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January 28, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

RE: Petition of Duquesne Light Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan; Docket No. M-2012-2334399

Dear Secretary Chiavetta:

Please find enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the Main Brief of the Duquesne Industrial Intervenors ("DII") in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to this proceeding are being duly served with a copy of this document.

Sincerely,

McNEES WALLACE & NURICK LLC

By 
Teresa K. Schmittberger

Counsel to the Duquesne Industrial Intervenors

TKS/sar
Enclosure

c: Administrative Law Judge Dennis J. Buckley (via First Class Mail and E-Mail)
Certificate of Service

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CERTIFICATE OF SERVICE

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

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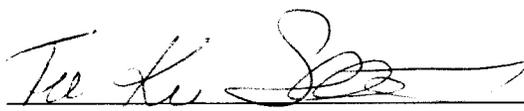
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Dated this 28th day of January, 2013, at Harrisburg, Pennsylvania

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company for :
Approval of its Act 129 Phase II Energy : **Docket No. M-2012-2334399**
Efficiency and Conservation Plan :

**MAIN BRIEF OF THE
DUQUESNE INDUSTRIAL INTERVENORS**

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I. INTRODUCTION

A. Procedural History

On October 15, 2008, Governor Rendell signed into law House Bill 2200, or Act 129 of 2008 ("Act 129" or "Act"). Among other effects, Act 129 expanded the Pennsylvania Public Utility Commission's ("PUC" or "Commission") oversight responsibilities and set forth new requirements for electric distribution companies ("EDCs")¹ with respect to energy conservation, default service procurements, and expansion of alternative energy sources.

Specifically, with regard to energy efficiency and conservation ("EE&C"), Act 129 required EDCs to adopt a plan, approved by the Commission, to reduce electric consumption by at least 1% by May 1, 2011, and by at least 3% by May 31, 2013, adjusted for weather and extraordinary loads. 66 Pa. C.S. § 2806.1(c). In addition, by May 31, 2013, peak demand was to be reduced by a minimum of 4.5% of the EDC's annual system peak in the 100 hours of highest demand measured against the EDC's peak demand during the period of June 1, 2007, through May 31, 2008. *See id.* § 2806.1(d). By November 30, 2013, the Commission was required to evaluate the cost-effectiveness of the aforementioned EE&C programs. *See id.* § 2806.1(c)(3). If the benefits of the programs exceeded the costs, then the Commission would impose additional reductions on the eligible EDCs. *See id.*

Consistent with the Act's requirements, all Pennsylvania EDCs, including Duquesne Light Company ("Duquesne" or "Company"), filed with the Commission proposed EE&C plans ("Phase I EE&C Plans"). Duquesne's Phase I EE&C Plan was adopted on October 27, 2009,

¹ As articulated in the Act, only EDCs with at least 100,000 customers are required to submit energy efficiency and conservation programs. *See* 66 Pa. C.S. § 2806.1, *et seq.*

with modifications and further revisions occurring in subsequent Orders.² Duquesne's Phase I EE&C Plan remains in effect through May 31, 2013.

On August 3, 2012, the Commission entered an Implementation Order establishing the procedural and substantive requirements for Phase II of all EDCs' EE&C programs. *Energy Efficiency and Conservation Program*; Docket Nos. M-2012-2289411, *et al.*, Order (Aug. 3, 2012) (hereinafter, "Implementation Order"). Importantly, the Commission held that energy efficiency programs should be continued during Phase II based on the Statewide Evaluator's ("SWE") Market Potential Study, which indicated that energy efficiency programs were cost-effective for customers during Phase I. Implementation Order, p. 12. Mandatory demand reduction programs, however, were not to be included in Phase II Plans, because the cost-effectiveness of Phase I demand reduction programs could not be evaluated before Phase II implementation. Implementation Order, p. 40. In addition, the Commission stressed the importance of developing balanced Phase II EE&C Plans (*i.e.*, plans that do not disproportionately impact specific customer classes). *Id.* at 87. Finally, the Commission outlined the following procedural process in its Implementation Order:

The Commission will publish a notice of each proposed plan in the *Pennsylvania Bulletin* within 20 days of its filing. In addition, the Commission will post each proposed plan on its website. An answer along with comments and recommendations are to be filed within 20 days of the publication of the notice in the *Pennsylvania Bulletin*. Each plan will be referred to an Administrative Law Judge (ALJ), who will establish a discovery schedule and hold a public input hearing(s) in the EDC's service territory upon request of any party, as well as an evidentiary hearing(s) on issues related to the EE&C plan. Such hearings are to be completed on or before the 65th day after a plan is filed, after which, the parties will have 10 days to file briefs. The EDC will then have 10 days to submit a

