00960890F0017 ("Final Order on Returning Customers") in which "significant adverse economic

impacts" result from the short term return of customers during high cost periods. *Id.* at 5. The comments on this issue are described below.

**A. Summer 2000 Switching Costs**

To address the shortness in time between the Commission's Final Order and the Summer 2000 season, Duquesne proposed a recovery mechanism that is consistent both with the Final Order, which authorizes POLR providers to require returning customers to pay a generation rate adjustment ("GRA") or remain on POLR service for one year, and with the legitimate fairness issues surrounding implementation of such a rule in Summer 2000. Duquesne proposed to calculate a GRA for Summer 2000 returning customers but *not* apply it to those customers. Rather, Duquesne proposed to offset the collective GRA for all customers against auction proceeds. This approach is fair to both customers and to Orion Power.

Parties that oppose this proposal argue that (1) Orion Power assumed the risk that this problem might not be solved in time for Summer 2000 (OCA, MAPSA, SEL, DII), (2) Orion Power should be required to prove that it incurred incremental costs to serve returning customers (OCA, MAPSA, SEL), and (3) if this proposal is approved, Summer 2000 GRA costs should be calculated and allocated by rate class (OCA, OSBA). Duquesne disagrees that Orion Power should be made to shoulder costs the Commission has acknowledged summer switching causes the POLR. Duquesne agrees, however, that only incremental costs are recoverable, *e.g.*,

the costs of purchasing power forward to enable Orion Power to have sufficient resources (including reserves) to serve the anticipated need of returning customers (and that is precisely what was proposed), and that such costs should be allocated by rate class.

The Commission's Final Order on Returning Customers held that use of rate-capped POLR service only during summer months threatens the development of a vibrant competitive generation market. For this reason, the Commission adopted a 12 month minimum stay provision, but permitted customers flexibility to depart POLR service within 60 days by paying a GRA. The Commission's order, which was predicated on "the activities of this Spring and Summer," acknowledged that Duquesne was addressing this problem in its POLR II plan. Final Order on Returning Customers at 8. Notably, the Commission expressly did not "preclude the proposal by Duquesne . . . to implement innovative approaches that vary in nature or scope from the solutions we are setting forth here." *Id.*

The Commission has acknowledged that Duquesne and Orion Power are significantly impacted by this problem, and that the problem has occurred this Spring and Summer; it is therefore unreasonable to expect Orion Power to bear the costs of serving load that switches back to POLR service during Summer 2000. Orion Power had every reason to expect that the Commission would revisit its earlier decision not to address this issue. The POLR Agreement executed on September 24,

1999 and approved by the Commission stated that Duquesne "agrees to reasonably cooperate with efforts by the POLR Supplier to seek, if warranted by available evidence, regulatory relief from unfair practices by retail customers who elect to receive Energy from an EGS at certain times of the year and who return to POLR service at other times of the year." (Section 4.2 (h) (iv) (j)).

Orion Power had every reason to expect that the Commission would address this problem in a fair and timely manner. Duquesne requested such a switching rule in its restructuring case, predicting that customers would switch back to POLR service during the higher cost summer months. MAPSA and others opposed this proposal as speculative and the Presiding Judge agreed, finding that there was "[n]o evidence" of such behavior and he therefore recommended that "the Commission . . . deny the Company's proposal until it can satisfactorily demonstrate that a serious problem exists." R.D. at 637. The Commission also agreed, finding that Duquesne's predictions of market behavior were "speculative . . . at this early stage of the unbundling process." Restructuring Order at 245. The Commission recognized, however, that "a solution might later become necessary." Final Rule on Returning Customers at 7.

MAPSA and others have now flip-flopped, constructing a convenient Catch-22. In the restructuring proceeding, they claimed that the summer switching issue could be dealt with once evidence of gaming was received; conveniently, they

now argue that, even though abundant evidence is now in hand, it is *too late* to fashion a remedy for the POLR supplier. That is an indefensible position.

