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SAMUEL S. YUN

September 18, 1997

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

VIA HAND DELIVERY

Re: **Application of Duquesne Light Company for approval of Restructuring Plan Under Section 2806 of the Public Utility Code; Docket No. R-00974104C 0004**

KJR

Dear Mr. McNulty:

Enclosed for filing with the Commission are the original and three (3) copies of the Complaint of the Duquesne Industrial Intervenors in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to this proceeding have been duly served. Please date stamp the extra copy of this transmittal letter and kindly return for our filing purposes.

DOCUMENT FOLDER

Very truly yours,

McNEES, WALLACE & NURICK

By *Pamela C. Polacek*
Pamela C. Polacek

Counsel to the Duquesne Industrial Intervenors

PROTHONOTARY'S OFFICE
PA. PUBLIC UTILITY
97 SEP 18 PM 2:15
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PCP/clc
Enclosures

c: Administrative Law Judge John H. Corbett, Jr. (via fax and first class mail)
Certificate of Service

9-19-97
25

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 Section 1.54 (relating to service by a participant).

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R-00974104

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R-00974104
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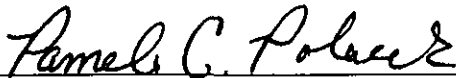
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R-00974104
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Pamela C. Polacek, Esquire

Dated this 18th day of September, 1997, in Harrisburg, Pennsylvania.

RECEIVED
97 SEP 18 PM 2:15
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PROTHONOTARY'S OFFICE

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Duquesne Industrial Intervenors

v.

Duquesne Light Company

Application of Duquesne Light Company
for Approval of Restructuring Plan Under
Section 2806 of the Public Utility Code

Docket No. R-00974104C 0004

DOCKETED

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COMPLAINT OF THE
DUQUESNE INDUSTRIAL INTERVENORS

TO THE HONORABLE, THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 66 Pa.C.S. § 701 and 52 Pa. Code §§ 5.21 & 5.22, the Duquesne Industrial Intervenors ("DII") hereby complain against the Application of Duquesne Light Company ("Duquesne" or "Company") for approval of its restructuring plan under Section 2806 of the Public Utility Code, 66 Pa.C.S. § 2806, and the other operative provisions of the Electric Generation Customer Choice and Competition Act, 66 Pa.C.S. § 2801 et seq. ("the Act" or "Chapter 28"). In support thereof, DII states as follows:

DOCUMENT
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1. The Complainants are the members comprising the Duquesne Industrial Intervenors.

For purposes of this proceeding, DII includes:

General Motors Corporation
J&L Specialty Steel, Inc.
LTV Steel Company, Inc.
Nabisco, Inc.
Nova Chemicals, Inc.
U.S. Steel Group, a unit of USX Corporation

The list of DII members is also attached as Appendix A. Appendix A will be updated throughout this proceeding as necessary.

2. The names and address of DII's attorneys are:

James P. Dougherty
David M. Kleppinger
Robert A. Weishaar, Jr.
Pamela C. Polacek
McNEES, WALLACE & NURICK
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
(717) 237-5249

All correspondence in this proceeding from the Commission should be directed to the attention of James P. Dougherty at the address listed above. In addition, a copy of all pleadings, testimony, and discovery should be directed to DII's lead consultant as follows:

Stephen J. Baron
J. Kennedy and Associates, Inc.
35 Glenlake Parkway, Suite 475
Atlanta, GA 30328

3. The respondent utility is:

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

4. On August 1, 1997, Duquesne filed with the Commission the "Duquesne Light Company Restructuring Plan Filing" ("Application" or "Restructuring Plan").

5. On September 4, 1997, a prehearing conference was held before Administrative Law Judge John H. Corbett, Jr. An informal telephonic conference was held on September 10, 1997, during which the parties agreed on a litigation schedule for this proceeding. DII participated in both conferences.

6. Through its Application, Duquesne requests, inter alia: (1) the recovery from ratepayers of alleged transition or stranded costs; (2) the approval and imposition of unbundled rates, which include a Competitive Transition Charge ("CTC") designed to recover claimed stranded and transition costs from retail customers; (3) the implementation of procedures to ensure direct access; (4) the implementation of a consumer education program; and (5) the implementation of an initial plan to meet universal service and energy conservation obligations.

7. In addition, Duquesne proposes to roll its Energy Cost Rate ("ECR") at a level of 14.7 mills/kWh into the base rates that were in effect on January 1, 1997.