² Of particular relevance to Large Commercial and Industrial ("C&I") customers, a blended peak load contribution ("PLC") and flat customer charge was imposed on Large C&I customers after a subsequent Motion by Commissioner Powelson. *Petition of Duquesne Light Company for Approval of its Energy Efficiency and Conservation and Demand Response Plan*, Motion of Commissioner Robert F. Powelson (Jan. 14, 2010).

revised plan or reply comments or both. The ALJ will then certify the record to the Commission.

Id. at 62.

On November 15, 2012, Duquesne filed with the PUC a Petition for Approval of the Company's Act 129 Phase II Energy Efficiency and Conservation Plan ("Phase II EE&C Plan"). *Petition of Duquesne Light Company for Approval of its Act 129 Phase II Energy Efficiency and Conservation Plan*; Docket No. M-2012-2334399 (hereinafter, "Petition"). DII also received the Company's Direct Testimony on November 15, 2012. On December 7, 2012, the Duquesne Industrial Intervenors ("DII") filed a Petition to Intervene in response to the Company's Petition.³ A Prehearing Conference was held on December 10, 2012, before Administrative Law Judge ("ALJ") Dennis J. Buckley.

On December 21, 2012, DII submitted Comments regarding the Company's proposed Phase II Plan.⁴ DII's Comments focused on the following issues related to the Plan: (1) budget overreliance on the Large C&I class; (2) low acquisition cost levels indicating the need for rebalancing Duquesne's proposed Plan; (3) support for the Large C&I cost recovery mechanism; (4) support for a smooth transition from Phase I to Phase II; and (5) reservation of the right to challenge cost-ineffective measures in future proceedings. Subsequently, on January 3, 2013, DII received Direct Testimony from the following parties: Community Action Association of Pennsylvania ("CAAP"), the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), and the Office of Consumer Advocate ("OCA"). On January 15, 2013, DII received Rebuttal Testimony from the Company.

³ DII's compilation for purposes of the instant proceeding is listed on the cover page of this Main Brief.

⁴ Per the ALJ's Fourth Prehearing Order, DII's Comments are not included as part of the formal record of this proceeding. Nevertheless, DII developed an evidentiary record in support of the arguments contained in this Main Brief through information included in Duquesne's proposed Plan, discovery, and subsequent cross-examination.

An evidentiary hearing was held in this proceeding on January 18, 2013, for the purposes of presenting testimony and performing cross-examination. During this hearing, the parties confirmed the process for submitting Briefs. Pursuant to the procedural schedule of this proceeding, DII submits this Main Brief.

B. Overview of Duquesne's Phase II EE&C Plan

Duquesne's Phase II EE&C Plan proposes to fulfill the requirements of Act 129 through the implementation of 22 energy efficiency programs for four of the Company's customer sectors – Residential, Small C&I, Large C&I,⁵ and Governmental/Non-Profit. See Phase II EE&C Plan, pp. 150-53. Specifically, the Company has targeted six programs for the residential sector, four programs for the Small C&I sector, nine programs for the Large C&I sector, and three programs for Government/Non-Profit customers. See *id.* Duquesne anticipates meeting the Act 129 energy savings requirements at a total overall cost to the Company's ratepayers of approximately \$58.5 million over the life of the Phase II EE&C Plan, which represents approximately 2% of the Company's combined revenues as of December 31, 2006 multiplied by three to reflect the three-year duration of the Plan. See Petition at 11; see also Phase II EE&C Plan, p. 145.

Table I, set forth below, provides a summary of the allocation of Duquesne's proposed Phase II costs among customer classes as compared to the total revenues provided by the respective customer classes:

Table I: Duquesne Phase II EE&C Plan – Total Cost Allocation by Customer Class

Customer Class	% Total Phase II EE&C Plan Budget	% of Total Customer Revenue	Difference
Residential	45.4%	59.0%	-13.6%
Small C&I	8.5%	16.7%	-8.2%

⁵ Large C&I customers are defined by Duquesne as "those customers with monthly metered billing demand greater than 300 kW." Petition, p. 13. In some instances, the Company refers to these customer groups separately as "Large Commercial" and "Large Industrial" classes.

