

DATE: December 12, 2000

SUBJECT: R-00974104

TO: Office of Administrative Law Judge

FROM: James J. McNulty, Secretary

DOCKETED
DEC 12 2000

LAF

**DOCUMENT
FOLDER**

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

A memo dated December 1, 2000, assigned to your Office the Joint Petition for Settlement of Duquesne Light Company, the Office of Trial Staff, the Office of Consumer Advocate, the Office of Small Business Advocate, Citizen Power, Inc., the Duquesne Industrial Intervenors, Enron Energy Services, Inc., and Dominion Retail, which was filed in connection with the above docketed proceeding.

The assignment of this Joint Petition is hereby rescinded.

cc: OTS
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Re: Pa. P.U.C. v. Duquesne Light Company, Docket No. R-00974104
Petition for Approval of Plan for Post-Transition Period POLR Service

VIA HAND DELIVERY

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

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Dear Mr. McNulty:

Enclosed for filing are two documents: (1) an original and three copies of Mid-Atlantic Power Supply Association's ("MAPSA") Comments to Duquesne Light Company's Compliance Filing of December 7, 2000; and (2) an original and three copies of MAPSA's Petition to Modify Exhibit A of the Joint Settlement. Parties have been served in accordance with the Certificate of Service.

Please contact me if you have any questions.

Very truly yours,

RHOADS & SINON LLP

By: 
Kathryn G. Sophy

Cc: Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

Docket No. R-00974104

DUQUESNE LIGHT COMPANY
Petition for Approval of Plan for Post-
Transition Period POLR Service

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Mid-Atlantic Power Supply Association's
Petition to Modify Exhibit A
Of the Joint Settlement

Now comes the Mid-Atlantic Power Supply Association ("MAPSA"), pursuant to 52 Pa. Code § 5.41 and hereby petitions this Commission to modify Exhibit A of the Joint Petition for Settlement in accordance with the negotiated agreement of the signatories. In support of its petition, MAPSA states as follows:

1. On November 29, 2000, Duquesne Light Company ("Duquesne") and multiple signatories filed a Joint Petition for Settlement with the Commission that resolved Duquesne's outstanding Petition For Approval Of Plan For Post-Transition POLR Service. The Pennsylvania Public Utility Commission ("Commission") approved the Joint Settlement at public meeting of November 29, 2000.

2. Attached to the Joint Petition for Settlement as Exhibit A is a description and calculation for a Generation Rate Adjustment ("GRA") to be made available to commercial and

industrial (“C&I”) customers who leave provider of last resort (“POLR”) service prior to their 12-month service anniversary dates.

3. During the course of the collaborations, the suppliers and Duquesne reached a compromise with respect to which GRA would be made available to C&I customers. The compromise GRA included a provision designed to guard against manipulation of the GRA’s sparsely traded Index of North ECAR. It was mutually understood that if MAPSA did not sign the Joint Petition for Settlement, however, Duquesne would submit its preferred GRA as Exhibit A.

4. The final version of the settlement document was drafted after business hours on Monday, November 27, 2000 and parties were requested to sign the document by 3:00 PM Tuesday, November 28, 2000. Because MAPSA required a vote of its entire Board of Directors for authorization to sign the petition, MAPSA was granted a further extension to sign the document until 8:00 AM Wednesday, November 29, 2000.

5. MAPSA is a trade association of electric energy suppliers and marketers. MAPSA’s Board of Directors includes representatives of twelve different companies located across the nation.

6. Even with the half-day extension and despite its best efforts, MAPSA was unable to contact all board members and elicit sufficient votes in time to sign the agreement by 8:00 AM Wednesday, November 29, 2000. That morning, the Joint Petition for Settlement was filed with the Commission with Duquesne’s preferred GRA attached as Exhibit A.

7. MAPSA continued its efforts to contact each of its board members. By approximately 4:00 PM Wednesday, November 29, 2000, MAPSA had sufficient votes to sign

the Joint Petition for Settlement. MAPSA filed a supplemental signature page with the Commission.

8. As MAPSA is a signatory to the Joint Petition for Settlement, MAPSA anticipates that the parties will honor the agreement made during the collaborative and either support or not oppose the modification of Exhibit A to include the anti-manipulation provision.


