**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company :

for Approval of its Act 129 Phase II : M-2012-2334399

Energy Efficiency and Conservation Plan :

**ORDER**

In accordance with the provisions of 52 Pa. Code § 5.483, the purpose of this Order is to set out further details of the post-hearing course of this case and to memorialize requested clarifications as discussed with the parties at today’s hearing.

On January 18, 2013, an evidentiary hearing was held in this case at the Commission’s office in Harrisburg, Pennsylvania. The hearing was attended by counsel for: Duquesne Light Company (Duquesne or Company), the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), the Duquesne Industrial Intervenors (DII), Comverge, Inc. (Comverge), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), the Community Action Association of Pennsylvania (CAAP), and Citizen Power, Inc. (Citizen).

At the hearing, counsel for Duquesne provided a copy of an unexecuted draft Settlement Agreement that the parties had agreed to prior to the hearing. Counsel maintained that the Settlement Agreement resolves all but one of the outstanding issues in this case.[[1]](#footnote-1) That issue will be briefed by Duquesne Industrial Intervenors and Duquesne, with briefs due January 28, 2013, and with an opportunity for reply briefs filed by February 7, 2013. I have circulated by e-mail to the parties a suggested briefing outline provided by the Commission’s Office of Special Assistants.[[2]](#footnote-2)

In conformity with the approach adopted by Judge Barnes in the FirstEnergy Companies Act 129 Phase II proceedings, the finalized, fully executed Settlement must be filed on or before January 28, 2013. Individual statements in support of the Settlement must also be filed by January 28, 2013.

The question was raised at hearing whether reply comments would be allowed on February 7, 2013 as well as reply briefs. Reply comments are allowed with the continuing *caveat* that I will not include comments as part of the certified record in this case. Parties may file both reply comments and Reply Briefs.

I note that on January 17, 2013, as a result of the anticipated Settlement, Comverge withdrew its Petition for Admission *Nunc Pro Tunc* of the Direct Testimony of Raymond Berkebile. To the extent that the notification from Comverge may be considered a Motion to Withdraw, that Motion is granted.

Finally, I also agree with Judge Barnes that a red-lined version of the revised Phase II Plan would be helpful to the Commission.

THEREFORE,

IT IS ORDERED:

1. That the procedural schedule in this case is amended consistent with this Order with a fully executed Settlement and supporting statements due by January 28, 2013.

2. That Main Briefs are due by January 28, 2013, consistent with the Second Prehearing Order in this case, with Reply Briefs, Reply Comments and the Revised Plan due by February 7, 2013.

3. That Comverge, Inc.’s Motion to withdraw its Petition for Admission *Nunc Pro Tunc* of the Direct Testimony of Raymond G. Berkebile is granted.

Date: January 18, 2013 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dennis J. Buckley

Administrative Law Judge

**M-2012-2334399- PETITION OF DUQUESNE LIGHT COMPANY FOR APPROVAL OF ITS ACT 129 PHASE II ENERGY EFFICIENCY AND CONSERVATION PLAN**

***REVISED 12/31/12***

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1. Limited cross-examination of Duquesne witness David Defide was conducted by DII in that regard. [↑](#footnote-ref-1)
2. While the issue to be briefed is primarily between Duquesne and DII, the other parties are not precluded from filing Main or Reply Briefs if the issue affects their particular interest. Also, in the event that finalization of the Settlement does not go as anticipated and other issues need to be briefed, this Order is not a bar to such advocacy. [↑](#footnote-ref-2)