The Commission should therefore permit Duquesne to deduct the additional costs incurred by Orion Power relating to Summer 2000 switching (as described above) from auction proceeds, with two conditions urged by the parties. First, as suggested by the OCA, MAPSA, and SEL, Duquesne has proposed, and Orion Power has agreed, that it will be required to demonstrate that the costs incurred with respect to the returning POLR load are truly incremental to Orion Power (*i.e.*, they would not have been incurred but for the switching). Second, Duquesne agrees with the OCA and the OSBA that any costs that Orion Power demonstrates it has incurred should be allocated according to the rate class of the switching customers. Duquesne will make the required filing detailing its proposed GRA mechanism on or before September 1, 2000, and as described in Duquesne's CTC Reconciliation and Auction Accounting Compliance Filing, submitted on August 4, 2000, Duquesne will calculate the GRA for Summer 2000 in accordance with the methodology ultimately approved by the Commission for Duquesne. At that time, Duquesne will submit a revised Auction Accounting Compliance Filing to reflect the additional costs caused by switching customers during Summer 2000.

## **B. Residential Switching**

The OCA objects to Duquesne's summer switching rule for residential customers, alleging that residential shopping has increased this summer and that residential customers are being returned to POLR service by *EGSs*, not through their own choice. OCA at 4-5. Duquesne agrees that more residential customers are shopping, but that fact only underscores the need for a switching rule for residential customers. As more customers depart the system, the risk increases that greater numbers will return during high-cost periods. Indeed, in Spring 2000, an EGS was prepared to return a significant portion of load to Duquesne's POLR service, and was persuaded not to only through the Commission's and Orion Power's efforts.<sup>1</sup> Without a residential switching rule, Duquesne and Orion Power would remain at the mercy of EGSs who would be permitted to continue this behavior.

As for the OCA's second point, Duquesne acknowledges that in many cases customers are returned to POLR service by EGSs that structure service offerings around putting customers back during the summer. Whether summer switching is initiated by the EGS or the customer, however, it is unfair to require the POLR to subsidize the EGS's contract with the customer. Both the EGS and the

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<sup>1</sup> At the Commission's urging, Orion Power agreed to provide the EGS with a source of supply for the summer months that permitted the EGS to continue serving its customers.

customer should be required to comply with reasonable restrictions on their ability to take advantage of capped POLR rates.

As an alternative to Duquesne's proposal, OCA suggests longer notice periods before a customer may be returned to POLR service or minimum contract lengths for suppliers. *Id.* at 5. While Duquesne appreciates the OCA's suggestions for treating the POLR fairly, neither will adequately solve the problem. More notice, while of course helpful, will not avoid the incremental costs incurred by serving customers that return only for summer months. Both customers and EGSs can reasonably expect market prices for the summer months to exceed the annual average POLR price. More notice therefore does solve the problem. Minimum contract lengths for suppliers would be acceptable from Duquesne's (and Orion Power's) perspective, but would not likely pass muster under the Electricity Generation Customer Choice and Competition Act.

Finally, the OCA (at 7-8) objects to the 100 MW trigger for the residential switching rule for Summer 2001. Duquesne recognizes that difficult implementation issues surround this trigger, and offered it only to ensure that the new rule would not take effect unless significant switching had occurred. Duquesne is willing to continue to work with the OCA to develop a method of implementing its phased approach that is fair to residential customers.

### C. Switching During 2001 and Beyond

Several parties challenge Duquesne's summer switching proposal for the period beginning in 2001. Most of these challenges are to the details (or lack of) regarding the method of calculating the GRA and other implementation issues. SEL at 4; DII at 17-18.<sup>2</sup> Duquesne will propose a specific GRA implementation mechanism in its filing to the Commission on or before September 1, 2000, on which all parties will have an opportunity to comment.<sup>3</sup> After the Commission's orders on this petition and the GRA mechanism are adopted, Duquesne and Orion Power will finalize the POLR II Agreement and submit it to the Commission, along with tariff sheets implementing the switching rule and GRA mechanism.

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<sup>2</sup> The remaining challenges (MAPSA at 5; SEL at 3-4) relate to the 12-month rule itself, which has already been adopted by the Commission in the Final Order on Returning Customers.