WHEREFORE, the Mid-Atlantic Power Supply Association respectfully requests that this Commission modify Exhibit A of the Joint Petition for Settlement to include the following paragraph:

The POLR supplier and EGSs will not report volumes and prices of its North ECAR generation transactions to Megawatt Daily. However, the POLR supplier and EGSs may confirm such transactions.

Respectfully submitted,

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Attorneys for Mid-Atlantic Power Supply
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Dated: December 14, 2000

ORIGINAL

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PENNSYLVANIA PUBLIC UTILITY
COMMISSION

v.

DUQUESNE LIGHT COMPANY
Petition for Approval of Plan for Post-
Transition Period POLR Service

Docket No. R-00974104

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Mid-Atlantic Power Supply Association
Comments to Duquesne Light Company's Compliance Filing
of December 7, 2000

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Now comes the Mid-Atlantic Power Supply Association ("MAPSA"), pursuant to Section III.H.3. of the Joint Petition for Settlement filed at the above-captioned docket, and hereby files its Comments to Duquesne Light Company's Compliance Filing of December 7, 2000. After review of the four documents contained in Duquesne Light Company's ("Duquesne") Compliance Filing, MAPSA submits the following comments:

I. Electric Generation Supplier Coordination Tariff

1. **Original Page No. 15, Section 5.1.3.** This provision should be modified to ensure that the information provided to EGSs has some value. Providing information that an EGS cannot utilize would render Section III.D.1. of the Joint Settlement meaningless. Assuming Duquesne and the joint signatories did not intend Section III.D.1. as an empty promise, MAPSA recommends that the second sentence of this provision be modified as follows:

“This information, which will be provided on Duquesne’s web site in downloadable format compatible for use with spreadsheet and database applications, will be updated quarterly and will continue to be available through December 31, 2004.”

2. **Original Page No. 25, Section 8.4.** This provision addressing consumption and losses must be modified to reflect the changes contained in the Joint Settlement which allows an EGS to self-determine its obligations. The language of the compliance tariff should be clarified so it is not misconstrued. MAPSA recommends the following modification:

“8.4 CONSUMPTION AND LOSSES (TRANSMISSION, DISTRIBUTION AND RESIDUAL LOSSES) Transmission and distribution losses are calculated based upon customer consumption consistent with Rule 8.4.1. These losses, plus residual losses, are added to the hourly energy consumed by customers and are included in the Consumption Energy Imbalance calculation.

8.4.1 CONSUMPTION CALCULATION The Company will calculate POLR load in the same manner in which EGS load is calculated. After meters are read, load profiles will be applies to all customers, including those on POLR service. When interval meter reading data for a specific customer is available for use, the Company shall use this information in determining load obligation.

~~8.4.1~~ 8.4.2 RESIDUAL LOSSES To determine the proper allocation of losses, average losses by class will be applied to both EGS and POLR loads, and residual losses (and unaccounted for energy) will be allocated pro rata among all suppliers, including the POLR supplier.

3. **Original Page No. 35, Section 14.5.** MAPSA is concerned that the dispute reference in this provision could be misconstrued, especially when juxtaposed with a similar, yet differently worded, provision at Original Page No. 31, Rule or Regulation 45.3, Paragraph A (2) in Duquesne’s Schedule of Rates to be effective January 1, 2001. In addition, it is MAPSA’s understanding that failure to pay the GRA would not affect the customer’s ability to switch to an EGS if the customer waits until its service anniversary date. Accordingly, MAPSA recommends the following modification:

“If a non-residential customer that has been receiving POLR service switches to an EGS and fails to pay the Generation Rate Adjustment imposed under the terms of Duquesne’s retail tariff within 60 days of the bill date or otherwise fails to dispute the calculation pursuant to Duquesne’s retail tariff, the customer shall be returned to POLR service and remain there until the GRA is paid or until the service anniversary date of the customer.”

II. Schedule of Rates Effective January 1, 2001

4. **Original Page No. 31, Rule or Regulation 45.3, Paragraph A (1).** Because a customer need not return to POLR service and may switch from EGS to EGS at any time, MAPSA recommends the following modification to this provision:

“The non-residential customer may contract with an EGS for service ~~prior to returning to POLR service~~, provided such notice is made to Duquesne in accordance with the standard switching protocols; or”

5. **Original Page No. 31, Rule or Regulation 45.3, Paragraph A (2).** Because this provision applies only to customers who return to POLR service from the competitive market, MAPSA recommends the following modification to this provision:

“~~The non-residential~~ If a non-residential customer is receiving service from an EGS, that customer may return to POLR service with the requirement that it receive service from Duquesne at the applicable tariff rates in effect at the time service is rendered for twelve consecutive monthly billing cycles, except that the customer shall be permitted to depart POLR service at any time, subject to payment of the Generation Rate Adjustment (if any) calculated under Rider No. 23 of this tariff. If, however, the customer stays on POLR service for more than twelve consecutive monthly billing cycles, in subsequent years the GRA will be calculated only over the period of time that the customer is on POLR service following its most recent anniversary date. If a customer that switches to an EGS fails to pay the GRA within 60 days of the bill date or otherwise fails to disputes the calculation pursuant to Duquesne’s tariff, the customer shall be returned to POLR service and remain there until the GRA is paid or until the customer’s service anniversary date.”

6. **Original Page No. 32, Rule or Regulation 46.** MAPSA recommends the

following modification to this provision to better reflect the intent of the Settlement:

“The Company will provide to a customer or the customer’s designated EGS or authorized consultant, historical data in accordance with all current regulatory requirements of direct access once each calendar year for no fee. Additionally, the exchange of usage and demand data among between the Company and EGSs, and customers shall be in accordance with the Electric Generation Supplier Coordination Tariff. This information shall be consistent with Section III, D of the Joint Settlement.”

III. **Rider 23 - Generation Rate Adjustment**

7. Because MAPSA is a signatory to the Joint Settlement, the GRA Rider must be modified to reflect the agreement reached during negotiations. Concurrent with filing these comments, MAPSA has filed a petition to modify Exhibit A of the Joint Settlement to reflect what was negotiated and agreed upon as a condition of settlement. Due to the very short time frame between drafting a final settlement document and filing that document with the Commission, MAPSA was unable to secure a binding Board vote prior to the filing time. Accordingly, the petition for Joint Settlement was filed with a version of the GRA that was to take effect if MAPSA elected not to sign the settlement. Once MAPSA signed the Joint Settlement, it was entitled to the compromise version of the GRA. Accordingly, MAPSA recommends the following modification to the GRA Rider: At the end of the GRA Rider, a new paragraph should read:

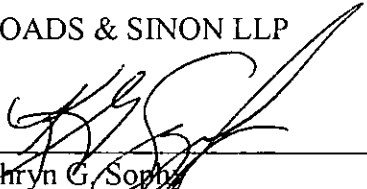
“The POLR supplier and EGSs will not report volumes and prices of its North ECAR generation transactions to Megawatt Daily. However, the POLR supplier and EGSs may confirm such transactions.”

In conclusion, the Mid-Atlantic Power Supply Association is satisfied with most of the changes contained in Duquesne's compliance tariffs and offers these comments and proposed modifications to better reflect the intent of the parties to the Joint Petition for Settlement.

Respectfully submitted,

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Dated: December 14, 2000

Before the
Pennsylvania Public Utility Commission

ORIGINAL

Pennsylvania Public Utility Commission :
v. :
Duquesne Light Company :
Petition for Approval of Plan for :
Post-Transition POLR Period :

Docket No. R-00974104

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

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Dated: December 14, 2000

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December 14, 2000

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

DOCKETED
JAN 05 2001

VIA HAND DELIVERY

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

Dear Secretary McNulty:

Pursuant to the established schedule, the Duquesne Industrial Intervenors ("DII") submits this letter in lieu of Comments regarding Duquesne Light Company's ("Duquesne") December 7, 2000, compliance filing in the above-referenced proceeding. In addition, we enclose for filing at the above-referenced docket three (3) copies of this letter.

DII has reviewed the various tariff modifications proposed in the compliance filing and believes that the filing adequately and accurately reflects what was agreed to by the parties in the Settlement. DII is not commenting on the POLR II Agreement executed between Duquesne and Orion Power Midwest, L.P., based on the assumption that Duquesne has negotiated an agreement that will enable it to fulfill its Provider of Last Resort obligation in accordance with the terms of the Settlement and the requirements of the Public Utility Code.

As evidenced by the attached Certificate of Service, all parties to this proceeding have been duly served with a copy of this letter. DII has also e-mailed this letter to the parties that participated in the Collaborative discussions. Please date stamp the enclosed additional copy of this letter and return it to our messenger for our filing purposes.