Customer Class	% Total Phase II EE&C Plan Budget	% of Total Customer Revenue	Difference
Large C&I	36.2%	14.4%	21.8%
Government/ Nonprofit	9.6%	10.0%	-0.4%

See id. As indicated in Table I, Duquesne is proposing to allocate \$21,250,879⁶ to Large C&I customers in its Phase II EE&C Plan, which represents an approximate 22% disparity between the proposed Large C&I customer budget and their percentage of customer revenue. *Id.*

C. Summary of Argument

DII is an *ad hoc* association of energy-intensive Large C&I customers receiving electric service in Duquesne's service territory. DII members purchase electric distribution service from Duquesne under Rate Schedules L and HVPS,⁷ as well as under associated special contracts or service riders. Electricity costs comprise a significant portion of operational costs for all DII members. For these reasons, DII was an active participant in Duquesne's Phase I EE&C proceeding, and DII has taken an active role in Duquesne's Phase II EE&C proceeding. To that end, DII submits this Main Brief to address several overarching issues of concern that the Commission should consider when reviewing Duquesne's Phase II EE&C Plan.

First, Duquesne has failed to appropriately allocate Phase II costs among the individual customer classes. Fundamentally, per the requirements of Act 129, individual customer classes should neither receive a disproportionate share of EE&C Plan benefits nor bear a disproportionate burden of the costs in relation to the overall Plan. Duquesne's proposed costs do not reflect an appropriate parity between the overall revenues received by Duquesne from a customer class and the Phase II EE&C Plan budget allocated to the same customer class,

⁶ Please note that Duquesne is also planning to allocate \$2,734,098 of the Government/Nonprofit costs to Large Commercial customers, which would further increase the disparity reflected in Table I with respect to Large C&I customers. DII Cross-Examination Exhibit No. 1, Response to DII-I-8.

⁷ The foregoing Rate Schedules are identified in Duquesne's Large Commercial and Large Industrial classes under the Phase II EE&C Plan. Exhibit WVP-1.

particularly with respect to Large C&I customers. Accordingly, Duquesne's proposed Phase II EE&C Plan must be modified to reflect a more equitable allocation of Phase II costs. *See* Section II(A)(1), *infra*.

Second, Duquesne's proposed acquisition cost levels are inconsistent with the Implementation Order. As set forth, the proposed acquisition cost levels in Duquesne's Phase II EE&C Plan are significantly lower than the level approved by the Commission. This disparity between acquisition cost levels may be an indication that Duquesne has over-relied on certain low-cost measures in contravention of the Commission's Implementation Order that requires a balanced approach among customer classes. Accordingly, Duquesne's Plan should be rebalanced to promote a more equitable distribution of EE&C measures and costs. *See* Section II(A)(2), *infra*.

Third, the Commission should consider whether the proposed Phase II EE&C costs are reasonably and directly related to Duquesne's proposed Phase II measures. A large percentage of Duquesne's proposed Phase II costs are allocated for non-incentive purposes, such as compensation to external conservation service providers ("CSPs"). Because the purpose of Act 129 is to ensure that customers, and not the Company and/or CSPs, receive the maximum benefits from these energy and conservation programs, the Commission should consider whether additional modifications are required to Duquesne's Plan to increase the overall dollars flowing to incentive costs. *See* Section II(B)(1), *infra*.

Fourth, in order to minimize EE&C costs, the Commission should permit Large C&I customers to bid their own energy efficiency savings into PJM markets. Although Duquesne is opting not to bid any Phase II savings into PJM, explicitly authorizing PJM participation by customers could encourage increased revenues and Phase II participation for Large C&I

customers. Accordingly, Large C&I customers should be granted the right to bid in their savings consistent with the goals of Act 129. See Section II(B)(2), *infra*.

II. ARGUMENT

A. **Duquesne's Phase II EE&C Costs Should Be Reasonably Prudent and Appropriately Allocated To Each Customer Class.**

1. **Duquesne's Phase II Plan Costs Must Be Appropriately Allocated to Each Customer Class.**

In reviewing Duquesne's proposed Phase II Plan, Act 129's requirement that EE&C measures be provided equitably to all customer classes must be taken into careful consideration. One of the means by which to ensure this bar is met is to compare a customer class' revenue contribution with the proposed allocation of EE&C costs to this class. In this instance, Duquesne's proposed Phase II EE&C Plan allocates a significantly greater percentage of Plan costs to Large C&I customers in comparison to the Large C&I class' contribution to Duquesne's overall revenue. Accordingly, in order to ensure Act 129's requirements are met, shifting a portion of EE&C costs away from the Large C&I customer class would be appropriate so that the cost allocation is better aligned with the resulting revenue contribution.