8. In support of the instant Application, and the relief requested therein, Duquesne has filed and served supporting testimony that purports to validate its claim for a CTC mechanism

based on yearly energy sales to be conducted by the Company. In addition, the Application contains an analysis that purportedly establishes that, regardless of the possible level of stranded costs Duquesne will recover through the CTC (as determined by the energy sales), the Company will not fully be compensated for its alleged total stranded costs by the year 2005. Duquesne asserts the reasonableness of allowing it to calculate and recover the CTC from ratepayers in this manner. Further, Duquesne avers that its unbundling and stranded cost recovery proposals are rate cap compliant (with Section 2804(4) of the Act) and that the balance of its plan is otherwise compliant with pertinent provisions of Chapter 28.

9. DII is an ad hoc association of Duquesne's largest industrial and institutional customers. DII members purchase service from Duquesne primarily under Rate Schedules GM, GL, L, and HVPS and various service riders.

10. The outcome of this proceeding will impact the rates that DII members pay for electric utility services from Duquesne and the cost responsibility that individual DII members may have for claimed transition or stranded costs. In addition, the nature of unbundling ultimately approved by the Commission may establish a market price for energy for DII members that makes participation in a competitive market during the transition period virtually impossible. Further, the Commission's resolution of this proceeding will establish procedures critical for accommodation of a direct access phase-in.

11. DII is concerned with numerous issues arising from Duquesne's Application. DII reserves the right to raise and address various issues during the course of this proceeding; however, issues of immediate and primary concern to DII include:

- **Sufficiency of Filing:** Whether Duquesne's filing complies with § 2806(e) of the Act in that the filing states no unbundled rates for generation and contains no proposed CTC.
- **Transition or Stranded Costs:** Whether Duquesne's proposal for quantification of stranded or transition costs is reasonable and consistent with the Act. Duquesne must bear the burden of specifically identifying and quantifying its alleged transition and stranded costs. DII believes that Duquesne has failed to meet its burden of proof. DII further believes that Duquesne has not properly applied the requirements of the Act with respect to stranded costs. For example, Duquesne improperly includes in its claim certain costs that do not qualify as stranded costs pursuant to the Act (*e.g.*, fossil decommissioning). Moreover, Duquesne's request may violate the Act insofar as it seeks 100% recovery from ratepayers of claimed transition and stranded costs; only a just and reasonable level of quantified stranded or transition costs may be recovered from ratepayers through the CTC. 66 Pa.C.S. §§ 1301 and 2804(13).
- **Extension of CTC Recovery Period:** Whether the proposed extension of CTC recovery beyond 2005, which allegedly may be necessary due to Duquesne's method of calculating stranded costs, is just and reasonable and otherwise compliant with the Act.
- **Market Price Analysis:** Whether the market price study contained in the filing is accurate and internally consistent.
- **Mitigation:** Whether Duquesne has effectively mitigated, and provided a plan for mitigation in the future, in order to reasonably reduce the costs to be recovered through the CTC. In addition, whether and to what extent Duquesne's alleged "historic mitigation" efforts should be considered in establishing the appropriate level of stranded costs to be recovered through the CTC.

- **ECR Roll-in:** Whether Duquesne's roll-in of its Energy Cost Rate at 14.7 mills/kWh violates the requirements of the Act, including, but not limited to, the Act's rate cap provisions, the prohibition against intraclass and interclass cost shifting, and the requirement that any excess earnings created by the roll-in be used to mitigate transition or stranded costs.
- **Unbundling/Allocation:** Whether Duquesne's proposed unbundling comports with the requirements of the Act, specifically the rate cap and the prohibitions against interclass and intraclass cost shifting. DII requests the opportunity to fully examine Duquesne's cost-of-service study and the allocations derived therefrom.
- **Rate Design:** Whether Duquesne's proposed rate design complies with the dictates of the Act. Specifically, whether the proposal to move a significant portion of generation-related costs into a fixed customer charge violates the rate cap, the cost shifting prohibitions, or other operative provisions of the Act. In addition, whether Duquesne's proposed modifications and changes to Rate Schedules GM, GL, L, and HVPS or associated riders are reasonable and compliant with the requirements of the Act.
- **Phase-in:** Whether Duquesne's proposal to determine participation in the first two stages of retail direct access for industrial and commercial customers based on SIC code segments is just and reasonable and otherwise compliant with the Act.
- **Direct Access:** Whether Duquesne's proposed procedures for implementing direct access are reasonable and compliant with the Act. Similarly, proposed procedures for alternative Suppliers must be critically examined.
- **Reliability and Obligation to Serve:** Whether Duquesne's filing ensures system reliability and the obligation to serve.
- **Standard of Conduct:** Whether Duquesne's Code of Conduct ensures that the Company has properly insulated itself from the activities of its affiliates and subsidiaries.
- **Metering and Billing:** Whether Duquesne's proposals for metering and billing are reasonable.