Very truly yours,

MCNEES, WALLACE & NURICK

By *Pamela C. Polacek*
Pamela C. Polacek

Counsel to the Duquesne Industrial Intervenors

PCP:kmp

- c: Certificate of Service
- Karen Oill Moury, Esquire, Deputy Chief Counsel (via hand delivery)
- Robert Rosenthal, Director, Bureau of Fixed Utility Services (via hand delivery)
- COLUMBUS, OH • WASHINGTON, D.C. •

66

DEC 14 2000

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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Docket No. R-00974104
Page 2

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Pamela C. Polacek, Esq.

Counsel to the Duquesne Industrial Intervenors

Dated this 14th day of December 2000, in Harrisburg, Pennsylvania.

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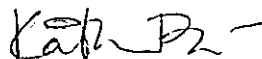
Re: Duquesne Light Company, Docket No. R-00974104

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 December 7, 2000 Compliance Filing in the above-captioned docket. Please date-stamp the extra copy and return it to me in the enclosed self-addressed, stamped envelope.

Thank you for your consideration and assistance in this matter

Sincerely,



Kathleen L. Barron
Counsel to Duquesne Light Company

cc: All Parties
Karen Moury
Bob Rosenthal

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

DEC 15 2000

A PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

PENNSYLVANIA PUBLIC UTILITY)
COMMISSION)

v.)

Docket No. R-00974104

DUQUESNE LIGHT COMPANY)
Petition for Approval of Plan for)
Post-Transition Period POLR Service)

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REPLY COMMENTS OF DUQUESNE LIGHT COMPANY

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Duquesne Light Company ("Duquesne") hereby submits its reply to the comments of intervenors on tariff filings submitted by Duquesne in compliance with the Commission's November 30, 2000 Order in this docket. The November 30, 2000 Order approved the Joint Petition for Settlement of Duquesne's petition for Commission approval of its plan for post-transition period provider of last resort ("POLR II") service (the "Settlement"). On December 7, 2000, Duquesne submitted for approval by the Commission three tariffs implementing the provisions of the Settlement.

INTRODUCTION

Duquesne is pleased that all of the parties to the Settlement, with the exception of the Mid-Atlantic Power Supply Association ("MAPSA"), have indicated that they will not be submitting comments on the Compliance Filing submitted

by Duquesne on December 7, 2000. Notably, the Duquesne Industrial Intervenors believe "that the filing adequately and accurately reflects what was agreed to by the parties in the Settlement." Letter from P. Polacek to J. McNulty (Dec. 14, 2000). The Office of the Consumer Advocate and Strategic Energy, Ltd. indicated to counsel that they did not intend to submit any comments.

MAPSA, however, has submitted several comments on Duquesne's filing and has additionally filed a petition to modify an exhibit to the Settlement. MAPSA's comments fall into two categories. First, in several instances MAPSA suggests clarifying changes to the tariffs to capture the intent of the Settlement. This group of changes is acceptable to Duquesne. Second, in several cases MAPSA requests changes to the tariffs where the exact language from the Settlement was used or otherwise attempts to substantively modify the Settlement. These comments should be rejected by the Commission in this compliance phase of the proceeding. MAPSA participated heavily in crafting the Settlement. Having opted to join it, MAPSA now is bound by its terms. MAPSA's petition to modify an exhibit to the Settlement should fail as well, as described below.

I. COMMENTS TO THE TARIFFS THAT CLARIFY THE MEANING OF THE SETTLEMENT

Several of MAPSA's comments clarify for the reader of the tariff the effect of the tariff on POLR service. Each of the following comments are acceptable to Duquesne:

A. Comments on Electric Generation Supplier Coordination Tariff, Tariff Electric PA P.U.C. No. 2S

- The suggested modification to Original Page No. 15, Section 5.1.3, with the addition of the word "a" before the word downloadable. This addition is necessary to make clear that Duquesne is not committing to make the data available in every downloadable format, but rather in "a" downloadable format. The provision as modified by MAPSA and Duquesne would now read:

This information, which will be provide on Duquesne's web site in a downloadable format compatible for use with spreadsheet and data-base applications, will be updated quarterly and will continue to be available through December 31, 2004.

- The suggested modification to Original Page No. 25, Section 8.4, with the exception of the word "applies" in the second sentence of Section 8.4.1, which should read "applied." The provision as modified by MAPSA and Duquesne would now read:

8.4 CONSUMPTION AND LOSSES (TRANSMISSION, DISTRIBUTION AND RESIDUAL LOSSES). Transmission and distribution losses are calculated based upon customer consumption consistent with Rule 8.4.1. These losses, plus residual losses, are added to

the hourly energy consumed by customers and are included in the Consumption Energy Imbalance calculation.