Act 129 requires the Commission to establish "[s]tandards to ensure that each plan includes a variety of energy efficiency and conservation measures and will provide the measures equitably to all classes of customers." 66 Pa. C.S. § 2806.1(a)(5). In the Commission's Implementation Order, the Commission made clear that all Phase II EE&C Plans must specifically tie costs to the benefited class to "ensure that offerings are not skewed toward or away from any particular class." Implementation Order, p. 87. In other words, it is important that classes neither receive a disproportionate share of EE&C Plan benefits nor bear a disproportionate burden of the costs in relation to the overall plan.

In determining whether this objective has been achieved, comparing the parity between the overall revenues received by an EDC from a customer class and the Phase II EE&C Plan budget allocated to the same customer class provides a useful metric. Unfortunately, Duquesne's Phase II EE&C Plan proposes to allocate significantly more costs to the Large C&I customer class than is justified by this class' contribution towards Duquesne's annual revenue. Large C&I customers generate only 14.4% of Duquesne's revenue; however, in its Phase II EE&C Plan, Duquesne proposes to allocate approximately 36.2% of its Phase II costs to the Large C&I customer class. *See* Phase II EE&C Plan, p. 145. This proposed cost allocation results in Large C&I customers being responsible for 21.8% more costs under the Phase II Plan than their percentage of revenue. *See id.*

In comparison, the Residential class is allocated 45.4% of the Phase II EE&C Plan costs, while contributing 59.0% of Duquesne's revenue. *See id.* Residential customers, therefore, are assigned 13.6% less costs under the Plan than their share of revenue. *See id.* In addition, the Small C&I class is allocated 8.5% of Phase II EE&C Plan costs, but contributes 16.7% of Duquesne's revenue. This substantial disparity between revenue and costs clearly fails to reflect any parity between EE&C costs and revenue contribution, while also saddling Large C&I customers with an inequitable portion of Duquesne's overall Phase II EE&C Plan costs.

Based upon this information provided by Duquesne, the allocation of Phase II EE&C costs to the Large C&I customer class is significantly higher than the contribution of this class to Duquesne's annual revenue. Considering this disparity, such a significant percentage of Large C&I Phase II costs appears unreasonable and inconsistent with cost causation principles. Because of the mandates of Act 129 and the PUC's Implementation Order, modifications should

be made to the allocation of Phase II costs to the Large C&I class in order to create a parity that would reflect an allocation of costs more in line with the resulting revenue contribution.

2. Duquesne's Phase II Measures and Costs Must Be Modified To Reflect an Equitable Allocation Among Customer Classes.

Duquesne's proposed acquisition cost levels for Phase II provide further evidence in support of modifying the cost and measure allocations within Duquesne's proposed Phase II Plan. The Commission's Implementation Order recommended certain acquisition cost levels for all participating Pennsylvania EDCs based on the SWE's Market Potential Study. Nevertheless, Duquesne proposed significantly reduced acquisition cost levels in comparison to those contained in the Implementation Order. Accordingly, the Commission should recommend that Duquesne modify its Phase II EE&C Plan to promote an equitable allocation of measures and costs among customer classes, as well as adopt acquisition cost levels that correspond to the Implementation Order.

Acquisition costs represent the level of costs required for each EDC to attain their per MWh savings in consideration of the remaining market potential within each EDC service territory. Implementation Order, p. 18. The SWE's methodology for calculating EDC compliance targets and acquisition costs was endorsed by the Commission, who found the methodology "sound, credible, and reliable," and "one based on current 2012 data and likely future trends over the next several years." *Id.* at 14, 17. With respect to Duquesne, the SWE determined that Phase II acquisition costs should equal \$211.90. *Id.* at 24.