<sup>3</sup> Although DII and OCA note that they would object to provision that would automatically renew a customer's 12-month commitment if the customer did not express its intention to switch, such a rule is critical. Without it, the behavior that the Commission's rule is intended to prevent would commence again at the end of the first year. Duquesne will provide further details on its proposed automatic renewal provision in the proposed tariff to be submitted along with the final POLR II Agreement.

## **II. GENERATION RATES**

### **A. 2004 C&I Market-Based Rate Pilot**

The POLR II plan includes a proposal to institute a market-based rate program during 2004 for approximately 850 large commercial and industrial customers (in rate classes L, GL, GLH and HVPS). Several parties have weighed in support of and in opposition to the plan. Enron and SEL support the proposal. DII questions whether the plan unfairly applies only to C&I classes and whether the market will be sufficiently mature to perform this function. DII at 9-13. DII also challenges several of the implementation details of the plan. *Id.*

Duquesne explained in its POLR II Petition that this program was included in the plan at the request of EGSs, who believe the Commission should begin to introduce a market-based pricing mechanism as soon as the market can bear it. DII has legitimate concerns regarding the risks of exposing C&I customers to the uncertainty of a nascent competitive market. While the decision whether to adopt a market-based program is ultimately one the Commission will make, Duquesne submits that predicting whether the market will be mature enough in 2004 to accommodate the program is a fruitless exercise. Instead, Duquesne urges the Commission to adopt the plan as proposed and order Duquesne to submit a filing by

March 31, 2003<sup>4</sup> to address whether a visible, liquid spot market price is available, and also whether the market is functioning well enough to support the program. At that time, the burden will be on Duquesne and the proponents of the market-based plan to demonstrate that the competitive market is sufficiently developed, and that the components of the market-based rate are just and reasonable.<sup>5</sup> Opponents will have the opportunity to challenge the reasonableness of the rate proposed and the other elements of the plan at that time.

**B. GS/GM Rate Redesign**

Duquesne explained in its Petition (at 14-15) the background surrounding its proposal to undertake a modest redesign of Rate Class GS/GM rates. As Duquesne conceded, it agreed to this change because that was the *only* modification of the plan requested by the OSBA. The only opponent of the redesign is DII, which objects on principle to selective changes to rate design and cost allocations. DII at

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<sup>4</sup> Duquesne originally proposed to make this filing by June 2003, but DII expressed concern that important issues would not be resolved in time for customers to make supply decisions by January 1, 2004.

<sup>5</sup> Several parties (OCA at 13; DII at 11) urge that Duquesne be required to show that the proposed 5 mill adder is necessary to cover costs associated with the program. Duquesne disagrees, noting that (1) the adder is similar to the cost-based “retail” adjustment advocated by the OCA in the restructuring proceeding, and (2) the adder is the counterpart to the increase in POLR II rates necessary for both Orion Power and Duquesne to offer POLR II service, which will disappear when the market-based program takes effect. This issue is addressed in more detail in Section III.

15. In the spirit of accommodating each of the parties to this proceeding, Duquesne submits that the OSBA's proposal should be accepted as an equitable balancing of the interests of the rate class.<sup>6</sup> Indeed, Duquesne did not accept the proposal as submitted by OSBA, but rather met the OSBA only half way in an effort to moderate its impact on DII's customers. The proposal should be accepted as a fair compromise.

**C. Levelized Shopping Credits**

DII objects to the levelized shopping credits included in Duquesne's POLR II plan at the request of MAPSA. DII correctly notes that Duquesne and Orion Power were willing to provide POLR II supply at the existing shopping credits plus 14.4%; however, as DII is aware, Duquesne added the levelization based on MAPSA's belief that levelized shopping credits would encourage shopping to the maximum extent possible.<sup>7</sup> Duquesne agrees that levelized shopping credits will provide increased shopping incentives in the short-term and may more accurately reflect the shape of future market prices. It is expected that, over the next few years, market prices should begin to level off as new generation is added. It is therefore

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<sup>6</sup> The OSBA refers in a footnote to a rounding error in Duquesne's halving of the rate redesign. This assertion is addressed in Attachment B.

<sup>7</sup> Duquesne is surprised that DII is objecting to levelized rates. We do not recall DII ever having objected to them in negotiations.

reasonable to design shopping credits that anticipate this likelihood. The proposal should therefore be accepted.