8.4.1 CONSUMPTION CALCULATION. The Company will calculate POLR load in the same manner in which EGS load is calculated. After meters are read, load profiles will be applied to all customers, including those on POLR service. When interval meter reading data for a specific customer is available for use, the Company shall use this information in determining load obligation.

8.4.2 RESIDUAL LOSSES. To determine the proper allocation of losses, average losses by class will be applied to both EGS and POLR loads, and residual losses (and unaccounted for energy) will be allocated pro rata among all suppliers, including the POLR supplier.

- The addition of the words "fails to" to Original Page No. 35, Section 14.5.

The provision as modified by MAPSA and Duquesne would now read:

If a non-residential customer that has been receiving POLR service switches to an EGS and fails to pay the Generation Rate Adjustment imposed under the terms of Duquesne's retail tariff within 60 days of the bill date or otherwise fails to dispute the calculation pursuant to Duquesne's retail tariff, the customer shall be returned to POLR service and remain there until the GRA is paid.

B. Comments on Retail Tariff, Tariff Electric PA P.U.C. No. 21

- The changes suggested to the first sentence of Original Page No. 31, Section 45.3, ¶ A(2), the addition of the words "fails to" to the last sentence of that provision, and the deletion of the "s" at the end of the word "dispute" in the last

sentence of that provision. The provision as modified by MAPSA and Duquesne would now read:

If a non-residential customer is receiving service from an EGS, that customer may return to POLR service with the requirement that it receive service from Duquesne at the applicable tariff rates in effect at the time service is rendered for twelve consecutive monthly billing cycles, except that the customer shall be permitted to depart POLR service at any time, subject to payment of the Generation Rate Adjustment (if any) calculated under Rider No. 23 of this tariff. If, however, the customer stays on POLR service for more than twelve consecutive monthly billing cycles, in subsequent years the GRA will be calculated only over the period of time that the customer is on POLR service following its most recent anniversary date. If a customer that switches to an EGS fails to pay the GRA within 60 days of the bill date or otherwise fails to dispute the calculation pursuant to Duquesne's tariff, the customer shall be returned to POLR service and remain there until the GRA is paid.

II. COMMENTS THAT CHANGE THE AGREEMENT REACHED IN THE SETTLEMENT AND APPROVED BY THE COMMISSION

A. Comments on Electric Generation Supplier Coordination Tariff

1. Failure to Pay the Generation Rate Adjustment ("GRA") – Original Page No. 35, Section 14.5

The Joint Petition for Settlement governs the consequences, beyond those set forth in the Commission's regulations, for failure to pay a GRA lawfully assessed pursuant to Duquesne's tariff. The Settlement provides that if a customer "fails to pay the GRA within 60 days of the bill date or otherwise dispute the calculation pursuant to Duquesne's tariff, the customer shall be returned to POLR service and remain there until the GRA is paid." Settlement at 18. MAPSA com-

ments that "it is MAPSA's understanding that failure to pay the GRA would not affect the customer's ability to switch to an EGS if the customer waits until its service anniversary date." MAPSA Comm. at 2. MAPSA's suggested revision to the tariff to implement its "understanding" not only departs from the exact language agreed to in the Settlement, but fundamentally changes its meaning.

A non-residential customer that departs POLR service before its service anniversary date is obligated to pay Duquesne a generation rate adjustment ("GRA") for the period of time it received POLR service. November 30, 2000 Order at 6; Settlement at 17-18. Due to the nature of the GRA calculation, it cannot be performed until after the customer's final day of POLR service, and as a result cannot be assessed while the customer is still a POLR customer. Settlement, Exh. A. Although Duquesne considered using an estimated GRA to enable the customer to settle up before departing POLR service, it opted for the more accurate actual GRA calculation contained in Exhibit A to the Settlement. To avoid the possibility that a customer would depart POLR service in less than 12 months, fail to pay the GRA, but continue receiving electric service (from another supplier) without a consequence, the Settlement and the tariffs adopted the language quoted above. MAPSA's suggested language would hold the customer harmless for this behavior by permitting it to depart POLR service on its next service anniversary date without paying the GRA. This result allows the customer to (1) stay on POLR service during high-cost

months; (2) depart POLR during low-cost months; (3) remain off POLR service for the time it would take to prepare a bill, plus the 60 days the customer has to pay that bill (90 days minimum), (3) return to POLR service for the remainder of the year, and (4) depart POLR service without paying the GRA at the end of the year. This is exactly the result the switching rules were designed to avoid. MAPSA's comment should be rejected.¹