In contravention of the Implementation Order, however, Duquesne's proposed Phase II EE&C Plan includes an average acquisition cost level of \$176.10. *See* DII Cross-Examination Exhibit No. 1, Response to DII-I-7 (attached as Attachment A). In addition, Large Commercial and Industrial measures have proposed acquisition cost levels of only \$147.60 and \$178.80,

respectively. *Id.* By way of comparison, the average acquisition cost level is \$173.00 for the Residential class and \$327.10 for the Small C&I class. *Id.*

This \$35.80 disparity between the Commission's approved acquisition cost level and Duquesne's proposed acquisition cost level may be explained by Duquesne's reliance on EE&C measures in a different mixture than envisioned by the SWE. Specifically, Duquesne appears to be over-relying on inexpensive Phase II EE&C measures, particularly within the Large C&I class, that the SWE did not account for when calculating the Company's higher acquisition cost level. To reach such an increased acquisition cost level, the SWE necessarily considered market potential in other customer classes ignored by Duquesne.

To remedy this departure from the Commission's Implementation Order, Duquesne should increase the scale of EE&C measures that apply to Residential and Small C&I classes.⁸ Simply by observing the acquisition cost levels for the Residential and Small C&I class, it is apparent that the size of a number of the Residential and Small C&I measures could be increased without falling afoul of the overall average acquisition cost levels in the Commission's Implementation Order; *i.e.*, Duquesne is proposing Residential and Small C&I measures with acquisition cost levels above and below the Commission-approved \$211.90 acquisition cost level. *Id.*

Low acquisition cost levels are not inherently problematic if Duquesne is able to meet its Phase II compliance targets while equitably assigning measures and costs to customers; however, in this case, Duquesne is proposing lower acquisition costs as well as an overreliance on Large C&I customers for participating in and funding Phase II measures. Because such an overreliance

⁸ Although Duquesne's proposed Residential measures also have a low acquisition cost level, as discussed in Section II(A)(1), *supra*, the percentage of the Phase II budget attributed to Residential customers is far exceeded by the percentage of total Residential customer revenues. Thus, it would still be appropriate to increase the number of Residential measures to correct for this significant budget/revenue disparity.

exists, Duquesne should modify its proposed Phase II Plan to reduce this overreliance, and while doing so, increase its total acquisition cost level consistent with the Implementation Order, in order to provide an equitable allocation of Phase II EE&C measures and costs among customer classes. Moreover, the SWE's "sound, credible, and reliable" methodology produced this higher acquisition cost level, which further indicates that there is additional market potential available within smaller customer classes. Accordingly, the Commission should recommend that Duquesne increase the magnitude of Residential and Small C&I measures, and associated costs, to ensure that Duquesne's Phase II acquisition cost levels correspond with the Implementation Order.

B. Duquesne's Phase II Plan Costs Must Be Reasonable, Prudent, and Directly Related to Development and Implementation of the Plan.

1. Pursuant To The Requirements of Act 129, Duquesne's Phase II EE&C Measures, and Resulting Costs, Must Be Reasonably and Directly Related to Development and Implementation of the Plan.

Act 129 allows EDCs to recover all prudent and reasonable costs incurred in the provision and management of EE&C Plans, subject to a cap of 2% of each EDC's total annual revenue. 66 Pa. C.S. § 2806.1(g). All costs submitted for recovery under Phase II EE&C Plans, however, are "subject to review by the Commission to determine whether the costs are prudent and reasonable, and are directly related to the development and implementation of the plan." Implementation Order, p. 103. In this instance, the Commission must review Duquesne's Phase II Plan to determine whether Duquesne has provided adequate evidence to meet this standard. Of particular concern to DII is whether Duquesne's proposed Phase II budget is unreasonably dedicated to the Company's administrative costs, including costs to third party CSPs.

Although administrative costs are an obvious necessity in terms of implementing Act 129, the Company's proposed Phase II administrative costs (*i.e.*, non-incentive costs) are greater than the "direct costs" of programs benefitting customers (*i.e.*, incentive costs). *See* Phase II EE&C Plan, p. 155. Because Duquesne's proposed ratio of incentive to non-incentive costs is skewed in favor of those benefitting from non-incentive costs (*e.g.*, CSPs), further evaluation of Duquesne's Plan should occur in an attempt to reduce Duquesne's non-incentive costs so that implementation of Phase II achieves the maximum benefits for Duquesne customers.

Act 129 includes various protections collectively designed to deliver customer benefits, including a requirement that each EE&C Plan include an analysis of its administrative costs. 66 Pa. C.S. § 2806.1(b)(1)(H). Although the Commission has adopted the Total Resource Cost ("TRC") Test as the cost-benefit metric for EE&C Plans, the TRC test may not accurately reflect the Act's goal of achieving maximum energy and conservation benefits. As such, the Commission should additionally consider the ratio of customer incentive expenses to administrative (or CSP) expenses in order to ensure that the majority of Act 129 "incentives" flow to customers.