**D. RTO/Power Exchange**

Many of the parties state that the key to the development of a workable market in western Pennsylvania is the establishment of an RTO and a power market. Duquesne has been at the forefront of market restructuring efforts through its efforts to eliminate pancaked transmission rates, form independent system operators, and use locational pricing. In any event, Duquesne is obligated by FERC Order No. 2000 to make a filing at the FERC by October 2000 detailing Duquesne's plans for RTO development in the region. Duquesne will continue to encourage RTO and power exchange development, and is unopposed to a Commission order, as urged by several parties, requiring Duquesne to actively participate in efforts to develop a workable, viable market in the region.

**E. Special Contracts**

DII requests that Duquesne confirm DII's interpretation of the manner in which special contract customers will be served during the POLR II period, given that the POLR II plan is silent regarding the treatment of special contract customers. DII at 7. Duquesne confirms that special contract customers will be provided generation supply under the POLR Agreement until the earlier of the dates specified in Schedule 6 of the POLR Agreement or the dates the customers make alternative

supply arrangements (if possible) pursuant to the terms of their contracts. At that point, special contract customers will be treated like other customers in their respective rate classes. For this reason, there is no need to address power supply for special contract customers in the POLR II plan.

### **III. TRANSMISSION AND DISTRIBUTION RATES**

#### **A. Rate Cap**

In the context of the POLR II plan, Duquesne has agreed to extend its current T&D rate cap until December 2003. This concession is conditioned, however, on the Commission permitting Duquesne to retain a small margin (an average of 4 mills/kWh) on POLR II generation sales. Although Duquesne fully vetted this proposal during its rounds of stakeholder meetings and received no opposition, MAPSA (at 3-4) and DII (at 14-15) now criticize Duquesne's plan and request a review of T&D rates and the class allocations thereof.

At the outset, Duquesne notes that it is curious that MAPSA would object to Duquesne's proposal to avoid a T&D rate increase by recovering a small adder in the shopping credit. MAPSA's members are the principal beneficiaries of this proposal. MAPSA even concedes that the proposal "benefit[s] EGSs." MAPSA at 4. Duquesne has conservatively estimated the level of cost recovery necessary to allow it to earn a fair return on its T&D business, recognizing that the more effective Duquesne's plan is – the more customers that switch to EGSs – the *less* dollars it will

collect toward T&D costs as T&D rates will remain capped at current levels.

Perhaps recognizing this, SEL supports Duquesne's T&D rate freeze. SEL at 11.

DII's criticism is somewhat different. DII is essentially requesting that class allocations of distribution costs should be reexamined in this proceeding. Duquesne responds that it has not, with one limited exception requested by OSBA, adjusted its rate design from the rates in effect during POLR I. Doing so likely would change many elements of Duquesne's POLR generation and T&D rates. It is precisely this rebalancing that the Commission sought to avoid in using existing allocators to develop POLR rates.<sup>8</sup>

In sum, the Commission should approve the T&D rate freeze proposal. The proposal protects customers by extending, for at least two more years, T&D rate levels that have been in effect since 1987. It retains the current rate design, and thereby avoids cost-shifting among and within rate classes and is consistent with the rate design of POLR II generation rates. It, along with the POLR II generation rates, promotes competition by increasing the incentives to shop for electricity. It avoids the need for a lengthy and contentious proceeding to establish new T&D

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<sup>8</sup> Duquesne is not opposed, however, to DII's suggestion (at 16) regarding the proper interpretation of Duquesne's rate cap exception for RTO costs. Duquesne agrees that any allocation of future RTO costs between shopping and non-shopping customers should be designed to prevent customers from bearing costs twice.

rates. Finally, Duquesne is at risk that this very small adder – which is bypassable by customers that switch suppliers – will prove insufficient to earn a fair return on its T&D business. Under these unique circumstances, the proposal should be approved.