B. Comments on Retail Tariff, Tariff Electric PA P.U.C. No. 21

1. Switching Rules – Original Page No. 31, Section 45.3, ¶ A(1)

MAPSA suggests a change to the section describing the ability of a non-residential customer receiving competitive service to change competitive suppliers without returning to POLR service. MAPSA's revision, however, would eliminate the distinction the provision draws between switching by customers receiving competitive service and customers receiving POLR service. To capture the intent of MAPSA's comment but preserve the meaning of the provision, Duquesne proposes to modify the section as follows:

If a non-residential customer's service with an EGS is scheduled to terminate at some future date, The that non-residential customer may renew that service with the same EGS or enter into a new contract with another EGS for service without

¹ MAPSA's identical comment to Tariff Electric PA P.U.C. No. 21 Original Page No. 31, Section 45.3, ¶ A(2) should likewise be rejected.

returning to POLR service ~~prior to returning to POLR service~~, provided such notice is made to Duquesne in accordance with the standard switching protocols

Duquesne believes this modification will correct any confusion implicit in the provision as proposed.

2. Historical Data - Original Page No. 32, Section 46

MAPSA suggests several changes to a provision in the tariff that Duquesne did not modify as a result of this Settlement. MAPSA's proposal amounts to a reminder that Duquesne must comply with a section in Tariff No. 2S (Section 5.1.3) and is unnecessary to implement the Settlement.² It should therefore be rejected.

3. GRA Methodology - Rider 23

MAPSA requests a change to Rider 23 (Generation Rate Adjustment) to include two sentences that would restrict the supplier of POLR energy ("POLR Supplier") and electric generation suppliers ("EGSs") from reporting volumes and prices of North ECAR generation transactions to Megawatt Daily, the publication from which the market price index will be obtained to determine the GRA. MAPSA believes it is entitled to insert this language into Duquesne's tariffs due to its understanding of circumstances surrounding its late ratification of the Settlement.

² MAPSA also proposes to change the reference to "Supplier Tariff" to refer to the "Electric Generation Supplier Coordination Tariff." The term "Supplier Tariff" is defined the in Tariff No. 21 at Original Page No. 9, Section 3.2.

MAPSA Comm. at 4; MAPSA Petition to Modify Exhibit A of the Joint Settlement. Duquesne disagrees with MAPSA's understanding of its entitlement given its failure to decide whether or not to sign the Settlement until after the Commission's vote. The Commission did not preserve any special right for MAPSA to amend the Settlement if it ultimately decided to sign. In any event, MAPSA's proposal should be rejected on its merits.

Duquesne and the POLR Supplier have executed a POLR II Agreement (submitted with Duquesne's Compliance Filing) that obligates the POLR Supplier to provide energy to serve POLR load at capped rates only if the Commission approves the tariffs submitted in Duquesne's Compliance Filing. As a result, Duquesne must obtain the POLR Supplier's consent to any change in the tariffs as submitted. The POLR Supplier, for the reasons discussed below, is not willing to consent to this change.

First, the provision is likely to create a more perverse result than the harm against which it is intended to protect. The POLR Supplier will be a major seller and supplier of energy in North ECAR. EGSs are likely to be substantial buyers. Under the language proposed by MAPSA, the POLR Supplier may not report trades to the publisher of the market price index but may confirm trades. The rule applies to EGSs as well. The perversity created by the suggested language is this: when the POLR Supplier sells to EGSs, neither is allowed to report the trade to

the publisher and therefore the publisher would not be looking to confirm such a trade; thus, the publisher may have no knowledge of the trades between the POLR supplier and EGSs; it will then publish a "market price" that is anything but a market price, as the trades between the parties in the very market most reflective of the Duquesne Control Area will have no influence on what the Duquesne Control Area market price will be; finally, that index will then be used to calculate the GRA.

If fairness is to prevail, the GRA should be based on as accurate a market price index as possible. Duquesne cannot predict whether an inaccurate market price index will harm the POLR Supplier or the customer departing POLR service, but we know it introduces an unnecessary perversity into the process. This provision, entertained by the Duquesne and the POLR Supplier only because it was perceived as the final lynchpin to obtaining global support for the settlement (which support was not proffered to the Commission by the time it voted), should not be resurrected.