Under the Phase II EE&C Plan, Duquesne divides its costs per customer class on an incentive versus portfolio or program administration basis. Phase II EE&C Plan, p. 155. Incentive costs, according to Duquesne, are costs directly paid to customers that assist Duquesne in achieving its energy savings target. *See* Transcript of January 18, 2013, Evidentiary Hearing (hereinafter "Tr.") at 38. Non-incentive costs, by contrast, are those EE&C Plan costs that are not directly paid to customers. *See id.* at 39. These costs are used to implement the EE&C programs and include expenses such as external CSP compensation, internal program administration, and related expenditures. *See id.* In the case of Duquesne's Phase II EE&C Plan,

non-incentive costs comprise a significant percentage of Duquesne's program expenditures. Specifically, Duquesne anticipates that non-incentive costs would total \$30,329,842, as compared to \$28,163,550 for incentive costs. Phase II EE&C Plan, p. 155. Thus, over half of all EE&C dollars collected from customers would flow to Duquesne's administrative expenses, common costs, and CSP expenses. Unfortunately, Duquesne's Phase II Plan does not provide a detailed breakdown of these non-incentive costs. *See id.* Given the questions raised by the ratio of incentive to non-incentive costs, the Commission should seek additional detail on the proposed non-incentive expenditures to adequately conduct the cost-benefit analysis envisioned by Act 129, and possibly seek a reduction in Duquesne's non-incentive costs to allow for greater benefits to flow to Duquesne customers.

Duquesne's incentive to non-incentive cost ratio may not provide maximum benefits to customers, as required by Act 129. Accordingly, the Commission should further review Duquesne's Phase II EE&C Plan and make any modifications as necessary to ensure that the benefits directly flowing to customers (*i.e.*, incentive costs) are as robust as possible in comparison to the benefits flowing to other sources (*i.e.*, non-incentive costs). In addition, the SWE audits of all EDCs should consider this issue and identify "best practices" to ensure that as much of the ratepayer funding of the EE&C Plans flows directly back to ratepayers as possible.

2. Duquesne's Phase II Plan Should Permit Customers To Bid Savings into PJM Markets To Minimize Costs Where Possible.

In the Implementation Order, the Commission authorized EDCs to bid savings from energy efficiency measures into the wholesale markets of the PJM Interconnection, L.L.C., ("PJM") creating additional revenues for eligible customer classes. Implementation Order, p. 64. During Phase II, Duquesne is opting to not bid any savings from Phase II measures into PJM markets. As a result, to ensure that certain revenues are realized by customers participating in these programs, the

Commission should explicitly permit Large C&I customers to bid their own energy efficiency savings from Phase II measures into PJM markets.

Duquesne's rationale for not bidding customers' energy efficiency savings into PJM markets is "that the administrative effort and costs associated with bidding energy efficiency measures into PJM, does not justify undertaking this effort." Rebuttal Testimony of David Defide on behalf of Duquesne, Duquesne Statement No. 1-R, pp. 21-22. As a result of this rejection of PJM bidding on behalf of customers, there is potential PJM revenue available to customers who have the ability to bid in their own savings, such as Large C&I customers. With respect to Large C&I customers bidding these savings individually, however, the Company states that it is "inconclusive" on whether or not Duquesne would support such a practice. Tr. at 37.

DII recommends that the Commission explicitly permit Large C&I customers to bid their savings into PJM markets, assuming the customers meet all other EE&C and PJM criteria. Allowing customers to receive the revenues associated with their energy efficiency savings is consistent with the goals of Act 129 to maximize benefits and reduce costs to customers. Unlike Duquesne, Large C&I customers may have the resources to bid in these savings, particularly when the potential revenues from PJM would offset any administrative expense. Most importantly, Large C&I customers who are able to bid in their energy efficiency savings may be more likely to participate in Phase II measures due to the increased potential revenues associated with the programs. In fact, Duquesne has agreed that customers' ability to participate in such PJM programs would enhance the attractiveness of EE&C measures for customers. Tr. at 37.