**B. 5 Mill/kWh Adder**

The OCA questions the inclusion of a 5 mill per kWh retail adder in the market-based program in 2004 for large C&I customers, claiming that “to the extent such an adder is *neither* cost-based nor market-based, then it could simply result in a windfall to the provider of last resort.” OCA at 13. The retail adder proposed by Duquesne, however, can be supported by both cost and market evidence.

First, in Duquesne’s restructuring case, there was considerable discussion about the development of Duquesne’s Competitive Generation Charge or “CGC” (which later was re-named as the “Shopping Credit”). During that proceeding, both the OCA and competitive suppliers argued for similar adjustments based on support from Duquesne’s cost of service and competitive market prices.<sup>9</sup> Ironically, the OCA’s Main Brief at 68 in the restructuring case summarizes the cost basis for a retail adder where, as here, the shopping credits are developed from a wholesale market price:

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<sup>9</sup> The Commission ultimately established Shopping Credits administratively at levels that it believed would stimulate a competitive market.

- Ms. Smith then adjusted this price to reflect normal costs that will be required to bring this power to the retail market. These include
- 'administrative and general costs that will be required to market, aggregate load, reconcile load and supply, write contracts' and other activities to get power to customers. Ms. Smith estimated these costs from the Company's COS study, including pensions, benefits and insurance that are reflected in on-going production costs, regulatory expenses, and other A&G, consistent with Mr. Catlin's allocation of A&G in his testimony.

The OCA witness Ms. Smith adjusted wholesale market prices upward by 4.25 mills per kWh in 2004 (and escalates these by inflation thereafter) to reflect the normal costs that will be required to bring this power to the retail market.<sup>10</sup> Second, as described in the POLR II filing, Orion Power agreed, as a result of the negotiation process, to supply POLR II power at the POLR I generation rates plus an average of 4.4% during the years 2001-2004. Duquesne then added a small margin (which averages 4 mills/kWh) on POLR II generation sales to that shopping credit to offset the need for a T&D rate increase and offer a T&D rate freeze extension. The combination of (a) the markup required by Orion Power to supply POLR II power at wholesale prices plus (b) the small margin (4 mills/kWh) used to offset the need for T&D rate increases, and (c) the costs associated with bringing power to retail that the

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<sup>10</sup> Under a price cap, Duquesne opposed the use of such an adder in the Shopping Credit backout arguing that the Company could not avoid these costs if it sells fewer kWh during the transition period. The Company was concerned that their inclusion in the Shopping Credit would increase the Company's stranded cost exposure whenever a customer switched to an EGS and Duquesne still incurred such unavoidable costs. These costs, however, as outlined by the OCA still exist and need to be recovered.

OCA describes (4.25 mills per kWh) well exceeds the 5 mill adder proposed in Duquesne's POLR II plan. The market-based program for large C&I customers was a concession to marketers in the process of negotiating the POLR II plan and the 5 mill retail adder, while insufficient to fully recover the anticipated costs, is a vital component of the agreement. Without the 5 mill adder, neither Duquesne nor Orion Power would be willing to provide power to these retail customers at wholesale prices.

Finally, the retail service adder of 5 mills per kWh will encourage supplier participation and customer switching. In California, it is widely recognized that generation charges based purely on wholesale market prices without adjustments to reflect retailing costs have significantly hindered the development of a competitive market. The National Energy Marketers Association states that "retail energy services typically include the costs of risk management premiums, load shape costs, commodity acquisition and portfolio management, working capital, and taxes, as well as costs for administrative and general expenses, metering, billing, collections, bad debt, information exchange, compliance with consumer protection regulations, and customer care."<sup>11</sup> As a result, the 5 mill adder is intended to promote both

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<sup>11</sup> The National Energy Marketers Association, National Guidelines For Designing And Pricing Default Energy And Related Services, January 25, 2000, p. 4.

supplier and customer participation in the retail access market, as well as provide Orion Power and Duquesne an opportunity to recover their costs. Therefore, if the Commission approves the market-based program for large C&I customers, it must also approve the 5 mill adder.