MAPSA's suggestion that this provision is necessary to protect against price manipulation by the POLR Supplier is a remote concern that doesn't justify the provision. The practice of the publisher of the index is to match purchases and sales that are reported or confirmed to it. This mitigates the possibility that one party alone can report false trades or prices and thereby manipulate the market, as two parties would need to collude to report false trades or prices. Although there may be

other ways to influence the price published in the index, they require the assumption that the POLR Supplier or the EGSs will act in bad faith. While Duquesne certainly doesn't expect either party to do so, there are remedies already in place to protect against wrongful market manipulation in the wholesale markets under Federal law. The perversity created by this ill-conceived language far outweighs any marginal protection it might offer from market manipulation.

Finally, there is another compelling reason not to entertain MAPSA's request. Allowing parties who sign on to a Settlement after Commission approval of that Settlement to subsequently insist on the re-insertion of concessions made only in consideration of their support undermines the collaborative process. The Commission should not permit this result.

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

Respectfully submitted,



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Dated: December 15, 2000

Attachment A
FORM OF ORDER
on Duquesne's Compliance Filing
Pursuant to the Commission's November 30, 2000 Order

THEREFORE IT IS ORDERED:

1. Duquesne's Tariff Electric, PA P.U.C. No. 21, issued December 7, 2000, is hereby approved consistent with the findings in this Order and is made effective as of January 1, 2001.
2. Duquesne's Tariff Electric, PA P.U.C. No. 2S, issued December 7, 2000, is hereby approved consistent with the findings in this Order and is made effective as of January 1, 2001.
3. Duquesne's Tariff Electric, intended to take effect upon the completion of Duquesne's transition period, is hereby approved consistent with the findings in this Order.
4. Duquesne is directed to submit updated tariff sheets to conform the tariff approved in ordering paragraph 3 to Commission requirements within 60 days of the anticipated effective date of such tariff.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PENNSYLVANIA PUBLIC UTILITY)
COMMISSION)**

v.)

Docket No. R-00974104

**DUQUESNE LIGHT COMPANY)
Petition for Approval of Plan for)
Post-Transition Period POLR Service)**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments of Duquesne Light Company was served, by first class mail, and to the extent required by the Commission's November 30, 2000 order in this docket, via electronic mail, upon the participants on the attached service list in accordance with Section 1.54 of the Commission's regulations.

Dated this 15th day of December, 2000.



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Re: Pa. P.U.C. v. Duquesne Light Company, Docket No. R-00974104
Petition for Approval of Plan for Post-Transition Period POLR Service

DOCUMENT

VIA HAND DELIVERY

ORDER
James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
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Dear Mr. McNulty:

On December 14, 2000, the Mid-Atlantic Power Supply Association ("MAPSA") filed Comments to Duquesne Light Company's Compliance Filing of December 7, 2000. In the heading of Section II, MAPSA inadvertently omitted reference to Duquesne's Schedule of Rates Effective xxxxxxxx, which becomes effective once the competitive transition charge ("CTC") is terminated.

The effect of this unfortunate omission is that MAPSA's recommended changes appear to apply only to the tariff to be effective January 1, 2001 and not to the tariff to take effect upon termination of the CTC. The language and pagination of the two tariffs are identical. Language problems identified in one tariff also are present in the other. MAPSA's recommended changes, to the extent they are supported by Duquesne and/or approved by this Commission, should be made to both tariffs.

AK

RHOADS & SINON LLP

December 19, 2000


Page 2

Accordingly, MAPSA respectfully requests that, if the Commission directs changes to Duquesne's January 1, 2000, Schedule of Rates, the Commission consider directing parallel changes to the post-CTC Schedule of Rates.

Very truly yours,

RHOADS & SINON LLP

By:



Kathryn G. Sophy

Cc: Chairman Quain
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v.	:	Docket No. R-00974104
Duquesne Light Company	:	
Petition for Approval of Plan for	:	
Post-Transition POLR Period	:	

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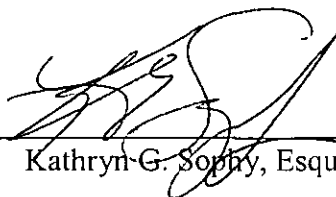
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