Because Duquesne is choosing not to bid any Phase II energy efficiency savings into PJM markets, there could be significant lost revenues to customers. To minimize this loss, the Commission should explicitly authorize those customers with the capability, specifically Large C&I customers, to bid their savings into PJM markets. The cost savings available as a result of

PJM participation could be enough to incentivize a Large C&I customer's participation in a particular EE&C measure where the customer otherwise would not. Thus, providing Large C&I customers with the option to bid their energy efficiency savings into PJM markets is consistent with the goals of Act 129.

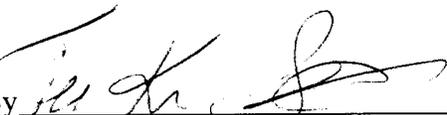
III. CONCLUSION

WHEREFORE, the Duquesne Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission:

- (1) direct Duquesne to modify its proposed Phase II EE&C Plan to reflect a more equitable cost allocation among customer classes in parity with their contributions to Duquesne's revenues;
- (2) direct Duquesne to modify its Phase II EE&C Plan to reflect a more equitable measure allocation among customer classes to reduce the overreliance on Large Commercial and Industrial customers;
- (3) evaluate whether Duquesne's ratio of incentive to non-incentive costs ensures that maximum available energy and conservation benefits of the Phase II EE&C Plan flow back to customers rather than other sources;
- (4) require the SWE to examine incentive versus non-incentive costs in audits of all Phase II EE&C plans and recommend "best practices" to ensure that as much customer funding of EE&C plans flows directly back to customers as possible;
- (5) permit Large Commercial and Industrial customers to bid their own energy efficiency savings into PJM markets; and
- (6) provide any other relief deemed necessary and reasonable.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Attachment A

Response to DII-I-7: Phase II Plan Customer Class and Program Average \$/kWh

Residential Programs	Savings kWh	Total Program Cost	\$/kWh
Residential Energy Efficiency Program	100,874,929	\$17,511,100	\$0.1736
REEP Whole House Audit/Retrofit	997,648	\$750,000	\$0.7518
Residential Appliance Recycling	4,774,947	\$405,737	\$0.0850
Residential Home Energy Reporting	28,036,928	\$2,536,458	\$0.0905
School Energy Pledge Program	4,269,288	\$1,285,330	\$0.3011
Program Total	138,953,740	\$22,488,625	\$0.1618
Low Income Energy Efficiency	14,942,988	\$4,142,214	\$0.2772
Total	153,896,728	\$26,630,839	\$0.1730

Small C&I	Savings kWh	Total Program Cost	\$/kWh
Commercial Sector Umbrella Program	4,564,319	\$629,651	\$0.1380
Commercial Upstream Lighting	2,944,770	\$653,798	\$0.2220
Small Commercial Direct Install	6,126,074	\$3,416,560	\$0.5577
Industrial Sector Umbrella Program	1,620,636	\$289,823	\$0.1788
Total	15,255,800	\$4,989,831	\$0.3271

Large Commercial	Savings kWh	Total Program Cost	\$/kWh
Commercial Sector Umbrella Program	11,013,561	\$1,519,328	\$0.1380
Office Building Energy Efficiency	21,750,658	\$3,000,517	\$0.1380
Healthcare Segment Energy Efficiency	12,325,373	\$1,700,293	\$0.1380
Retail Segment Energy Efficiency	9,992,864	\$1,378,522	\$0.1380
Commercial Upstream Lighting	7,105,641	\$1,577,593	\$0.2220
Total	62,188,096	\$9,176,253	\$0.1476

Large Industrial	Savings kWh	Total Program Cost	\$/kWh
Industrial Sector Umbrella Program	3,910,546	\$699,333	\$0.1788
Chemical Products Energy Efficiency	13,689,675	\$2,448,161	\$0.1788
Mixed Industrial Energy Efficiency	12,237,740	\$2,188,507	\$0.1788
Primary Metals Energy Efficiency	37,681,176	\$6,738,624	\$0.1788
Total	67,519,136	12,074,625	\$0.1788

Governmental/Educational/Nonprofit	Savings kWh	Total Program Cost	\$/kWh
Multifamily Housing Retrofit	5,173,551	\$1,754,661	\$0.3392
Public Agency Partnership Program	16,584,950	\$2,287,904	\$0.1380
Education Segment Energy Efficiency	11,448,139	\$1,579,278	\$0.1380
Total	33,206,640	\$5,621,843	\$0.1693

Grand Total	332,066,400	\$58,493,392	\$0.1761
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