**C. Transmission Service**

Enron (at 10) is concerned that Duquesne could use its position as the POLR provider to obtain discriminatory access to its transmission assets, or alternatively that Duquesne could grant Orion Power discriminatory transmission access. Duquesne assures Enron and the Commission that transmission service for POLR load is provided like any other load pursuant to Duquesne's open access transmission tariff on file at the FERC. Duquesne observes the Standards of Conduct applicable to all transmission providers under 18 C.F.R. § 37.4 and its POLR contracts with Orion Power do not affect these legal obligations.

**IV. FURTHER PROCEDURES**

Several parties request that the Commission order further collaborative meetings with stakeholders to discuss Duquesne's POLR II proposal. We do not agree with this suggestion. Duquesne has met with the parties in Harrisburg on numerous occasions over the last six months. These negotiations were successful in narrowing many disputes. The few remaining disputes, however, are intractable.


During our last round of meetings, no party suggested that, if we just continued negotiating, the disputes would disappear. Indeed, several parties, including MAPSA, specifically acknowledged that we had reached a dead-end on critical issues – namely, the customer switching rules.

It is now time, in our view, for the Commission to resolve these disputes. Duquesne can then move forward to implement the POLR II plan, if it is approved, and provide customers in Pittsburgh the protections that are sorely lacking in San Diego. If, to the contrary, there are significant modifications to it, and the plan therefore falters, there will be no such protections. Duquesne will, at that point, consider all its options under the Restructuring Legislation and report back to the Commission prior to the time POLR I expires. We respectfully request that the Commission approve the Plan, as proposed, by September 1, 2000.

WHEREFORE, the Commission should unconditionally approve Duquesne's POLR II petition consistent with the foregoing reply and the form of order attached hereto.

Respectfully submitted,

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Dated: August 14, 2000

**Attachment A**

FORM OF ORDER

on Duquesne's POLR II Petition

THEREFORE IT IS ORDERED:

1. Duquesne's Petition for Approval of Plan for Post-Transition Period POLR Service is hereby approved consistent with the findings in this Order.
2. Duquesne is directed to submit, within 60 days of the date the order on Duquesne's GRA mechanism, an executed POLR II Agreement, which should contain new tariff language adopting the switching rules and GRA mechanism approved by the Commission's orders.
3. Duquesne's generation rates for the POLR II period, set forth as Appendix 1 to the POLR II plan, are hereby approved as just and reasonable. As consideration for Duquesne offering rate-capped POLR service, Duquesne shall be permitted to retain the adder on POLR II generation rates, including any C&I market-based rate program for 2004.
4. Duquesne is directed to continue its efforts to encourage the development of an RTO and a workable, viable wholesale electric market in the region.
5. Duquesne is directed to continue collaborating with the OCA on a residential switching rule trigger for Summer 2001.
6. Duquesne is directed to calculate the GRA for Summer 2000 in accordance with the GRA mechanism ultimately approved by the Commission for Duquesne, and submit a revised CTC Reconciliation and Auction Accounting Compliance Filing, in which Duquesne shall offset Summer 2000 GRA costs by rate class, within 60 days of the Commission's order approving a GRA mechanism for Duquesne.

7. Duquesne is directed to submit a filing by March 31, 2003 to address whether a visible, liquid spot market price is available, and whether the market is functioning well enough to support a market-based rate program for large C&I customers (L, GL, GLH, and HVPS).

## Attachment B

In response to OSBA's request to redesign rates within Class GS/GM, Duquesne implemented 50% of OSBA's proposed adjustments for each rate block within Class GS/GM. In its Answer, the OSBA stated in footnote 2 that "in reviewing the Rate GS/GM rates that are found in Appendix 1 to the Petition, the OSBA noted that the GS/GM rates contain a small rounding error, an error that necessitates a small reduction in the first block energy charge (from the reported level of 7.7963 cents to 7.7772 cents per kWh)." Duquesne respectfully disagrees with the OSBA regarding this supposed "rounding error." The levelized generation rate originally proposed by Duquesne that was applicable to the initial rate block for GS/GM customers was \$0.085158 per kWh. OSBA's original proposal was to lower that figure by \$0.014390 to \$0.070768 per kWh. Instead, Duquesne met the OSBA halfway lowering the initial block by \$0.007195 to \$0.077963 per kWh.