12. Pursuant to 66 Pa.C.S. § 315(a), Duquesne has the burden of proof to show that its proposal is just and reasonable and otherwise in accord with 66 Pa.C.S. §§ 1301 and 2801, et seq. On its face, DII submits Duquesne's filing may fail to support that burden.

13. DII respectfully requests that the Commission provide the following relief:

- (a) Investigate Duquesne's Application in full evidentiary hearings;
- (b) Consolidate DII's Complaint with the Commission's investigation into Duquesne's filing;
- (c) Allow DII to participate fully in the evidentiary proceeding, cross-examine Duquesne witnesses, present its own evidence and witnesses, and offer arguments on its own behalf; and,
- (d) Require Duquesne to adduce substantial evidence to justify and substantiate the proposals embodied in its Application and its proposed unbundling and other tariff revisions.

WHEREFORE, the Duquesne Industrial Intervenors respectfully request that, upon a final hearing, the Commission make such Order as it deems necessary and appropriate.

Respectfully submitted,

McNEES, WALLACE & NURICK

By *Pamela C. Polacek*
James P. Dougherty
David M. Kleppinger
Robert A. Weishaar, Jr.
Pamela C. Polacek
100 Pine Street
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Harrisburg, PA 17108-1166
(717) 237-5249

Counsel to the Duquesne Industrial Intervenors

Dated: September 18, 1997

MEMBERS OF THE DUQUESNE INDUSTRIAL INTERVENORS

General Motors Corporation

J&L Specialty Steel, Inc.

LTV Steel Company, Inc.

Nabisco, Inc.

Nova Chemicals, Inc.

U.S. Steel Group, a unit of USX Corporation

APPENDIX "A"

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P O BOX 3265, HARRISBURG PA 17105-3265
NOVEMBER 18, 1997

LARRY R CRAYNE ASST GEN COUN
411 SEVENTH AVENUE PO BOX 1930
PITTSBURGH PA 15230-1930

RE: PA PUC vs DUQUESNE LIGHT COMPANY
Docket Number R-00974104C0004

KJR

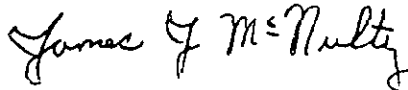
Dear Sir/Madam:

A Complaint has been filed against you in the above-captioned matter before the Pennsylvania Public Utility Commission by DUQUESNE INDUSTRIAL INTERVENORS.

This complaint, of which the attached is a true and correct copy, has been presented and filed of record with the Pennsylvania Public Utility Commission. The Pennsylvania Public Utility Code, 66 Pa. C.S., requires the Commission to serve on each party named in a complaint a copy of the complaint.

Within twenty (20) days from the date on which this complaint is served, you may either satisfy this complaint or comply with the provisions of 52 Pa. Code, Section 5.61 et seq., as amended.

Very truly yours,



James J. McNulty
Acting Secretary

(SEAL)

Certified Mail
Return Receipt Requested
jiy

DOCUMENT
FOLDER
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NOV 19 1997

SENDER:

- Complete items 1 and/or 2 for additional services. __
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
 - 2. Restricted Delivery
- Consult postmaster for fee.

3. Article Addressed to:

R-0097410100001
RC
Larry Crayne

4a. Article Number

P 968 631 730

4b. Service Type **CERTIFIED**

7. Date of Delivery

11/20/97

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X *Bauman*

8. Addressee's Address (Only if requested and fee is paid)

KJR

COMMONWEALTH OF PENNSYLVANIA

DATE: NOVEMBER 18, 1997

SUBJECT: R-00974104C0004

TO: Office of Administrative Law Judge

FROM: *JJM* James J. McNulty, Acting Secretary

DUQUESNE INDUSTRIAL INTERVENORS

v.

DUQUESNE LIGHT COMPANY

KJR

Attached is copy of a formal complaint filed in connection with the above docketed proceeding.

This matter is assigned to your office for necessary action.

Attachment - copy of complaint

cc:

Bureau of Fixed Utility Services - w/copy of complaint

Office of Trial Staff - w/copy of complaint

Office of ALJ, Charles Hilmer - w/copy of complaint

Office of Special Assistants - w/copy of

complaint

jiy

DOCUMENT
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DOCKETED

NOV 19 1997