This is basic math and upon review, Duquesne has done the calculations correctly. Duquesne believes that the OSBA is confused in that their original proposal attempted to perform a proof of revenue calculation based on 1996 compliance filing billing units. This revenue neutrality test using 1996 volumes is both inaccurate under the rate-making assumptions of Duquesne's restructuring case and inappropriate in the context of a self-imposed voluntary generation rate cap for POLR II. In Duquesne's restructuring case total bundled rate caps were based on current rates in place as of the date of the restructuring law. For Duquesne, total bundled rates were established using volumes and a cost of service calculated in the late 1980s. In the restructuring proceeding, Duquesne was ordered by the Commission to use a 1996 cost of service and 1999 volumes to establish transmission and distribution rates. Meanwhile, CTC rates were based on a forecast of billing volumes throughout the transition period, and generation rates were calculated as a residual. Therefore, neither the total bundled rate caps nor any of the other rate components were based on 1996 billing units upon which the OSBA performed its "revenue neutrality" analysis.

OSBA appears to have confused a proof of revenues test that the company performed earlier in the case that demonstrated that the unbundled rates produced the same amount of revenue as the total bundled rates using 1996 volumes. However, this calculation would have been true no matter what volume assumptions were used given that the unbundled rates, when summed, always equaled the total rate caps. The Company never intended nor was required to cap revenues based on 1996 billing units. In any event, once the transition period ends (i.e., POLR I is completed), Duquesne certainly is under no obligation to cap generation rates at any

particular level to obtain a certain level of generation revenues. Rather than expend the effort to dispute the flawed revenue neutrality test employed by the OSBA in calculating its proposed rates, Duquesne simply chose to meet them halfway. The GS/GM rates calculated by Duquesne are therefore correct.

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY )  
COMMISSION )

v. )

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

Docket No. R-00974104

RECEIVED


AUG 14 2000

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply 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 14<sup>th</sup> day of August, 2000.

  
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DATE: August 15, 2000  
SUBJECT: R-00974104  
TO: Bureau of Fixed Utility Services  
FROM: James J. McNulty, Secretary *J.J.*

DOCKETED  
AUG 16 2000

DOCUMENT  
FOLDER

DUQUESNE LIGHT COMPANY PLAN FOR POST-TRANSITION PERIOD  
POLR SERVICE

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Attached is a copy of a Petition to Intervene of Peco Energy Company, filed in connection with the above docketed proceeding.

This matter is assigned to your Bureau for appropriate action.

Attachment

cc: LAW  
OTS

was

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ORIGINAL

DOCUMENT RECEIVED  
FOLDER

August 21, 2000

VIA FEDERAL EXPRESS

AUG 21 2000

James J. McNulty, Secretary  
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North Office Building, Room B20  
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PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

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

Dear Secretary McNulty:

Enclosed for filing is an original and three (3) copies of a **Petition to Intervene of Allegheny Energy Supply Company, LLC** in the above-captioned docket.

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

Very truly yours,

David L. Williams  
Senior Attorney

Enclosures

cc: Certificate of Service

1/2

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

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

RECEIVED

AUG 21 2000

PETITION TO INTERVENE OF  
ALLEGHENY ENERGY SUPPLY COMPANY, LLC  
PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Allegheny Energy Supply Company, LLC ("Allegheny Energy Supply") submits its Petition to Intervene pursuant to Sections 5.71 through 5.75 of the rules and regulations of the Pennsylvania Public Utility Commission ("Commission"), and in support thereof states as follows:

DOCUMENT  
FOLDER.

1. Allegheny Energy Supply is an electric generation supplier ("EGS").

2. The attorney for Allegheny Energy Supply in this proceeding will be:

DOCKETED  
AUG 24 2000

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3. Duquesne Light Company's ("Duquesne") Petition for Approval of Plan for Post-Transition Period POLR Service is the first plan presented to the Commission addressing the obligations of an electric distribution company ("EDC") under Section 2807(e) of the Electric Generation Customer Choice and Competition Act, relating to an EDC's

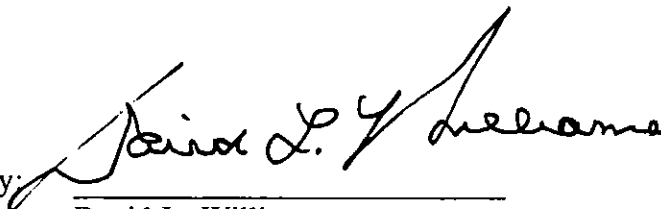
obligation to serve in a post-transition period. Duquesne's stated position in its proceeding is, among other things: 1) to extend its transmission and distribution rate cap through December 31, 2003; and 2) to impose new POLR rates for each rate class.

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

WHEREFORE, Allegheny Energy Supply respectfully requests that the Pennsylvania Public Utility Commission grant its Petition to Intervene in the above-captioned matter.

Date: August 21, 2000

By:

  
\_\_\_\_\_  
David L. Williams  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

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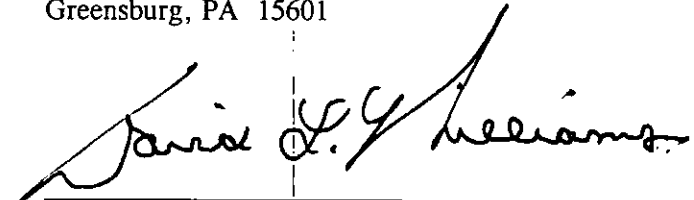
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PA PUBLIC UTILITY COMMISSION August 23, 2000  
SECRETARY'S BUREAU

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VIA FACSIMILE AND OVERNIGHT DELIVERY

Mr. James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
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DOCKETED  
AUG 24 2000

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

Dear Mr. McNulty:

This is to inform you that at the August 14, 2000 technical conference on Duquesne Light Company's ("Duquesne's") CTC Reconciliation and Auction Accounting Compliance Filing, Duquesne and the parties in the above-captioned proceeding agreed that comments on Duquesne's Compliance Filing will be due October 5, 2000.

Thank you for your assistance in this matter.

Sincerely,

*Kathleen L. Barron*  
Kathleen L. Barron  
Counsel to Duquesne Light Company

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Uniform Cover and Calendar Sheet

<p>1. <b>REPORT DATE:</b> August 25, 2000</p>	<p>2. <b>BUREAU AGENDA NO.:</b> AUG-2000-FUS -1088*</p>
<p>3. <b>BUREAU:</b> Fixed Utility Services</p>	
<p>4. <b>SECTION(S):</b> Energy</p>	<p>5. <b>PUBLIC MEETING DATE:</b></p>
<p>6. <b>APPROVED BY:</b>                  Director: Rosenthal 3-5242 <i>RAK</i>                  Manager: Bennett 7-5553                  Legal Review by: <i>PKBurr</i> 7-3464</p>	<p>August 31, 2000 <b>DOCKETED</b> SEP 21 2000</p>
<p>7. <b>PERSONS IN CHARGE:</b> Bennett 7-5553</p>	
<p>8. <b>DOCKET NO.:</b> R-00974 104</p>	

**DOCUMENT FOLDER**

9. (a) **CAPTION** (abbreviate if more than 4 lines)  
 (b) **Short summary of history & facts, documents & briefs**  
 (c) **Recommendation**
- (a) Petition of Duquesne Light Company for Approval of Plan for Post-Transition Period POLR Service
- (b) On June 30, 2000, Duquesne Light Company filed a Petition for Approval of Plan for Post-Transition Period POLR Service addressing its provider of last resort obligation during the period between the completion of the Company's transition period and December 31, 2004. Under the Company's proposal POLR generation rates would remain capped, transmission and distribution rates would remain capped, and incentives for competition to encourage increased shopping and be put in place.
- (c) The Bureau of Fixed Utility Services recommends that the Commission adopt the proposed order which grants Duquesne Light Company's petition consistent with the discussion in the order.

10. **MOTION BY:** Commissioner Chm. Quain  
**Commissioner** Brownell - Yes  
**Commissioner** Wilson - Yes  
**Commissioner** Fitzpatrick - Yes

**SECONDED:** Commissioner Bloom

**CONTENTS OF MOTION:** Postponement to Public Meeting of September 13, 2000 for the Commission's further consideration.